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VIA ELECTRONIC SUBMITTAL

July 11, 2014

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Department of Ecology
Water Quality Program
P.O. Box 47696
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Subject: Comments on Washington's Proposed Revisions to the Industrial Stormwater General Permit

Dear Jeff:

The Port of Olympia (the "Port") appreciates the opportunity to comment on the Department of Ecology's ("Ecology") proposed revisions to the Industrial Stormwater General Permit ("ISGP").

The Port is a permittee under the ISGP for the majority of its Marine Terminal, and one of the Marine Terminal tenants is also a permittee under the ISGP. The Port is currently investing significant resources in a stormwater treatment system to address benchmark exceedences associated with industrial activity that includes log storage and handling on the Marine Terminal. The Port therefore appreciates Ecology's efforts to minimize changes to the ISGP, given our significant investment in constructing and implementing a Level 3 (treatment) corrective action under the current (2010-2015) ISGP.

As we hope our significant investments demonstrate, the Port of Olympia is committed to environmental stewardship and to improving water quality in Budd Inlet. We have concerns with a few of Ecology's proposed changes to the ISGP, however, which follow.

1. S.4 – General Sampling Requirements

Ecology proposes to add a requirement that Permittees subject to numeric effluent limits should monitor those parameters "at each distinct point of discharge off-site." Yet, the permit has long allowed permittees to monitor at "substantially identical" discharge points, and the Port thinks that same standard should continue to apply to discharges subject to numeric effluent limits for two primary reasons.

First, many discharge points at the Port (and other ports) are subject to tidal inflows, which makes sampling challenging, particularly for those discharge points that cannot be sampled on the upland side of a pier. In addition, it can often be a challenge to take samples from some of these discharge points at a time that they are **not** subject to some measure of tidal influence. This ends up being a safety concern for those taking the samples, especially in the winter when low tides may only occur after business hours when there is little light.

The second reason is that the Port of Olympia, like other ports, has a number of small wharf (or scupper) drains that discharge into the receiving water body. These are all in the vicinity of a discharge point that meets the definition of a "substantially identical outfall" that the Port monitors for permit compliance. It would be both logistically challenging and prohibitively expensive for ports to have to sample every one of the small wharf drains on a quarterly basis when they are all in close proximity to one another, as well as close to a current "substantially identical" discharge point.

2. Proposal to Require Transportation Facilities to Sample for Petroleum Hydrocarbons (Diesel Fraction)

The Port concurs with the Port of Tacoma, Weyerhaeuser and other commenters that the proposal to require monitoring for diesel is not warranted for transportation facilities. As others have noted, the *Evaluation of Washington's Industrial Stormwater General Permit* (Envirovision and Herrera, November 2006) (the "6415 Report") states that "there is little evidence that oil and grease . . . are a concern in industrial stormwater discharges" noting that data collected indicated that only 7 percent of the samples collected between 2000 and 2005 exceeded the benchmark for oil and grease. *Id.* at p. 31. This led to the removal of the oil and grease parameters from the 2010 ISGP. The information provided as part of this 2015 ISGP update does not include any new data or other indications that oil, grease, or total hydrocarbons are now an issue at transportation facilities, indicating that a diesel benchmark for transportation facilities is unwarranted at this time.

In addition, the ISGP and the 2015 update already require permittees to implement operational, structural and treatment BMPs for oil control. (*See* p. 22 of Volume 4 of the Stormwater Manual for Western Washington). The Port asks that Ecology remove the requirement to monitor for diesel and instead emohasize BMPs like facility assessments to identify potential sources of oil and grease, and specific methods of oil control Ecology recommends permittees implement.

2. S6. New Requirements for Dischargers to "Puget Sound Cleanup Sites"

The Port understands the concern that stormwater discharges could be a source of recontamination to sediment cleanup sites, and agrees that this is is a very real issue for Ecology and EPA. However, to the extent that the additional requirements Ecology has proposed in the draft permit for Puget Sound Cleanup Sites are intended to address this issue, the Port believes they are not the best means of achieving that objective, and may in fact disproportionately hurt ISGP permittees without measurably reducing recontamination of sediment cleanup sites.

a. TSS Effluent Limit for Dischargers into Puget Sound Sediment Cleanup Sites

The Port's first concern with the proposed TSS effluent limit is that it does not appear to meet the legal criteria for including numeric effluent limits in general NPDES permits. ESSB 6415 (incorporated into RCW 90.48.555) dictates that numeric effluent limits should only be incorporated into general permits when (a) there is a federal numeric effluent limit; (b) a state-developed, industry specific performance based numeric effluent limit; (c) a numeric limit based on a completed total maximum daily load analysis; or (d) evidence that a narrative BMP—based effluent limit has been ineffective at ensuring compliance with state water quality standards. RCW 90.48.555(3). The materials Ecology provided in support of the 2015 ISGP do not demonstrate that the above criteria have been met.

Before going from the current status quo of no monitoring for TSS (at most ISGP facilities) to an effluent limit of 30, the Port asks that Ecology consider a narrative effluent limit that requires all ISGP permittees to implement specific "applicable" BMPs to address TSS (similar to what Ecology did to address fecal coliform in the last permit). This provides Ecology with an effluent limit for TSS (to the extent Ecology feels it needs one), and should provide meaningful TSS controls. Alternatively, if Ecology believes a numeric TSS effluent limit is necessary, the Port asks that Ecology allow quarterly averaging to establish compliance with or exceedences of the effluent limit. The Port also believes that facilities that have installed stormwater treatment pursuant to an Ecology-approved Engineering Report should be exempt from the TSS effluent limit for those areas of the facility served by the selected stormwater treatment.

