



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

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SEP 28 2012

DEPARTMENT OF ECOLOGY
OFFICE OF DIRECTOR

SEP 25 2012

The Honorable Frances G. Charles
Chairman, Lower Elwha Klallam Tribe
2851 Lower Elwha Road
Port Angeles, Washington 98363

Dear Chairman Charles:

Thank you for your correspondence dated September 7, 2012, which outlines a number of concerns regarding the Washington Department of Ecology's recent changes in their rulemaking approach for a revised fish consumption rate, including Ecology's planned revisions to the technical support document and removal of a Fish Consumption Rate from the proposed revisions to the State's Sediment Management Standards. Furthermore, the letter expresses frustration with the length of time it has taken for Ecology to adopt a protective FCR in Washington's Water Quality Standards and requests further engagement from the U.S. Environmental Protection Agency.

As you recognized, establishing an accurate FCR is an incredibly complex process with difficult policy considerations. However, I assure you that the adoption of human health criteria that reflect an appropriate FCR for Washington's waters and that address the EPA's desire for regional consistency remains a high priority for the EPA. Our recent actions in Idaho and Oregon provide strong precedent for the current process in Washington.

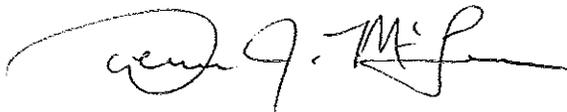
The EPA is committed to working with Ecology to adopt protective human health criteria in an efficient and timely manner, and we will help provide Ecology the support and resources to accomplish this goal. We strongly support adoption of human health criteria that are derived using scientifically sound data, including applicable regional and local fish consumption rate surveys. These surveys demonstrate that tribal and other high fish consuming residents are eating fish at rates significantly higher than the current default rates. If and when there is regional or local data showing higher fish consumption rates, it needs to be considered for derivation of the State's human health criteria.

Also, the tribes have a very important role in ensuring Ecology's successful adoption of human health criteria that address tribal fish consumption concerns. I appreciate your efforts thus far and hope that you will continue to provide the clear message that an accurate FCR is not only important to the tribal community and for tribal rights, but also for the general health of the people of Washington. The EPA looks forward to continued collaboration with you and Ecology for a successful outcome.

Again, thank you for your letter and for providing the detailed information as to your concerns as well as your perspectives on the importance of this effort to the Lower Elwha Klallam Tribe's natural resources and cultural identity. We look forward to continuing an open dialogue with you regarding Washington's FCR as the process moves forward.

If you have further questions, please contact Angela Chung, EPA's Water Quality Standards Unit Manager, at (206) 553-6511 or Mike Bussell, our Director for the Office of Water and Watersheds, at (206) 553-4198.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis J. McLerran". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Dennis J. McLerran
Regional Administrator

cc: Mr. Ted Sturdevant, Director
Washington State Department of Ecology