Oregon
John A. Kitzhaber, MD, Governor

Department of Environmental Quality
Water Quality Division
811 SW Sixth Ave
Portland, OR 97204-1390
Phone: 503-229-5696
In Oregon: (800) 452-4011
TRS: 711
www.oregon.gov/DEQ

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Daniel D. Opalski, Director
Office of Water and Watersheds
Environmental Protection Agency, Region 10
805 SW Broadway, Suite 500
Portland, Oregon 97205

Margaret Davidson, Acting Director
Office of Ocean and Coastal Resource Management
National Oceanic and Atmospheric Administration
2234 South Hobson Avenue
Charleston, SC 29405-2413

Dear Mr. Opalski and Ms. Davidson:

I am writing in regards to the settlement agreement EPA and NOAA entered into to resolve disputes in Northwest Environmental Advocates v. Locke, et al. We've all known for some time that the Oregon Department of Environmental Quality would be challenged to meet certain timelines in that agreement. These timelines are reiterated in your December 21, 2012 letter regarding the Environmental Protection Agency's and National Oceanic and Atmospheric Administration's initial assessment of DEQ's Implementation Ready Total Maximum Daily Load for the Mid-Coast Basin.

The IR-TMDL process is an important tool for water quality-based water quality management and it is very important to do it properly, even if that means we will not meet EPA and NOAA settlement agreement deadlines. Although we have been and continue to work diligently to make progress on the IR-TMDL, I am writing to inform you that DEQ will not have a draft of the Mid-Coast IR-TMDL by June 30, 2013. DEQ's ability to complete the IR-TMDL is further complicated by ongoing litigation regarding Oregon's temperature standard.

In addition, DEQ will not be able to begin implementing the time of transfer inspection program by March 2013. There are two reasons for this. First, DEQ has been approached by state legislators who have concerns about this program and may be considering introducing legislation that could affect DEQ's ability to implement the program. It would be prudent to see how this may change the proposed time of transfer program before moving ahead with this work. The legislative session is expected to come to a close by the end of June 2013.

Second, DEQ has been advised that it will not be able to charge a reporting fee for time of transfer inspection reports due to an Oregon ballot measure that passed in November 2012. Ballot Measure 79 prohibits any "tax, fee or other assessment upon the transfer of any interest in real property..." DEQ had planned to use the reporting fee revenue to fund a staff position to implement the inspection program,

but is no longer able to do so. As a result, DEQ is currently evaluating alternative approaches that would achieve the objectives of the inspection program. We will keep you appraised as our plans develop.

We anticipate sending EPA and NOAA a follow-up letter within a few weeks that lays out our expectations regarding the timeline for development of the Mid-Coast IR-TMDL and the onsite time of transfer inspection rulemaking. We look forward to discussing these matters with you at that time.

Sincerely,

Gregory K. Aldrich

Gregory K. Aldrich
Water Quality Administrator

cc: Dick Pedersen, Director, ODEQ
Eugene Foster, Watershed Management Manager, ODEQ