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PUBLIC HEARING FOR THE PROPOSED WITHDRAWAL OF  
CERTAIN FEDERAL HUMAN HEALTH CRITERIA  
APPLICABLE TO WASHINGTON

3:04 p.m. to 5:53 p.m.

DATE OF HEARING: SEPTEMBER 25, 2019  
REPORTED BY: CRYSTAL R. MCAULIFFE, RPR, CCR 2121

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WEDNESDAY, SEPTEMBER 25, 2019

3:04 p.m.

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MS. NAGLE: Good afternoon. And welcome everyone.

We will come to order now and begin today's official public hearing proceedings. Today is September 25th, 2019, and the time is 3:04 p.m.

The U.S. Environmental Protection Agency is holding this public hearing on the agency's proposal to withdraw certain federal human health criteria applicable to Washington.

This hearing is taking place at the EPA Region 10 office in Seattle, Washington.

My name is Deborah Nagle. I am the Director of the EPA's Office of Science & Technology in Washington, DC. Today, I am serving as the public hearing officer for this proposal.

First, I would like to cover some housekeeping items.

Please keep the aisle ways and egress paths clear.

The restrooms are located in the hallway as you exit the room. The women's restroom is to the right and the men's is to the left. There are volunteers outside the room to assist you.

Water fountains are located adjacent to each of the restrooms.

In the event of an emergency, please proceed down the

1 stairs and convene at the Convention Center, just two blocks  
2 from this building on 7th and Pike. We have signs with the  
3 information posted around the room and by the stairwell doors.

4 We also have a number of staff volunteers, who are  
5 wearing orange vests, to assist with any questions and to escort  
6 you to the restrooms or to the elevators when you are ready to  
7 depart or at the close of the hearing. We are required to have  
8 all of our visitors escorted when in the building.

9 As the hearing officer, it is my responsibility to  
10 ensure that this hearing is run properly and in a respectful  
11 manner.

12 I will begin by giving some introductory remarks which  
13 will be followed by a 15-minute presentation about the  
14 background and a summary of the EPA's proposal to withdraw  
15 certain federal human health criteria applicable to Washington.

16 We want to preserve the majority of the time to hear  
17 from you.

18 Today's public hearing is being recorded by a court  
19 recorder and transcribed. All oral comments will be considered  
20 part of the official record for this rule.

21 The EPA published notice of this public hearing and  
22 comment period in the federal register on August 6, 2019. EPA  
23 also notified the public through e-mail notices and on the EPA  
24 website.

25 The EPA is accepting public comments on the proposal

1 through October 7, 2019.

2 Thank you for attending this in-person public hearing.  
3 The EPA held a webinar public hearing on August 28, 2019, and  
4 this is the second and final public hearing on the proposed  
5 withdrawal of certain federal human health criteria applicable  
6 to Washington.

7 We appreciate your participation. We value the -- we  
8 value the input from everyone.

9 It is my sincere hope that this proceeding will be  
10 courteous and civil and everyone will be respectful of all the  
11 people here and the views that will be expressed.

12 Before we continue further, I would like to introduce  
13 the agency representatives who are here this afternoon.

14 In addition to myself, we have EPA headquarters and  
15 Region 10 leadership present at today's hearing.

16 Lee Forsgren is the Deputy Assistant Administrator of  
17 Water in Washington, DC.

18 Sara Hisel-McCoy is the Director of the Standards and  
19 Health Protection Division in Washington, DC.

20 Chris Hladick is the Administrator for the EPA Region  
21 10.

22 And Dan Opalski is the Director of the Water Division  
23 in Region 10.

24 Lee will give short opening remarks, then we will  
25 continue with the introductions.

1 MR. FORSGREN: Thank you, Deb.

2 First and foremost, I wanted to welcome everyone and  
3 thank you for taking the time to be here today on behalf of  
4 Chris Hladick and the rest of the EPA leadership team.

5 We are here to listen and we are interested in what  
6 you have to say. And with that, I'll turn it back.

7 MS. NAGLE: There are a number of EPA staff from  
8 headquarters and Region 10 offices here. Please stand and wave  
9 so the folks know who you are.

10 Now, Sara Hisel-McCoy will provide a 15-minute  
11 presentation of the background and summary of the EPA's  
12 proposal.

13 EPA will not be answering any questions during the  
14 hearing today.

15 MS. HINSEL-McCOY: So an overview of this public  
16 hearing overview includes accident reconstruction background on  
17 the human health criteria in Washington state, an overview of  
18 the proposed rule, written and oral comments.

19 The Clean Water Act section 101(a)(2) establishes the  
20 national goal that water quality should provide for the  
21 protection and propagation of fish, shellfish, and wildlife and  
22 recreation in and on the water.

23 To protect people from cancer and non-cancer effects  
24 from the pollutants in drinking water and fish and shellfish,  
25 states and authorized tribes must establish human health

1 criteria for their waters.

2 EPA periodically publishes national criteria  
3 recommendations under Clean Water Act section 304(a) for states  
4 to consider using to meet section 101(a)(2) goals.

5 For more information on EPA national 304(a)  
6 recommendations for human health, you can go to this website.

7 The Clean Water Act section 303(c)(2)(B) requires  
8 states to adopt numeric water quality criteria for priority  
9 toxic pollutants for which EPA has published Clean Water Act  
10 section 304(a) criteria recommendations; however, states are not  
11 required to adopt EPA's national recommendations.

12 In establishing criteria, states may adopt EPA's  
13 304(a) recommended criteria, a modified version of EPA's 304(a)  
14 recommended criteria that reflect site-specific conditions, or  
15 criteria based on other scientifically defensible methods.

16 In 2015, EPA published updated 304(a) national  
17 recommendations for states to consider when deriving their human  
18 health criteria.

19 EPA recommends that states derive human health  
20 criteria for carcinogenic effects using the following inputs:  
21 cancer slope factor, cancer risk level, body weight, drinking  
22 water intake rate, fish consumption rate, and a bioaccumulation  
23 factor (or factors).

24 For pollutants with non-cancer effects, EPA recommends  
25 states use a reference dose in place of a cancer slope factor

1 and cancer risk level, as well as relative source contribution.

2           These equations -- these are the equations in the  
3 associated inputs as just mentioned in the previous slide that  
4 EPA recommends using to calculate criteria for carcinogens and  
5 noncarcinogens.

6           In 1992, EPA promulgated the National Toxics Rule,  
7 establishing chemical-specific numeric criteria for 14 states  
8 and territories, including Washington state, that were not in  
9 compliance with Clean Water Act section 303(c)(2)(B).

10           EPA derived the human health criteria in the 1992  
11 National Toxics Rule based on available national data at that  
12 time, which indicated that people ate, on average, 6.5 grams per  
13 day of fish.

14           Starting in 2010, Washington state engaged in  
15 extensive public outreach, they held numerous meetings with  
16 stakeholders, and worked collaboratively with the EPA and tribes  
17 to develop and adopt human health criteria.

18           Washington first proposed new criteria in January  
19 2015. These criteria were based on a cancer risk level of one  
20 in 100,000 or ten to the minus five, a fish consumption rate of  
21 175 grams per day, and a mandate that none of the State's human  
22 health criteria, except for arsenic, would be a higher  
23 concentration than the National Toxics Rule that was in place at  
24 the time.

25           Washington's new criteria were intended to be coupled

1 with a toxics reduction bill, but the Legislature failed to  
2 enact the bill which delayed Washington's human health criteria  
3 rulemaking efforts.

4           On August 1, 2016, Washington adopted updated human  
5 health criteria that were not linked to any proposed legislation  
6 and submitted them to EPA for review.

7           Washington's August 1, 2016, submission consisted of  
8 192 new human health criteria for 97 priority toxic pollutants  
9 applicable to all surface waters under jurisdiction of  
10 Washington state.

11           Washington's criteria were based on a cancer risk  
12 level of 1 in 1 million or ten to the minus six, a fish  
13 consumption rate of 175 grams per day, and chemical-specific  
14 approaches for arsenic and polychlorinated biphenyls (PCBs).

15           Washington's criteria incorporated some, but not all,  
16 of the inputs from EPA's latest, that was 2015, national 304(a)  
17 criteria recommendations.

18           To evaluate Washington's criteria, EPA compared the  
19 State's criteria values against a set of criteria that EPA  
20 calculated based on its latest national 304(a) recommendations,  
21 combined with Washington's selected fish consumption rate of 175  
22 grams per day. EPA's 2015 304(a) recommendations include a fish  
23 consumption rate of 22 grams per day.

24           Because Washington incorporated some of the inputs  
25 from EPA's national 304(a) recommendations, and EPA's criteria



1 incorporated all of the inputs from the national 304(a)  
2 recommendations, except for the fish consumption rate of 22  
3 grams per day, the resulting criteria were different.

4 Some of the State's criteria were more stringent and  
5 others were less stringent.

6 On November 15, 2016, EPA partially approved, and  
7 partially disapproved Washington's human health criteria based  
8 on this comparison.

9 EPA approved 45 of Washington's criteria that were as  
10 stringent or more stringent than the EPA's calculated criteria.

11 EPA disapproved 143 of Washington's criteria that were  
12 less stringent. The main reasons were that: One, the State  
13 calculated criteria using bioconcentration factors instead of  
14 using the national default bioaccumulation factors (BAFs) from  
15 EPA's latest national 304(a) recommendations; and the State used  
16 a relative source contribution value of 1 for noncarcinogens  
17 instead of EPA's recommended .2 to .8.

18 Bioconcentration factors account for pollutant  
19 accumulation in fish from uptake from the water column;  
20 bioaccumulation factors account for accumulation from all  
21 surrounding media (water column, food and sediment).

22 The relative source contribution values, less than  
23 one, so between .2 and .8, account for non-water sources of  
24 exposure to noncarcinogens.

25 EPA took no action on four of the State's criteria for

1 two pollutants (thallium and 2,3,7,8-TCDD, otherwise known as  
2 "dioxin").

3 At the same time as EPA issued the partial disapproval  
4 of Washington's criteria, EPA promulgated federal criteria for  
5 Washington at 40 CFR 131.45. EPA's federal criteria  
6 incorporated all inputs from EPA's national 304(a)  
7 recommendations and Washington's fish consumption rate of 175  
8 grams per day.

9 This table is a side-by-side comparison showing the  
10 inputs that Washington used versus the inputs that EPA used in  
11 the federal rule.

12 On February 21, 2017, several groups filed a petition  
13 requesting that EPA reconsider its disapproval action on  
14 Washington's criteria and repeal or withdraw the federal rule.

15 On August 3, 2018, EPA provided notice of its intent  
16 to reconsider its action in response to the February 2017  
17 petition.

18 On May 10, 2019, after a detailed review of the  
19 State's 2016 submittal, applicable provisions of the Clean Water  
20 Act, implementing regulations, and long-standing EPA policy and  
21 guidance, EPA reconsidered its partial disapproval of  
22 Washington's human health criteria and approved all but two  
23 criteria that the EPA previously disapproved.

24 EPA reaffirmed its November 15, 2016, decision to  
25 disapprove Washington's two criteria for arsenic; and EPA

1 approved Washington's human health criteria for thallium and  
2 dioxin, after deferring action on the criteria for these two  
3 pollutants in November 2016.

4           Upon reconsideration, the EPA undertook a holistic  
5 review of Washington's criteria and evaluated the protectiveness  
6 of the criteria based on the suite of risk-management decisions,  
7 the totality of the inputs into the criteria equations, and the  
8 resulting numeric criteria.

9           EPA also reconsidered Washington's lengthy and  
10 thoughtful process wherein the State considered the health and  
11 safety of its citizens and the appropriateness of applying the  
12 EPA's new national recommendations to the State's resources.

13           EPA also recognizes that states and authorized tribes  
14 will use discretion in making resource- and risk-management  
15 decisions related to the protection of human health.

16           Section 101(b) of the Clean Water Act explains that  
17 one of the Act's foundational policies is to recognize,  
18 preserve, and protect the primary responsibilities and rights of  
19 the states.

20           In light of EPA's May 10, 2019, approval of  
21 Washington's criteria upon reconsideration, EPA published a  
22 notice of proposed rulemaking on August 6, 2019, to withdraw the  
23 federally promulgated human health criteria at 40 CFR 131.45  
24 (with the exception of arsenic, methylmercury, and  
25 bis(2-chloro-1-methylethyl) ether).

1           For arsenic, on May 10, 2019, EPA reaffirmed its  
2 November 2016 disapproval of the two criteria Washington  
3 submitted, and therefore the federal arsenic criteria for  
4 Washington will remain in place.

5           For methylmercury and bis(2-chloro-1-methylethyl)  
6 ether, Washington did not submit criteria for those pollutants  
7 and therefore the federally promulgated criteria are the only  
8 criteria in effect for those pollutants.

9           Although EPA is proposing to maintain the federally  
10 promulgated criteria for these pollutants, EPA is also  
11 soliciting comments on whether to withdraw.

12           EPA's proposal to withdraw a federal criteria  
13 following approval of state criteria is consistent with the  
14 federal and state roles contemplated by the Clean Water Act.

15           Once EPA approves state criteria addressing the same  
16 pollutants for which EPA has promulgated a federal criteria, it  
17 is incumbent on EPA to withdraw the federal criteria to enable  
18 the EPA-approved state criteria to become the applicable  
19 criteria for Clean Water Act purposes.

20           To access the proposed rule and supporting documents,  
21 you can visit EPA's Water Quality Standards website at that  
22 location.

23           Written comments must be received on or before October  
24 7, 2019. The primary contacts for this rule are Matt Szlag,  
25 who is the Water Quality Standards Coordinator for Region 10;

1 and Erica Fleisig, who's the Water Quality Standards Team Leader  
2 at headquarters. Right over there.

3 So to make a written comment, you can do it online at  
4 regulations.gov. You can do it through e-mail through this  
5 docket site; you can mail it in or hand deliver it in.

6 We're going to keep this slide up for the rest of the  
7 discussion, so if anybody wants to understand how to provide  
8 written comments, you may.

9 MS. NAGLE: So after today's hearing, anyone who wants  
10 to comment on EPA's proposal must do so by October 7, 2019.

11 Now, you just heard Sara say that you can submit your  
12 oral comments here today or submit the written comments online,  
13 by mail, e-mail, or hand delivery.

14 We also have comment forms in the back of the room  
15 that you can fill out and leave with us today, or send to us  
16 later by mail or e-mail.

17 In addition, we have a laptop available in the back of  
18 the room for you to enter your written comments directly into  
19 the docket.

20 After the 60-day public comment period ends, the EPA  
21 will review and consider all comments before making the final  
22 decisions regarding the federal rule.

23 The EPA will respond to comments in a "response to  
24 comments" document that will accompany the final rule.

25 Again, this public hearing is to receive and record

1 your comments on the proposed withdrawal of certain federal  
2 human health criteria applicable to Washington.

3           You do not need to provide testimony today in order to  
4 have your concerns or comments considered.

5           Written comments are given equal consideration in the  
6 EPA's decision-making.

7           We wish to receive comments from anyone wishing to  
8 testify and I'll do my best to ensure this happens.

9           However, for security reasons, we do have a hard stop  
10 today at 7:00 p.m.

11           I will monitor the time throughout today's  
12 proceedings.

13           To ensure consistency with the online hearing we held  
14 on this topic on August 28, 2019, we are limiting the testimony  
15 to 3 minutes per commenter.

16           We will use a time card sign to help you know your  
17 time remaining. I ask that all speakers respect this time  
18 limit.

19           If you have testimony similar to the previous speaker,  
20 you may wish to simply state that you agree with what was said  
21 previously, and name the individual or group that you agree  
22 with.

23           There are likely many different points of view about  
24 EPA's proposal and issues that we will hear today.

25           We are not here to resolve these different points of

1 view, but to receive and record your comments on the proposed  
2 withdrawal of the federal rule. This means we will not be  
3 answering questions today.

4 I will call each commenter up to the microphone in the  
5 center of the room and I will announce the next commenter so  
6 that they can be ready.

7 Before you testify, please state and spell your name  
8 for the record, and include the organization you represent, if  
9 any.

10 Please speak slowly, loudly, and clearly into the  
11 microphone.

12 Now, we will begin the formal testimony portion of  
13 this public hearing.

14 The first commenter will be Leonard Forsman. Please  
15 come forward to the microphone.

16 The second speaker is Maia Bellon. Please come  
17 forward and stand on the spot marked with an X behind the  
18 microphone.

