



Bob Ferguson
ATTORNEY GENERAL OF WASHINGTON

Administration Division
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May 8, 2019

The Honorable Andrew R. Wheeler
United States Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue NW
Mail Code: 1101A
Washington, DC 20460

Dear Administrator Wheeler:

I am writing to reinforce the concerns expressed to you in the May 7, 2019 letter from Director Maia Bellon regarding the Environmental Protection Agency's (EPA) intention to reconsider Washington State's water quality standards for human health criteria. EPA adopted those standards in 2016, and Washington State has been successfully implementing them for over two years. There is no legal basis for such a reconsideration.

Under this administration, EPA has repeatedly disregarded required procedures when implementing ill-advised policy changes. In this case, the Clean Water Act establishes clear procedures that provide the states submit water quality standards to EPA for approval. Once approved, EPA may not propose new standards unless a state has proposed a revised standard or, under the provisions of 33 U.S.C. § 1313(c)(4)(B), EPA determines that a new standard is necessary to meet the requirements of the Act. Since EPA has not made the case that a new standard is necessary, there is no legal basis for reconsideration of the current Washington water quality standards.

I am also disturbed by EPA's refusal to consult with Washington's 29 federally recognized tribes before EPA makes a decision on reconsideration. I strongly urge EPA to reconsider this course of action, return to a cooperative relationship with states, and adhere to its tribal consultation obligations. Doing so is necessary to respect the complementary roles of state, federal, and tribal governments in protecting water quality and the environment.

I am prepared to defend Washington State and our residents against overreach by EPA. As you are likely aware, my office has filed 10 lawsuits against EPA since January 2017. We are 5-0 in these cases. No court to rule on the merits of one of these cases has ruled against us.



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I hope EPA will live up to its name – and its mission – and reconsider this proposed course of action.

Sincerely,

A handwritten signature in black ink that reads "Bob Ferguson". The signature is written in a cursive style with a long horizontal flourish extending to the right.

BOB FERGUSON
Attorney General

RWF/eg