**Water Quality Standards Hearing**

**Pendleton Transcription**

**February 8th, 2011**

**Cheryll Hutchens–Woods**: ...and what I will do is call your name up here, and and have a seat at the table, and you can read your testimony into the record. So at this time I'd like to begin the hearing on the rule-making revised human health water quality standards for toxic pollutants. The hearing will be recorded to maintain a permanent record. Today is February 8th, and we're in Pendleton, Oregon. The time is 3:20. I'd like to begin taking comments. If anyone has prepared a written statement or documents, it would help to summarize them orally, and then introduce the written material into the record. Written comments are given the same weight as oral comments. Comments will be taken in the order received. So please come up to the table when I call your name. The first person to give comment is Brett VanderHeuvel. And please give your name into the record when you start....(pause). So I'm going to revise my order here, at Brett's suggestion. So let me do that. Could I have Leo Stewart first, please? And if you'd give your name into the recorder first, please.

**Leo Stewart** - Good afternoon. I'm Leo Stewart. I'm the Vice Chairman of the Board of Trustees of the Confederated Tribes of Umatilla Indian Reservation. The Umatilla Tribes support the revised water quality standards as proposed. The proposed water quality standards for toxic (incorporated?) fish consumption rate that is more protective of tribal members and other citizens of Oregon in the northwest who eat fish. Tribal members eat more fish than average population. We all know many Oregonians enjoy and even depend on fish from the Columbia and its tributaries, and the coastal tributaries to the Pacific Ocean.

The Umatilla Tribes has worked for years with Oregon and United States Environmental Protection Agency, and interested stakeholders to increase the fish consumption rate to better reflect the amount of fish consumed by our tribal members. The science supporting the increase fish consumption rate is sound. It was the subject of extensive discussion and debate. Our hundred seventy five grams per day is a fair and reasonable number, and it is already a substantial compromise. We realize that the proposed rules must be both effective in protecting Oregonians and fair in their implementation. We must lead - they must lead to concrete reduction in amount of toxics released in the water, the fish in our people. Umatilla tribes are committed to work with the DEQ, EPA, and the affected stakeholders to reduce toxins in a matter that is fair and cost effective.

In the Treaty of 1855, the tribal treaty signers secured our historic preexisting rights of taking fish then, now, and forever. They would not have signed the treaty without that guarantee. When the signed the treaty, they understood that the fish would be safe to eat, as they had been. Water and fish are the first of our first foods. Our community realizes water and other fish foods not just for their values as natural resources, but for their cultural and religious values as well. In fact, we hold these values inseparable. Our first food ceremonies begin and end with a drink of the water to recognize its importance, and we have song that speaks to the religious significance of water, and the other first foods.

The higher fish consumption rate is designed to better protect Oregon's more sensitive fish consumers, as is similar to the Oregon to decision to adopt air quality standards that protect people with asthma. The approach makes sense for air quality standards, and it makes sense with the water quality standards. In the past, the water quality standard did protect Indian people. They did not protect our children, our women, and our mothers. We must think of - we must think of the seven generations, what we will pass on to them, what they will inherit. They should not face greater health risks for exercising their treaty rights, or their practice in their religion, and for continuing our culture. The revised rule for toxic with the hundred and seventy five grams per day fish consumption rate will change that. They will help safeguard the health of our children, and ensure the first food are healthy and safe to eat. I want to thank you, ma'am for this time.

**Cheryll Hutchens–Woods** - Thank you for your comments.

[00:06:18.26]

**Cheryll Hutchens–Woods** - The next commenter is Myrna Williams Tovey.

**Myrna Tovey** - I don't have much to say.

**Cheryll Hutchens–Woods** - That's fine. Just make your comments, and please give your name again.

**Myrna Tovey** - My name is Myrna Williams Tovey, and I'm a member of the Confederated Tribes of the Umatilla. I was born and raised on the reservation, and I have just a follow up on what Leo Stewart talked about. I was a member of the Yellow Hawk health commission. And at one of our meetings, we were informed that we have forty tribal members that have cancer. So it was a big concern to me whether it's involving the - it must be the water, but I don't know. But I think that was the only thing I had to add. Oh, one more thing. We do have several wells that had a great number of PCB, I guess, which has passed, but they still are holding up in the wells, water level. Thank you.