19 UNIDENTIFIED SPEAKER: That's how we signed the  
20 treaty.

21 MS. NAGLE: Leonard.

22 MR. FORSMAN: Thank you.

23 Leonard Forsman, L-e-o-n-a-r-d, F-o-r-s-m-a-n. My  
24 Indian name is Gvúí (GwoWee). And I am President of the  
25 Affiliate Tribes of Northwest Indians, and also Chairman of the

1 Suquamish Tribe.

2 I'm speaking on behalf of ATNI, and I would like to  
3 welcome everyone here to the city of Seattle which is named for  
4 our chief, Chief Seattle, who lived and is buried in our  
5 reservation in Suquamish.

6 And there's other tribes in this area that we share  
7 this land with, and we would like to put all hands to all the  
8 tribes in Central Puget Sound.

9 And I'm here just to tell you that I really don't feel  
10 very good right now. I really believe that the United States of  
11 America, who we signed a treaty with in 1855, which was ratified  
12 by Congress in 1859 and spoken of in our Constitution that  
13 everybody who's a federal official in this room took an oath to  
14 uphold is a supreme law of the land and we believe, and strongly  
15 believe with our heart and our soul, that the United States is  
16 not living up to its obligations.

17 We lived up to our obligations throughout this nation  
18 here in Puget Sound, out on the coast, to give up our lands in  
19 exchange for our fishing rights being preserved and affirmed by  
20 the treaty, that we would be able to keep those rights.

21 Our people are relying upon salmon for their diet, for  
22 their spirit, for their culture, for their way of life, and also  
23 a lot of them for their living.

24 And it's very important that we understand that the --  
25 the importance of the salmon to the people here. And also the



1 fact that polluting the water and making them more risky to eat  
2 is really hard on tribes especially and having fish that's  
3 polluted, with an elevated cancer risk is very, very damaging to  
4 us.

5           We eat more fish than any other population obviously.  
6 And we feel that the elevated levels in there will, of course,  
7 affect us more than any other population.

8           And I still -- there's still a lot of people that I  
9 came up in the elevator with that are Washingtonians that are  
10 worried about how much fish they eat. Because a lot of the  
11 people in Washington eat a lot fish and clams and other marine  
12 resources.

13           And I feel that the tribes compromised a lot with the  
14 original federal regulations that you're repealing. Made huge  
15 compromises to get to that level.

16           And I really believe it is disrespectful of the  
17 Environmental Protection Agency to ignore all that good science  
18 and the relationships and the promises that were made, not only  
19 in 1855, in the last 5 to 10 years. Even within the last year  
20 we have tribal elders that will speak to their meetings where  
21 they felt good about when they talked to EPA Administrator  
22 Wheeler, and then they came back to this.

23           So we just want to make sure that you understand that  
24 we feel our treaty is not being respected. We're not being  
25 respected as the First People of this land and that we need

1 clean water in Puget Sound, because clean water is good for the  
2 economy too.

3           And America is great now and we want to make it  
4 greater by keeping the water clean, and also improving upon the  
5 water we have now so that our -- so resonant killer whales, our  
6 salmon, and treaty fishermen, everybody else in Washington, can  
7 continue to enjoy what we've been given by our creator.

8           That's all.

9           MS. NAGLE: Next up to speak is Maia Bellon.

10           On deck is Shawn Yanity.

11           MS. BELLON: My name is Maia Bellon, M-a-i-a,  
12 B-e-l-l-o-n. I'm the Director of the Washington State  
13 Department of Ecology.

14           And I'm here to personally deliver Washington's eighth  
15 formal communication to EPA opposing your repeal of our fish  
16 consumption rule.

17           While our previous attempts have been disregarded and  
18 while EPA has been refusing to talk to Washingtonians about this  
19 repeal that affects only our state, we are not giving up because  
20 the people of Washington state are counting on us.

21           Our rule that EPA unilaterally repealed determines how  
22 we protect the health of Washingtonians who eat fish such as  
23 salmon and trout from our marine and our freshwaters.

24           Not only does our rule keep our waters clean for every  
25 Washingtonian, it also provides regulatory certainty for

1 businesses and municipalities. This is because the plan to  
2 implement our rule was developed by Washington businesses,  
3 Native American tribes and communities; not by politicians in  
4 DC.

5 We spend as much time and energy on our practical  
6 implementation plan as we did on the standards themselves. Your  
7 actions put that at risk. But EPA has disregarded our State's  
8 work to find common ground and make progress on achieving both  
9 clean water and economic prosperity. EPA treats these concepts  
10 as mutually exclusive. They are not.

11 Washington state is proof that we can maintain a  
12 healthy environment in harmony with a strong economy. Not only  
13 is EPA's repeal regressive; it is illegal.

14 As the federal agency that stewards the Clean Water  
15 Act, EPA knows that there are only two circumstances under which  
16 you can repeal Washington's rule: one, if we ask you to do so;  
17 and, two, if our rule is not protective enough. Neither of  
18 those circumstances exist.

19 So why is EPA forging ahead on illegally repealing and  
20 replacing Washington's rule when your actions are opposed by  
21 Washington's governor, the attorney general, the Department of  
22 Ecology, state legislators, Washington Native American tribes,  
23 and our residents?

24 It's because EPA is dead set on systematically  
25 dismantling clean water protections and states' rights. To

1 this, Washington state says "No."

2 I'm here to say, unequivocally, that Washingtonians  
3 deserve better; our lakes, rivers and the Puget Sound deserve  
4 better; our children and future generations deserve better.

5 So we will not back down. And, once again, we demand  
6 that you withdraw this misguided proposal. It is time for EPA  
7 to stand aside and let us protect our waters, the Washington  
8 way.

9 Thank you.

10 MS. NAGLE: Next up to speak is Shawn Yanity.

11 On deck is Patrick DePoe.

12 MR. YANITY: Good afternoon. Shawn Yanity, Chairman  
13 of the Stillaguamish Tribe, and also Vice Chairman of the  
14 Northwest City and Fish Commission, and local also a member of  
15 the local government advisory council for EPA.

16 S-h-a-w-n, Y-a-n-i-t-y.

17 And wow, for the first time I agree with the State of  
18 Washington, So -- but thank you, EPA, for this opportunity to  
19 say our -- our concerns as well.

20 But with that, we're very disappointed. Stillaguamish  
21 Tribe is very concerned that formal consultation has not come  
22 forward with our tribe or other tribes. We have requested it  
23 and we've all worked very hard and we take our treaties very  
24 seriously.

25 Lowering these water quality standards raises a big

1 concern for -- as you've heard, for our tribes and our health  
2 and our community; not only the health of our community, but the  
3 Washingtonians.

4           Why is it that when the agencies and the federal  
5 government, especially EPA, have done studies to look at impacts  
6 to the industry when it comes to waters in the U.S. and water  
7 quality standards, but they never look at the fishing industry?

8           It is a strong, viable industry. Yes, we're  
9 struggling in some areas from low salmon runs, but the salmon  
10 that are being caught and the salmon being sold from not only  
11 our tribal fishermen and other fishermen, we deserve to have  
12 quality food being sold out to the community just as much as the  
13 farmer has the right to sell quality food as well.

14           So we ask that EPA halts its actions until they come  
15 back and they consult with the tribes properly and we take a  
16 look at this. And, if anything, delay the actions so that way  
17 we can have further meetings on east side, other places in  
18 Washington state to give Washingtonians the opportunity to have  
19 comment on this.

20           Thank you.

21           MS. NAGLE: Next up to speak is Patrick DePoe.

22           On deck is Nate Tyler.

23           MR. DEPOE: Hello my name is Patrick DePoe,  
24 P-a-t-r-i-c-k, D-e-P-o-e. I serve on Makah Tribal Council and  
25 I'm representing 3,000 tribal members.

1           The Makah Tribe signed the 1855 treaty of Neah Bay and  
2 reserved the right to fish, whale, seal hunt, and gather as  
3 usual and "customarious."

4           As a sovereign treaty tribe, we oppose to being  
5 regulated in this public process; however, since EPA  
6 decision-makers have not conducted timely nor meaningful  
7 consultation with tribes on this action, we want to ensure that  
8 our opposition is in the official record.

9           Fishing is key to the Makah. Since time in memorial,  
10 the Makah people and culture have been dependent on the  
11 resources from the ocean, rivers, and the land.

12           Makah culture and traditions in conjunction with the  
13 remoteness of the reservation make the tribe especially reliant  
14 on subsistence resources with 99 percent of households relying  
15 on fishing and hunting for a portion of their diet.

16           Some families harvest up to 90 percent of the food  
17 they consume from nearby waters and lands.

18           Additionally, 75 percent of the Neah Bay's economy  
19 comes from fisheries.

20           The fish consumption rate for our members is well  
21 above 175 grams per day. This action puts my community at risk.

22           The Makah Tribe opposes the repeal of the consolidated  
23 rule which would weaken the water quality standards for  
24 Washington state.

25           This action by EPA is not based on any new science.

1 In fact, it goes against the Agency's own recommendations,  
2 science, and the robust tribal consultation and public process  
3 that occurred leading up to the 2016 decision to favor a request  
4 from industry to weaken water quality standards to lower cost  
5 for implementation.

6 We want our water quality standards to remain among  
7 the most protective in the nation. We are concerned by the  
8 potential harm that this action could have on our regional water  
9 quality, salmon recovery, southern resident killer whale  
10 recovery, and treaty right protection efforts currently underway  
11 in Washington.

12 It is unacceptable for EPA to knowingly increase the  
13 presence of known toxic chemicals and carcinogens in our waters.  
14 This action would undermine the protection in the current fish  
15 consumption rate by altering other factors in the human health  
16 criteria formula like weakening the relative source  
17 contributions and ignoring bioaccumulation factors.

18 The Makah Tribal Council is here to protect the health  
19 of our members and their ability to safely exercise their treaty  
20 right from any increased harm.

21 We reserved the right to fish in the 1855 Treaty with  
22 the United States government. Exercising those treaty rights  
23 should not put our communities at a disproportionate risk for  
24 cancer.

25 The EPA is derelict in their federal trust

1 responsibilities to the tribe. Federal trust responsibility is  
2 a legal obligation under which the United States meets its moral  
3 and fiduciary obligations to uphold the highest responsibility  
4 and trust towards tribes.

5 Trust responsibility holds the United States legally  
6 responsible and accountable for the protection of tribal lands,  
7 assets, resources, treaty rights and benefits of the tribe.

8 EPA needs to conduct timely and meaningful  
9 consultation in order to timely and meaningful  
10 government-to-government consultation in accordance with EPA and  
11 legal obligations in the tribe.

12 I see time is up and I have a few more things to say  
13 here.

14 But bottom line is I'm here testifying for the health  
15 and well-being of my people. You guys need to understand that.

16 When did it become okay to value industry over human  
17 life?

18 Because that's what we're discussing right now. This  
19 is scary for me because the amount of fish that my people eat,  
20 now I've got to worry about their lives being at risk for  
21 practicing their treaty right. This is disgusting and,  
22 honestly, I can't even believe that we're -- EPA, Environmental  
23 Protection Agency, this isn't protecting the environment. This  
24 is scary for me. And, obviously, we have a lot at stake here.

25 Thank you.



1 MS. NAGLE: Okay. Next up to speak is Nate Tyler.

2 And on deck is Richard Whitman.

3 MR. TYLER: All right. Good afternoon.

4 Nate Tyler, Makah Tribal Council.

5 We have three or four tribal council members from  
6 Makah Tribe here, that's how important this is to us.

7 You know, we traveled four and a half hours to come  
8 here to give testimony. We don't think we need to be here.  
9 There's a process. There's an executive order for meaningful  
10 consultation. We've got our Vice Chairman here, Keith Johnson,  
11 and, of course, council member Patrick DePoe.

12 I'm on Makah Tribal Council. I'm an elected official  
13 of Affiliated Tribes of Northwest Indians. So I'm here to  
14 represent tens of thousands of Native Americans. That's how  
15 important it is to us. It's our identity. It's our culture.  
16 It's our traditions, and you can't strip that from us.

17 Industry cannot trump treaty rights. Federal courts  
18 have clearly stated that. There's -- there's court cases there  
19 showing -- routinely recognizing the requirement for meaningful  
20 consultation. That's court cases.

21 You guys came out to Neah Bay not too long ago. We  
22 let you know this ain't consultation. This isn't consultation.  
23 You guys aren't the decision-makers here. You are not the  
24 decision-makers here. We want to meet with the decision-makers.  
25 We provided written testimony towards that, and we still want to

1 meet with the decision-makers.

2           One year ago, almost one year ago to this day, I met  
3 with Wheeler, myself, the Chairman of Stillaguamish, Vice  
4 Chairman Elwha, the State representative from the fish  
5 commissioner, we met with Wheeler. We had a good discussion  
6 with Wheeler. Really good discussion.

7           Where did -- where did we go off the road here?

8           I have no idea how we got to this point after that  
9 meeting we had with Wheeler here. You guys look at -- you look  
10 at the killer whale, J35, that carried its baby for 17 days,  
11 dead baby, letting us know the ecosystem is out of whack.

12           The time to act is right now. Not to set the bar low.  
13 We've got to go above and beyond. That's what we have to do, go  
14 above and beyond.

15           The Makah Tribe is one of the largest fishing  
16 communities in the world. And like Patrick stated, you know, we  
17 eat a lot of fish. It's not just the rivers; it's not just the  
18 Puget Sound. It's the ocean too. Set the standard higher.  
19 Industry can't trump my treaty rights or my community's treaty  
20 rights.

21           Three-hundred-and-some-thousand acres we ceded with a  
22 few reserved rights. One of them being fishing. So set the  
23 standards high. Set up the consultation with the  
24 decision-makers. We want to be at the table, as do all the  
25 other tribes. Meaningful consultation. Thank you.

1 MS. NAGLE: So next up to speak is Richard Whitman.

2 On deck is Hanford McCloud.

3 UNIDENTIFIED SPEAKER: EPA needs to turn on the  
4 microphone.

5 MS. NAGLE: Okay. So you can't hear the speak -- the  
6 individuals who are giving testimony; is that correct?

7 MR. WHITMAN: All right. I'll try to speak up.

8 Good afternoon. My name is Richard Whitman. I'm the  
9 Director of the Oregon Department of Environmental Quality.

10 You may be wondering why Oregon would feel a need to  
11 testify regarding the proposed EPA action that will directly  
12 affect only the state of Washington.

13 Oregon has an interest in this action for several  
14 reasons.

15 First and foremost, Oregon and Washington share a  
16 boarder formed by the Columbia River. The Columbia River is not  
17 meeting water quality standards including standards for arsenic,  
18 DDD, dioxin, and mercury.

19 The residents of both states, including our native  
20 tribes, consume significant amounts of fish in the Columbia and  
21 its contributories and it is our collective responsibility to  
22 protect public health.

23 Right now both states have active health advisories  
24 telling the public, including tribal members, that consuming  
25 fish caught in the Columbia is not safe under certain

1 circumstances, and in some cases is not safe at all under any  
2 circumstances. That is not acceptable.

3           Second, weakening protections for fish consumption in  
4 Washington will create differences between Oregon and Washington  
5 that will confuse the public for no apparent reason that is  
6 grounded in science or data.

7           And, finally, for the record, Oregon DQ notes that a  
8 major argument for EPA's proposed action appears to be  
9 assertions by permit holders that they will not be able to meet  
10 the effluent limits that would result from more protective  
11 standards.

12           Oregon has been implementing water quality standards  
13 based on a fish consumption rate of 175 grams per day since 2008  
14 to assure that our residents may safely consume fish.

15           Oregon is about to adopt a total maximum daily load or  
16 TMDL for mercury in our state's major population center, the  
17 Willamette Basin that will implement one of these standards --  
18 along with a multi-discharge or variance that will define ways  
19 that permit holders can meet the new standard over time.

20           This approach is similar to the protective but  
21 practical path that the Washington Department of Ecology has  
22 been pursuing here in Washington. It follows a model that has  
23 been used successfully in other parts of the nation, and it has  
24 been shown to be both financially feasible and effective in  
25 reducing levels of toxins in our fisheries.

1           Finally, there's no rational basis for EPA's proposed  
2 action in the Oregon Department of Environmental Quality joins  
3 Washington Ecology in urging EPA to halt its ill-founded effort  
4 to rollback protections for public health and the environment.

5           Thank you.

6           MS. NAGLE: Okay. Next up to speak is Hanford  
7 McCloud.

8           On deck is Nancy Shippentower.

9           Before you start speaking.

10          Is it better in the back?

11          UNIDENTIFIED SPEAKER: Yes.

12          MR. MCCLOUD: Test. Test. There you go.

13          Hanford McCloud, H-a-n-f-o-r-d, M-c-C-l-o-u-d. My  
14 given game is Hwedqwidi, H-w-e-q-w-i-d-i, which means "thunder  
15 and high clouds."

