Melissa Gildersleeve RF

STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

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July 28, 2003

Mr. Randy Smith
US EPA Region 10
1200-6th Avenue
Seattle, WA 98101

Dear Mr. Smith:

I am pleased to inform you that the Department of Ecology has completed the first major overhaul of Washington's surface water quality standards in over a decade. The changes made reflect the latest scientific information and federal requirements pertaining to keeping our waters clean and safe for people, fish, and wildlife.

During this ten year process, the agency has worked with a number of citizen groups and stakeholders, and has consulted with tribes. We have also participated in your Region 10 temperature guidance development process, which has helped us in the development of this updated rule. Throughout the process, your staff has been exceptionally helpful. We especially appreciate the efforts to provide written comments to us so that we could address your agency's concerns prior to the state adopting final rule language. In addition to this, our meetings with you and your staff and the federal fish agency managers prior to this final adoption were very helpful in assisting us to understand what was needed to get final federal approval.

Ecology received over 1400 comment letters and testimonials during the public hearing phase of the rulemaking. In response to these comments and suggestions, several issues were withdrawn from the final rule package, and many improvements were made to those that remained. Not surprisingly, the temperature issues have been the most challenging to address throughout this rule effort. We have followed your temperature guidance and adopted standards that work for Washington. In addition to the formal water quality standards, Washington is also relying on many other regulatory and voluntary programs to protect and promote clean water (see enclosed 2002 State of Salmon Report Part One and Part Two). The following state regulatory programs are critical components to how Washington will achieve and maintain clean water:

- The Washington Water Pollution Control Act
- Water Resources Act of 1971
- The Forest Practices Act, Forest and Fish Report, and Forest and Fish Rules
- The Dairy Nutrient Management Act
- The Growth Management Act and its requirement to designate and protect critical and environmentally sensitive areas
- The Shoreline Management Act

Now that the water quality standards rulemaking process has been completed, Ecology will be shifting its focus towards implementing these important changes. Ecology will begin immediately to develop supplementary guidance on several key issues:

- Implementation of the antidegradation changes through Ecology's programs;
- Ensuring the consistent and effective use of the narrative spawning criteria; and
- Guidance on how to conduct and present Use Attainability Analyses for removing or modifying uses.

The development of these guidance documents will include participation by tribes and a range of interested and knowledgeable stakeholders. We would greatly welcome having EPA staff directly involved, given the importance of ensuring the guidance supports the rule language and meets the requirements of the federal regulations.

Information is enclosed on the changes from the proposed rule to the final rule that was adopted. We have also included the following to assist you in reviewing our regulatory changes:

1) A letter from our Attorney General's office certifying the standards were legally adopted and can be implemented with Ecology's authorities;
2) A CD that contains all of the technical discussion documents and supporting materials for the rulemaking; and
3) A package of technical reports supporting the total dissolved gas criteria for the Columbia and Snake Rivers.

Ecology's view is that EPA's review and approval process, including consultation with the federal fish agencies, will be limited to the standards changes we have made. Included with this package is information on the key changes from the rule that was proposed during the public review period to the final rule that was adopted. This period of time when the state has new standards that are not yet approved by the federal agencies is an awkward time for us, especially when it comes to making implementation decisions on TMDLs, permits, and 401 certifications. We look forward to bringing this long awaited rule change to final completion with your approval. Please let me or my staff know how we can best assist you in your review.

Sincerely,

Megan White, Manager
Water Quality Program

cc: Paula van Haagen
Marcia Lagerloef

Enclosures:
- Summary of changes made to the water quality standards
- Letter from Washington State Attorney General
- Compact Disc
- Technical reports supporting the total dissolved gas criteria for the Columbia and Snake Rivers