



Columbia Riverkeeper.
North Sound Baykeeper.
Puget Soundkeeper. Alliance
Spokane Riverkeeper.

October 12, 2012

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Via U.S. Mail & Email

**RE: Washington State's Decision to Delay Adopting New Human Health Criteria
Toxics Standards to Protect Public Health; Response to Delegates Table
Invitation**

Dear Gentleman,

“A right delayed is a right denied.” These are the words of Martin Luther King Jr. and they aptly describe the consequences of Washington State’s decision to delay adopting new toxics water quality standards: people who regularly eat locally caught fish are being denied the basic right to eat fish free of toxic pollution. The Department of Ecology (Ecology) recently announced that it will continue to delay long-awaited measures to reduce toxic pollution by convening a lengthy information gathering process. Waterkeepers Washington joins the growing number of Tribes, including the Yakama Nation, Lummi Nation, and Squaxin Island Tribe, and the Northwest Indian Fisheries Commission (NWIFC) in declining the invitation to participate in a process which will add years of delay to the adoption of accurate, protective human health criteria water quality standards.

Waterkeepers Washington, a coalition of Waterkeeper Alliance members in Washington State, is also joining NWIFC in calling on EPA to take over the state's broken process and establish new human health criteria. We agree with NWIFC's comprehensive letter to EPA, which states in part:

Ecology's recent decision making clearly appears to be driven by considerations other than protecting human health and achieving compliance with the Clean Water Act—such as pressure from specific businesses.

See Letter from NWIFC to EPA (Sept. 7, 2012). NWIFC describes accurately the dubious process to date, and Ecology's hollow promises over the last decade to adopt water quality standards that protect people who eat locally caught fish.

Today, people across Washington State are eating fish contaminated with mercury, lead, PCBs, and arsenic. In addition to tribal members, many Washingtonians, including members of our organizations, immigrants with rich traditions of fishing, and low-income residents who rely on our rivers as a source of protein, are eating fish that are dangerous to consume. In fact, both Ecology and EPA have already determined that Washington State's toxics standards do not protect human health.

Yet the process that Ecology is about to embark on—over a year of full-day meetings on various subjects from the fish consumption rate to new loopholes in NPDES permits—is not the answer. Ecology can use the traditional tools of notice and comment rulemaking and associated public hearings to adopt promptly new human health criteria. This traditional, faster rulemaking route is both appropriate and necessary relative to the protracted meeting process Ecology has outlined. In addition, for at least the last year the agencies have received input from stakeholders, including industry, Tribes, and conservation groups, on the adoption of new standards and NPDES rules. Ecology also has the benefit of the State of Oregon and EPA Region 10's experience adopting new human health criteria and associated rules. For these reasons, we join NWIFC and many of the Tribes in this State in urging EPA to promulgate new human health criteria in the face of protracted delay from Washington State.

Although we will not participate in Ecology's Delegate's Table, we will continue to provide input on the development of new standards and associated rules given the critical importance of adopting accurate standards. While we agree with Director Sturdevant's calls for a comprehensive approach to reducing toxins in Puget Sound and our state's rivers, lakes, and streams, we disagree that delaying the adoption of new toxics standards is in the best interests of the millions of Washingtonians who eat fish and shellfish.

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Sincerely,

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cc:

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