16          I'm a representative from Nisqually Nation Council  
17 member, and also how I like to put "a Washingtonian," which I've  
18 been hearing a lot here in the room.

19          The given testimony here this afternoon, you know, on  
20 behalf of our people, especially in Nisqually. And then our  
21 Washingtonians here about -- we're not in -- in any way  
22 agreeance with this EPA water act.

23          And I know growing up on our reservation, during the  
24 fishing wars, I was, of course, not born, but my father who was  
25 young at the time, his name is Don McCloud. You know, in this

1 fight we had done on that river it feels like we're in that same  
2 predicament right now where the tribes are going to stand up and  
3 of course say "No" to this. But also we're going to stand on  
4 the front lines and be that barrier that helps protect what we  
5 have stood up for a thousand years in this area.

6 My grandmother, who was Jenna McCloud, taught me a lot  
7 about standing up and how we have consultation and we have  
8 rights as native people here. And that treaty, which I've  
9 already heard here, spoke about the law of the land. That's not  
10 being recognized here in this act.

11 And being that generation that's going to be here and  
12 how we talk about the next generation and the following  
13 generation and the following generation after that, you know, so  
14 seven generations ahead is what we think.

15 We're not seeing any of that being put out here on  
16 this piece of paper, about how we're looking down the  
17 generations and what they are going to be affected by when we  
18 change the laws; especially natural law.

19 We don't have that say over natural law. And that's  
20 what's happening right now, is how we're trying to override the  
21 natural law that's been here for thousands of years with the  
22 water.

23 Water is the most important part of who we are. The  
24 legend in the story we have from Grandpa Billy Frank Senior  
25 talks about water and how important that it is. And what you

1 call Mt. Rainier, what we call "Taquotbe." "Taquotbe" means  
2 "don't forget the water."

3 Thank you.

4 MS. NAGLE: Next up to speak is Nancy Shippentower.

5 And on deck is William Frank the Third.

6 MS. SHIPPENTOWER: Good afternoon. My name is Nancy,  
7 N-a-n-c-y, S-h-i-p-p-e-n-t-o-w-e-r.

8 I'm a member of the Puyallup Tribe, and I'm on the  
9 Salmon Defense Board.

10 My concerns today, we have written treaties with the  
11 federal government. We had all these promises by the federal  
12 government. But as the Puyallup Tribe we have a land claim  
13 settlement that was done in 1988. I set on the tribal council  
14 at that time, and we were promised the water would get cleaned.

15 The water -- they would take all that pollution out of  
16 our water in the Puyallup water and out in the bay. Our river  
17 is named the second most toxic river in Washington state.

18 And I'm wondering as an elder, as a grandmother, a  
19 great-grandmother, I worry about my children. And I'm wondering  
20 what kind of environmental protection agency doesn't worry about  
21 the future or what their children and grandchildren are going to  
22 be drinking and eating later on in their lives.

23 I'm saddened that the federal government has yet to  
24 recognize their obligation. When they talked about ceded the  
25 land to the federal government to the State. It wasn't ceded.

1 It was stolen from us. Like, our -- 50 percent of our salmon  
2 was stolen from us. We didn't have a decision in these  
3 decisions. It was just put on us. And it happens throughout  
4 the world. These big corporations go in and buy federal  
5 governments or whatever, and then they pollute everything they  
6 put their feet on. They grab everything. They steal  
7 everything.

8           So you, as the EPA, need to do something about this  
9 mess and take care of it. Not only for our grandchildren. Not  
10 only for the indigenous people of this land, but for humanity.  
11 We grew up learning about cleaning up our areas. We grew up  
12 with the salmon.

13           There was a time when the salmon -- you could walk on  
14 the backs of the salmon. That's what my grandfather would say.  
15 And you can't do that anymore. We don't eat Atlantic salmon.  
16 We don't eat farm salmon. We want our own salmon back. We  
17 smoke our salmon. We eat salmon.

18           I don't know what the heck a gram is. What is a gram?  
19 I mean, we take a big piece of fish and we eat it. We can it.  
20 We smoke it. We save it. Our children are growing up like  
21 that. Eating the salmon. Catching the salmon. Honoring the  
22 salmon and the shellfish that we feast upon. But those feasts  
23 are coming far and few. And that's because of all these people  
24 telling everybody what you can do, especially telling tribes,  
25 with the obligations that the federal government has and



1 promised our ancestors.

2 Thank you.

3 MS. NAGLE: The next up to speak is William Frank the  
4 Third.

5 And on deck is Lydia Sigo.

6 MR. FRANK: So good afternoon everyone. My name is  
7 Willie Frank the Third. W-i-l-l-i-e, f-r-a-n-k. My Indian name  
8 is "Qulasaiud," Q-u -- sorry, Q-u-l-a-s-a-i-u-d.

9 And I'm here today as a Nisqually Tribal Council  
10 member and also as a Nisqually tribal member. I'm the son of  
11 Billy Frank Junior. I'm here today to state my opposition to  
12 EPA's proposed ruling regarding Washington water quality  
13 standards.

14 For the record I will, again, remind EPA that a public  
15 hearing process is an inadequate forum and fails to fulfill  
16 federal trust obligations to our tribes, Indian and Indian  
17 Nations.

18 I persisted today because of the importance of this  
19 issue to my community and the resources on which it depends.  
20 Your proposed rule change will set back water quality  
21 protections in Washington.

22 And I'm also the -- the son of Billy Frank Junior and  
23 my grandfather was Willie Frank Senior. They grew up their  
24 whole lives on a regiment of fish. Fresh fish out of the  
25 Nisqually River. And I'm here today to talk about the

1 importance of our treaty rights.

2           Our salmon, to us in Nisqually, is who we are in  
3 native people as you heard from all our other tribes. The  
4 salmon are -- we have a special place for the salmon not a lot  
5 of people can understand. And it's hard to explain that.

6           As you heard my cousin, Nancy, say we used to walk  
7 across the salmons' back there was so many in the Nisqually  
8 River.

9           I am a fishermen on the Nisqually River. And I don't  
10 know if we'll ever get back to that. And I don't want to be  
11 part of that generation that is holding a picture of a salmon,  
12 or you're looking at a salmon in a museum. And I don't want to  
13 be saying, "Hey, this is what we used to cash in the Nisqually  
14 River. This is what we used to cash out in the Puget Sound."

15           We brought our niece today, who's 15 years old, to  
16 witness this and be a part of this. Because what we're doing  
17 now affects her generation and the next 50 years out. We're not  
18 here representing the Nisqually Tribe. We're here representing  
19 the people of Washington state.

20           At the end of the day, we're all Washingtonians and  
21 what we're going to do for one tribe is going to affect  
22 everybody. We're stewards of the land; protectors of the  
23 resources. We're going to fight for the resources until our  
24 dying day. That's why we wanted to bring the younger generation  
25 here to see that. Because this fight is not going to end just

1 this ruling. I'm sure there will be another ruling or another  
2 document that will come out to try to keep -- putting our treaty  
3 rights down a little bit more. It seems like our treaty rights  
4 are at risk. It's going to be a fight.

5 My father, he was one of the greatest teachers in the  
6 world. I can remember coming to meetings in this building when  
7 there was no buildings over here. And now you've got a building  
8 here that is 20-something-plus stories. You know, so times are  
9 changing. We're changing. The president, he's gonna come and  
10 go. Everybody in this room, we're all going to come and go, our  
11 governors, our state officials, our elected officials.

12 Nisqually people, native people, we will be here until  
13 the end of time. And we will be here protecting the resources  
14 and doing what we've done for thousands and thousands of years.

15 Thank you very much.

16 MS. NAGLE: Okay. Next up to speak is Lydia Sigo.

17 And on deck is Kadi -- if I don't enunciate your name  
18 right, please forgive me -- Bizyayeva.

19 MS. SIGO: Hello my name is Lydia Sigo, and I'm a  
20 member of the Suquamish Tribe. I'm a historian at the Suquamish  
21 Museum, and I'm a geoduck diver.

22 And I'm here as a mother of a child who's 16 years old  
23 and I'm here with my best friend and her two-year-old daughter  
24 is here. We're here as parents because it is not right that we  
25 eat a lot of fish, we eat a lot of clams. The fish consumption

1 rate, as Washington is trying to set it, is still extremely low  
2 compared to how much fish we eat.

3           And if you see this little two-year-old girl in here,  
4 if you think it's okay for that child to eat so many cancer  
5 chemicals, this is wrong. Any parent knows this is wrong. Any  
6 grandparent knows this is wrong. You have no idea how much fish  
7 and clams we eat every single week. And we know this, that we  
8 are eating PCBs and we still do it because it is part of our  
9 religion.

10           And yes, the United States government made our  
11 religion illegal for so many years and we still practiced it  
12 under, you know, breaking the law. And we don't care. Because  
13 we're still going to practice our religion. You guys have tried  
14 to destroy us and we're still here. And we will keep eating  
15 these cancer-causing chemicals in fish and in our clams just  
16 like orca whales are doing. They are our cousins, they are our  
17 friends, and they are our relatives. When they die; we die.  
18 When they are poisoned; we are poisoned.

19           It is not okay for you to say that our kids can eat  
20 this many cancer-causing chemicals, that they can eat this many  
21 PCBs. So Monsanto and Boeing can keep dumping them in the  
22 Duwamish River.

23           I am Suquamish and Duwamish and Tulalip and Skokomish  
24 blood. We did not seize this land for nothing. The federal  
25 government promised us that we would retain our inherent treaty

1 fishing rights. So if you're breaking our treaty rights, then  
2 are we going to take federal land back? What do we have to do  
3 to make you respect your laws? The supreme law of the land  
4 according to the constitution. Does that not mean anything to  
5 you? Please respect our children and understand if you respect  
6 the constitution, you need to respect our treaty rights. This  
7 is the land that you are walking on right here only because our  
8 ancestors ceded land.

9 Please respect our children. Do not make them keep  
10 eating these cancer-causing chemicals. This is wrong.

11 Thank you.

12 MS. NAGLE: So next up to speak is Kadi Bizyayeva.

13 MS. BIZYAYEVA: That's fine.

14 MS. NAGLE: And on deck is Representative Beth Doglio.

15 And then if you speakers, if you please speak closer  
16 to the mic, it will project more. Thank you.

17 MS. BIZYAYEVA: (Speaking native language).

18 My name is Kadi Bizyayeva. K-a-d-i,  
19 B-i-z-y-a-y-e-v-a. I'm a Stillaguamish tribal member,  
20 commercial fisherman, and the assistant fisheries manager for my  
21 tribe.

22 I'm here to say that for my entire life tribes like  
23 mine have been fighting for clean water in Washington state and  
24 for clean fish. Our tribe is small and it's getting smaller  
25 each and every day while tribal elders pass away from cancer

1 from eating our traditional fish and our traditional foods.  
2 Salmon are central to our culture, traditions, and our health.  
3 And the EPA, as our federal trustee, needs to acknowledge that.

4 It is embarrassing that our state government has --  
5 has to challenge the federal government in order to protect the  
6 environment and the health of Washington residents and Native  
7 Americans.

8 I'll keep my time short to ensure that my other tribal  
9 elders and fellow Washingtonians can have time to admonish this  
10 decision themselves.

11 Before I end. I want to say that "water is life."

12 MS. NAGLE: Next up to speak is representative Beth --

13 MS. DOGLIO: Doglio.

14 MS. NAGLE: Dog- -- Doglio, oh, okay.

15 Thank you. I'm sorry. That sounded --

16 MS. DOGLIO: Not a problem.

17 MS. NAGLE: Doglio, okay.

18 And on deck is Amanda Colbert.

19 MS. DOGLIO: Thank you very much for having this  
20 hearing today. Really appreciate it.

21 For the record my name is Representative Beth Doglio.

22 B-e-t-h, d-o-g-l-i-o. And that "G" is silent.

23 I represent the 22nd Legislative District; that's  
24 Olympia, Lacey, Tumwater, North Thurston County and the  
25 ancestral grounds of the Nisqually, Squaxin, Chehalis.

1           You mention that you could say you agree with folks  
2 that spoke before you. I want to say I agree with every single  
3 person that's spoken before me. All of those words have been  
4 powerful and they have spoken from my heart too.

5           I strongly oppose the EPA's decision to revise  
6 Washington state's human health criteria, also known as the fish  
7 consumption rule. I urge you to withdraw this misguided  
8 proposal.

9           EPA's decision undermines the work of a diverse of  
10 stakeholders and Washingtonians who came together to find a  
11 common solution to keep our waters clean and our residents safe.

12           I pose it both on process and merit. None of  
13 Washington's tribes, state agencies, or legislatures were  
14 consulted before EPA decided to take this sweeping and  
15 unwarranted action.

16           As a state legislator, I know how hard stakeholder  
17 work is. How hard those conversations are. And I know that  
18 good governance is inclusive of those who stand to be affected  
19 by new policy.

20           Unfortunately, the EPA chose not to engage in  
21 meaningful dialogue with Washingtonians. Further, EPA failed to  
22 provide a valid reason for proposing to revise Washington's fish  
23 consumption rule at this time.

24           The EPA is charged with protecting our waters, our  
25 air, and our land. You must see the data and the impacts that

1 pollution is having on these precious resources. From the  
2 herring to the Chinook, to the orca, our beloved Puget Sound,  
3 and our many rivers are troubled. So why would the agency see  
4 fit to revise downward the water protections we need to today  
5 and for generations to come?

6           The Washington State Department of Ecology has been  
7 implementing the current rule for almost three years now. I  
8 have confidence in their work and their ability to implement a  
9 successful program.

10           Revising the rule now will create uncertainty for  
11 communities who rely on clean water for their traditional diets  
12 as well as the regulated community. I can't tell you how many  
13 times I've had stakeholders in my office saying "we just want to  
14 know what the rules are." It will not help us achieve the  
15 cleanest water in our state, nor will it help industry. In  
16 short, this action could have serious unintended consequences on  
17 everyone and everyone stands to lose.

18           I'm disappointed that this harmful decision came to us  
19 in Washington State from EPA Headquarters in Washington, DC  
20 without regard or understanding how it can hurt our communities,  
21 the health of our people, and the generations to come. My  
22 constituents deserve better, and I urge you to immediately cease  
23 action on EPA's revision.

24           Thank you.

25           MS. NAGLE: Next up to speak is Amanda Colbert.



1           And on deck is Peter Godlewski.

2           MS. COLBERT: Good afternoon. My name is Amanda  
3 Colbert. That's A-m-a-n-d-a, C-o-l-b-e-r-t. And I'm here this  
4 afternoon on behalf of Orca Network. So that is O-R-A --  
5 O-r-c-a, N-e-t-w-o-r-k.

6           We are a 501(c)(3) nonprofit based on Whidbey Island,  
7 and we are dedicated to raising awareness of the whales in the  
8 Pacific Northwest. And so part of raising that awareness for  
9 these whales in the Pacific Northwest is to provide them vital  
10 protection and clean habitat in which to survive and thrive.

11           Everyone that came before me already spoke on some of  
12 the other things that we also, you know, look to support as  
13 well. So I'm gonna read a brief statement that came with me.

14           On behalf of Orca Network staff and board of  
15 directors, I would like to voice our concerns regarding what  
16 water quality standard appeals would mean for the Salish Sea and  
17 its inhabitants, which include the regional whales and wildlife  
18 but don't stop there. River sheds, salmon, the tribes, and the  
19 citizens of Washington state would also feel the effects on  
20 these repeals for water quality.

21           On the state level, the 2016 inclusions of the EPA's  
22 water quality standards requires Washington state to improve  
23 water quality by setting pollutant limitations and regulating  
24 toxicants that enter our waters. Multiple toxicants and  
25 pollutants have been found in fish tissue. And not just there

1 but they have bioaccumulated through the entirety of the marine  
2 food web. Mercury, PCBs, arsenic, industrial chemicals, and  
3 lead are specific toxicants that studies have shown have adverse  
4 health effects on anything consuming contaminated fish, as well  
5 as heightened cancer causes.

6 Two apex species that are largely affected by high  
7 levels of these toxicants are orcas and humans. These adverse  
8 impacts are heightened within the southern resident community,  
9 who largely depend upon salmon, but are heightened within tribal  
10 communities and fishing communities that largely rely on a  
11 pescatarian diet.

12 One of this region's most widely known icons are  
13 Pacific Northwest salmon; which are vitally important, not just  
14 to us and orcas, but 135 other regional species. These salmon  
15 are especially susceptible to these toxicants, contaminated  
16 water, and the loss of pristine accessible habitat, all which  
17 will be further exacerbated by rescinding the current  
18 regulations.

