



COLUMBIA RIVER INTER-TRIBAL FISH COMMISSION

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October 10, 2012

Mr. Barry Burnell
Water Quality Division Administrator
DEQ State Office
1410 N. Hilton
Boise, ID 83706

Dear Mr. Burnell:

On behalf of the Columbia River Inter-Tribal Fish Commission (CRITFC), I would like to thank you for this opportunity to provide feedback on Idaho's process to determine whether state water quality criteria are protective of designated uses and to establish protective, new criteria if needed. Based on the presentations made at the October 4th, 2012 meeting, I am compelled to express several concerns about the approach that Idaho's Department of Environmental Quality (IDEQ) is taking on choosing a regulatory fish consumption rate.

IDEQ has focused on developing human health criteria that are protective of the general population, but does not protect so called "sub-groups", such as Native American Tribes, Asian and Pacific Islanders with higher documented levels of fish consumption. To set acceptable risk levels for the general population and knowingly allow a higher risk level for racial minorities that follow different cultural practices, is egregious at best (slide 50 in Mr. Essig's presentation). People that consume fish in Idaho are not capriciously engaging in risky behavior. For tribal members, the fishery resource is not only a major source of food, it is also an integral part of our cultural, economic, and spiritual well-being. For the Nez Perce Tribe, and CRITFC's other 3 member tribes, this food source is also protected in treaties that were signed with the United States in 1855 and remains the law of the land to this day.

As stewards of the resource, we support all efforts to improve water quality to a level that is sufficient to protect the treaty guaranteed fishery from the harmful impacts of waterborne pollutants. Human health criteria should be established by Idaho that are protective of the most vulnerable members of our population and those that are most impacted by the quality of surface water in the state.

I am also concerned about IDEQ's apparent intention of not including anadromous fish or market fish, in establishing a fish consumption rate for the state. Fish consumption survey results indicate that fish consumers generally eat species that are available geographically

and seasonally and consume comparable levels of fish, regardless of the species, that are available at a given location (Oregon Human Health Focus Group Report, June, 2008). To be reasonably protective, fish consumption rates should fully consider fish from all sources and not minimize the rate by applying a Relative Source Contribution (RSC) analyses.¹

In 1996-1998, CRITFC participated in a survey of contaminants in fish in the Columbia River Basin. This data was published in a report by the Environmental Protection Agency (EPA) in 2002. The report shows that both resident fish (white sturgeon and large scale sucker) and anadromous fish (steelhead) collected from Idaho waters contained PCBs, dioxin-like PCBs, chlorinated dioxins and pesticides. In another study by Munn and Gruber (Environmental Toxicology, 1997), organ chlorine compounds were detected in 94% of fish tested in Washington and Idaho. The National Lake Fish Tissue Study (EPA, 2009) found levels of PCB, dioxin and DDT in fish at levels that exceed human screening values. It is time that IDEQ's mission "to protect human health and the quality of air, land, and water" is realized. One step in achieving this would be to take measures that will establish a protective fish consumption rate for use in setting water quality criteria that will finally have an impact on the quality of Idaho's water and fish.

We all share the same waters and desire for a toxic free environment. Appropriate environmental standards are a first step in moving forward to the goal of a sustainable relationship between the industrial, forestry, and agricultural sectors, and the waterways that are the lifeblood of the Pacific Northwest fisheries. I recommend that IDEQ consider following Oregon's lead in adopting a protective fish consumption rate of at least 175 grams per day based on evidence documented in CRITFC's (1994) fish consumption survey report. This recommendation is also based on a recent resolution that was approved by the 57 tribes of the Affiliated Tribes of Northwest Indians (resolution attached).

In addition, CRITFC supports the collection of revised fish consumption data to update the CRITFC (1994) survey. Lower Granite Dam fish counts have changed dramatically since the time of our original survey work. In 1991-1992 when the CRITFC survey was conducted, an average of 129,000 fish per year (Summer Chinook, Steelhead, Fall Chinook, Coho, and Sockeye) were counted at Lower Granite. In 2010-2011 an average of 341,000 fish per year were counted. These increases in fish availability for Idaho residents are due in large part to the efforts of tribal fish restoration programs and we expect that fish harvest and consumption by all Idaho residents will have increased as well. CRITFC and its member tribes are ready to work with you and the IDEQ to

¹ RSC analyses would be further challenged as it would need to consider recent technical studies that document the presence of persistent organic pollutants in outmigrant juvenile salmon (Johnson, et. al, 2007, "Contaminant exposure in outmigrant juvenile salmon from Pacific Northwest estuaries of the United States", *Environmental Monitoring and Assessment*, 123, 167-194pp.) This work and other studies demonstrate that exposure to toxic chemicals is occurring during the freshwater portion of the pacific salmon life cycle.

establish a reasonable and workable regulatory system that will allow the state's business and wastewater sectors to adapt processes to meet new standards.

