

March 16, 2012

Mr. Jeff Killelea  
Department of Ecology  
PO Box 47600  
Olympia, Washington 98504-7600

via email

Re: Comments on 2012 Draft Industrial Stormwater General Permit Modification and Fact Sheet Addendum

Dear Mr. Killelea:

Please accept the following comments on the Draft Industrial Stormwater General Permit Modification and Fact Sheet Addendum issued by the Department of Ecology (Ecology) in February 2012.

#### **S4. General Sampling Requirements [Consistent Attainment]**

We support the modification that allows permittees that suspended sampling based on consistent attainment of four consecutive samples to use those samples toward their new total of eight samples. At the Seattle workshop, Ecology noted that a permittee with six consecutive samples need only meet the benchmark in an additional two consecutive samples. This doesn't appear to be allowed pursuant to the proposed revision at S4.B.6., and should be allowed. Perhaps the requirement could be modified to state that permittees who suspended sampling based on consistent attainment prior to [the modification effective date] must resume/continue sampling until a total of eight samples demonstrate compliance.

#### **S8.C. and D. Corrective Actions, Level Two and Level Three**

At the Seattle workshop Ecology noted that under the current permit, a facility that triggers a Level Two Corrective Action and then a Level Three Corrective Action (same calendar year) can skip the Level Two and continue with the Level Three Corrective Action. This makes sense, particularly for facilities that have exhausted their Level Two BMPs but continue to exceed a benchmark. If we heard this correctly, which permit provision allows the permittee to skip Level Two? This isn't clear. The proposed revision also does not clearly address this. An additional sentence or two would be helpful, as well as an explanation and example in the Fact Sheet addendum. It would be helpful also for Ecology to confirm that Level Two can be skipped without the permittee having to obtain a waiver to do so.

In requiring further refinement of S8., the Pollution Control Hearings Board seemed to intend a joint effort on the part of the permittee and Ecology in determining whether further BMP modifications or additional BMPs are necessary at a facility to meet the goal of achieving benchmarks in future discharges. The proposed permit revisions add the requirement for the permittee to include "monitoring, assessment or evaluation information" in its Annual Report, to be used as the basis for Ecology and the permittee to make BMP determinations. However, the proposed revisions do not specify when and how Ecology will provide feedback on this monitoring, assessment or evaluation information. Meaningful and timely feedback from Ecology may be necessary for the permittee to confirm it is meeting Ecology expectations for taking "all the steps required by the adaptive management process."

Additional language is needed in the permit and in the Fact Sheet addendum to explain the mechanisms by which Ecology will participate, as necessary, in determining the required adaptive

management process. This could include timely agency feedback on the Annual Report information submitted by the permittee.

**C.4. Level 2 Deadline, new paragraph d.** For clarity, Ecology may want to change “a” previous calendar year to “the” previous calendar year if this is the intent.

Ecology proposes to delete footnotes 4 and 5 to clarify how a permittee moves from Level 2 to Level 3. The proposed revision doesn’t clarify the requirements, particularly with the reference to Level 3 in the Level 2 deadline provision.

Example 1: Facility exceeds copper benchmark in Q1 and Q2 of 2012; therefore, a Level 2 corrective action is due by July 30<sup>th</sup> of 2013. If this facility exceeds the copper benchmark in Q4 of 2012, and has begun implementing a structural BMP at this point, then a Level 3 corrective action is *not* triggered in 2012? This would make sense, given that the Level Two corrective action may not have been in place long enough to show its effectiveness. Is it relevant that the facility began implementing the corrective action before the Q4/2012 exceedance?

Example 2: Facility exceeds copper benchmark in Q1 and Q2 of 2012; therefore, a Level 2 corrective action is due by July 30<sup>th</sup> of 2013. Facility begins implementing a structural BMP in 2012 and completes it before July 30, 2013. Facility exceeds copper benchmark in Q1, Q2 and Q3 of 2013. A Level 2 corrective action is *not* triggered for copper in 2013, correct? Is a Level 3 corrective action triggered for copper in 2013? Which “applicable deadline” applies here?

**D. 4. Level 3 Deadline, new paragraph d.** For clarity, Ecology may want to change “a” previous calendar year to “the” previous calendar year if this is the intent. As noted for the Level 2 proposed permit revision, the proposed Level 3 provision is confusing.

Example 3: Facility exceeds turbidity benchmark in Q1, Q2 and Q3 of 2012; therefore, a Level 3 corrective action is due by September 30, 2013. Facility begins implementing a treatment BMP. Facility exceeds turbidity benchmark in Q1 and Q2 of 2013. A Level 2 corrective action is *not* triggered for turbidity in 2013, correct? Facility implements the treatment BMP by September 30, 2013, but exceeds the turbidity benchmark in Q4 of 2013. A Level 3 corrective action is *not* triggered for turbidity in 2013, correct?

Example 4: Facility exceeds turbidity benchmark in Q1, Q2 and Q3 of 2012; therefore, a Level 3 corrective action is due by September 30, 2013. Facility implements a treatment BMP in Q4 of 2012, but continues to exceed the turbidity benchmark in Q1, Q2 and Q3 of 2013. Is it correct that Level 2 and Level 3 corrective actions are *not* triggered for turbidity in 2013?

If a facility has implemented (and continues to implement) Level 3 corrective actions for a parameter but continues to exceed the benchmark, under what circumstances is the facility ever required to implement a Level 2 corrective action? If the facility does not implement a Level 2 corrective action, is the facility required to obtain (and repeatedly obtain) a Level 2 waiver from Ecology?

Thank you for the opportunity to comment on the proposed permit modifications.

Sincerely,  
Dawson Consulting LLC



Linda Dawson  
Principal