19 Using Chinook salmon as key species example, their  
20 population has been reduced to just 10 percent of historical  
21 numbers due to human cause factors. More adverse effects to the  
22 species will have a ripple effect, felt not just in the marine  
23 and freshwater ecosystems, but absolutely to the endangered  
24 southern residents and in tribal communities and fishing  
25 communities, but also all of us humans that reside here in

1 Washington state and in the nation.

2 For the endangered southern residents who rely on  
3 Chinook for 80 percent of their diet, clean water and toxicants  
4 are directly correlated to the overall health and population of  
5 their status.

6 When food is scarce, it's not widely known, but these  
7 orcas metabolize the blubber as a supplement resource. And  
8 inside that blubber is where those toxicants are found stored  
9 that they are relying upon in these interim times of resources  
10 being scarce. When they're metabolized, they have the same  
11 critical aspects to orca health the same way that humans also  
12 do.

13 So we urge you to consider the cascade of consequences  
14 that would occur, not just in our whales in the Pacific  
15 Northwest, but our entire nation and people who rely on water  
16 quality standards.

17 Thank you.

18 MS. NAGLE: The next -- next up to speak is Peter  
19 Godlewski, and I know I didn't get that right.

20 And then on deck is Margo Hill.

21 MR. GODLEWSKI: Thank you for the opportunity to  
22 provide comment.

23 For the record, my name is Peter Godlewski, that's  
24 G-o-d-l-e-w-s-k-i, with the Association of Washington Business.  
25 AWB represents 7,000 businesses in the state of Washington and

1 many of our members are small, medium-sized firms. We are here  
2 today to support the EPA's decision to repeal certain federal  
3 standards for water quality in favor of those developed by  
4 Washington state.

5 In 2016, Washington state adopted water -- human  
6 health water quality criteria that were among the most  
7 protective of any state regulated under the Clean Water Act.

8 These standards represented the best available science  
9 and result of four years of a dedicated, exhaustive, and  
10 far-reaching stakeholder outreach process. The state standards  
11 are tough and capable of implementation.

12 Most important, they are protective of the public  
13 health of the state of Washington. The EPA's disapproval of  
14 these state standards violated the process outlined in the Clean  
15 Water Act where states have delegated the authority to create  
16 their own standards. The Clean Water Act requires the EPA to  
17 defer to state risk management decisions.

18 In 2016, even Washington State's department --  
19 Director of Department of Ecology proposed the imposition of  
20 federal standards stating, "We're disappointed that Washington  
21 State's approach wasn't accepted in its entirety. We worked  
22 hard to craft new water quality standards that were balanced and  
23 made real progress improving environmental and human health,  
24 while helping businesses and local governments comply."

25 AWB shares that sentiment and believes that Washington

1 state is best served by Washington standards.

2 We also agree with Ecology that Washington's regulated  
3 community needs certainty in which to operate. Having a clear  
4 path to compliance is key to businesses and other permit  
5 holders. However, the Department's planned use of variances  
6 provides none of that.

7 Since it is unclear when technology will be available  
8 to meet the federal standards, the use of variances will have to  
9 continue into the indefinite future. Despite the Department of  
10 Ecology's assurances that variances provide the most certainty  
11 for businesses, the uncertain length of time in which these  
12 variances would be needed, only increases the uncertainty faced  
13 by the regulated community.

14 At the time the governor and state agencies were  
15 unanimous that Washington's new water quality standards were  
16 among the most stringent in the nation while still balancing the  
17 ability of businesses to meet them, that has not changed.

18 Since 2016, AWB has been consistent in our support of  
19 the Washington state standard, which provides the best balance  
20 of regulatory protections for our businesses and high standards  
21 to the environment.

22 Thank you.

23 MS. NAGLE: Next -- next up to speak is Margo Hill.

24 And on deck is Brendan Keenan.

25 MS. HILL: Margo Hill, M-a-r-g-o, H-i-l-l.

1           (Speaking native language) Margo Hill.

2           My name is Margo Hill. I'm a Spokane tribal citizen,  
3 and I grew up on the Spokane Indian Reservation in Eastern  
4 Washington. I traveled all this way today, and I strongly  
5 oppose that EPA reduce the water quality standards.

6           Growing up on the reservation, I was very aware of my  
7 people. Since time in memorial, we lived along the Spokane  
8 rivers and its tributaries. My grandma was an interpreter for  
9 chiefs. And my great-grandma lived to be 103.

10           Since, I was a young girl, when I would go into her  
11 house, I would smell the -- the -- the smell of fish cooking.  
12 She would cook the fish, the entire fish, including the fish  
13 head. We eat all the parts of the salmon.

14           And as the tribal people spoke before me, fish  
15 consumption rates are much greater for the tribal people. This  
16 is a social equity issue. But it is an issue for all of us in  
17 Washington state.

18           For my people, we lived along the river. We had three  
19 bands: the upper, the middle, and the lower. The low band  
20 (speaking native language) means "the pink cheek people for the  
21 salmon."

22           We lived with the life of the salmon. The salmon  
23 chief would come and he would select one young man to sing the  
24 song to call those salmon home.

25           My young son, who's 20, he attends the University of

1 Washington. He will not be selected to sing that song to call  
2 the salmon home. We no longer have salmon that come to our  
3 homelands because of the dams and the hydropower.

4           When they put up the dams, the grandmother said, "What  
5 will we feed our children?"

6           What will -- "You'll flip a switch and the lights will  
7 go on and your houses will be heated."

8           Our grandmother said, "What will we feed our  
9 children?"

10           When those first government rations came up to the  
11 reservation -- (speaking native language) -- we cut open the  
12 salt pork and it was spoiled. It had maggots in it. But it was  
13 late into the winter so we boiled it up and that's what we had  
14 to feed our children.

15           Today, my children still participate in the canoe  
16 journey. They travel along the rivers of Washington state. The  
17 Pend Oreille clear down to the Nez Percé.

18           As tribal people, we believe we have an agreement with  
19 the animal people. My great grandma told stories -- (speaking  
20 native language) -- of "Speilya," of Coyote and Mosquito and we  
21 are thankful for our animal people and we owe our duty to them.

22           Tribal people understand that what happens to the  
23 earth happens to us as people. The Iñupiat people in Alaska,  
24 when they have a council meeting, they pass around a bucket of  
25 soil from the earth and they take a big bite. And they

1 understand that the decisions they make happens to them.

2 I would ask our city council, our federal agencies to  
3 drink our water.

4 When I landed here in Seattle, I went down to the  
5 water and I collected some of your water. Let us make decisions  
6 knowing that what happens to the water, happens to us.

7 (Speaking native language.)

8 Thank you.

9 MS. NAGLE: Next up to speak is Brendan Keenan.

10 And on date is Katelyn Kinn.

11 MR. KEENAN: My name is Brendan Keenan, that's

12 B-r-e-n-d-a-n, K-e-n-a-n. And I'm an attorney for the

13 Confederated Tribes and Bands of the Yakima Nation.

14 I'll be reading a prepared statement on behalf of the  
15 Yakima Nation Tribal Council.

16 Before I begin, I should note that this hearing does  
17 not constitute government-to-government consultation and in no  
18 way should be interpreted as such.

19 The Yakima Nation opposes the EPA's reversal of its  
20 2016 decision on Washington state's human health criteria and  
21 its withdrawal of the federal criteria promulgated in response  
22 to that decision.

23 The Yakima Nation expects that applicable water  
24 quality standards will protect all Yakima people, rather than  
25 only a certain percentage of them. It is unacceptable for any



1 Yakima members to contract cancer or other illnesses as a result  
2 of toxic pollutants inadvertently ingested through enjoyment of  
3 traditional diets.

4           Driven by this principle, the Yakima Nation has worked  
5 with the EPA since the 1990s on developing new water quality  
6 standards for the state. Although the federally promulgated  
7 2016 criteria were far from perfect, they were developed in  
8 consultation with the Yakima Nation and the other native nations  
9 of this region. Their protections for diets with high fish  
10 consumption were a step in the right direction.

11           The EPA's decision to withdraw those standards is a  
12 step backwards and will result in more Yakima members falling  
13 ill, poisoned by the same waters that the nation has relied on  
14 since time in memorial.

15           Despite the inevitable impacts to treaty reserved  
16 resources, the EPA did not consult with the Yakima Nation prior  
17 to making its decisions. This failure is antithetical to the  
18 federal government's obligations under its 1855 treaty with the  
19 Yakima Nation.

20           Furthermore, the EPA's decision to only provide native  
21 nations with 3-minute windows at the podium today, the same as  
22 the interest groups and the general public, is disrespectful and  
23 falls far short of what the Yakima Nation would expect from a  
24 government-to-government relationship.

25           Finally, the inherent authority that the EPA has cited

1 in its decision is not only inadequate, it also evokes the same  
2 false and unjust authority that the federal government has  
3 historically relied on to assert control over the native  
4 nations.

5 This false authority, referred to as the Doctrine of  
6 Discovery, should be categorically rejected by the federal  
7 government, rather than embraced to rationalize the agency  
8 bending the need to fully reverse.

9 So to reiterate, the Yakima Nation opposes both of the  
10 EPA's recent actions pertaining to the state's water quality  
11 standards, the reversal of its 2016 decision on the human health  
12 criteria and the withdrawal of the federal criteria promulgated  
13 in response to that decision.

14 Thank you.

15 MS. NAGLE: Next up to speak is Katelyn Kinn.

16 On deck is Lincoln Loehr.

17 And, again, please talk as close to the mic as  
18 possible.

19 Thank you.

20 MS. KINN: My name Katelyn Kinn, and I'm a clean water  
21 attorney with Puget Soundkeeper. Thank you for hearing my voice  
22 on this issue.

23 EPA's proposal to rollback Washington state's water  
24 standard quality standards is unconscionable, irresponsible, and  
25 lacking in basic humanity.

1           The 2016 approved standards were a big step in the  
2 right direction. A big step towards working to do undo --  
3 working to undo historic harms and protect our people as they  
4 deserve moving forward.

5           EPA's proposal to now rollback those standards is  
6 senseless, illegal, and wrong. We won't stand for it. These  
7 standards form the bedrock of our nations clean water laws.  
8 Laws enacted in recognition of the fact that applying a dumping  
9 ground mentality to our waterways does not serve us. It does  
10 not support our ability to survive and thrive on this land.

11           Our nation got this wrong for a very long time and  
12 today is a new day. These standards represent Washington  
13 state's hope, of course, correcting. You see a lot of people  
14 here today wearing red who still haven't and won't give up.

15           The 2016 approved standards are supported by science  
16 and on-the-ground facts. Neither of which has things changed.  
17 The only thing that has changed is politics.

18           Today's EPA apparently supports the agenda of small  
19 industrial polluters, turning its back entirely on the stated  
20 admission of protecting human and environmental health. This  
21 move is illegal. EPA is outright ignoring very clear Clean  
22 Water Act provisions, providing that this type of action is only  
23 appropriate in two specific circumstances. One of which is if  
24 the standards are not strong enough and the other is if the  
25 state requests it. Neither has happened here. In fact, it is

1 the exact opposite.

2           The bottom line is evaluating whether this agency can  
3 stomach hopping right into the pocket of industrial polluters  
4 who have for too long externalized their true cost of doing  
5 business on people who eat local fish and drink water.

6           Will you prioritize their profit over human health?

7           How much environmental racism are you willing to  
8 inflict?

9           This rollback hurts everyone. It is shameful that we  
10 have to stand before our government in 2019 to ask for  
11 protection from cancer.

12           As you will hear from everyone wearing red today, this  
13 proposal hurts the people of Washington. This also hurts the  
14 industry groups pushing for it. And it hurts an EPA that's  
15 willing to succumb to their pressure, because it degrades the  
16 basic humanity of each individual law that needs to happen.

17           It is not too late for you to rethink this. We will  
18 not stop fighting.

19           In closing, I respectfully request that the EPA  
20 acknowledge and act on its duty to hear every voice that wishes  
21 to be heard on this issue. I request the EPA hold a second  
22 hearing on this issue and extend the deadline for comments.

23           Thank you.

24           MS. NAGLE: Next up to speak is Lincoln Loehr.

25           And on deck is Scott Mannakee.

1           MR. MANNAKEE: I would like to defer my time tribal  
2 leader or tribal citizen that would like to speak.

3           MS. NAGLE: Yes, okay.

4           We have given three minutes to those who have signed  
5 up to speak, and so if you wish not to speak, you can't defer  
6 your time to somebody else.

7           MR. LOEHR: Good afternoon. My name is Lincoln Loehr,  
8 L-i-n-c-o-l-n, L-o-e-h-r.

9           My background is oceanography and I've worked over the  
10 last three decades in water quality policy advising with the  
11 City of Everett as one of my clients. I'm now semi-retired, but  
12 I still consult with the City of Everett.

13           And my commends are going to be a little bit different  
14 than others have been today, because I'm going to focus on just  
15 one contaminate, and that's arsenic.

16           And the National Toxics Rule gave us arsenic criteria  
17 as .14 part per billion that applies in marine waters, organism  
18 consumption, and 0.18 part per billion that applies in  
19 freshwater.

20           Now, note, the drinking water standard is 10. So  
21 there's quite a big difference there.

22           National Toxics Rule had some problems. And one is  
23 that they -- I commented on it back in 1991, that inorganic  
24 arsenic was the carcinogenic issue, not the organic form. And  
25 that most of the arsenic in fish tissues was in the organic

1 form.

2           The comments from EPA at that time in the rule was "we  
3 agree with you," and we've corrected that by putting a footnote  
4 on it saying "pertains to inorganic arsenic only."

5           But they didn't change the criteria. And the  
6 inorganic arsenic in fish tissue runs about 20 percent of the  
7 total arsenic.

8           Now, there's some interesting data on muscles that  
9 NOAA has collected in our state over a 26-year period. Many  
10 different stations in the NOAA Muscle Watch sampled muscles  
11 every other year for many different contaminants, but they  
12 measured arsenic also.

13           It's really interesting when you look at the arsenic  
14 data in our state, it has the highest arsenic in muscles occurs  
15 at the Cape Flattery station, the entrance to the Strait of Juan  
16 de Fuca. And it's about -- it's over 1.5 part per million.

17           When you move into the Salish Sea, it drops down into  
18 the range of 1 part per million.

19           Why is that?

20           The answer is, it's naturally present in marine waters  
21 at 1.5 part per billion, and that's pretty much globally true.

22           In our rivers, it runs with more variation but it's  
23 typically about seven-tenths of a part per billion.

24           And in Puget Sound, the waters are measurably diluted  
25 by freshwater, and that's why it runs around 1.

1           So arsenic, for the most part, is a natural issue.  
2   And there's really difficulties when we have criteria that are  
3   below background.

4           And so what happens if our criteria are below  
5   background, and it's a human health criteria, the EPA guidance  
6   says that you have to redesignate your uses when the natural  
7   conditions are lower than the -- or when the natural conditions  
8   are higher -- lower than -- now I'm getting myself mixed up  
9   here.

10           When it's -- when it's unattainable, there isn't  
11   anything we can do with discharges going into the Salish  
12   saltwater that would end up reaching the criteria.

13           So you have to redesignate the uses, which would mean  
14   cutting back on fish consumption use.

15           And, anyway, I provided written comments.

16           Thank you.

17           Told you I would be a little bit different.

18           MS. NAGLE: Okay. Next up to speak is Scott Mannakee.

19           And on deck is Chris McCabe.

20           MR. MANNAKEE: Good afternoon. My name is Scott  
21   Mannakee. S-c-o-t-t, M-a-n-n-a-k-e-e. I'm a tribal attorney  
22   for the Stillaguamish Tribe of Indians.

23           I really wish I could defer my time to a tribal  
24   citizen or a tribal leader, but since I'm operating under these  
25   constraints, I'm going to speak for just a short bit.

1           I want to reiterate what everyone has said. I want to  
2 reiterate what our chairman has said about the fact that the  
3 tribe has not have proper consultation. The tribe will be  
4 submitting extensive written comments for the record. But I'm  
5 not going to talk about any of that right now. I'm just going  
6 to talk from my heart as a human being, not as a tribal  
7 attorney.

8           This is a day of mourning and a day of celebration.  
9 It's a day of mourning, because we're at a point where the  
10 federal government, which should be acting as a trustee for the  
11 tribes, is, in fact, acting as -- as an enemy, in effect, of the  
12 tribes and of the people and the animals of the Earth. And this  
13 is a cause for great grief and sorrow.