**Cheryll Hutchens–Woods** - Thank you for your comment. Brad, did you want to come back up and make your comments now?

**Brett VandenHeuvel** - I'm Brett VandenHeuvel. I'm the Director of Columbia River Keeper. We're a conservation organization that works to protect and restore the Columbia River. And just to begin, if I could make some hopefully constructive comments about the presentation. I think the most interesting part of these hearings is hearing what people have to say, and the questions. And I would just love to recommend that DEQ to, maybe I think half the time of your side of the presentation and a lot less acronyms would be really helpful to the people here. So if we were going to write an equation, it would be time divided by two, minus acronyms. [chuckles in audience]

On behalf of our three thousand members of Columbia River Keeper, I support the proposed rule to decrease toxic pollution in our rivers, in our fish, in our bodies. I'm happy to be here. Our office is in Hood River, and I'm happy to be in Pendleton, and on the seated lands of the Confederated Tribes of Umatilla Indian reservation. The Confederated Tribes have been the leaders to making this proposed rule happen, have been working on it for multiple years, have gathered the scientific data to show that people do eat more fish than has been assumed for a long time, and has spent, you know, many, many hours making this happen. And Columbia River Keeper is very proud to be able to lend a hand in trying to get this to move forward.

This has been decades in the making. Literally twenty years ago, there were studies showing that the assumption that how much fish people eat are not true. So it's a really simple rule. It says that the way that Oregon and most states base their toxic standards is the amount of toxic pollution that's allowed into the rivers is based upon the amount of fish people eat. So if people don't eat any fish, we can dump all kinds of toxics into the river, and you know, who cares? But if people are eating fish, then eating regularly - regularly eat fish, then we have to discharge less toxic pollutants into the river. So that's why this assumption of how much fish people eat is very important, because it controls how much toxics are being able to discharge.

So you know, right now, if we have two fish meals a month, is the current assumption DEQ uses. And while there might be people in this audience that don't eat that much fish, there sure are a lot of people do eat way more than fish meals per month. And it's not just about tribal members, although you know, certainly that's - you know, tribal members historically eat a lot of fish. But there's a lot of people, you know, that eat far more fish than that. And this is designed to protect people who regularly consume fish from getting cancer. I mean, it's a matter of human health.

So Oregon is poised to become a leader in water quality standards, and a leader in protecting its citizens from toxic pollution. And I don't think this is something we should apologetic about, or embarrassed about; this is something I think this state should take a lot of pride in. And while the rule certainly has flaws, and we object to a lot of things in there - in fact, if anyone wants it, I have our written comments that are twenty pages long, raising a lot of concerns about the rule. But the underlying - the underlying component of the rule, that people eat more fish, and we need to reduce toxics, we wholeheartedly report.

Just a couple examples of things that are problematic about the rule. One, it completely exempts storm water It says the human health standard doesn't apply to storm water. Stormwater, you know the rain that's falling in urban areas, and industrial areas, and other places that gathers pollutants runs off into rivers, that contains toxics as well. But that is not - would not apply here. We don't think that's fair to the other people regulated, or it's not a good way of regulating the entire suite of toxics, so we think this should apply to storm water We also have concerns about some of the variance procedures.

But in the end, you know, will dischargers have to reduce toxics? I think the answer is yes, or I hope the answer is yes. Will this take more time and effort? Yes. You know, is it cheaper and easier to continue to discharge these toxics into the river at the current levels? Yeah, it's probably cheaper, and probably easier, but that's not, you know, that's not the answer here. The pollutants that are - the toxics that are going into the rivers are being passed on to the people that are eating them. So we're essentially taking them from one place, and putting them into the bodies of people. And yes, that's cheaper and easier, and yes, that's - the polluters are getting off with less cost that way. But as a matter of environmental justice, as a matter of fairness, it's not okay to put that cost on the people who are eating those fish, and that cost meaning the ultimate cost of health issues.

So you know, there will be some who say "I don't eat fish. Why should we care about fish? And if fish aren't healthy, we shouldn't eat them." And you know, that's - I think most people would agree that that's not an acceptable solution either. It's not okay to tell people not to eat fish. Salmon and other fish are some of the most healthy protein-rich things that God created, and people will continue to eat them. And this rule addresses that very fundamental problem of getting too much toxics in our bodies.

So we fully support the rule. We'd like to see some changes, minor changes in it, but the concept of at the base level of saying, do people eat this much fish, or do they eat this much fish, I think is supported by science, it's supported by lots of studies by DEQ and others that show that people are eating a much higher level of fish than two of these per month.

And as a final word, I think we're very fortunate here that we're not - most of us aren't eating salmon out of a can, that we actually do have [chuckle] - have salmon runs that are - that are left, and you know, have been sustainably harvested in this area for - since time immemorial, and there's a lot more we need to do than just reduce toxics to keep it that way. But this gets to in order to have healthy salmon runs, in order to not be eating salmon from salmon farms in cans, we really - it's vital to our economy of this region to protect salmon, and protect the people who eat them. Thank you.

