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Jessica Spiegel
NW Region

April 5, 2018

Via email at: susan.braley@ecy.wa.gov

Ms. Susan Braley
Water Quality Program
Washington State Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

Re: WSPA Comments on Water Quality Program Policy 1-11

Dear Ms. Braley:

The Western States Petroleum Association (WSPA) appreciates the opportunity to provide the Washington State Department of Ecology (Ecology) comments for proposed revisions to Water Quality Policy 1-11 (Policy). WSPA is a non-profit trade association that represents companies that account for the bulk of petroleum exploration, production, refining, transportation and marketing in the five western states, including Washington. Our members are deeply interested in the revisions to the Policy. While the proposed revisions by Ecology incorporate several beneficial changes, we would like to share comments with you related to additional revisions that we believe would further improve the Policy.

WSPA and its members simply seek sound policy, guidelines that thoughtfully use the resources of the state while providing a fair opportunity to both live *and* work here. From a larger policy perspective, revising (or not revising, as the case may be) the overall Policy 1-11, in tandem with the new, extraordinarily conservative water quality standards, could result in nearly every water body in the state becoming EPA 303d "listed." A Category 5 determination is a very consequential regulatory determination. It creates regulatory vulnerabilities and drives substantial public and private resource expenditures. Thus, establishment of the criteria for this listing should be conservative.

Specific Substances of Concern

Given the current analytical detection limits, application of this proposed Policy is anticipated to lead to many more Category 5 impairment listings. The stringent human health-based water quality criteria for arsenic, mercury, selenium and dioxin, coupled with more sensitive analytical methods, and pollutant contributions from natural or societal non-point sources, are of particular concern to WSPA. More specifically, WSPA is concerned with the stringent water quality standards and how they affect specific substances such as metals, particularly arsenic, mercury, selenium, and dioxin. For example, the PCB levels could be found in pristine mountain streams

due to atmospheric deposition, outside of the control of any businesses that might wish to use the water.

Human Health Criteria

WSPA believes that the assessment of fish tissue to evaluate the “harvest” designated use should include all the fish species harvested in the assessment unit. This would include salmonids, and not just the resident fish/shellfish described in the Policy.

Substantial Data Sets

WSPA recommends that Ecology rely on more robust data sets rather than discrete measurements (i.e. single day and single grab samples). Listing a waterbody based on data from a single day and/or single grab sample is unreasonable and does not follow good scientific method. Reliance on these types of discrete measurements can ignore many variables that result in an irregular value and often creates unnecessary work. Due to the significance of a Category 5 listing, WSPA believes that the determination should be based on substantial, multi-year evidence of water quality standards exceedances.

As mentioned above, a Category 5 determination is a very consequential regulatory determination. Any Category 5 listings not satisfying the 2018 criteria should be reassigned to Category 2 or Category 3. The agency can target those waterbodies for monitoring, and re-list if it becomes appropriate.

Natural Conditions Evaluation

Assumptions should not be made that water quality data is human caused versus natural. This is arguably poor policy and questionable science because it is subjective analysis in guidance not based on scientific data. For example, the goal should be to avoid standards – such as with arsenic – that “clean” natural water quality by setting standards lower than the natural background levels in some water bodies.

Thank you for your consideration of WSPA's comments. We welcome any questions or comments you might have. Please contact me at (360) 352-4512 or by email at Jessica@wspa.org.

Sincerely,



cc: Tom Umenhofer, WSPA