14           But it's also a day of celebration. And it's a reason  
15 to celebrate because there are many, many brave people, not only  
16 in the tribal community, but throughout the state of Washington,  
17 throughout the country, throughout the world, who are realizing  
18 that human beings need to take some pretty drastic steps if  
19 we're going to save our planet and we're going to be able to  
20 live and our children and our grandchildren and our  
21 grandchildren's grandchildren are going to be able to live in  
22 harmony with each other on the plant.

23           A number of years ago I heard someone say something  
24 that has stayed with me for about 15 years; and that is, there's  
25 basically two ways of looking at the world. One is to look at



1 the people, the land, the air, the water, the animals, all of  
2 the living beings of the planet and see it as simply something  
3 that can be manipulated, monetized, marketed, turned into some  
4 sort of a commodity. And that's a way of looking at the world  
5 that basically leads to death.

6           There's another way of looking at the world and that  
7 is to say, looking at all of the living beings of the planet,  
8 the planet itself, its life systems, the animals, the air, the  
9 water, and seeing a web of relationships and a web of  
10 obligations, and that's the way of life.

11           And the people in this room, the vast majority of  
12 them, are standing for a way of life. And I would like to see  
13 the United States Environmental Protection Agency do the same  
14 thing.

15           Thank you.

16           MS. NAGLE: Next up to speak is Chris McCabe.

17           And on deck is Nora Nickum.

18           MR. MCCABE: Good afternoon thank you for the  
19 opportunity to speak with you today. For the record, my name is  
20 Chris McCabe. C-h-r-i-s, M-c-C-a-b-e. I'm the Executive  
21 Director for the Northwest Pulp & Paper Association. We're a  
22 retail nonprofit trade association. We represent 10 mills in  
23 Washington state. These mills are in rural parts of Washington;  
24 usually the primary economic driver for those communities. And  
25 these mills provide over 6,000 jobs in the state. It is

1 predominantly union-backed jobs and family-wage jobs.

2           At the outset I would like to say that we appreciate,  
3 understand concerns of all of the previous speakers that have  
4 gone before us, and of all of the other people in this room.  
5 This is an important issue. We get it.

6           We too have concerns, however, about this entire  
7 rulemaking process. And we have some fundamental concerns about  
8 the ability to operate these pulp and paper mills to provide  
9 jobs in the future with an unattainable federal rule. That's  
10 why we're here today to support the withdrawal of the EPA 2016  
11 federally promulgated rule for Washington state.

12           In doing so, we are favoring the Department of Ecology  
13 rule, which was an update from the update 1992 National Toxics  
14 Rule, which greatly increased human health protections. It was  
15 a robust stakeholder process that involved stakeholders and  
16 people from all around the state. We're supporting the  
17 Department of Ecology rule. That's what we're asking EPA to do.  
18 Let's not forget that.

19           Our organization participated heavily in both the  
20 Department of Ecology 2016 rule development, as well as in the  
21 EPA federally promulgated rule in 2016.

22           As one of the eight petitioners in the February 21st  
23 petition of this agency, we support the rulemaking for that  
24 reason.

25           We are members of Washington's regulated community.

1 We've heard a lot of talk today about industry. And I  
2 appreciate that and I understand that. But let's not forget,  
3 this is an issue that affects everybody. Cities, counties,  
4 ports, businesses. All permanent. So this is -- we're all in  
5 this together.

6 We, as an organization, supported the upgrade from  
7 1992 to the Department of Ecology 2016 rule. That provided some  
8 significant updates to human health protections, particularly  
9 for high consumers of fish and shellfish; including many of the  
10 very people sitting in this room today, members of Washington  
11 tribal community.

12 We supported updating the fish consumption rate to 175  
13 grams a day. We supported the excess cancer risk level in 1 in  
14 1 million.

15 However, we also need to have a balance. We need to  
16 be able to meet the water quality standards that have been  
17 adopted for Washington state.

18 I will like to set the record straight today. This  
19 issue is absolutely not about profit margins. It's about being  
20 able to meet impossibly stringent aspirational water quality  
21 standards and what happens or doesn't happen when these  
22 standards aren't met.

23 The 2016 EPA promulgated rule for Washington set water  
24 quality standards in place that cannot be achieved with existing  
25 or even foreseeable technology. Unachievable standards of any

1 type for water quality or anything that do not drive meaningful  
2 environmental protection. Instead they result in permitting  
3 chaos, uncertainty, and litigation. For that reason, we support  
4 the rule and we want to make the Department of Ecology rule  
5 work.

6 Finally, I must respectfully disagree with the  
7 Department of Ecology's earlier statement, nothing creates  
8 greater uncertainty than unobtainable water quality standards  
9 than the EPA rule.

10 Thank you very much.

11 MS. NAGLE: So next up to speak is Nora Nickum.

12 And on deck is Amy Trainer.

13 MS. NICKUM: Thank you.

14 My name is Nora Nickum, N-o-r-a, N-i-c-k-u-m. And I'm  
15 here representing the Seattle Aquarium, which strongly opposes  
16 the proposed change. The Seattle Aquarium hosts over 800,000  
17 visitors every year who care deeply about the health of the  
18 ocean, as well as all the people and wildlife that would be  
19 affected by weakening of Washington State's water quality  
20 standards.

21 The wildlife that we care about includes the  
22 endangered southern resident orcas and the salmon that they  
23 depend upon as we have heard from other speakers.

24 We are also deeply concerned about the health all  
25 Washingtonians, and we share the concern raised in comments

1 earlier today by other speakers about the unacceptable added  
2 risk to the health of tribal communities.

3 Toxic contaminants like PCBs are poorly metabolized,  
4 persistent in the environment, and bioaccumulate and biomagnify  
5 in the food web. We need to be working urgently to clean up our  
6 contaminated waters and protect the health our communities and  
7 our oceans and not make them worse.

8 Water quality standards should be protective and  
9 science-based. This EPA rollback is neither.

10 We urge you to halt the withdrawal and allow  
11 Washington state to keep its protective water quality standards  
12 for the sake of our people, both those here today and future  
13 generations, and for our wildlife and ecosystems.

14 MS. NAGLE: Okay. Next up to speak is Amy Trainer.

15 And on deck is Stephanie Solien.

16 MS. TRAINER: Good afternoon. My name is Amy Trainer,  
17 A-m-y, T-r-a-i-n-e-r. I am the environmental policy director  
18 for the Swinomish Indian Tribal Community. I am here on behalf  
19 of Chairman Brian Cladoosby, who sends his regrets that he was  
20 unavailable to attend this afternoon.

21 I think of Chairman Cladoosby, who many of you in this  
22 room know, he has great sense of humor. And if he were here, he  
23 would probably stand up and ask you: What are you thinking?  
24 What are you thinking?

25 Because the Swinomish Tribe, they're the people of the

1 salmon. And like so many other leaders and great voices in this  
2 room today, they were signatory to a treaty. For the Swinomish,  
3 it was the Treaty of Point Elliott in 1855.

4 And since that time -- frankly, since time in  
5 memorial, the Swinomish people have been stewards of the land  
6 and waters and all the creatures in Puget Sound and the Skagit  
7 River, the largest in Puget Sound.

8 So when you have your federal agency who is supposed  
9 to be acting as your trustee in a fiduciary sense and helping  
10 you preserve your culture and way of life, your subsistence, and  
11 your economic vitality, prosing something that is going to tear  
12 at the fabric of that, I think Chairman Cladoosby would ask you  
13 what are you doing? What are you thinking?

14 Because we stand in strong opposition, shoulder to  
15 shoulder, with all of the tribal leaders in this room in voicing  
16 our adamant opposition to this proposed action that will  
17 unequivocally result in increased risk to tribal members, to  
18 their health, to the fishery of -- we so depend on. That is one  
19 of the pillars of our treaty rights. Why we and so many other  
20 tribal leaders and signatories to treaties gave up basically all  
21 of Western Washington in 1855 for these treaty rights that now  
22 are under direct threat.

23 The waters are habitat for our fish, which come  
24 directly into our human health. And, frankly, we need fewer  
25 toxins. We need less toxins. We don't need more.

1           So I think it's a little disingenuous, to put it  
2 mildly, that the Clean Water Act has a goal of fishable and  
3 swimmable waters, which are still a very long way from  
4 unfortunately; that instead of saying we're going to work  
5 towards having actual good quality waters, you're going to lower  
6 the standards so then you can call them closer to fishable.  
7 That's not defensible. And we stand in strong opposition to  
8 that.

9           The Swinomish Tribe has repeatedly requested tribal  
10 consultation. And that hasn't happened yet.

11           Unfortunately, the consultation we did have secluded  
12 with Region 10 -- not even with headquarters, who still refuses  
13 to have consultation with us -- was canceled at the last minute.

14           So I would like to take a minute and remind folks, and  
15 particularly our EPA friends here in the room, what your EPA  
16 tribal consultation policy says. And I quote, "EPA's  
17 fundamental objective in carrying out its responsibilities in  
18 Indian country is to protect human health and the environment,"  
19 end quote.

20           That's your fundamental objective. So I don't  
21 understand how you can reconcile not only these rules, but  
22 denying tribes' repeated request for tribal consultation.

23           To that end, the Swinomish Tribe, I have a letter  
24 here, signed by Chairman Cladoosby, requesting 120-day extension  
25 for comments on this rulemaking until such time as consultation

1 can happen. And in order for consultation to be meaningful, as  
2 your policy and the executive order 13175 require, it has to be  
3 meaningful. You have to give us the opportunity to talk with  
4 you.

5           And I quote again from your policy, "Consultation  
6 should occur early enough to allow tribes the opportunity to  
7 provide meaningful input that can be considered prior to EPA  
8 deciding whether, how, or when to act on the matter under  
9 consideration."

10           And furthermore, quote, "If a treaty reserves -- if is  
11 treaty reserves to a tribe a right to fish in a water body, then  
12 EPA should consult with tribes on treaty rights, since  
13 protecting fish may involve protection of water quality in the  
14 watershed."

15           I am sure that you understand this, but I'm here to  
16 remind you of this. Because it's not fair. It's not right.  
17 And we are strongly up in the opposition. Not only to what you  
18 are proposing substantively, but if you're going to do this  
19 without even talking to us in a meaningful way, that cannot  
20 stand. We are in strong opposition. So we're asking for 120  
21 more days to give you time to live up to your policy and your  
22 obligations.

23           So thank you for the opportunity.

24           MS. NAGLE: Next up to speak is Stephanie Solien.

25           And then on deck is Daniel Wilson.



1 MS. SOLIEN: My name is Stephanie Solien,  
2 S-t-e-p-h-a-n-i-e, S-o-l-i-e-n. I am here as member of the  
3 Leadership Council of the Puget Sound Partnership. And I will  
4 be reading a prepared statement on behalf of the Leadership  
5 Council of the Puget Sound Partnership.

6 The Puget Sound Partnership is the state agency  
7 charged with accelerating and advancing the collective effort to  
8 recover Puget Sound.

9 The Leadership Council is its governing body and  
10 includes representations from all sectors of the community;  
11 including agriculture, business, and sovereign Indian tribes.

12 The Leadership Council emphatically opposes EPA's  
13 proposal to withdraw these federal water quality criteria, and  
14 strongly urges EPA to abandon this proposal. It would be an  
15 enormous step back towards -- backwards for Puget Sound  
16 recovery, our southern resident orca, and salmon.

17 The Leadership Council has consistently supported  
18 water and human health criteria standards that are reflective of  
19 actual dietary practices of all fish consumers in Washington;  
20 including tribal and non-tribal harvesters.

21 In fact, in 2012 we passed a resolution urging the  
22 adoption of more appropriate fish consumption rates and  
23 associated water quality standards.

24 Going backwards now would undo all the progress we  
25 have made since. Years of hard work and collaborative dialogue

1 went into developing the delicate compromises in the existing  
2 standard. Going backwards now would create regulatory  
3 uncertainty, put implementation at risk, and invite third-party  
4 lawsuits.

5           Going backwards now would also be an affront to all  
6 our partners that have already made good-faith efforts to  
7 comply.

8           Our partners expended extensive time and resources  
9 engaging in this multi-year effort to ensure the standards  
10 aligned with what the science told us about water pollutants and  
11 human health. Going backwards now would be arbitrary, reckless,  
12 and altogether inconsistent with EPA's own guidance on using the  
13 best current science.

14           The existing standards help protect everyone in our  
15 state who eats fish and shellfish, including tribal and  
16 non-tribal harvesters from exposure to toxic pollutants. Going  
17 backwards now would increase discharge of toxic pollutants into  
18 Puget Sound and place an unfair burden on all those that rely on  
19 clean and safe seafood as a healthy and sustainable diet.

20           Now is not the time to go backwards. We urge you to  
21 withdraw this federal rulemaking and keep the current standards  
22 in place.

23           And next week the Leadership Council will be approving  
24 a letter, which we'll also send for the record.

25           Thank you very much.

1 MS. NAGLE: Next up to speak is Daniel Wilson.

2 And on deck is Rosalind Schoof.

3 MR. WILSON: Good afternoon, for the record, my name  
4 is Daniel Wilson, D-a-n-i-e-l, W-i-l-s-o-n. I'm President of  
5 the United Steelworkers Local 338. United Steelworkers is the  
6 largest industrial union in North America. We represent more  
7 than 6,000 workers here in Washington state who work mostly in  
8 the manufacturing sector.

9 We've been on the forefront of environmental issues  
10 for more than half a century. We were instrumental in helping  
11 write the Clean Air and Clean Water Acts of 1970.

12 And in 2006, we co-founded the BlueGreen Alliance, a  
13 national organization bridging the gap between labor and the  
14 environmental movement.

15 We support attainable water quality standards that  
16 improve our waters, protect human health, and provide for a  
17 vibrant economy. That's why we support the EPA's proposal to  
18 rescind the 2016 federal rule by removing unachievable standards  
19 that cannot and will not improve our water quality. That rule  
20 would have resulted in more uncertainty and lawsuits making it  
21 difficult for manufacturers to invest in their plants, putting  
22 them at a competitive disadvantage. A disadvantage likely to  
23 result in the loss of thousands of good-paying family-wage jobs.

24 The EPA's recent action paves the way for water  
25 quality standards already developed here in Washington by the

1 Department of Ecology; which will provide exceptional protection  
2 for our citizens. None of us should have to choose between  
3 clean water and jobs. We can have both. Anything less would be  
4 a disservice to the working men and women of this state.

5 Thank you.

6 MS. NAGLE: Next up to speak is Rosalind Schoof.

7 And on deck is Gordon Adolph.

8 MS. SCHOOF: I'm Rosalind Schoof, R-o-s-a-l-i-n-d,  
9 S-c-h-o-o-f. I'm a toxicologist. I work for a consulting  
10 company called "Ramboll," but I am not representing anyone. I  
11 am here speaking about my own scientific opinions.

12 I would like to start by endorsing the comments of  
13 Lincoln Loehr regarding arsenic and all those who have commented  
14 on the fact that standards that are unachievable do not actually  
15 offer any public health protection.

16 The fact that arsenic concentrations in the EPA human  
17 health criterion are far below background levels in waters of  
18 our entire planet suggest that they are scientifically invalid.

19 And I urge EPA to accept that the arsenic human health  
20 criterion that the state -- that Ecology had proposed earlier,  
21 that will offer sufficient protection.

22 I have spent the last 20 or 25 years conducting  
23 research and publishing papers on arsenic, dietary arsenic, and  
24 arsenic in fish.

25 I'd also like to say that I hear a lot of fear in this

1 room. And I am very sorry for that. That we scientists have  
2 not succeeded in communicating with people better about the real  
3 potential risks associated with chemicals in fish.

4 I feel that there's very unlikely to be a negative  
5 human health impact in -- if EPA's rule is applied. And so I  
6 support the proposed EPA rule with the caveat that I also  
7 believe that the arsenic criterion proposed by Ecology should be  
8 accepted.

9 Thank you.

10 MS. NAGLE: Is Gordon Adolph still here?

11 Okay. Next up to speak is Gordon Adolph.

12 And on deck is Rein Attemann.

13 MR. ADOLPH: Hello. My name is Gordon Adolph. I'm  
14 Native American. And my tribe is not from around here. From  
15 South Dakota. And I'm a First Nations. We're in Canada. And  
16 we, too, are dependent upon the salmon for sources of income and  
17 everything.

18 It is our health, wealth, and anything you can think  
19 of, it does its job for us. It's just seasonal, but it's  
20 basically we live for the salmon. So it's -- it's terrible  
21 what's happening with the water situation.

