PORT GAMBLE S'KLALLAM TRIBE
31912 Little Boston Rd. NE – Kingston, WA 98346

October 12, 2012

Ted Sturdevant
Director
Washington State Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

Dear Director Sturdevant,

Thank you for your August 15th, 2012, letter and invitation regarding the process for setting more appropriate fish consumption rates (FCR) for Washington's Water Quality Standards. We understand that this process includes convening a Policy Forum to inform rulemaking work for improving Water Quality Standards and that the Key Delegates Table of the Fish Consumption Rate Policy Forum will be considered the core of the Policy Forum.

While I appreciate the invitation for our participation in the Policy Forum via the Key Delegates Table, we are going to respectfully decline our involvement with this group. This is due primarily to our concerns about where this Policy Forum is likely to go and how long it may take for anything to come out of it. The fact is that we, and most other Puget Sound Tribes, are unhappy with the delay in this FCR process, and think Ecology should use the clear and available science in your existing consumption rate report to move forward immediately. So we are hereby requesting a government-to-government consultation and appreciate that you included that invitation as well. We will follow up with Tom Laurie on setting up this G2G consultation meeting.

As you may know, Paul McCollum, our Natural Resources Director, is a member of EPA's Region 10 Tribal Operations Committee (RTOC) representing western Washington Tribes and we have worked closely with other Washington Tribes in recent discussions with Dennis McLaren about this FCR issue. Rory O'Rourke, our Environmental Scientist, has also written an article on the matter, which you may have seen. We are fully engaged in this issue at so many levels.

We are very supportive of the recent Affiliated Tribes of Northwest Indians (ATNI) resolution #12 – 54 which advises EPA to immediately establish a revised minimum rate of no less than 175 grams per day. We will work hard in collaboration with the RTOC and NWIFC and EPA Region 10 to encourage EPA to quickly adopt this new minimum rate. This will then be very useful such that EPA will be able to force this minimum consumption rate for states such as Washington that have unjustifiably low rates, to use EPA's new rate until they can get their rate revisions done for their respective Water Quality Standards.

It is unfortunate that Ecology used the SMS approach for the initial FCR process rather than directly with the WQS, but we appreciate that you are now moving forward with both the SMS and SWQS. We are happy to note that in both your letter of August 15th and your

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letter of September 25th, 2012 to Dennis McLerran in response to his letter of September 6th, 2012 that you are accelerating the process and timelines for this important fish consumption rate revision.

The science is in hand already for Ecology to implement these critical FCR revisions for the Water Quality Standards. So rather than go into a long formal stakeholder process that could easily get politicized and have too many involved that are against a FCR revision whatsoever, we would like to see things happen on a much quicker time scale.

It is our recommendation that Ecology immediately implements the fish consumption rate of 212 grams per day, which is the median of the Preliminary Recommendation of 157 to 267 g/day in Ecology's "Fish Consumption Rates Technical Support Document, A Review of Data and Information About Fish Consumption in Washington" Version 1.0 dated September 2011 (Publication no. 11-09-050). The science is solid enough to support this range that was derived after collaboration between Ecology staff, meetings with Tribes, and the use of Tribal consumption studies. Therefore, the median of the range seems like the best approach to get this FCR revised immediately, and then work on a review and update in three to five years.

We are disappointed the version 2.0 of this document was changed so drastically and does not even have a recommended range.

We look forward to a government-to-government meeting and consultation and hope to get an update and provide some more detailed input at that time.

Sincerely,

Jeromy Sullivan, Chairman

Cc
Dennis McLerran, EPA Region 10 Administrator
Kelly Susewind, Ecology Water Quality Program Manager
Melissa Gildersleeve, Manager, Watersheds Management Section
Tom Laurie, Ecology Executive Advisor for Tribal & Environmental Affairs

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