



February 25, 2021

Paula Wilson
Idaho Department of Environmental Quality
1410 N. Hilton
Boise, ID 83706

Sent by email to: Paula.Wilson@deq.idaho.gov

RE: IDEQ Proposed Arsenic Human Health Criterion

Dear Ms. Wilson,

The Kalispel Tribe has adopted human health criteria (HHC) for waters of the Kalispel Indian Reservation to protect the designated uses of fish and water consumption. The Idaho Department of Environmental Quality's (IDEQ) proposed arsenic criterion is about 4,000 times less protective than the Kalispel Tribe's arsenic criterion. Because virtually all of the water in the Pend Oreille River at the Kalispel Reservation boundary flows from Idaho, the proposed IDEQ arsenic criteria will not adequately protect the Kalispel Tribe's downstream uses. Idaho's HHC for arsenic must accordingly be reevaluated for application in the Pend Oreille River to fully support Kalispel designated uses, especially those protecting the health of Kalispel community members.

Decades of evolving science were used to derive the EPA recommended HHC arsenic criteria. There are no apparent errors in the EPA methodology for deriving an arsenic criterion that explains how Idaho's proposed criterion should be 4,000 times less protective upstream in Idaho than in Kalispel waters. The derivation of the criterion must account for the uncertainty of variables used in the HHC derivation, emphasizing protecting human health, not maximizing the allowable pollutant concentrations.

Variable values used in the criterion derivation have multiplicative effects, so careful consideration must be given when selecting unusual variable choices that deviate from those used in developing EPA's recommended HHC arsenic criteria and provide less health protection. Cumulative health risk of all other pollutants in the water must also be considered when proposing a less protective allowable cancer risk rate with full acknowledgment that arsenic is not the sole contaminant present in the river. All HHC derivations should use an estimate of the bioaccumulation factor (BAF) based on EPA's recommended methodology when only a measured bioconcentration factor (BCF) is available.

Thank you for considering our comments.

Respectfully,

A handwritten signature in black ink that reads "Kenneth R. Merrill".

Kenneth R. Merrill, Manager
Kalispel Water and Environment Program

Cc via email: Dan Opalski, EPA-R10
Lisa Macchio, EPA-R10