22 And I haven't walked a perfect life. So I've --  
23 basically, in the jail there's something going on with the water  
24 too. And I just wanted to address that too. Because the lead  
25 levels are so high, that they're only giving you water -- water

1 bottles. And it's -- sometimes they are not giving you only a  
2 bottle of water for like 16 hours or something. That's one  
3 bottle -- 16 ounces has to last you that long of time. And it's  
4 just -- I just wanted to speak out on that.

5           Because we, as humans, we have choices to buy bottled  
6 water. But in jail you don't have a choice. And well, I just  
7 think that this should really be looked into. And it shouldn't  
8 really be a question as to what we do with the funds for, you  
9 know -- we want to get clean water. So just clean it up. I  
10 mean, it's as simple as that. You are basically just  
11 endangering the species that are already on the endangered  
12 species list. And, first, they took the buffalos; now they're  
13 taking the salmon from us. So what else do you want to take,  
14 you know?

15           Thank you.

16           MS. NAGLE: Okay. Next up to speak is Rein Attemann.  
17           And on deck is Alyssa Barton.

18           MR. ATTEMANN: Yes, Rein Attemann, R-e-i-n,  
19 A-t-t-e-m-a-n-n. And I work at the Washington Environmental  
20 Council. But I'm here as a board member of the Lands Council  
21 tonight.

22           Lands Council is local a nonprofit organization in  
23 Spokane, Washington; east of the mountains. And water quality  
24 and human health are one of the many issues the Lands Council  
25 works on. We envision Spokane River that supports native fish

1 and is safe for people to recreate and fish in. That is  
2 important to me, because I live in Spokane and on the Spokane  
3 River for four years and was an avid user of that river.

4 The Lands Council is opposed to this rulemaking that  
5 will rescind EPA's 2016 water quality standards for Washington  
6 state.

7 It's alarming that the EPA, an agency mandated to  
8 protect the environment and human health from polluters, is  
9 knowingly putting the health of people and families in this  
10 state at risk by weakening protections against toxins and  
11 pollutants in our marine and freshwater waterways.

12 This proposal will rollback protections against  
13 carcinogens, like PCBs and dioxin, to outdated standards that  
14 are not reflective of what the science tells us. It ignores  
15 what we know about bioaccumulation of contaminants, as it will  
16 weaken the relative source contribution in the human health  
17 criteria formula and replace bioaccumulation factors in the  
18 formula with less protective bioconcentration factors.

19 So even although the EPA's proposed changes would  
20 generally retain the fish consumption rate of 175 grams per day  
21 and the cancer risk of 1 in 1 million, each gram of fish will  
22 contain higher levels of toxins and carcinogens for that same  
23 level of fish consumed.

24 This will especially have big impacts on tribes and  
25 communities of color that depend on large portions of fish for

1 their daily meals.

2           The Lands Council is a founding member of the Spokane  
3 River Regional Toxics Task Force and has been working together  
4 to reduce PCBs coming from dischargers, storm water, and  
5 non-point sources.

6           PCBs in Spokane River bioaccumulate in fish tissue to  
7 the level that they are a threat to those who consume those  
8 fish; such as, the Spokane tribal members and residents of  
9 Spokane. Lowering the standards is essentially increasing the  
10 risk of those people for getting cancer and neurological  
11 diseases.

12           The EPA has refused to address the fact they allow  
13 PCBs in products up to 50 parts per million under the Toxic  
14 Substance Control Act. This means that products currently  
15 produced, such as paints, dyes, and caulk continuing to  
16 contaminate Spokane River in unacceptable levels.

17           So finally, in order to give more people the  
18 opportunity to provide meaningful feedback and comments, EPA  
19 should, one, extend today's time period until everybody here has  
20 an opportunity to speak; two, extend the comment deadline; and,  
21 three, hold additional hearings throughout the state such  
22 communities of Spokane, Tri-Cities, Vancouver, Bellingham have  
23 the opportunity that we had here today to testify in person.

24           So, in conclusion, we are imminently opposed to this  
25 rulemaking.



1 Thank you.

2 MS. NAGLE: Next up to speak is Alyssa Barton.

3 And on deck is Seth Book.

4 MS. BARTON: Hi there. My name's Alyssa Barton,  
5 A-l-y-s-s-a, B-a-r-t-o-n. I'm the policy manager with Puget  
6 Soundkeeper Alliance. But Soundkeeper will be submitting  
7 comments along with our partners at Waterkeepers Washington and  
8 Earthjustice before the deadline.

9 I'm here today to read a petition. We are small but  
10 we still somehow managed in the past few weeks to get over a  
11 thousand signatures on a petition opposing this rulemaking, so  
12 I'm here to read it to you today.

13 Dear EPA, before 2016 Washington's water quality  
14 standards were based on 40-year-old data; relied on the weakest  
15 fish consumption standards in the country, 6.5 grams of fish per  
16 day; and did not meet the mandate of the Clean Water Act to  
17 ensure all waters are drinkable, fishable, and swimmable.

18 In 2012, the Washington Department of Ecology's  
19 research on fish consumption revealed that many tribal members  
20 eat over 700 grams of fish per day, and up to 380,000 Washington  
21 adults eat over 250 grams of fish per day.

22 More worrisome still are the statistics for children,  
23 who have greater sensitivity to many toxins. At least 29,000  
24 Washington children eat over 190 grams of fish per day.

25 Ultimately, in 2016, EPA strengthened Washington's

1 water quality standards to reflect the amount of fish people  
2 actually eat by increasing the fish consumption rate to 175  
3 grams per day, the equivalent of about one fish meal per day,  
4 and adequately accounting for other ways that people are exposed  
5 to toxins.

6 EPA should not rollback its science-based standards  
7 and has no data to support instituting weaker, less health  
8 protective water quality standards.

9 By reversing course, EPA threatens the health of  
10 anyone who fishes for subsistence in Washington state, many of  
11 whom are from communities of color and indigenous communities.

12 In numerous guidance documents, EPA's made clear that  
13 states must use locally accurate and protective fish consumption  
14 rates to set water quality standards. This rollback is contrary  
15 to EPA's own policy and contradicts scientific findings, the  
16 law, and the rationale relied on EPA when establishing the  
17 standards in 2016.

18 I do not want to see less protective water quality  
19 standards in Washington state. Thank you for considering my  
20 comment.

21 And these are the comments signed on by over a  
22 thousand folks, Washingtonians. And we'll be submitting this  
23 petition along with the full list of signators before the  
24 deadline. But we just want to emphasize today that it is not  
25 okay to intentionally expose tribes and anyone who eats fish

1 from our waters to more toxic pollution. It is not okay to rush  
2 this process in 60 days, in a way that prevents the public and  
3 tribal government-to-government relations from participating.

4 EPA should, in addition to withdrawing this  
5 rulemaking, extend the comment deadline and, as several have  
6 also asked before me today, provide for additional hearings  
7 outside of Seattle for other folks throughout the state of  
8 Washington to be heard.

9 Thank you.

10 MS. NAGLE: Okay. Before we go to the next speaker,  
11 I've looked at the clock and it's almost five o'clock. And we  
12 are scheduled to end the proceedings at this time.

13 However, since we have more people signed up to  
14 testify, we will continue with the hearing until everyone has  
15 the opportunity to speak or until 7:00 p.m.

16 Again, for security reasons, we must end this event at  
17 7:00 p.m.

18 The next up to speak is Seth Book.

19 And on deck is Julia Buck.

20 MR. BOOK: Hi -- hello. My name is Seth Book,  
21 S-e-t-h, B-o-o-k. I'm here with the Skokomish Tribe. I work as  
22 the EPA coordinator for the tribe. The Skokomish Tribe will  
23 submit written comments on this matter. I have them here.

24 The Skokomish Tribe is opposed to the EPA reversal of  
25 the November 15, 2016, Clean Water Act, section 303(c), partial

1 disapproval of Washington's human health criteria, water quality  
2 criteria, and decision to approve Washington criteria. That's a  
3 mouthful.

4           And then I'm going to pass on my time, so others may  
5 speak on this matter. I hope that also that we can extend the  
6 written comment period 120 days.

7           Thank you.

8           MS. NAGLE: Is Julia Buck here?

9           Okay. Seeing that Julia Buck is not coming forward,  
10 the next person to speak would be Blair Englebrecht.

11           And the person on deck is Eleanor Hines.

12           MS. ENGLEBRECHT: My name is Blair Englebrecht. I'm  
13 here today to tell you that I oppose this action. Here's why.

14           This proposed action has -- not only has no legal  
15 basis but is unmistakably bad for our health, bad for the  
16 economy, and bad for the environment.

17           In my work in Clean the Marina, a Washington program  
18 for Puget Soundkeeper, I interact with such a wide variety of  
19 people. And what I found here and throughout my life, is that  
20 water brings people together. It's a great equalizer and the  
21 magic that lives within it connects people from all walks of  
22 life. Those who have known its presence do not want the EPA to  
23 rollback these protections and those who have not yet learned  
24 how much wonder the Puget Sound holds deserve the opportunity to  
25 before it is allowed to be choked with pollution.

1           If the EPA puts polluters over people and fills  
2 Washington's waters with toxic pollutants and known carcinogens,  
3 it will be failing in its core mission and it will be failing  
4 all of us.

5           Furthermore, the EPA did not give the state of  
6 Washington and the tribes notice or their rightful opportunity  
7 to weigh in before it took action.

8           Washington state, the Department of Ecology, and the  
9 tribes have strongly objected to this rulemaking, as you've  
10 learned here today.

11           This action needs to be delayed until they are  
12 consulted as the rulemaking process requires.

13           Especially as the tribes, as well as other fisher  
14 communities rely heavily on locally caught fish for sustenance  
15 and will best be exposed to more of the harms of this  
16 rulemaking.

17           The EPA has now created an environmental justice issue  
18 around these rules. We know through science that toxic  
19 chemicals like PCBs, dioxins, and DBT harm human health and  
20 cause cancer.

21           The rollback of these rules would mean the EPA is  
22 knowingly allowing a higher risk and occurrence of cancer in  
23 Washington, you're allowing more of these toxic chemicals to  
24 enter our waterways and infect our fish.

25           Today and throughout this process, Washington has

1 asked you loud and clear not to rollback our water quality  
2 protections. And though they can't speak for themselves, I'm  
3 positive that all life in our waters, from the largest orca to  
4 the smallest plankton, would agree.

5 Under the Clean Water Act it is the responsibility of  
6 the states and tribes, not the EPA and certainly not industrial  
7 polluters, to set water quality standards. So please let us do  
8 so.

9 Thank you for your time.

10 MS. NAGLE: Up next is speak Eleanor Hines.

11 And on deck is Sue Joerger.

12 MS. HINES: Hi -- hi. My name is Eleanor Hines,  
13 E-l-e-a-n-o-r, H-i-n-e-s. And I'm the North Sound beekeeper at  
14 RE Sources for Sustainable Communities, which is an  
15 environmental nonprofit serving over 20,000 supporters in  
16 Whatcom and Skagit Counties. Thank you for hearing my comment  
17 today.

18 We fought hard for these standards previously which  
19 are based on science and meant to be protective of our  
20 Washington state residents, many of whom significantly eat more  
21 fish than this rollback would protect and many of which are  
22 probably still not protected under the 2016 rule.

23 We need to push forward to protect human and  
24 environmental health, not take steps back. One of our concerns  
25 with this 2016 rule was that there were too many variances for

1 industry to take advantage of. Those variances still exist in  
2 large and, therefore, no rollback should be needed.

3 Oregon still uses -- or uses their 175 grams per day  
4 fish consumption standard too and their economy has not suffered  
5 for it. So we have examples where it works.

6 We can do this too and protect our residents,  
7 especially tribal members and recreational fishers and those who  
8 eat fish on a regular basis due to cultural and economical  
9 needs.

10 It is embarrassing that the EPA would attempt to  
11 revoke its own rule for being too protective. This puts us all  
12 at risk.

13 It is clear from the 10,000 or so people who annually  
14 attend the Bellingham Sea Peace event each year, which just  
15 happened this last weekend in my own community, people care  
16 strongly about seafood they eat. No one should have to worry  
17 about getting cancer or other health problems in the amount of  
18 seafood they eat. Salmon especially are such a culturally and  
19 economically important species in our state and are the basis of  
20 food for our endangered southern resident orca, who are already  
21 suffering greatly from bioaccumulation of toxicants.

22 We need to protect the fish and those who live by  
23 eating them from bioaccumulative chemicals like mercury,  
24 arsenic, lead, PCBs, and other various chemicals included in  
25 this water quality standard, many of which are known

1 carcinogens.

2           There is no data supporting the rollback of this rule  
3 and this goes against the very essence of the Clean Water Act to  
4 ensure that our waters are swimmable, drinkable, and fishable.

5           The economic impacts from rolling back this water  
6 quality standard would surely have significant economic impacts  
7 from the related health impacts incurred.

8           On behalf of my community members not here tonight, I  
9 demand that the EPA maintain the 2016 water quality standards  
10 concerning fish consumption rates.

11           In closing, I would hope the EPA extend the comment  
12 deadline to 120 days and also provide hearings in other  
13 locations not just Seattle.

14           Thank you.

15           MS. NAGLE: Next is Sue Joerger.

16           And on deck is Ali Johnson.

17           MS. JOERGER: My name is Sue Joerger, spelled S-U-E,  
18 J-O-E-R-G-E-R. And I'm here today representing Twin Harbors  
19 Waterkeeper. Our mission is to protect water quality in Willapa  
20 Bay, Grays Harbor, the Chehalis River on the central and  
21 southwest coast of Washington.

22           Twin Harbors Waterkeeper opposes the EPA's proposed  
23 rollback of protective water quality standards. We stand with  
24 the Governor, Attorney General, Washington State Department of  
25 Ecology, Oregon as well, tribes, and elected officials who



1 oppose this illegal, unwanted, and immoral rollback. Although  
2 we appreciate today's hearing in Seattle, we are far from the  
3 bays and rivers we protect on the coast. And far from the  
4 people who are most directly impacted by the EPA's proposal to  
5 increase the amount of PCBs, dioxins, and mercury discharged  
6 into our waters.

7 Most people interested in this issue cannot take a day  
8 off on a Wednesday to travel to Seattle to testify. The EPA, in  
9 my mind, has intentionally limited public comment.

10 Twin Harbors Waterkeeper requests a public hearing in  
11 any one of our communities: Chehalis, Centralia, Aberdeen,  
12 Raymond, Long Beach, Westport, Ocean Shores, or Hoquiam. We  
13 don't care where. We do care that the EPA asks us directly.

14 The big polluters who petition EPA to rollback water  
15 quality protections claim that protecting water quality will  
16 devastate our communities.

17 Well, we're already devastated by the legacy of some  
18 of these extractive industries. We are desperate for economic  
19 development and more job opportunities. We believe clean water  
20 is critical to the economic -- economic recovery of our costal  
21 communities. We cannot afford to go backwards. And we do not  
22 accept the premise that we have to pollute our bays and rivers  
23 and increase our risk of cancer from eating salmon and shellfish  
24 in order to have family-waged jobs and our communities.

25 Thank you.

1 MS. NAGLE: Next up to speak is Ali Johnson.

2 And on deck is Michael Martinez.

3 MS. JOHNSON: Thank you. My name is Ali Johnson,  
4 A-l-i, J-o-h-n-s-o-n. I'm here to speak today. Thank you for  
5 hearing my comments.

6 I'm 23. I was born and raised in Olympia, Washington.  
7 I work for Salmon Defense which is tribal-oriented nonprofit, as  
8 well as the Deschutes Estuary Restoration Team based in Olympia,  
9 Washington.

10 I'm also the daughter of a fourth-generation  
11 commercial fishermen out of Washington state. And I firmly  
12 believe that all of those experiences and work in my life have  
13 shaped who I am and more importantly why I feel the need to  
14 speak here today.

15 Ideally, nobody would have to be here today. And in a  
16 perfect world we would not need to live in the aftermath of rash  
17 decisions made by federal agencies that cater to the interests  
18 of corporations. Rolling back water quality standards is  
19 blatant racism in this state and environmental injustice. And  
20 this will mostly impact tribal people and their treaty rights to  
21 fish, as well as low income marginalized communities.

22 This ruling is a slap in the face to all the  
23 restoration and habitat work that the tribes have been doing and  
24 all the work that the tribes have been doing to save the salmon.

25 There was not proper consultation with the tribes and

1 the undermining of treaty rights like this cannot happen. If  
2 there's one thing that I know from my work and my life is that  
3 clean and safe water is a human right and is essential for the  
4 continuation of our lives as we know them.

