UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
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OFFICE OF THE
REGIONAL
ADMINISTRATOR

OCT 18 2012

Mr. Babtist Paul Lumley
Executive Director
Columbia River Inter-Tribal Fish Commission
729 NE Oregon, Suite 200
Portland, Oregon 97232

Dear ~~Mr. Lumley~~: Paul –

Thank you for your correspondence dated September 14, 2012, which expresses concerns regarding the fish consumption rates used to derive human health criteria in the Pacific Northwest. Your letter also discusses the trust responsibility of the U.S. Environmental Protection Agency to ensure that state water quality standards are sufficient to protect tribal members. Due to recent events in Washington and Idaho, you asked the EPA to take a leadership role in developing a regional default fish consumption rate of at least 175 grams per day. I also appreciated hearing your perspectives and discussing these issues with you at the 2012 Annual Convention of the Affiliated Tribes of Northwest Indians in September.

Adoption of human health criteria that reflect an appropriate fish consumption rate for Washington's and Idaho's waters and that address the EPA's desire for regional consistency remains a high priority for the EPA. Our recent actions in Idaho and Oregon provide strong precedent for future state revisions to their human health criteria and show the EPA's obligation to ensure that states use a protective fish consumption rate to derive these criteria.

Your letter also expresses frustration with the length of time it has taken for the Washington Department of Ecology to adopt a protective fish consumption rate to derive human health water quality criteria and Ecology's recent changes in their Sediment Management Standards revisions and Fish Consumption Rate Technical Support Document. The EPA is committed to working with Ecology to adopt protective human health criteria in an efficient and timely manner; and, we will help provide Ecology the support and resources to accomplish this goal. At this time, we believe it's appropriate for Ecology to lead this work with the EPA's assistance, and we are pleased to see that Ecology has shown its commitment to adopt new human health criteria by issuing a formal notice for rule-making activities on September 21, 2012.

Your letter also discusses concerns regarding a potential delay if Idaho were to conduct a new fish consumption survey as indicated in a letter from the Idaho Department of Environmental Quality's Director Barry Burnell dated August 6, 2012. The EPA strongly supports adoption of human health criteria that are derived using scientifically sound data, including applicable regional and local fish consumption rate surveys. While we believe that regional and local fish consumption data are currently available to support state and tribal water quality criteria development, we acknowledge that fish consumption information for Idaho is much more limited. Therefore, the EPA is continuing to discuss these issues with Idaho and the tribes, and is participating in the public meetings that the IDEQ initiated as part of its negotiated rulemaking process on October 4, 2012. The purpose of these meetings is for

Idaho to evaluate potential revisions to its human health criteria. The issue of applicable and available fish consumption information and the quality of those data are a key part of the discussions.
I was pleased to hear that CRITFC staff and other tribal members attended the meeting and we look forward to your continued participation in future meetings.

In summary, the tribes in the Pacific Northwest have a very important role in ensuring successful adoption of human health criteria that address tribal fish consumption concerns. I appreciate the CRITFC's efforts thus far and hope that you will continue to provide the clear message that an accurate and protective fish consumption rate is not only important to the tribal community and for tribal rights, but also for the general health of the people in the Pacific Northwest. The EPA looks forward to continued collaboration with you for a successful outcome.

If you have further questions, please contact Angela Chung, EPA's Water Quality Standards Unit Manager, at (206) 553-6511 or Dan Opalski, our Director for the Office of Water and Watersheds, at (206) 553-1855.

Sincerely,

Dennis J. McLerran
Regional Administrator

cc: Mr. Ted Sturdevant, Director
Washington State Department of Ecology

Mr. Barry Burnell, Director
Idaho Department of Environmental Quality