

## **Construction Stormwater General Permit**

### **August 25th Public Hearing in Tacoma, Washington**

Let the record show that it is 2:19 PM on August 25th, 2010, and this public hearing is being held at the Pierce County Parks Sprinkler Recreation Center, located at 14824 C Street South, Tacoma, Washington. The primary purpose of this hearing is to receive public comments regarding the issuance of the construction stormwater draft general permit. The legal notice of this public hearing was published in the Washington State Register, Issue Number 10-15-087. Ecology also directly notified the following: construction stormwater permit holders and interested parties, the Tribes, various state and federal agencies, as well as posting the hearing information on the Construction Stormwater General Permit website, the agency listserv and Ecology Public Events Calendar.

At this point in time, we have one person who signed in, indicating that he would like to present testimony. That is Mr. Richard Dickson. Mr. Dickson, if you would just give your address, you may go ahead and begin speaking, Sir.

About 5 minutes?

That's OK.

I am Richard Dickson, with William Dickson Company. I'm a professional engineer, registered through the State of Washington. I own a construction company. We have a gravel pit in – just out of – the city limits of Tacoma. It's a 40-acre site, so we have a sand and gravel permit with the Department of Ecology.

My big complaint is – it doesn't matter how stringent these laws become, if the regulation is not enforced equitably. The first example is Sound Transit, Seattle. A five-mile stretch of Martin Luther King was constructed by Sound Transit. Every time it rained a half inch or more, according to NPDES permit, they were required to test. A typical test would result in 20 samples that exceeded either the turbidity limit or the pH limit. All the water headed to Lake Washington, so there were 422 exceedances at the half way point of the job or somewhere around there. All of a \$4000 citation. So, a little less than \$10 per exceedance was the cost, and that was appealed by Sound Transit. One reason that the Department of Ecology said in their inter memos was that they allowed this because the work had to go on. They couldn't stop it. And, they'd get in real trouble if this got out to the public that they were doing it, which it did.

Anyway, so that was one example. But, the Department of Transportation is another good example, like on Wax Road, they are about the only guys that get away with dumping their street waste and street sweepings with no testing, no parameters. Same with the street sweepings and the catch basin waste in Pierce County. Pierce County has special privileges so that they can dump their wastes at Prairie Pit. And, all private entities are required to dump their catch basin wastes down at the tide flats in one or two places. So now we go to the gravel pits next. The biggest gravel pit in Pierce County is 480 acres. They are supposed to do water monitoring because they have both a gravel pit and a rock quarry and

they have more than 50 acres exposed – or I call it a pit floor. They – the ground slopes towards the northeast, which is the same direction as the Puyallup River, which is in close proximity to the pit. Since they did no water monitoring for the Department of Ecology between '99 and '04, until somebody from the Department sent them a letter. Then, they monitored for a year or two and then since 2007, they have not monitored anything at that pit or any other of 14 pits. Jason Shira at the Department of Ecology did an inspection pointing out these 14 sites. It was determined that 5 of them were inactive and of course Pierce County said more were inactive. Altogether it's over a thousand acres of pits. Much more than any private entity has. We only have 40 acres. And, anyway, they have done no monitoring, even though in the last three years – at any of the sites – even though 9 of the sites are active. And, by active, I mean that either they are backfilling, mining, stockpiling crushed rock or solid waste such as recycled asphalt. Any reclaiming makes it active, so these nine sites were active for various reasons, as Jason Shira pointed out, who no longer works at the Department of Ecology. The Department of Ecology fired him for actually trying to enforce the law against any public agency. So, that is the bottom line again. If you are public, then there is no enforcement. I have never seen a significant fine issued to any public agency. So, what good does it do to have all these laws if you're only going to enforce them against private agencies. So, I expect this law to have teeth, where it guarantees that the public agencies, including the State of Washington, will be treated just as the private individuals or companies or entities. That is the end of my comments.

Thank you.

Is there anyone else who would like to have something put on the public record?

No?

OK.

Oh, OK.

No, it's on. I leave it on.

I need your name and your address for the record, please.

Maureen Meehan. Seattle Department of Transportation. It's 700 5<sup>th</sup> Avenue, Seattle, Washington, 98104.

I'm hoping this permit will clarify whether or not construction sites that are totally within the combined stormwater system have to get a permit. I've been told they do. I have been getting permits for those construction sites. It is quite expensive overall for staff time and submittals for the contractor, but when Ecology visited the site, there were problems there and they were going to proceed with enforcement and then we were informed that they can't because they don't have any jurisdiction over waters that are going to the sewage treatment plant vs. going to the sound. So, it seemed like a lot of money and time spent for not any results. So, I'm hoping that's clarified.

I'd also like to get clarified...there's a new checkbox on the form about SEPA exemption that's very unclear. I've called and asked what that means and Ecology wouldn't answer and SEPA wouldn't answer. And, I'd like some clarification on when a project has to get an NPDES permit but can be exempt from SEPA. Especially since getting a permit triggers SEPA. So, that needs to be explained very clearly, so that we know when we cannot do SEPA. Thank you.

OK, is there anyone else who would like to provide any comments? No?

OK.

All of the testimony that is provided at this hearing as well as any comments that Ecology receives at any of the other hearings as well as written comments that are submitted are part of the official record for this proposal. And, whether it's an oral comment or a written comment, they both receive equal weight in the decision making process. The Public Comment period ends on September 10<sup>th</sup>, 2010. Written comments must be received no later than midnight on September 10<sup>th</sup>. Please submit written comments to Sharleen Bakeman, Permit Comments, Water Quality Program, Department of Ecology, PO Box 47600, Olympia Washington, 98504-7600. Comments may be submitted via email, to [Sharleen.bakeman@ecy.wa.gov](mailto:Sharleen.bakeman@ecy.wa.gov). Comments may also be faxed to Sharleen. The fax number is 360-407-6426. And, I please encourage anybody who wants to fax to be very careful with that phone number, because mine is just one digit off from that. And, a couple of times when I've picked it up when there's been a horrible beeping in my ear. I know that someone is sending a fax and it's not going through. Whenever possible, what would really be helpful is if you can have the comments reference the permit and specific text, the page number or line number when possible, that you're referring to, it's easy for us to go back, read what it is and put in context with what your comment is and it will make for a better job for us to respond.

All the oral and written comments received during the public comment period will be responded to in a document called the Response to Comments Summary. That document will state Ecology's official position on the issues and the concerns that have been raised during the public involvement process. That comment document will automatically be mailed out to anyone who provided oral or written testimony. It should also be put on Ecology's website after it's been completed. Ecology is expected to issue this permit around December 16<sup>th</sup>, 2010. It will become effective 31 days after the permit issuance. If Ecology believes that comments received in writing or in oral testimony could substantially change the scope or the conditions in the original draft permit, another public notice of draft and comment period may be necessary which could result in a delay in issuing the permit issuance. The ultimate decision on whether or not this permit gets issued will be made by the Water Quality Program Manager, Kelly Susewind.

On behalf of the Department of Ecology, thank you so much for attending our workshop and public hearing. We appreciate your time and the comments we've received. This hearing is adjourned at (by my watch) 2:30. Thank you.