5 As a young person, I'm terrified for mine and my  
6 children's future if this is going to be the standard that is  
7 set. I strongly oppose this decision. And I would also like to  
8 request an extension on the comment deadline as well as  
9 additional hearings at other locations.

10 Thank you.

11 MS. NAGLE: Is Michael Martinez here?

12 Okay. Next up to speak is Michael Martinez.

13 And on deck is Michael Shurgot.

14 MR. MARTINEZ: Good afternoon. Mike Martinez,  
15 M-i-k-e, M-a-r-t-i-n-e-z. I'm on staff at the Northwest Indian  
16 Fisheries Commission.

17 In order that more interested people may be heard, I  
18 urge that EPA extend the comment period for additional 120 days.  
19 And also I would like to cede my remaining time to any tribal  
20 official who would like to speak.

21 Thank you.

22 MS. NAGLE: Okay. Next up is Michael Shurgot.

23 And on deck is Donielle Stevens.

24 MR. SHURGOT: Hello my name Michael, M-i-c-h-a-e-l.  
25 Last name Shurgot, S-h-u-r-g-o-t. Some of what I would like to

1 say has been touched on by other people, so I'll kind of ad lib  
2 some of what I have here.

3 But thank you for this opportunity to testify on this  
4 crucial environmental issue.

5 I am Michael Shurgot. I have lived in Seattle since  
6 1982. And for the last 20 years of my academic career, I've  
7 taught several courses in American Environmental Literature at  
8 South Puget Sound Community College in Olympia. Although I am  
9 not a scientist, I do have a decent knowledge of some of the  
10 underlying issues being debated here.

11 There are several technical points that scientists,  
12 the State Department of Ecology, EPA, and I'm sure the attorney  
13 general will debate here and in future court proceedings. And I  
14 shall leave these technical points to the experts.

15 I wish to address this hearing from a different  
16 perspective; that are the children of this state, who like my  
17 three grandchildren currently living in Southern California, are  
18 never invited to speak at such gatherings.

19 Yet, when we debate issues such as the levels of  
20 legally allowable toxic chemicals in our drinking water and in  
21 the food we eat or in the air we breathe, industrial leaders  
22 always insist that achieving maximum protection for our water  
23 and our air is either too expensive or as auto manufacturers  
24 claim, quote, "Technically impossible, despite the fact that  
25 decades ago we put a man on the moon."

1           Such selfish claims always ruthlessly elevate  
2 industrial profits over the health of children who must live  
3 with the resulting pollution and are never given the opportunity  
4 to defend themselves. But these claims are lies. They are lies  
5 that Mr. Trump and Mr. Wheeler at EPA tell to children that are  
6 founded on the thoroughly evil assumption that the natural world  
7 is primarily a dumping ground for toxic waste, echoing the  
8 H.L. Mencken's infamous definition of wilderness as, quote, "a  
9 place to throw beer cans on weekends."

10           Specifically EPA's willingness to ignore the rights of  
11 fish consumption in Washington state, especially by children in  
12 tribal communities, while also signaling that it is willing to  
13 ignore the continued dumping of toxic chemicals in Washington  
14 state waters is absolutely infuriating.

15           Long ago the Buddha said that there are two  
16 unforgivable, unpardonable sins, picking wild flowers and lying  
17 to children.

18           I urge this federal agency, which I guess I have to  
19 remind you is called the Environmental Protection Agency, to  
20 stop lying to children.

21           Thank you.

22           MS. NAGLE: Next up to speak is Donielle Stevens.

23           On deck is Claire Tonry.

24           MS. STEVENS: Thank you. Thank you for letting me  
25 speak. My name is Donielle Stevens, D-o-n-i-e-l-l-e,

1 S-t-e-v-e-n-s. And I work with Puget Soundkeeper on these water  
2 quality issues.

3 When the Clean Water Act was established, it  
4 envisioned eliminating pollution to the nation's waterways by  
5 1985. The NPDES permit system was promulgated with five years  
6 cycles so that pollution could be ratcheted down and eventually  
7 eliminated.

8 And indeed, the "E" in NPDES stands for "eliminate."  
9 And that is where we need to head to.

10 Our waterways are already polluted and these standards  
11 are not being met. Fish are unsafe to eat. We should not be  
12 allowing more pollution in our waterways.

13 Now more than ever we must invest in clean water.  
14 Keeping Washington's water quality standards strong plays a  
15 critical role in safeguarding the Puget Sound and Washington  
16 waters for everyone, from the communities and businesses that  
17 depend on a healthy environment to the marine life that call it  
18 home.

19 We cannot continue banking on the short-term gains of  
20 a pollution-based economy. Instead, let us focus on the  
21 long-term growth of our ecosystems, the long-term health of our  
22 communities, and the long-term well-being of our children.

23 Clean water is priceless and Washington waters belong  
24 to Washingtonians, not a small group of industrial polluters who  
25 think otherwise.

1 I strongly oppose EPA's rollback of Washington's water  
2 quality standards. And I echo the deadline extension and  
3 holding hearings in other parts of the state.

4 Thank you for hearing my comments today.

5 MS. NAGLE: Next up to speak is Claire Tonry.

6 On deck is Janet Walworth.

7 MS. TONRY: Good afternoon. My name is Claire Tonry.  
8 It's C-l-a-i-r-e, T-o-n-r-y. I'm a clean water lawyer, but I'm  
9 here to speak in my capacity as an individual and a citizen of  
10 Washington.

11 To tell you that this capricious proposal to increase  
12 effectively the acceptable cancer rate by orders of magnitude is  
13 not about cooperative federalism. That is a transparently and  
14 blatantly false substantive basis for this decision.

15 Instead, it's an unnecessary giveaway to polluters.  
16 It is unnecessary because the state of Washington already  
17 negotiated an implementation plan with all of the industry  
18 stakeholders at the table and they found it acceptable.

19 Instead, it's a tradeoff of people's health and  
20 chances for orca recovery in Puget Sound. Instead, it's an  
21 abrogation of your treaty obligations as a federal government  
22 and a trustee. It's a racist proposal.

23 And I also want to take some time to address the  
24 short-term economic costs associated with this proposal, because  
25 that's apparently all that penetrates in this administration.

1 Industries' claims about the cost of compliance with  
2 the 2016 human health criteria are wrong. They're flat wrong.  
3 The state of Washington is not actually enforcing human health  
4 water quality standards in its NPDES permits.

5 This change will not change anyone's permit limits for  
6 multiple toxics including PCBs. Those limits will stay where  
7 they are, many thousands of times higher than the water quality  
8 standards either under the current rule or the previous rule,  
9 National Toxics Rule. It doesn't matter. And that will be the  
10 same for the foreseeable future.

11 So the paid industry lobbyists from the AWC and pulp  
12 and paper industry are, again, flat wrong when they say that  
13 variance causes them too much uncertainty. They apparently  
14 don't know how variances work on the Clean Water Act, nor do  
15 they understand how the state of Washington is actually  
16 implementing the criteria.

17 So I'm calling on industry to walk away from this  
18 racist proposal. There is nothing in it for them but bad PR.  
19 If the paid industry lobbyists were still here, I would tell  
20 them to ask their CFOs of their companies and their  
21 constituents: Do you want to spend maybe a maximum of tens of  
22 thousands of dollars on treatment and source control to get into  
23 compliance now? Or do they want to spend millions later, and  
24 not too long from now, on ASARCO cleanup? That's the tradeoff  
25 that they're really making. And it is a no-brainer.



1 I also want to call on the technology manufactures and  
2 consultants to develop better solutions. This is a chance to  
3 bring positive economic stimulus to our local businesses of  
4 which there are many invested in the clean water industry in the  
5 state of Washington and the region.

6 And I'm ultimately calling on the State, Ecology, and  
7 Director Bellon to uphold their obligations under state law to  
8 clean up our waters, to protect our public health, and recover  
9 our orcas. That's their obligation under cooperative  
10 federalism. That's their obligation to the treaty tribes. And  
11 it's their moral obligation to the people of Washington and the  
12 future generations of Washingtonians.

13 So the State has the power, Director Bellon, Governor  
14 Inslee, you have the power. Not Trump's EPA.

15 MS. NAGLE: Next up to speak is Janet Walworth.

16 And on deck is Jerry White.

17 MS. WALWORTH: Good afternoon. My name is Janet  
18 Walworth, as she just said. J-a-n-e-t, W-a-l-w-o-r-t-h.

19 First of all, I support all of the comments that were  
20 made opposing this action by the EPA. And I'm here in a couple  
21 different capacities, none of them official.

22 As a grandmother the last, conversation I had with my  
23 daughter, in talking about my darling granddaughter Genevieve,  
24 was to have her tell me, "Tell those people at the EPA that I'm  
25 breast feeding and I don't want these toxics going into

1 Genevieve." And as someone has pointed out, children are much  
2 more susceptible to toxics.

3           Second, I am a person of faith. I believe strongly  
4 that all of us, including those of you sitting up there  
5 representing the EPA, have a moral and ethical obligation to  
6 protect people, wildlife, animals.

7           Third, as a retired lawyer -- I probably don't sound  
8 like a lawyer so far, but I did practice law for 30 years as a  
9 lending attorney -- I would point out that the procedure that  
10 you follow just sounds horrible. The refusal to have meaningful  
11 consultation gives rise to a lot of questions and inference of  
12 wrongdoing. The failure to have more opportunity to be heard is  
13 really reprehensible.

14           I live in the San Juan Islands. I got up early in  
15 morning. I took a train here. I have to go back. I have to  
16 stay at a hotel in Mount Vernon because I can't get home in time  
17 to take a ferry home. But I can do that; I'm a retired person.

18           And just remember, you are working for the EPA,  
19 presumably you came to work for the EPA to actually protect the  
20 environment. So please remember that now.

21           Maybe you've gotten led astray by the people in  
22 greater power than you have. But remember your job is to  
23 protect the health and safety of our environment.

24           Thank you.

25           MS. NAGLE: All right. Next up to speak is Jerry

1 White.

2 And on deck is John Williams.

3 MR. WHITE: Hello. Jerry White Junior. I am the  
4 Spokane Riverkeeper.

5 Spokane Riverkeeper are advocates for the Spokane  
6 River and the public who uses the rivers in our watershed.  
7 We're members of the Waterkeeper Alliance, Waterkeepers  
8 Washington, and we're a project of Center for Justice; and as  
9 such, we will be submitting comments as well with Waterkeepers  
10 Washington.

11 The Spokane River, as you probably know, is highly  
12 polluted with polychlorinated biphenyls, the Spokane River is  
13 currently listed as impaired for PCBs on the Washington State  
14 303d list, a category of the state's most polluted waters, and  
15 it and exceeds human health water quality criteria for PCBs.

16 At any given time, the water column itself can be  
17 between 10 and 400 parts per quadrillion, sometimes more.  
18 However, as you know, these toxins are bioaccumulative and build  
19 up in the food chain; therefore, what these numbers and listings  
20 practically mean is that the food web is essentially being  
21 poisoned and legally protected uses of fishing are severely  
22 limited.

23 In the Spokane River, the Washington Department of  
24 Health has issued fish consumption advisories for PCBs. Let me  
25 share some of these advisories.

1           On the Little Falls Dam reach to Long Lake Dam reach  
2 for largescale suckers, one should eat no more than four meals a  
3 month.

4           For northern pikeminnow, no more than four meals a  
5 month.

6           On the Lake Spokane reservoir for brown trout, no more  
7 than one meal a month should be eaten.

8           For carp, you simply should not be eating them. PCBs  
9 are found in their flesh in the parts per million.

10          For suckers, up to no more than one meal a month.

11          For white fish, no more than meals a month. For  
12 pikeminnow no more than two meals a month.

13          For rainbow trout, no more than four meals a month.

14          On the upriver dam side down to Nine Mile Falls Dam  
15 for suckers, one should eat no more than two meals a month.

16          For whitefish, no more than one meal a month.

17          For rainbow trout, no more than two meals a month.

18          The picture I hope is coming clear. And I could keep  
19 reading until my allotted time was well over.

20          We cannot eat our fish. We cannot use or river as the  
21 law intends. Worst yet, many people continue to eat fish and  
22 risk their health or tragically they turn their backs on their  
23 legal right to use the river.

24          The EPA should be a firewall between those who pollute  
25 our river and the public who uses the river to fish, swim, and

1 the boating that is legally protected.

2           Rolling back the standards in the face of tough -- of  
3 a tough pollution problem is simply not a solution. If the  
4 Department of Transportation were having a problem with high  
5 speed crashes due to speeding traffic, they would not lower our  
6 speed limits -- they would lower speed limits and enforce those  
7 limits to protect the public safety. They certainly would not  
8 simply raise the speed limit, look the other way, and then call  
9 the situation resolved. That would be a betrayal of public  
10 trust.

11           So I ask you to please stop this rollback effort, keep  
12 our water quality standard for PCBs at 7 parts per quadrillion,  
13 protect our river, protect our health, and our legal entitlement  
14 to use our common treasure, the Spokane River.

15           I also want to say that I absolutely ask to extend the  
16 comment period for 120 days. And we would like to see a hearing  
17 in Spokane as well. Thank you.

18           MS. NAGLE: Okay. Next up to speak is John Williams.

19           Is John Williams here?

20           Okay. I don't see John Williams coming forward.

21           The next person to speak would be Fran Wilshusen -- is  
22 Fran here?

23           MS. WILSHUSEN: Fran is here.

24           MS. NAGLE: And on deck is Michael Foster.

25           MS. WILSHUSEN: Fran Wilshusen, Northwest Indian

1 Fisheries Commission. That's F-r-a-n, w-i-l-s-h-u-s-e-n.

2           You guys have got to be tired of listening by now.  
3 I'm not sure what else I could possibly add to what you've  
4 heard.

5           But for the record, again, the Northwest Indian  
6 Fisheries Commission and its 20-member tribes, the Western  
7 Washington treaty tribes, are adamantly opposed to what the EPA  
8 is proposing to do in weakening Washington's water quality  
9 standards.

10           This action will back us up so far that it's hard to  
11 stand here today and listen to what we've all heard. All of us.  
12 And think it's a good idea to be looking backwards. The time  
13 we're all spending here today to look backwards.

14           We and the tribes that I work for have been working on  
15 this very issue for over 20 years. I heard nothing today. I  
16 had stuff I've been writing while I'm sitting back there. I  
17 heard nothing today that's new.

18           I heard that it's hard to get these very difficult  
19 toxins out of the water and out of our food.

20           I heard that it makes a lot of difference to a lot of  
21 people, because they can't make sense of why we would accept  
22 known toxins to continue to be put into our food and water.

23           So I'm here in my role as a Habitat Services Director  
24 of Northwest Indians Fisheries Commission. And if I have one  
25 minute left, I would like to put that down and be here as Fran

1 Wilshusen, citizen at large, citizen of the state of Washington.

2 I have worked on this as a professional person for  
3 many years. And it is just unconscionable that in this very  
4 room that so much work has been done to move things forward,  
5 we're spending this kind of time moving back.

6 And I sincerely hope, Mr. Forsgren that you're able to  
7 go back to EPA headquarters and tell them we don't want this  
8 here. Nobody does. Except for a handful of industry people  
9 that think it's too hard to do this, to take toxins that we know  
10 how toxic they are. I'll leave it at that.

11 Thank you.

12 MS. NAGLE: Next up to speak is Michael Foster.

13 And on deck is Anna Bachmann.

14 MR. FOSTER: Hey, I just wanted to thank you for the  
15 free water out in the hallway. There's a great water bottle  
16 refill station out there and it's got a number of how many water  
17 bottle saved, all the plastic not going into the ocean. It's  
18 really wonderful. Thank you very much. It was all free. It's  
19 cold.

20 And thank God there's a filter on your water bottle  
21 station. Because we don't have clean water, do we?

22 So I'm here to invoke the universal rights of  
23 children, indigenous peoples, and rights to clean water. That's  
24 your job.

25 I agree with the tribes and all who spoke for water

1 that does not cause cancer.

2           Anybody here want cancer-causing water? Maybe I could  
3 go find a place that doesn't have a water filter and get you  
4 some. I would be happy to. You could take your choice between  
5 the filtered or the unfiltered. Which one would you choose?

6           So when the test is too hard for an industry, they  
7 don't get to throw out the test to ruin people's health. That's  
8 what you're here for, to make the test that they have to pass.

9           Governments breaking protections that they have given  
10 their own people is not only wrong, it's liable. It's criminal.  
11 And it's illegitimate.

