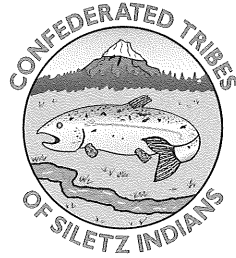


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**Confederated Tribes of Siletz Indians**

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Oregon DEQ  
Office of the Director

February 19, 2011

William Blosser  
Environmental Quality Commission Chair  
Oregon Dept. of Environmental Quality  
C/O Andrea Matzke  
Oregon DEQ Water Quality Division  
811 SW 6<sup>th</sup> Ave  
Portland, OR 97204

RE: Review of Final Draft Human Health Toxics Rules

Dear Bill:

I am writing you to express the Tribe's support for the proposed toxics standards (issued December 29, 2010). As you know the Confederated Tribes of Siletz Indians (CTSI) have been involved in the development of the proposed standards during these past several years. During April 2008 the CTSI Tribal Council passed resolution number 2008-164 which stated "... *therefore be it resolved, that the Siletz Tribal Council hereby chooses the fish consumption rate... of 248 grams of fish per person per day... and that that rate should include all finfish and shellfish...*" The Tribe then informed the Oregon Department of Environmental Quality (DEQ) of the Tribes' recommended consumption rate relative to the toxics rule making process that was in process at that time. After the DEQ proposed the 175g/day rate the Tribe informed the State that the Tribe would support the reduced rate as a means of moving forward and improving water quality and therefore protection of the health of the citizens of the State. Since that time Tribal Council met with the EQC twice. During these meetings we have continued to show support for the 175g/day.

In addition to reviewing the proposed consumption rates values we have shared our need to make sure the rules account for nonpoint source pollution coming from agriculture and commercial forest based lands as well as municipal systems. We feel strongly that to ignore these sources and their significant contributions toward pollution would be an error with regrettable consequences for our children. We interpret your final draft as having created new language that will improve nonpoint source water quality as well as regulatory processes for forest lands. We do not interpret your draft as having made acceptable progress toward doing the same on agricultural lands of the State. The language under "Other implementation of Water Quality Criteria" (Proposed New and Amended Rule Language, December 2010) item (10)

covering forestry reads from paragraph one line five "...best management practices and other control measures...must not cause violation of water quality standards." Line eight reads "Forest operations on state and private lands may be subject to load allocations under ORS 468.110 and OAR 340...Division 42 to the extent necessary to implement the federal Clean Water Act." We interpret this as - if ODF cannot enforce best management practices that allow state waters to meet load levels then DEQ will provide new best management practices that the ODF will be required to enforce. This would ensure that water quality standards would be met.

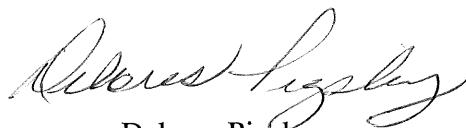
Under agriculture Item (11) of the same document section, the language reads as follows. Paragraph one line one reads "In areas subject to...the ODA...develops and implements agricultural water quality management area plans and rules to prevent and control pollution...If the department determines that the area plan and rules are not adequate to achieve and maintain water quality standards, the department will provide ODA comments on what would be sufficient to meet WQS or TMDL load allocations." The Tribe interprets this language as providing a significantly more limited ability for DEQ to meet water quality standards in relation to agricultural lands.

We interpret the suggested Implementation Ready TMDL approach (DEQ Issue Paper, December 29, 2010) as having potential to meet standards and move the State's process along in a new and more productive manner. When considering the Tribe's past experience with ODA and its area management plans and rules, we suggest that if the *Implementation Ready TMDL process* is driven by DEQ then we will be fully supportive of it. If this is not the case and DEQ does not have the ability to finalize the process, that is, if ODA is unwilling to formulate Area Management Plans for which DEQ agrees will meet water quality standards, then we will not be supportive of the process.

We support the idea of variances as defined in your December 2010 draft to the extent we can interpret them.

When adopting your final rules we ask that you consider all citizens of the State and especially those groups that consume greater amounts of fish than the average citizen.

Sincerely,

A handwritten signature in cursive script, appearing to read "Delores Pigsley".

Delores Pigsley  
Tribal Chairman