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February 3, 2010

Governor Chris Gregoire
Office of the Governor
P.O. Box 40002
Olympia, WA 98504-0002

Ted Sturdevant
Director
Washington Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600
tsu461@ecy.wa.gov

RE: Major Petroleum Coke Spill on Columbia River (February 2, 2010)

Dear Governor Gregoire and Director Sturdevant,

The morning of February 2, 2010 a one mile-long sheen of petroleum coke floated down, sank into, and gathered on the shores of the Columbia River downstream of Longview, WA. As reported by The Daily News, the Department of Ecology ("Ecology") suggested that the source of the spill was Chinook Ventures - the only company that was loading petroleum coke at the time of the spill. Chinook Ventures was loading petroleum coke from a conveyor belt extending over the Columbia into a ship the night of February 1 and morning of February 2, directly upriver of the sheen. Based on Ecology's statement, we assume that Chinook Ventures was the source of the spill. The news of any spill on the Columbia is disturbing. The facts that are coming together in this particular matter raise grave questions about Ecology's enforcement of environmental laws and protection of the Columbia River. Columbia Riverkeeper ("Riverkeeper") is asking for an immediate response and meeting to address what appears to be the latest in a history of chronic river pollution from Chinook Ventures.

Riverkeeper has repeatedly raised our concerns with Ecology about confirmed pollution discharges at Chinook Ventures, as well as Chinook Ventures' woefully outdated water pollution discharge permit, which expired fifteen years ago. Chinook Ventures—a 400 acre facility on the banks of the Columbia River— is operating as a bulk storage and transport facility without a pollution discharge permit that imposes best management practices and pollution discharge limits designed to protect human health,

fish, and wildlife. Last year Ecology fined Chinook for major violations of the Clean Water Act and state law. Yet Ecology stopped short of protecting the river. Ecology allowed Chinook to continue operating, which includes continuing to load and off-load ships with petroleum coke. The alleged spill at Chinook Ventures is a direct result of Ecology's failure to enforce the law.

In meetings and letters, Columbia Riverkeeper has repeatedly urged Ecology to take the necessary steps to protect the Columbia River. We explained that the situation at Chinook is "another accident waiting to happen." Our concerns are informed by extensive public records reviews and contacts with various state and federal agencies. Chinook Ventures has a history of violating state and federal environmental laws, including:

- ***Spilling Contaminants into the Columbia River:*** Ecology fined Chinook for, among other things, "failure to handle and dispose of solid waste in a manner to prevent its entry into the state ground or surface waters." In two unannounced inspections in 2007, Ecology observed fly-ash contaminated stormwater discharging into storm drains and spilled materials that had accumulated on Chinook's dock. Subsequent inspections also revealed permit violations.

- ***Excavating the Columbia's Shoreline without a Permit*:** In November 2009, Chinook Ventures excavated the Columbia River's shoreline before and after moving a crane from a barge onto the River's shore. Weyerhaeuser employees reported the incident to Ecology and took pictures. According to state and federal agencies, this work would not have been permitted had Chinook Ventures applied. The work was *not* done within the in-water work window for salmon.

- ***Driving Pilings into the Columbia without a Permit:*** Chinook Ventures drove pilings into the Columbia River without state and federal permits. The Washington Department of Fish and Wildlife is pursuing this, and other violations, as criminal actions.

These are just a few examples of Chinook Ventures' flagrant violations of state and federal law. Yet, Chinook Ventures continues to operate unabated.

After months of urging Ecology to take the necessary steps to protect the Columbia River, including halting Chinook's petroleum coke operations until the legally required permit is in place, Riverkeeper filed a federal lawsuit against Chinook Ventures. One of the purposes of the Clean Water Act is to create a level playing field. Ecology's decision to allow Chinook Ventures to continue to operate illegally harms other businesses at the Port of Longview and elsewhere that invest significant resources to comply with state and federal laws. These companies that are operating responsibly should not be punished for complying with environmental laws.

Columbia Riverkeeper is also deeply disturbed that Ecology did not take adequate actions to clean up the spill. We appreciate that Ecology monitored, sampled, and evaluated the spill, but Ecology should have taken immediate action to physically clean up the spill to the maximum extent possible.

Apparently, there was confusion among the different branches at Ecology who had authority to clean up the spill. There is no doubt that the State of Washington has not only the authority but the responsibility to immediately clean up spills of harmful substances like petroleum coke. It does not matter to the fish or the river communities whose department a petroleum coke spill fits into.

Does Ecology believe it has authority to clean up spills of petroleum coke?

Please provide a chart of which branch of Ecology is responsible for petroleum coke and different chemical spills.

Additionally, Ecology downplayed the toxicity of petroleum coke in a February 2nd article in The Longview Daily News, stating, "fortunately, the material is found to be pretty benign, and it doesn't appear as though it's toxic to fish or shellfish."

What is the scientific basis for this statement?

