

December 28, 2016

Mary Lou Sosica, Region 10, EPA
805 SW Broadway, Suite 500
Portland, OR 97205
(503) 326-5873

RE: EPA's Advanced Notice of Proposed Rulemaking: Federal Baseline
Water Quality Standards for Indian Reservations, EPA-HQ-OW-2016-0405

Dear Ms. Sosica:

The Washington State Department of Ecology (Ecology) appreciates the opportunity to provide comments on the Environmental Protection Agency's (EPA) advanced notice of proposed rulemaking (ANPRM) establishing federal baseline water quality standards (BWQS) for Indian reservation waters that do not currently have established water quality standards (WQS) under the Clean Water Act. We believe that in order for the BWQS to work effectively, several key issues must be addressed.

1) Regionally specific baseline water quality standards

We believe that EPA should allow for development of regionally specific BWQS, in order to ensure that numeric and narrative criteria and designated uses are set at levels that are, at a minimum, equal to Washington's surface WQS. Washington has some of the most detailed designated aquatic life uses and protective human health uses, whatever EPA proposes will have to, at a minimum, be protective of Washington's WQS for those waters that will be covered by this rule and flow into Washington's waters.

2) Tribal baseline water quality standards review process

States and authorized tribes currently must review their WQS at least once every three years. We believe that any BWQS should be subject to a similar review process, including a public comment period. We also believe there should be a concerted effort to notify all permitted facilities that will be impacted by any new regulations.

3) Protection of downstream waters

How will the federal BWQS interact with adjacent state or tribal WQS? We believe that any BWQS in waters upstream of another state or tribe should maintain a level of water quality

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when entering downstream waters that provides for the attainment and maintenance of the WQS of those downstream waters.

4) Variances

We believe that proposed variances under the BWQS process should:

- Undergo a formal rule making subject to a public and intergovernmental involvement process.
- Provide notice of the proposed variance and consult with Indian tribes or other states that have jurisdiction over adjacent and downstream waters of the proposed variance.
- Maintain and make publicly available a list of dischargers that are covered under the variances that are in effect.

Again, we thank EPA for the opportunity to participate in this rule scoping process. If you have questions regarding this commentary, please contact me at melissa.gildersleeve@ecy.wa.gov or 360-407-6461.

Sincerely,



Melissa Gildersleeve
Watershed Management Section Manager