Thank you for considering these comments during this rulemaking process and taking steps to fully evaluate the impact of fish consumption rate on the health of all Idaho residents. If you have any further questions please contact me or Dianne Barton, PhD at 503-238-0667.

Sincerely,

A handwritten signature in blue ink that reads "Babtist Paul Lumley". The signature is written in a cursive, flowing style.

Babtist Paul Lumley
Executive Director

Attachment

Cc: Dennis McLerran, U.S. Environmental Protection Agency
James Woods, Senior Tribal Policy Advisor, Environmental Protection Agency
Mary Lou Soscia, Columbia River Coordinator, Environmental Protection Agency



2012 Annual Convention Pendleton, OR

RESOLUTION #12 - 54

"REQUESTING THAT THE U.S. ENVIRONMENTAL PROTECTION AGENCY ACCOMPLISH A FISH CONSUMPTION RATE OF NO LESS THAN 175 GRAMS PER DAY FOR HUMAN HEALTH CRITERIA RULEMAKING IN THE PACIFIC NORTHWEST"

PREAMBLE

We, the members of the Affiliated Tribes of Northwest Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants rights secured under Indian Treaties, Executive Orders, and benefits to which we are entitled under the laws and constitution of the United States and several states, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise to promote the welfare of the Indian people, do hereby establish and submit the following resolution:

WHEREAS, the Affiliated Tribes of Northwest Indians (ATNI) are representatives of and advocates for national, regional, and specific tribal concerns; and

WHEREAS, ATNI is a regional organization comprised of American Indians/Alaska Natives and tribes in the states of Washington, Idaho, Oregon, Montana, Nevada, Northern California, and Alaska; and

WHEREAS, the health, safety, welfare, education, economic and employment opportunity, and preservation of cultural and natural resources are primary goals and objectives of the ATNI; and

WHEREAS, throughout time immemorial we as the first people of the Pacific Northwest have cared for and sustained the First Foods beginning with the pure water that we hold sacred,

and guided by our traditional religious and cultural practices, we are obligated to take action now to care for the water for the next seven generations; and

WHEREAS, numerous robust, valid, reputable scientific studies unfortunately have shown that shellfish and fish, including salmon and resident fish consumed by native people in the Pacific Northwest, exposes them to toxic contaminants and poses a human health risk; and

WHEREAS, scientific surveys have shown that native people in the Pacific Northwest today eat 300 – 500 grams of fish per day which is down from historical rates of more than 800 grams per day reflecting ceremonial, subsistence and other fishing practices which are secured by treaties and executive orders with the United States; and

WHEREAS, ATNI recognizes and appreciates that in 2011 Oregon adopted, and the U.S. Environmental Protection Agency (EPA) approved water quality standards based on a fish consumption rate of 175 grams per day; and

WHEREAS, on May 10, 2012 the EPA disapproved Idaho's request to use a fish consumption rate of 17.5 grams per day when deriving water quality criteria; and

WHEREAS, tribes need immediate assistance from EPA to continue to build capacity to develop and in some cases update tribal fish consumption rates; and

WHEREAS, tribes in the Pacific Northwest are concerned that EPA has long had knowledge of scientifically sound data concerning known tribal fish consumption levels and yet fails to enforce existing laws (i.e., the Clean Water Act) to protect fish consuming populations and acquiesces to the very industries and corporations they regulate; and

WHEREAS, tribes in the Pacific Northwest must coordinate to protect and improve human and environmental health through water quality and sediment standards for the benefit of natural resources, First Foods, and indigenous people everywhere; and

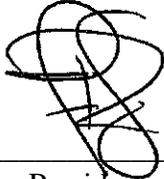
WHEREAS, adopting higher, more accurate fish consumption rates benefits not only tribal people, but all citizens, in the Pacific Northwest who consume fish and value a cleaner and more healthy environment; now

THEREFORE BE IT RESOLVED, that ATNI does hereby request that EPA immediately take necessary and appropriate steps to establish a federal default fish consumption rate of no less than 175 grams per day for Oregon, Washington, and Idaho to support and guide water quality and sediment management standards; and

BE IF FURTHER RESOLVED, and to use the EPA General Assistance Program to fund Tribal capacity efforts to develop and update Tribal fish consumption rates.

CERTIFICATION

The foregoing resolution was adopted at the 2012 Annual Convention of the Affiliated Tribes of Northwest Indians, held at the Wildhorse Resort & Casino in Pendleton, Oregon on September 24 – 27, 2012 with a quorum present.



Fawn Sharp, President



Norma Jean Louie, Secretary