



STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

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TTY 711 or 800-833-6388 (For the Speech or Hearing Impaired)

August 2, 2005

Mr. TJ Johnson, Director  
Washington PEER  
P.O. Box 2618  
Olympia, WA 98507

Dear Mr. Johnson:

Thanks again for making the appointment to meet with me on July 20, to discuss Washington PEER, your new role, and to provide the letter listing specific concerns with some of Ecology's recent work products. Jay Manning did receive your letter and reviewed it and asked me to respond on his behalf.

I have paraphrased your concerns with the landfill mercury study below, to ensure that I respond to each of your points.

**A. Ecology only tested sites that volunteered to be tested.**

This is correct. Ecology's interest was in getting a representative group of sites around the state. To accomplish this, we asked staff to find that representative group, and if possible, to find solid waste facilities willing to be tested. While we certainly have the authority to sample any landfill, we didn't need to "exert" that authority in order to get what we viewed as a representative sample for the purpose of this study. We believe that the landfills chosen are representative. I will also note that one of the landfills you mention, the Roosevelt Landfill, actually was tested.

**B. Tested sites were offered advance review, but other entities were not.**

As it turned out, the landfills were not offered early review. However, we did send a copy to the sites that had claimed confidentiality when we were making our determination that the requests for confidentiality were not valid.

**C. Ecology made questionable – and possibly illegal – agreements for confidentiality.**

Ecology did grant confidentiality to some sites, per their request. We believed that this was legal, but upon review found that the requests did not meet the required tests. Therefore, the study is not confidential. Nothing in this process impacted the study. The study design and quality assurance plan were both complete before we received the requests for confidentiality.



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**D. Ecology has not released this study.**

PEER has a copy, as does every other requestor that we are aware of. We are working on a focus sheet to provide a clear and more concise message about mercury emissions from landfills. That focus sheet, which will be done by the end of this month, will contain a contact for anyone who wants to receive more information, including a copy of the study. We are not planning to do a more formal release of the study.

In response to your requests for action, I offer the following comments:

1. We retain our authority to sample regulated sites as needed. We will balance this, when possible, with the needs and concerns of the sites if the information we need can be obtained elsewhere.
2. We will continue to look for ways to be more inclusive in our work and to make sure our studies benefit from the input of a broad array of stakeholders.
3. We believe that our guidance is now very clear around public disclosure and confidentiality. We have shared the lessons learned from this study with our agency and our external solid waste partners.

I hope this has answered your questions about the mercury study in particular, and your more general concerns listed in section III of your letter. Please contact me or Cullen Stephenson, Solid Waste Program Manager, if you would like to discuss this further.

Sincerely,



Polly Zehm  
Deputy Director

cc: Cullen Stephenson