Finally, to the extent Ecology's goal is to reduce recontamination of sediment cleanup sites, the Port believes that imposing a stringent effluent limit on ISGP permittees will not make a meaningful difference. Compared to other stormwater dischargers, ISGP permittees contribute a small percentage of the total stormwater volume flowing into receiving water bodies. By far a much higher load comes from municipal discharges, which provide the greater risk of contributing TSS loads and recontamination to Puget Sound Sediment sites. If Ecology's goal is to prevent recontamination, imposing a stringent TSS effluent limit on only this narrow (and already highly regulated) category of dischargers, Ecology is using the proverbial elephant gun on mere gnats in the stormwater universe.

b. Requirement to Sample Storm Drain System Solids

Ecology articulated two reasons for including a requirement to sample storm drain solids and report the results to the Department of Ecology (1) to ensure proper disposal of the solids following cleaning of the storm systems; and (2) to establish a "baseline" of (presumably legacy or historical) contaminants in the storm system, against which future sampling could be compared.

As to the first reason, the Port believes an NPDES permit requirement is unnecessary to ensure proper disposal of storm system solids. The Dangerous Waste laws and regulations already require facilities to properly characterize their wastes, including storm system solids, prior to disposing of them. Indeed, many ISGP permittees hire contractors to perform their storm system cleaning who specialize in proper characterization and disposal of storm system solids. To add an NPDES permit requirement to this existing regulatory scheme appears unnecessarily duplicative. Indeed, it adds more process and cost for no additional environmental benefit.

As to the second reason, the Port has data to show sampling storm system solids will not provide helpful data about historical or legacy contaminants in the storm system. The Port of Olympia has sampled storm system solids for over two years in specified catch basins on the Port's Marine Terminal. The initial sampling in 2010 showed high levels of dioxin in a catch basin (1960 ng/kg). In subsequent monitoring (following cleaning of the system), the levels of dioxin initially decreased significantly (to 257 ng/kg), and later increased again (to 1530 ng/kg). It is evident from the Port's sampling that ongoing operations continue to contribute contaminated solids to storm systems.

More importantly, however, the Port also sampled surface sediments in front of the outfall the catch basin drained to. Those surface sediments contained very low levels of dioxin (ranging from 2.3 to 6.7 ng/kg), meaning the catch basins perform their intended function – they trap solids before they can be discharged into the receiving water body. The Port is concerned that requiring all permittees to sample storm system solids will simply provide a snapshot of potentially contaminated solids that ultimately do not even reach or impact receiving water bodies, contributing no useful information about water quality. Yet, the data collected could create the misimpression that permittees are negatively impacting water or sediment quality.

This is one of the many reasons that concerns about solids discharging to Puget Sound Sediment Cleanup Sites should be addressed through the cleanup processes for those sites. Every one of the sediment cleanups has or will have a source control component associated with it that requires sampling to identify potential sources of sediment contamination and recontamination. These are targeted at sources draining specifically to the contaminated area(s), and to the specific contaminants of concern at that sediment site. Sources (or potential recontamination sources) are then targeted specifically through cleanup action plans to address their contributions to the site. This approach is preferable to a blanket requirement for all industrial dischargers to sediment cleanup sites to sample for a set of constituents that may or may not be of concern at the adjacent sediment site – a requirement that adds costs to permittees. The Port also notes that its source control investigation at one of the Puget Sound Sediment Cleanup Sites (lower Budd Inlet), shows that municipal stormwater outfalls are contributing contaminated solids to the Budd Inlet sediment site, yet there is no similar requirement for municipal dischargers to sample their storm system solids and report the results to Ecology.

Indeed, data provided to Ecology about contaminant levels in storm drain solids will be used by either regulatory agencies or potentially liable parties to accuse ISGP permittees near Puget Sound Sediment Cleanup Sites of also being liable for cleanup of the site. Although Ecology has indicated it does not think this will be the case, it is always to the advantage of potentially liable parties to expand the pool of parties contributing to the cost of the cleanup. Even if Ecology itself would not use the data in this way, liable parties will, and the transaction costs associated with proving that an individual party has no (or minimal) liability at the sediment site are significant. Without a compelling reason to subject ISGP permittees to these transaction costs, and for the other reasons set forth above, the Port asks Ecology to remove the requirement for sampling storm system solids from the 2015 ISGP.

c. Defining Puget Sound Sediment Cleanup Sites

The Port agrees with other commenters that given the consequences of discharging to a Puget Sound Sediment Cleanup Site, more specific definition is needed of the geographic boundaries of these sites.

3. S6.C. and Appendix 4

The Port agrees with Weyerhaeuser's comments on the inclusion of the Port's permit (#WAR001168) in Appendix 4. As Weyerhaeuser discovered, the sole reference for the 303(d) Category 5 sediment bioassay concern was a 1991 sediment study associated with LOTT's wastewater discharge. That report indicated no significant amphipod mortality that was statistically different from the reference sediments; meaning there was no sediment toxicity. The Port therefore joins in Weyerhaeuser's request that the Port's permit be removed from Appendix 4.

Thank you again for the opportunity to provide comments on the 2015 draft ISGP.

Sincerely,

Alexandra K. Smith
Director of Environmental Programs

cc: Gerry O'Keefe, WPPA