From: Fleming.Sheila@epamail.epa.gov
To: Stifelman.Marc@epamail.epa.gov; Kissinger.Lon@epamail.epa.gov; Cox.Michael@epamail.epa.gov
Subject: Re: FW: Fish Consumption Rate - Final response from Ted to Cargill / Washington Policy Center
Date: Wednesday, August 15, 2012 5:36:57 PM

Nice!
Sheila

Sheila Fleming, P.E.
Risk Evaluation Unit Manager
U.S. Environmental Protection Agency
Office of Environmental Assessment
1200 Sixth Avenue, Suite 900, M/S OEA-095
Seattle, Washington 98101

Office: 206.553-1417
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Marc Stifelman---08/15/2012 02:31:54 PM---Nicely done. From: "McCormack, Craig (ECY)" <cmcc461@ECY.WA.GOV>

From: Marc Stifelman/R10/USEPA/US
To: "McCormack, Craig (ECY)" <cmcc461@ECY.WA.GOV>,
Cc: Lon Kissinger/R10/USEPA/US@EPA, Sheila Fleming/R10/USEPA/US, Angela Chung/R10/USEPA/US@EPA, Lisa Macchio/R10/USEPA/US@EPA, Michael Cox/R10/USEPA/US@EPA
Date: 08/15/2012 02:31 PM
Subject: Re: FW: Fish Consumption Rate - Final response from Ted to Cargill / Washington Policy Center

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Nicely done.

"McCormack, Craig (ECY)" ---08/15/2012 02:26:06 PM---Strong response from Ted Sturdevant - note the tribal support he provides. From: Laurie, Tom (ECY)

From: "McCormack, Craig (ECY)" <cmcc461@ECY.WA.GOV>
To: Lon Kissinger/R10/USEPA/US@EPA, Marc Stifelman/R10/USEPA/US@EPA
Date: 08/15/2012 02:26 PM
Subject: FW: Fish Consumption Rate - Final response from Ted to Cargill / Washington Policy Center

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Strong response from Ted Sturdevant – note the tribal support he provides.

From: Laurie, Tom (ECY)
Sent: Wednesday, August 15, 2012 2:14 PM
To: Baldi, Josh (ECY); Bradley, Dave (ECY); Conklin, Becca (ECY); Davies, Laurie (ECY); Duff, Robert

(ECY); Gildersleeve, Melissa (ECY); Hankins, Martha (ECY); Howard, Sandy (ECY); Kraege, Carol P. (ECY); McCormack, Craig (ECY); Niemi, Cheryl (ECY); Norton, Dale (ECY); Pendowski, Jim (ECY); Preston, Seth (ECY); Rice, Darin (ECY); Seiler, K (ECY); Susewind, Kelly (ECY); Terwilleger, Karen (ECY); Zarker, Ken (ECY)
Subject: Fish Consumption Rate - Final response from Ted to Cargill / Washington Policy Center

FYI, sorry for duplications

- Tom

C. Thomas Laurie | Executive Advisor for Tribal & Environmental Affairs | Washington State Dept. of Ecology
PO Box 47600, Olympia, WA 98504-7600 http://www.ecy.wa.gov/
email: tom.laurie@ecy.wa.gov phone: 360/407-7017 cell: 360/790-4110

From: Sturdevant, Ted (ECY)
Sent: Wednesday, August 15, 2012 1:31 PM
To: ccargill@washingtonpolicy.org
Cc: Smith, Dann; tmyers@washingtonpolicy.org; Laurie, Tom (ECY); Baldi, Josh (ECY); North, Teri (ECY); Susewind, Kelly (ECY); Pendowski, Jim (ECY)
Subject: RE: Fish Consumption Rate

Thanks for the opportunity to speak to your recent op-ed as well as your recommendations on rulemaking.

As you know, setting accurate fish consumption rates is one necessary component of establishing human health criteria in our water quality standards. Fish consumption, like direct ingestion of water, is a primary pathway for human exposure to toxics in water; it is not optional, but a part of the construct of the Clean Water Act.