In an April 7, 2000, letter to the EPA, the American Petroleum Institute stated, "There are no data that can be used to evaluate the toxicity of Petroleum Coke to aquatic species." The Institute suggested that further studies were necessary.

Does Ecology have data on the toxicity of petroleum coke to aquatic species?

The composition of petroleum coke and its associated contaminants vary based on the source of the fuel. However, petroleum coke is known to potentially contain a variety of metals and polynuclear aromatic hydrocarbons (PAHs). Discharges from coke piles contain nickel, vanadium, barium, magnesium, selenium, anthracene, benz(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(g,h,i)perylene, chrysene, dibenz(a,h)anthracene, fluoranthene, indeno(1,2,3-cd)pyrene, naphthalene, phenanthrene, pyrene, and other pollutants. PAHs are associated with the residual hydrocarbon content of the petroleum coke. Depending on the type of coke, residual hydrocarbons (e.g. oil) can comprise more than 10 percent by weight of the coke.[1, 2] The fundamental problem

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[1] Lee, J. M., Baker, J.J., Murray, D., Llerena, R., and Rolle, J.G. (1997) "Quality analysis of petroleum cokes and coals for export specifications required in use of specialty products and utility fuels." Preprints of Symposia, 214th National Meeting, American Chemical Society Volume 42:844-853.

[2] Basabe, Tony. 2006. Petroleum Coke Dust Emissions from Open Boxcars Along the Shoreline of North Puget Sound, Washington. Swinomish Tribal Community, LaConner, Washington. Presented at First National Forum on Tribal Environmental Science, September 2006. http://epa.gov/osp/tribes/announce/NatForum%20Present/3_2.pdf

with Ecology's statement is that Ecology has no idea what is in the petroleum coke that spilled.

Many of these chemicals, particularly PAHs, are known carcinogens and harmful to human and aquatic life. Additionally, both PAHs and heavy metals are already present in fish tissues in the Lower Columbia River, and local sources appear to be the cause of higher levels below Longview than upstream sites.[3, 4] The recent petroleum coke spill has the potential to exacerbate existing toxic pollution issues in the Lower Columbia River, including PAH, for which the Columbia is 303(d)-listed.

Further, there are possible biological harms associated with a large spill of petroleum coke, such as clogging fish gills, smothering shellfish, and acting as an attractant to sturgeon or other species.

Did Ecology consult with Washington Department of Fish and Wildlife to evaluate potential biological harms prior to classifying the spill as benign?

Until Ecology can characterize and quantify the contaminants associated with the recent petroleum coke spill and assess the potential biological harm, the agency should refrain from characterizing the substance as "benign." Even without such characterization, a spill of petroleum coke is clearly a violation of water quality standards, which Ecology should act upon immediately.

In addition, we are concerned that the company that spilled the petroleum coke did not immediately notify Ecology that a large spill occurred. Dischargers are required by their NPDES permit, and likely other state laws, to notify Ecology of any spills.

In response to the February 2nd petroleum coke spill, we request that Ecology take the following actions:

- Thoroughly investigate the spill, conduct chemical analyses, and identify the source. Because Ecology believes that Chinook Venture is the likely source, Ecology should immediately take samples of the petroleum coke at Chinook Ventures to compare to the spill samples.

- Immediately send inspectors and investigators to Chinook Ventures to assess the cause of the alleged spill. This should include full interviews with Chinook Ventures' staff and a full review of on-site records.

- Take immediate action to stop operations at Chinook Ventures that do not comply with the Clean Water Act and other laws. Because Chinook

[3] Art Johnson and Dale Norton. 2005. Dept. of Ecology. Concentrations of 303(d) Listed Pesticides, DDT, PAHs, Measured with Passive Samplers Deployed in the Lower Columbia River.

[4] USGS Data on Dissolved Pesticide, PCB, and PAH Concentrations in the Lower Columbia River: Fall 1997 and Spring 2008. (Show higher levels of PAH than Ecology, 2005)

Ventures does not have a permit to handle petroleum coke and Ecology does not regulate this operation in any way, a spill would not be a surprise.

- Investigate Ecology's response to the spill and reassess who is responsible for immediate cleanup actions.

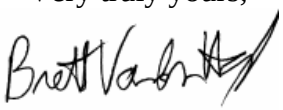
- Send a statement to The Daily News and other media who covered this story to retract the statement that petroleum coke is not toxic to fish and wildlife.

- Contact the National Marine Fisheries Service regarding potential harm to listed salmon, out-migrating smelt, and other aquatic and wildlife species.

- Inform the Environmental Protection Agency, the Oregon Department of Environmental Quality, Cowlitz County, affected tribes, and other interested parties concerning the extent of the spill, cleanup efforts, and planned enforcement actions.

We urge you to conduct a full evaluation of this serious problem. Please feel free to contact me at my direct line at 503-348-2436 or at bv@columbiariverkeeper.org to arrange a meeting.

Very truly yours,



Brett VandenHeuvel
Executive Director
Columbia Riverkeeper

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