12           So I think you should go on with the process here.  
13 Extend the deadline and actually consult with tribes. I do  
14 question how this process that is designed from the beginning to  
15 damage human health could possibly respond to people saying  
16 "You're gonna damage human health." That extends the deadline,  
17 please, because maybe somebody will be able to say something and  
18 somebody who makes this decision at the top will be able to say,  
19 yeah, maybe -- maybe that wasn't a good -- maybe that wasn't our  
20 job. Maybe we would be criminals. And liable. None of you  
21 will go to jail, of course.

22           I shut down the Keystone Pipeline a few years ago, and  
23 the Keystone one, not the Keystone XL, and went to prison.  
24 Because I understand that we are interdependent. We depend on  
25 each other and all creatures. And what we do to this place we



1 do to ourselves. And that pipeline was not stopped by Obama or  
2 any government and it wasn't going to be. But my children won't  
3 survive it. So I went and I shut it down and I went to prison.

4           Would you be willing to do that for clean water? Or  
5 would you rather create some poisoning jobs? Jobs that are only  
6 possible because of your agency refusing to stop people who have  
7 been stopped from polluting.

8           Again, the only thing you're going to do is create  
9 jobs that poison people. So you best quit your jobs now rather  
10 than be part of that machine. Because I don't know how you  
11 could live with it. Live with yourself. I'm sorry.

12           MS. NAGLE: Next up to speak is Anna Bachmann.

13           And on deck is Anne Kroeker.

14           MS. BACHMANN: So, yes, my name is Anna Bachmann.  
15 Last name is B-a-c-h-m-a-n-n. I work for Puget Soundkeeper.

16           You know, my notes, I've been crossing things out as  
17 people say stuff and trying to figure out what could I say  
18 that's new and different.

19           I've worked overseas. I've seen in developments  
20 situations. I've seen situations where -- horrific situations  
21 where the water is -- you can't even go near the water.

22           And to come back to the United States, I was sort of  
23 thinking we would be further along than we have been -- than we  
24 are.

25           I guess what I'll just -- and I'll just say is that,

1 you know, without the pressure to do better, our industries are  
2 going to endanger our lives. They are always going to  
3 externalize the cost of doing business on the rest of us and  
4 actually I think they'll also face long-term economic problems  
5 for that.

6 Industry is always claiming that the standards -- the  
7 protective standards are unattainable. They are always saying  
8 that jobs are at risk.

9 But strong regulations are what's needed to drive  
10 innovation. These problems of -- these pollutants in our water  
11 is what we need to regulate, to make them achieve the bar and  
12 focus on staying competitive with what's going on in other parts  
13 of this -- of this nation and the globe.

14 I understand that different administrations change the  
15 work and the policy of the EPA and what they work on. But  
16 rolling back these standards is not what the public wants. We  
17 want -- in contrary to that, we want to see the EPA following  
18 the science. We want to see it fulfill its true purpose of  
19 protecting us from pollution. And we want it to live up to the  
20 potential and the spirit of what the Clean Water Act says.

21 So please do not lessen our access to swimmable,  
22 fishable, and drinkable water.

23 Thank you.

24 MS. NAGLE: Next up to speak is Anne Kroeker.

25 And on deck is Lois Boom.

1 MS. KROEKER: Okay. I presume that's me.

2 It's Anne with an "E," spelled K-r-o-e-k-e-r. And in  
3 addition that you recognizing that tribal and regional  
4 communities have dire concerns, first and foremost, regarding  
5 this proposed weakening of water pollutant standards due to  
6 their high fish consumption along with the rest of the state's  
7 populace who also consume above of the nation's average fish,  
8 our natural wildlife is also at risk.

9 As the co-president of the Wildlife Forever fund,  
10 which is a private nonprofit tropical donation -- and granter.

11 We have supported and advocated for the preservation  
12 and conservation of our state's natural habitat and wildlife,  
13 particularly on the Olympic Peninsula, for over 20 years.

14 We have a grave concern about the rollback of any  
15 water quality standards which will also affect fish and  
16 wildlife. We partner with many state nonprofits, such as Land  
17 Trust, Chehalis River Basin Land Trust being one, Ducks  
18 Unlimited, Audubon, Trout Unlimited, wildlife -- Wild Salmon  
19 Center and many more, who are working with -- who are working to  
20 restore and preserve the habitat we have left.

21 Not -- and we -- we work with these agencies not for  
22 the benefit of the organizations, but for the joint shared  
23 mission of working for the future of the best natural health for  
24 all in our state. And we speak for this mission.

25 The Clean Water Act mandate is to ensure that all

1 waters are drinkable, fishable, and swimmable. These conditions  
2 are not only for humans, especially those most susceptible, but  
3 all creatures as we cannot separate ourselves from our world  
4 however much we think we can.

5           If salmon are affected, so are we. If shore  
6 vegetation is affected, so are we.

7           So I continue to speak for our wildlife whose birds  
8 are disappearing at an alarming rate and our natural habitat  
9 which supports all the necessary food chain for our disappearing  
10 orcas.

11           As we consider what is right for the human population,  
12 we should also equally consider what is right for the nonhuman  
13 population as we are one ecosystem.

14           So do not rollback any regulation progress we have  
15 made in the Clean Water Act for our state. Reputable research  
16 and convenings have been done to solidify the standards updated  
17 in 2016. They represent the findings and the will of the people  
18 of this state. We cannot afford to go backwards.

19           Please honor our efforts and thus our future for a  
20 more helpful lives. And if you cannot reject this repeal right  
21 away, then definitely hold more hearings across the state in all  
22 the appropriate places.

23           Thank you very much.

24           MS. NAGLE: So next up to speak is Lois Boom.

25           And on deck is Joanna Schoettler.

1 MS. BOOME: My name is Lois Boome. I am a staff  
2 attorney for the Puyallup Tribe of Indians. I am, first and  
3 foremost, also a member of the Puyallup Tribe of Indians.

4 So I'm sitting here and I'm just thinking what on  
5 earth can I add to this? Just like everyone else.

6 We've heard everyone has been here since time of  
7 memorial. What does that mean?

8 It's like, okay, I can look back and my father and my  
9 father-in-law and as far back as I can go, everyone was a  
10 fishermen.

11 We're listening to industry, and the guy who doesn't  
12 want to be claimed as industry, but he's offering up saying that  
13 6,000 jobs are at risk if he can't pivot and make a better  
14 business decision.

15 So you're all standing here and you're saying, "Okay.  
16 Let's lower these standards."

17 Well, unfortunately, sometimes in business, it doesn't  
18 always work out that way. The fishermen in my family, they are  
19 getting older. They had to kind of pivot out of that. They  
20 opened up seafood shops and they've done that sort of thing, but  
21 they're able to pivot. And they're able to make their living.

22 But if we're gonna sit here and coddle the industry --  
23 and yes, I'm going to call them "industry" -- for whatever  
24 reason that they can't meet those standards and they say that we  
25 need it to be changed. I have a problem with that.

1           You guys got something back in February. It took you  
2 18 months to respond. During that 18 months, nobody talked to  
3 the tribes. There was no meaningful consultation. We keep  
4 hearing that too. There was no decision-makers in there.

5           When you guys came to visit our tribe, our tribal  
6 council was nice enough to offer a room and space and the time.  
7 And we only had one person from DC there. And they outright  
8 said we can't make the decision. So that doesn't equal  
9 consultation.

10           As part of all of this, I do need to say that not only  
11 did they not consult with the Puyallup Tribe, they didn't  
12 consult with any tribe on this decision. This has been a mess  
13 the entire time. I've sat on calls and they've cut out every  
14 single time. The last public hearing, it cut out. We couldn't  
15 even hear what was going on.

16           The Puyallup Tribe opposes the proposed action. We  
17 would also like to request an extension for comment, just as  
18 everyone else. And we reserve the right to submit written  
19 comments.

20           Thank you.

21           MS. NAGLE: Okay. Next up to speak is Joanna  
22 Schoettler.

23           And on deck is Andrew Grueter.

24           MS. SCHOETTLER: Joanna Schoettler,  
25 S-c-h-o-e-t-t-l-e-r. I'm also a fifth generation, 900-span in

1 my -- year in this area. So my white people did colonization  
2 here and here we are.

3 So everyone has been nice to you and I'm not going to  
4 be nice anymore. You know -- you know, Greta spoke the other  
5 day on the climate strike. She spoke. She spoke to the UN and  
6 she said this needs to be changed and this is not gonna happen  
7 anymore.

8 So what you guys are doing here in Washington state  
9 and Oregon is an abomally. And it's terrible and it's  
10 disgusting.

11 Because you are changing everything around here. We  
12 know we have problems with pesticides. We'd like to stop them.  
13 We have a climate change issue going on -- actually crisis and  
14 extinction, and you want to even make it worse.

15 How dare you? How dare you come into our territory  
16 and don't listen to our state? Don't listen to our Department  
17 of Ecology. Don't listen to the people. Oh, yeah you're  
18 listening here. But I betcha, you're gonna be going back to  
19 Washington, DC, and saying they're Miss Radicals and they  
20 shouldn't be doing anything and we know better. Bullshit. You  
21 don't. The indigenous people do. The people of Washington  
22 state do.

23 And what you're doing to this country and to our  
24 waters and to our lands and to our air, is horrible. And if you  
25 let that man who's in the White House dominate you, then shame

1 on you.

2 Like she said, I don't know how you guys are going to  
3 sleep at night.

4 What's your grandchildren going to say to you while  
5 you're sitting here and then you're going to, like, poison us.  
6 Poison us.

7 And let's talk about our orcas. When I started  
8 becoming an activist in 2012 to stop coal trains and gas plants,  
9 there were 84 orcas. Now my latest count is 74. But I think  
10 it's gone up a few, because we've had a few babies in the last  
11 year. Who knows if they're gonna survive?

12 You weren't here, you weren't here watching that orca  
13 for 17 days carrying her baby on her nose and any time she  
14 dipped down she would go and pick it up. We had to listen to  
15 that on the air. We had to listen to that on the TV. We had to  
16 hear it day after day as she's mourning her child. Telling us,  
17 she's telling us there's a problem. There's a problem with the  
18 whales. They are being killed out on the waters. They are  
19 coming into the shores. We're asking owners, so please can we  
20 put your dead -- dead whale on your shore so it can decompose?  
21 Hundreds of them right now.

22 And then you want to pollute our waters more?

23 You want to bring in supertankers? You want to put in  
24 an LNG plant, a liquid natural plant in our Salish Sea? Shame  
25 on you. Shame on you for destroying the Salish Sea. Shame on



1 you for destroying the Pacific Ocean and the Atlantic Ocean.  
2 Just shame on you. You were a good organization. You were a  
3 good environmental protection organization until this man came  
4 into power. But shame on you for listening to him. You stand  
5 up to him. That's all I can say.

6 MS. NAGLE: Next up to speak is Andrew Grueter.

7 And on deck is Todd Mitchell.

8 MR. GRUETER: For the record my name is Andrew  
9 Grueter. It's A-n-d-r-e-w, G-r-u-e-t-e-r.

10 I'm here as a protector of the Salish Sea. I would  
11 like to echo and affirm what our region's tribal leadership and  
12 many others have said today.

13 But before I go further, I would like to acknowledge  
14 in this federal building that I was so fortunate to grow up near  
15 Alki, near here, in the land of the Duwamish people. They're  
16 still here. Their river is still here. And under the EPA's  
17 watch over the last decades, it has remained a toxic superfund  
18 site littered with dirty polluting industry.

19 No matter who you are or where you live, water is  
20 life. And no matter who is in office, there is a corporate  
21 assault on the health, freedoms, and futures of all people. No  
22 matter what rank you hold in government or what consequences you  
23 face for your decisions, it is your absolute responsibility to  
24 protect the water and to raise up the life. It makes me hopeful  
25 seeing how my people came here traveling hours and hours to

1 testify and participate in standing up for our health and our  
2 freedom. And not only are voting, testifying, and lawsuits  
3 necessary, but we must demonstrate our commitment to protect the  
4 water and raise up all life.

5           And I know a lot of people have left, but I still want  
6 to say that I invite and encourage anyone who is here to protect  
7 the water to join and support Protectors of the Salish Sea and  
8 bring and tell everyone you can we are peacefully acting, as a  
9 chass [phonetic], where the capitol legislative building now  
10 sits in Olympia until Governor Inslee honors the treaties,  
11 orders the termination of fossil fuel projects in our state,  
12 like the illegal permit-less LNG plan on Puyallup land, and he  
13 needs to act how he speaks in this dire time.

14           And I want to reach those who have not heard about  
15 this or were not sure if they could go and say we must fully  
16 demand a future altogether as one voice and one people and make  
17 sure that we end this genocide and omnicide that is going on  
18 around us, because clearly most of the U.S. elected officials  
19 and the EPA are not going to help us.

20           MS. NAGLE: I want to see if John Williams or Julia  
21 Buck have come back into the room?

22           Are you John Williams?

23           MR. MITCHELL: I'm Todd Mitchell. You said next,  
24 right?

25           MS. NAGLE: Oh, Todd. I'm sorry. Yes. All right.

1 See it's getting late. Okay. Yes, next -- next to speak is  
2 Todd Mitchell.

3 MR. MITCHELL: Good evening. My name is Todd  
4 Mitchell. I'm on your list. My traditional name is "Swalítub."  
5 I'm a member of the Swinomish Tribe. I'm their Environmental  
6 Director at the Swinomish Tribe. I'm also the Region 10, Our  
7 Talk, Regional Tribal Operations Community, Western Washington  
8 representative.

9 But I am here as my own self, citizen. Both the  
10 Swinomish Tribe and the Washington state.

11 You know, there's 29 tribes in Washington state. And  
12 as all the other representatives or other tribal people said,  
13 you know, without consultation, you are not living up to your  
14 trust responsibility. The tribe signed treaties. And part of  
15 the treaties are the rights of taking fish in their usual custom  
16 areas in the ceded lands. And it's your federal trust  
17 responsibility to take care of those lands. And partnering with  
18 the tribes and partnering with the state.

19 And I understand most -- I'm not sure which one of you  
20 are EPA staffers and which ones are EPA appointed, but I can  
21 understand the staffers' trouble with implementing this policy.  
22 And, you know, trying to live up to, you know, the standards of  
23 protecting the environment but also orders from headquarters.

24 So I hope you take all these messages back to  
25 headquarters and say that, you know, the tribes, the citizens of

1 Washington state request consultation with the tribes and  
2 additional time for comments. And that, you know, that these  
3 standards, you know, were built on a lot of collaboration  
4 between the states, the tribes, industries and it was a  
5 compromise. And going back on that really, you know, it turns  
6 your back on science and the numbers on the work and all of that  
7 collaboration that was done.

8           So, you know, for us as Swinomish people, we are  
9 people of the salmon. So salmon is of the utmost importance us,  
10 protecting them and passing on our traditions to our children  
11 and our grandchildren.

12           And, you know, changing the human health consumption  
13 rate back to something that's smaller, you know, how are we as  
14 our, you know, tribal professionals and scientists supposed to  
15 go back to elders and say you can only eat this much first per  
16 day. You can only eat this much fish per week.

17           We're not gonna do that. You're gonna do that.  
18 Because you're the ones that are changing the numbers to  
19 something that is so small that it really negates, you know,  
20 the -- the way people live.

21           And, you know, I can't go back and tell my elders,  
22 say, you can only eat this much fish per day, you can only eat  
23 this much fish per week. They're going to ignore that. They  
24 are going to eat as much fish as they want anyways.

25           So what you need to do is you need to protect them as

1 well as you protect everyone else.

2 Thank you.

3 MS. NAGLE: And one more time I'm going to call John  
4 Williams and Julia Buck. Raise your hand if you're here. Okay.

5 I want to make sure that I haven't missed anyone who  
6 signed up to testify. If you signed up to testify and I did not  
7 call your name, raise your hand.

8 Okay. At this time we have no other people who have  
9 signed up to testify.

10 Remember that written comments must be postmarked or  
11 e-mailed to EPA by October 7, 2019.

12 Again, thank you for coming. You will be escorted  
13 down the elevators by the EPA volunteers in groups. Please  
14 proceed with the -- with exiting from the back of the room. I  
15 wish you all a good evening.

16 I am closing this public hearing at 5:53 p.m.

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REPORTER'S CERTIFICATE

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I, CRYSTAL R. McAULIFFE, certified court reporter, hereby certify that public hearing was reported to the best of my ability in the foregoing-entitled matter; and I further certify that the foregoing is a full, true and correct statement of such hearing and a full, true and correct transcript of my stenotype notes thereof.

IN WITNESS WHEREOF, I have subscribed my name on October 5, 2019.

\_\_\_\_\_  
CRYSTAL R. McAULIFFE,  
Certified Court Reporter  
Washington License No. 2121