April 10, 2007

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Subject: Comments on Draft Industrial Stormwater General Permit

Dear Mr. La Spina:

This letter presents the Hampton Lumber Mills comments on this draft Industrial Stormwater General NPDES Permit (hereafter "permit").

GENERAL COMMENTS

Permit Complexity and Confident Compliance

The proposed draft permit has been considered by some to be the most stringent industrial general stormwater permit in the country. The permit specifies numerous mandatory obligations for a permittee to accomplish (and routinely update) to maintain literal compliance with its terms and conditions. It seems inevitable that even the most advanced permittee will have on-going deficiencies with some permit requirements.

This permit appears to demand detailed knowledge of the *Western (or Eastern) Washington Stormwater Management Manual,* .and compliance with this guidance document.

Therefore Hampton's specific comments are presented with the hope that Ecology will streamline this permit.

Comment 1

S9.E.1.c (Noncompliance Notification) should reference **"S9.D.1.c"**

S1. Permit Coverage

Comment 2

S1.B.1.c suggests that a source that could contribute pollutants to ground water may be required to obtain a storm water permit. It would appear that the department would refer this source to the Underground Injection Control Regulations (Chapter 173-218 WAC).

S2. Application for Coverage

Comment 3

In S2.A.3.c. the requirement for permit application 180 days prior to commencement of stormwater discharge should be shortened.

Requiring a proposed new facility to submit a application for coverage 180 days prior to a new stormwater discharge will delay the use or startup of the new facility. The companion requirements to accomplish the required SEPA review, Public Notice process, and to develop/submit/implement a SWPPP, should effectively control the Notice of Intent permitting timeline. In most cases these requirements will consume much less than 180 days.

At the very least this proposed section needs to be reconciled with proposed S2.D.1. which says that permit coverage will commence 61 days after receipt of a completed application.

We note the existing permit requires an application for coverage to be submitted at least 38 days before the commencement of the industrial activity (see S2.B.3.c. in the August 2002 ISWGP).

Comment 4

In S2.A.4 (Page 12 of 118) there us a reference to "Significant Process Change". Based on the list of definitions contained in Appendix 2, a facility could be required to submit a new application for coverage with each and every facility improvement project if it met this broad, and ambiguous definition.

For example, if a facility had an uncovered, unpaved storage area that they installed a concrete pad with a metal roof, this could be considered a "Significant Process Change" since the metal roof could leach metals and the building and concrete pad will impact the amount of impervious surfaces on the site.

Hampton requests that the Department consider changing the definition of Significant Process Change, or more simply require the facility to modify the SWPPP in advance of a significant process change.

Comment 5

In S2.C.2.e references the permittee being required to provide a "brief" description of stormwater management activities that provide source control and treatment BMP's that will be implemented within the SWPPP as part of the public notice. Hampton would like the Department to consider the purpose for the public notice and the length, and detail that is required for such notice to the general public. This level of detail can be very technical in content. This information is contained within the SWPPP, which is located

at the regional Ecology office. If the public needs to review BMP's, they can review the application and SWPP at the Ecolgy Office.

S3. Stormwater Pollution Prevention Plan (SWPPP)

Comment 6

S3.A.3. is confusing. Ecology wants the 2005 SWMM to be used and has structured the permit to require use of this updated manual. The draft permit language could cause confusion for a permittee as well as an inspector based on the date of permit coverage. The Department could simply copy the language from S3.A.5 (Page 17 or 118) which states "most recently published edition of the applicable or equivalent SWMM.

Comment 7

S3.A.4.e (page 16 of 118) creates a challenge to a source in determining what "reasonable access" means for the general public. If the public wants a copy of the SWPPP they should make a request with the Department of Ecology. The Department of Ecology can then request a copy of the SWPPP in a reasonable time frame, and can provide reasonable access for the public to view and make copies of the SWPPP.

Comment 8

In S3.B. (Specific SWPPP Requirements) includes numerous specific "shall" requirements which need to be satisfied with this SWPPP. In many instances the permit language requires comprehensive and substantial responses. The permit sets unattainable expectations that cannot be achieved given the technical and regulatory knowledge possessed by the typical permittee.

Examples include:

"identify all areas,"
"potentially may be exposed,"
"any potential sources,"
"have the potential to contribute any pollutants,"
"a narrative description,"
"include documentation of procedures,"
"provide a procedure,"
"include a discussion."

