



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION 10**  
1200 Sixth Avenue  
Seattle, WA 98101

Reply To  
Attn Of: OW-135

Ms. Delores Pigsley, Chairwoman  
Siletz Tribal Council  
P.O. Box 549  
Siletz, OR 97380

Dear Chairwoman Pigsley:

I am writing to you as part of an effort by the U.S. Environmental Protection Agency Region 10 (EPA) to coordinate and consult with the Siletz Tribal Council in an important decision regarding water quality in the state of Oregon. Specifically, we hope to enhance dialogue with elected tribal leaders and duly appointed tribal representatives by providing opportunities for meaningful involvement, so that EPA can fully consider the rights, concerns and interests of the Tribe before proposing and finalizing any federal water quality standards regulations applicable to Oregon.

EPA recognizes its unique legal relationship with Tribal governments as set forth in the United States Constitution, treaties, statutes, executive orders, and court decisions. Consistent with Federal policies EPA has regular and meaningful consultation with Indian Tribal governments when developing policies and regulatory decisions on matters affecting their communities and resources. As described below, EPA is preparing federal water quality standards to replace those of the State of Oregon. While EPA's regulation will explicitly exclude waters in Indian country, we recognize the interest of Oregon tribes with water quality within their reservation and in treaty-protected rights and usual and accustomed areas. We would like to work with you now, in advance of our proposed regulation, to ensure that we can address concerns of the Oregon tribes in our rulemaking. It is our hope that this coordination and consultation will build on ongoing informal coordination efforts by EPA with Tribal staff and Tribal organizations.

### **Description of EPA's Regulation for Oregon**

In 2001, Northwest Environmental Advocates sued EPA and National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NOAA Fisheries) challenging EPA's approval of certain water quality standards adopted by Oregon, including water quality criteria for temperature and NOAA Fisheries' Biological Opinion that found EPA's water quality standards would cause "no jeopardy" to threatened and endangered species.

On March 31, 2003, the Court directed involved parties to develop a schedule for EPA to promulgate federal replacement water quality standard for Oregon. [Northwest Environmental](#)

Advocates v. EPA and NMFS (D. OR. No. CV-01-510-HA). In sum, EPA must sign a proposed rule by October 1, 2003, and finalize the rule by March 2, 2004. NOAA Fisheries must complete their revised Biological Opinion within 53 days of EPA's final Biological assessment.

To meet the Court's direction, the following elements are in the rule EPA plans to propose :

- Propose and promulgate numeric water quality criteria for temperature to protect salmonid rearing and bull trout rearing and spawning, including the specific times and places that this water quality criteria must apply.
- Propose and promulgate water quality criteria for temperature for the lower Willamette River.
- Propose and promulgate water quality criterion for intergravel dissolved oxygen (IDGO) to protect salmonid spawning.
- Identify implementation methods for Oregon's antidegradation policy.
- Consult again on Oregon's water quality standards with Fish and Wildlife Service and NOAA Fisheries under the Endangered Species Act.

We welcome your input regarding our federal action in Oregon. I have asked Dan Opalski, EPA's Associate Regional Administrator located in Portland, to be directly involved in the development of this government-to-government process. We are also planning to arrange a conference call with tribal government representatives to provide you with more detailed information on this action. Mary Lou Soscia, also in Portland, will follow up with tribal staff, to determine your interest in a future conference call to discuss this matter. If you have any questions or concerns regarding the Oregon Rule promulgation, please do not hesitate to call me directly at (206) 553-1234, Dan Opalski (503) 326-3250 or Mary Lou Soscia at (503) 326-5873.

Sincerely,

L. John Iani  
Regional Administrator

Enclosure: U.S. Environmental Protection Agency - Region 10 Tribal Consultation Framework, July 16, 2001.

cc: Mike Kennedy, Siletz Tribal Council  
Tom Downey, Siletz Tribal Council  
Stan van de Wetering, Siletz Tribal Council