



## UPPER SKAGIT INDIAN TRIBE

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April 3, 2018

Susan Braley  
Water Quality Program  
Department of Ecology  
PO Box 47600  
Olympia, WA 98504-7600

Re: Water Quality Program Policy 1-11 Draft of Washington's Water Quality Assessment Listing Methodology to meet Clean Water Act Requirements

Dear Ms. Braley:

The Upper Skagit Indian Tribe appreciates the opportunity to submit comments on the draft Water Quality Program Policy 1-11. We commend Washington Department of Ecology for being one of the first programs to include fish tissue data in addition to water column data as part of its listing policy. The Upper Skagit Indian Tribe would like to express our support for the Northwest Indian Fisheries Commission (NWIFC) comments submitted to Ecology regarding the draft *Policy 1-11, Washington's Water Quality Assessment Listing Methodology to meet Clean Water Act Requirements*. We are submitting our comments to especially highlight our concern about the potential for an "off-ramp" to de-list or avoid listing impaired water bodies based on the results of water column data in lieu of fish tissue data. Many contaminants are highly bioaccumulative and safe fish harvest is a designated use and a treaty right. As described in the NWIFC comments, since the purpose of the listing policy is to assess water quality and determine if the designated uses are being supported, decisions about de-listing water bodies should be made on the basis of fish tissue data and not solely water column data.

Additionally, we have concerns about the proposed 10-fold and 100-fold multipliers for the carcinogen Tissue Exposure Concentration (TECc). Since the TECc is derived directly from the same information as the Human Health Criteria (HHC) water quality criteria, these multipliers effectively raise the HHC 10-fold or 100-fold. For example, in a case where the samples show an exceedence of less than 10 times the TECc (for cases with 3 samples), there would be no listing despite the fact that there are multiple composite samples showing concentrations higher than the TECc. This appears to circumvent the purpose of the HHC by raising the level of contamination necessary to show an impairment and result in a listing.

Please contact Lisa Hainey, Environmental Scientist at 360-854-7010 if there are any questions.

Respectfully,



Doreen Maloney, General Manager & Executive Director, Economic Development and Treaty Entitlements

CC: Kelly Susewind, Special Assistant – Water Policy, Washington State Department of Ecology  
Scott Schuyler, Natural Resources Policy Director  
Jon-Paul Shannahan, Fisheries Biologist