Another Example:

"The Permittee shall indicate whether each BMP is based on the presumptive approach or demonstrative approach, and shall cite the manual and page number of the BMP."

> The requirements expect a permittee to have a thorough knowledge of the *Western (or Eastern) Washington Stormwater Management Manual* or to have hired a consultant to prepare their SWPPP.

Comment 9

S3.B.3.e.i.6.d (Page 22 of 118) This condition requires that each monthly stormwater inspection be certified as being in compliance with the SWPPP. If the goal of the monthly, or more frequent, site inspection is to verify the status of BMP's, a certification statement is unnecessary and adds the necessity for the mill manager or plant manager to have knowledge of the exact status of each BMP within the SWPPP as well as personally perform the inspection to verify compliance.

Comment 10

Hampton requests that the Department re-write S3.B.3.e.iii.1 (Page 22 of 118) to say:

> "The Permittee shall complete construction/installation of applicable and appropriate treatment BMPs when operational and source control BMPs do not adequately reduce pollutants below the benchmark."

Hampton understands that Treatment BMP's may be required when Source Control and Operational Source Control BMP's do not reduce pollutants below the bench marks. However, S3.B.3.e.iii.2 adds to the complexity of the permit. If the source has exhausted other BMP's it should not have to write a narrative about why it has decided to move too Treatment BMP's.

Comment 11

In S3.5.d.i (Page 24 of 118) the Department requires a source to estimate the volume of discharge based on the storm duration etc. This requirement would tend to result in information that could not be verified and is not used to determine compliance with the SWPPP. Additionally S3.5.d.ii asks a facility to compare "relative" and "probably" pollutant concentrations. It is unclear how a source would perform this analysis as part of the sampling plan, and how this information would be used within the context of the SWPPP.

S5 Benchmarks, Action Levels, and Discharge Limitations

Comment 12

In S5.A.3. and throughout S8 *Corrective Actions* the trigger for implementing corrective actions is when a benchmark (or action level) is exceeded. In the draft permit a single stormwater monitoring data value could force a corrective action. This is too stringent a requirement especially when the Department's "adaptive management process" seeks to move a source from above the benchmarks to below. Hampton suggest the Department

base the adaptive management process on a median value or geometric mean of the data produced in the October 1 – June 30 sampling term.

This permit should acknowledge the need to characterize the quality of a stormwater discharge. Many of the factors that impact storm water quality are known – storm intensities, duration, and patterns; variability in pollutant loading as affected by these conditions; differences in the antecedent periods between storm events; differences in sampling personnel, and sample collection methodology. The reality is that no single data value can reasonably characterize the performance of BMPs or be used to interpret impacts on receiving water quality.

The proposed S8 *Corrective Actions* will require permittees to incur costs for consultants, engineering and capital equipment with as few as two data values. Ecology's consultants and the EPA recognize this. The 6415 Final Report recommended that the Corrective Action process be based on the median value of data values collected over a rainy season. EPA's Multi-Section General Permit requires the permittee to respond with an improved SWPPP if the "average of 4 monitoring values exceeds the benchmark". Either of these approaches are more reasonable than Ecology's current proposal.

Comment 13

S5. Table 3 and Table 5 have different TSS bench marks for non hazardous waste and hazardous waste landfills. This appears inconsistent.

Comment 14

S5.D.3.b.v (Page 34 of 118) appears to require a source to perform specific water quality testing on each conditionally approved non-stormwater discharge. This leaves the source uncertain whether they need to sample each source of irrigation drainage and ground water spring for an unspecified list of water quality standards. Additionally, Subsection S5.D.3.b.vi requires the source to evaluate BMP's for each pollutant and flow. Hampton is unsure how the department plans to evaluate these.

Comment 15

S6.C.4. requires a source to test for Fecal Coliform Bacteria but does not differentiate between human sources and anthropogenic sources. The permit should reflect that industrial sources may need to test for Human sources of Fecal Coliform.

Comment 16

S7.B.6. imposes difficult expectations for storm water teams to document compliance through inspections.

There may be 10 or more BMPs within each drainage area on an industrial millsite. The obligation to satisfy the 6(a)-(d) will overwhelm most stormwater teams. If a benchmark

value is exceeded S8, the adaptive management process, requires a complete assessment of candidate BMPs and BMP effectiveness. The monthly visual inspection does not clearly document compliance with the bench marks.