**Cheryll Hutchens–Woods** - Thank you for your comments. Next commenter is Mark Milne(?) from the City of Pendleton.

**Mark Milne** - Hi, I'm Mark Milne with the City of Pendleton, waste water superintendent for the pollution reduction plant. Waste water treatment plants evolved so(?) have always been working to reduce pollution. We work very hard to keep costs down, and operate a plant to remove pollutants. The pollutants we've removed have changed over the years. Currently the waste water plant is spending over fifteen million dollars to upgrade a plant was built in the seventies under the Clean Water Act. With this upgrade, we'll be removing - design for removing ammonia, not specifically more toxics. The design life of a plant is typically is twenty to thirty years. The investment is pretty steep on a community. We've doubled our sewer rates to do this. In helping reduce toxics, waste water plants, along with ACWA and the Oregon Dental Association have worked to get amalgam removers put in dental plants. Reducing toxics are something that waste water treatment plants have been doing for quite awhile, and we've been working towards that end.

Under the current - or, under the new revised fish consumption rates, the limits that we're looking for on toxins, we do not have treatment technologies available to go that low. It's just not there. We don't have ways of doing that yet. So looking at the end of the pipe, where I live, we just don't have the ability to reduce the toxins to the levels that's being described. To that end, I think we need to look up the pipe. We have to stop the toxins before they enter the sewer system. Currently, most places that know they have toxins operate pretreatment programs. Pretreatment programs have been effective. The City of Pendleton, though, does not have any industries that discharge toxics. We are mostly a domestic source of pollution.

So as we come to our - so what comes out of our plant, the toxins that might be found - again, we have not looked. We haven't looked to the levels that's being suggested. But the toxins that might be found, we don't have a way to treat, so we must get them out before they get there. Things like phthalates need to be banned at the state level, not through an NPDES permit. To reduce those toxins, it's got to be stopped at the source, and we're not the source; we're part of the solution. Effective toxics reduction must be tackled at the watershed level. We have to go out the watershed, find for the pollutions it's coming from, and work with it there.

DEQ's solution of a variance must be improved. A variance doesn’t reduce pollution, it just says that we can't do anything, or we aren't doing it properly, and we spend a lot of money doing paperwork, and a lot of staff time, and no toxics get reduced. There's got to be a better way than a variance. Looking over the list of pollutants we're looking to treat, there are many things that are legacy pollutants. DEQ has recognized that legacy pollutants are not going to be reduced at a waste water treatment level, that most of the work to reduce those pollutants have been done, and currently, we're just waiting for those to get out of the system.

Other pollutants, mercury, arsenic, and combustion byproducts that all will show up in a waste water treatment plant, some of those are air pollutants, especially the combustion byproducts. Waste water treatment plants have to use a large amount of air to treat the organic wastes that come into the plant. A waste water plant is a living system that uses air, pushing thousands of cubic feet per day through a water column to remove pollutants. The bacteria use the oxygen to eat the toxics that could be passed out. But if that air's polluted, we get the toxics from the air. So air pollution should also be considered in this new fish consumption standard, because we just pass that pollution back to the environment.

And last I'd like to say, the pollution at a waste water plant comes from the people who discharge to it. We receive water from the City of Pendleton, and from the CTUIR. The pollution that comes out of our waste water plant is coming from all of us. And unless you expect higher rates, and are happy with that, the pollution has to stop with you at your house, and at your business, not at the waste water plant. Thank you.

**Cheryll Hutchens–Woods** - Next commenter is Carl Merkle(?)

**Carl Merkle** - Thank you. My name's Carl Merkle, I'm speaking here in an individual capacity. I've lived - I'll be brief. I've lived in Pendleton for nearly seventeen years now, out here in the high desert. Nevertheless, I've still managed to eat an awful lot of seafood here and elsewhere around the state, salmon, trout, oysters, clams, sturgeon on occasion, no geoducks. But I support these water quality standards, and the fish consumption rate the DEQ has proposed, and I hope they will eventually be adopted by the state. And you know, the current rate, the six-point-five rates, I believe is an old national default rate that doesn't now and didn't ever reflect what Oregonians ate, the average Oregonian, non-Indian Oregonians. It certainly doesn't reflect what Oregonians eat now, I believe. I don't think these seventeen-point-five rate reflects Oregonians' fish consumption, does not reflect the consumption of Native Americans, Asian Americans, Eastern Europeans, probably not me, either. So I support the one seventy five rate in water quality standards based on it, And I'd just like to submit for the record, these are brief written testimonies, fifteen written testimonies, all in support of adopting this rate. Thank you.

**Cheryll Hutchens–Woods** - Is there anybody else who would like to give testimony today? (pause) If not, thank you for coming and providing your comments. The hearing's adjourned.