I have publically stated that we have a long way to go in eliminating needless and avoidable toxic releases and exposures. I have also stated that we should strive to avoid high cost/low value regulatory requirements in our efforts to protect the public and environment from toxic contamination. My notion of success is that we achieve water quality protections that allow Washingtonians to safely eat Washington fish, and avoid those high cost/low value scenarios that dischargers fear. Ultimately, as required by the Administrative Procedures Act, any rules we adopt must show a positive cost-benefit ratio.

Succeeding in this effort will, in my opinion, require thoughtful and productive dialogue between various parties. I find your contribution to date to be neither thoughtful nor productive. Efforts to work successfully through complex, high stakes issues like these benefit from honest engagement and respect for other parties' valid interests. Those efforts do not benefit from hyperbole, bending the truth or name-calling.

I take particular issue with your implication that Washington tribal members do not deserve to have their health protected because they make up "less than 2% of the state's population." Not only does this reflect a cultural perspective that strikes me as indefensible, it also reflects a poor understanding on your part of how environmental and health regulations work. Regulations are normally not designed to protect just up to the "average" citizen and no more; if so, 50% of the population would always be at risk. For example, air regulations are not and should not be designed to protect only the average healthy adult, but should also protect a child with asthma. The same applies for clean water.

While our water quality standards are designed with the whole population in mind – including recreational fishermen, Asian Pacific Islanders and others, it is worth pointing out that our society has a collective duty to allow tribal members to follow their own traditions and cultures. Those traditions include a greater reliance on local fish and shellfish than the general population. The tribes reserved that right when they signed treaties ceding their lands to the United States. While those treaties did not anticipate toxic contamination, it is our responsibility to ensure that fish are available for harvest not just in sufficient quantity, but that the fish is safe to eat at those higher

levels of consumption.

As for your thoughts on fundamentally shifting the roles of the legislative and executive branches as they pertain to rulemaking, I will simply say that I strongly disagree. Though you seem to have only disdain for the executive branch and its duties, the fact is the legislature exercises enormous oversight over agencies like mine, and our system of checks and balances between the branches seems to be working pretty well. For example, last session the legislature considered passing a budget proviso that would have conditioned the work we are doing around fish consumption rates, and chose not to do so. I believe you have a solution in search of a problem.

The department of Ecology is moving forward, and will continue to move forward, in revising our human health criteria, which will include a more accurate fish consumption rate. I hope all parties, including the Washington Policy Center, will treat this issue for what it is – an important matter of policy, not a convenient vehicle for partisan politics.

Ted Sturdevant, Director
Department of Ecology
(360) 407-7001
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From: Chris Cargill [mailto:ccargill@washingtonpolicy.org]
Sent: Monday, July 30, 2012 8:51 AM
To: Sturdevant, Ted (ECY)
Cc: Smith, Dann; tmyers@washingtonpolicy.org
Subject: Fish Consumption Rate

Mr. Ted Sturdevant
Director, Washington State Department of Ecology
Post Office Box 47600
Olympia, Washington 98504-7600

Mr. Sturdevant,

As you know, WPC recently published an opinion-editorial about the fish consumption rate changes your department is considering. We laid out a number of concerns, but also made broader recommendations on the rulemaking process. These are recommendations that we have long-supported.

We believe the key is whether raising the fish consumption rate, and the tightening of standards thereafter, would really do more harm than good. In other words, are we spending $1 billion to only reduce the risk for a few people, and could that $1b be used in other areas that might have greater impact on health and well-being? Especially given the fact that many other projects in the Puget Sound that would create significant environmental benefit continue to go unsupported and are significantly behind schedule.

We understand you don't believe the limited size of the impact or benefit from the proposed is a consideration in the rule. Your abridged comments were referred to us second-hand, so we ask that you clarify them so we can address them more completely. What has been passed along to us seems odd. After all, if the size of the impact isn't a consideration in prioritizing, what is?

As always, we welcome your input and feedback.

Chris Cargill & Todd Myers

Washington Policy Center

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