Comment 17

In S7.D the department puts extensive pressure on a mill storm water team to use an objective site inspection to determine compliance with all of the conditions of the SWPPP. As prefaced previously, the site inspection is intended to review the implementation of BMP's and the storm water sampling is the measurement of the effectiveness.

Additionally, S7.D.1.e and S7.D.1.h have signature requirements that could be combined for clarity.

Comment 18

S.8 The corrective action scheme discussed in the 6415 Final Report is favored for two reasons. First, the reliance upon the median value of the data collected over the entire wet season is much more reasonable than Ecology's single data value decision trigger. Second, the "evaluate for 9 months and respond in 3 months" establishes a more realistic schedule for determining BMP upgrades and implementing them. Ecology's draft permit has a more close-coupled "evaluate/respond" schedule (quarterly) and it has been difficult to keep up and provide meaningful responses.

Comment 19

S8.B (Level Two Corrective Actions) should be modified to allow the average or median value of each parameter be used to trigger a corrective action. The average or median should be used since that would take into account the variability of storm water quality and variability of storm events. Additionally, the time lines for evaluation and implementation should reflect the 9 months of evaluation, and 3 months of implementation.

Comment 20

S8.B.1 requires a source to identify corrective actions within 7 days of receipt of sample results. This should be increased to two weeks. Most industrial facilities do not have teams of people who can devote 100% of their time to storm water issues. The permit essentially requires a facility to hire a professional engineer to work full time on storm water issues.

Comment 21

S8. Hampton is unsure of how the permit will offer an off-ramp for corrective actions.

Example:

1. If Hampton has a facility that exceeded the Action Level for turbidity in the fall (October) of year one of the permit. The facility would implement a Level 1 Corrective Action, review the SWMM and select appropriate BMP's. The Level 1 Corrective Action may be paving which is best during dry summer months.

2. Subsequent samples (December) exceeds the Action Level therefore triggering a Level Two Corrective Action. The Level 1 Corrective Action is still paving which will be implemented during summer months.

3. The next two samples (February and April) exceed the Action Levels therefore triggering a Level 3 Corrective Action but the BMP's selected during the initial review have not been implemented due to time of year when construction can occur.

Conclusion, this scenario suggests that there needs to be an off-ramp for a source to implement improvements within a reasonable time while not being forced into a lengthy and costly engineering study.

Comment 22

S8.C.2 requires a source to select "all" applicable and "appropriate" capital BMP's to reduce pollutants below benchmarks. This is difficult at best within the time frames provided by the permit. In many cases lab "bench" testing is necessary and follow-up trial testing is required. These evaluations take a significant amount of time and depend on a source being able to collect storm water for testing.

Comment 23

The overlap between S8.B. and C. is confusing. These categories could be consolidated, and this will simplify the permit.

Any facility that will produce two sampling values above an action level after September 30, 2007 (Level Two) will likely have documented four values above action levels since December 31, 2004 (Level Three). In essence, most facilities with elevated stormwater pollutant concentration will jump from Level One to Level Three, or will start this next permit cycle in Level Three.

Comment 24

The S8.D. Level Four Corrective Action procedure has a number of problems.

1. Note that Level Three Corrective Action demands implementation of all applicable and appropriate treatment (and previously, operational and structural source control) BMPs. If all applicable and appropriate treatment BMPs were

implemented at the Level Three stage, there are no other BMPs to consider and the discharge is presumed to be complying with water quality standards.

As drafted, Level Four stimulates the requirement for a WAC 173-240-130 engineering report. Additionally, only after Ecology review and approval of this engineering report may a permittee request a waiver from implementing stormwater treatment BMPs. (S8.D.6.) This potential outcome is out-of-synch with Level Three.

2. Ecology can anticipate that many permittees will not achieve the copper and zinc benchmark values. Rather than forcing these sources through site-specific engineering review, Ecology should simply provide permittees a list of the BMPs which are applicable and appropriate. Permittees can plan for and implement the relevant choices. The list would presumably be extracted from the *Stormwater Management Manuals* and any newer Ecology-approved BMPs. This directed list of candidate BMPs would be considered at each level of the Corrective Action process.

3. As presently drafted, the permit requires preparation of an engineering report by a professional engineer (WAC 173-240-130). For nearly all permittees this will require the involvement of an environmental consulting firm. A site-specific AKART analysis is a minimum $10-15k effort. A water quality analysis, with sampling/analysis/QA plans, may be $20k+.

If you have any questions please let me know.

Sincerely,

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