



April 20, 2007

Jim La Spina
Department of Ecology
PO Box 47600
Olympia, WA 98504-7600
Via email: industrialstormwatercomments@ecy.wa.gov
jlas461@ecy.wa.gov

RE: Draft Industrial Stormwater General Permit

Dear Mr. La Spina,

We have reviewed the draft Industrial Stormwater General Permit dated February 20, 2007.

People For Puget Sound is a nonprofit, citizens' organization whose mission is to protect and restore Puget Sound and the Northwest Straits, including a specific goal to protect and restore the 2,000 miles of Puget Sound shoreline by 2015.

We look to the new Permit to address industrial stormwater pollution of Puget Sound water, sediment and biota. It is not encouraging to read in the *2006 Evaluation of Washington's Industrial Stormwater General Permit* report:

The results of this analysis indicated that a high percentage of samples exceeded the water quality criteria when dilution factors of 0 and 10 were assumed. Total copper was of particular concern given that over 90 percent of the samples in both eastern and western Washington exceeded the acute and chronic criteria with a dilution factor of 0. (A dilution factor of 0 is equivalent to the concentration at the "end of pipe".) Total zinc and turbidity were identified as being of moderate concern with between 40 and 90 percent of the samples in both eastern and western Washington exceeding the associated criteria with a dilution factor of 0. Finally, lead was identified as being of lower concern with less than 40 percent of the samples exceeding the acute criterion in both eastern and western Washington with a dilution factor of 0. However, it should be noted that a high percentage of samples (> 90 percent) still exceeded the chronic criterion for lead with a dilution factor of 0.

We are pleased to see that copper is added as a core parameter. Ample evidence has shown that copper is a significant stormwater problem and has adverse effects, even at very low concentrations, on aquatic species such as Coho salmon.

We strongly support the Puget Soundkeeper Alliance (PSA) comments submitted by Richard A. Smith on April 16, 2007. We also offer the following comments.

- 1. Water Quality Limitations.** By not including enforceable water quality limitations, the Washington Department of Ecology and the public do not have the legal ability to address exceedences of aquatic life and human health water

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quality standards associated with these facilities. We agree with PSA that at a minimum, dischargers with high levels of contaminants should be moved to individual permits in the short-term.

2. **Additional contaminants.** The permit does not address potential emerging/unanticipated chemicals or contaminants that are not listed in the standard list. For example, phthalates have been found to be a contamination issue at a number of locations in Puget Sound. We feel, therefore, that there should be a mechanism in the permit, possibly a once-a-permit cycle priority pollutant scan, to identify pollutants other than the standard list of pollutants in the permit.
3. **Connection to sediment and biota.** As in other NPDES permits, the connection to contamination of sediment and to bioaccumulation in biota is not adequately addressed. In the fact sheet, it is stated, "... if Ecology determines that BMPs are ineffective in protecting sediment quality, Ecology may require the Permittee to implement additional measures to assure compliance with the sediment standards or to apply for an individual permit." Yet the permit provides no way to make this assessment. Receiving water and sediment monitoring and biological monitoring (including biotic community assessment) should be required for facilities that exceed prescribed thresholds such as size of facility, exceedences of benchmarks, and type of industry. In addition, sediment in catchbasins from facilities should be evaluated. We know that constituents in the water column are often difficult to measure but contamination problems can be determined by analyzing accumulated sediment or monitoring biota.
4. **Benchmarks tied to water quality.** Benchmarks, if used, should be tied to water quality. A method that looks at levels of concentrations reached by existing facilities does not address the endpoints of biotic and human health. For example, copper benchmark should be set at a level that protects salmon (<5 ug/L) as documented by NOAA Fisheries and addressed by PSA.
5. **Mixing zones/dilution.** In the *2006 Evaluation of Washington's Industrial Stormwater General Permit* report, justification for permit benchmarks are based in part on dilution ratios (essentially mixing zones). People For Puget Sound opposes mixing zones for all persistent bioaccumulative toxic chemicals, such as heavy metals. The industrial stormwater permit should be written to eliminate pollution at the end of the pipe without justifications based on dilution.
6. **Flow.** The permittees should be required to report the rainfall measured at their site relevant to each storm that is sampled. Combined with the acreage of drainage, this would allow the Department of Ecology to better estimate the loading of toxics into waterbodies. The *2006 Evaluation of Washington's Industrial Stormwater General Permit* report states, "The current industrial permits have not produced an emissions database for most industrial categories because of inconsistencies in monitoring or compliance with monitoring requirements." and "... the existing data that were compiled through the ISWGP are insufficient for evaluating compliance with State water quality standards because they do not include any information on receiving water characteristics and effluent discharge rates." Flow is a critical missing element.
7. **Move to individual permits for 303(d) toxics watersheds.** If permit guidance stipulates that stormwater discharging industrial facilities in watersheds of 303(d) toxic chemical listed (i.e., impaired) waterbodies should be regulated by individual permits, we are confused as to why so many facilities are currently being regulated under this general permit in these watersheds? If the Department does not have the resources to develop individual permits for these facilities at this time, then special conditions should be placed on facilities in these 303(d) areas that are specific to

the 303(d) listed parameters. It is vital that source control, including stormwater runoff be addressed in these areas.

- 8. Sampling Frequency.** The *2006 Evaluation of Washington's Industrial Stormwater General Permit* report recommends and justifies that sampling be increased to five times per year. Why is the Department not following this recommendation?
- 9. Lead.** Given that the Department is commencing a lead PBT action plan, it seems imprudent to not to include lead as a core constituent in this permit. The Departments SEDQUAL data indicates a significant number of lead sediment standard exceedences in Puget Sound, many likely due to stormwater inputs. In addition, The *2006 Evaluation of Washington's Industrial Stormwater General Permit* report recommends and justifies that lead be a core parameter. Why is the Department not following this recommendation?
- 10. Sampling Period.** People For Puget Sound objects to a sampling period from October 1-June 30. Many early storms occur in September and so the sampling season should not be truncated.
- 11. Auxiliary Monitoring.** Because the Department has excused the permittees from a large amount of monitoring that should be included in order to determine whether water and sediment quality standards are being exceeded, the permit should require that all permittees must contribute (apportioned by facility size, for example) to a fund to cover the costs of needed auxiliary monitoring.
- 12. Increased penalties for nonreporting.** The Department should include stronger penalties for noncompliance with reporting requirements and should implement an automated electronic triggering system for sending violation notices. As noted in the *2006 Evaluation of Washington's Industrial Stormwater General Permit* report, unacceptable levels of noncompliance is currently occurring, most likely due to lack of staff resources. Like the new red-light photo traffic violation automatic notices sent by municipalities, the Department should automate the system.
- 13. SWPPs.** Given that the public should have reasonable access to review of SWPPs, the Department should require the submittal of SWPPs and attachments with each permit renewal. In addition, any revisions to SWPPs should be submitted to the Department within a short period of time after revision. This would also improve the Departments ability to review the plans.

Thank you for your consideration. If you have any questions, please contact me at (206) 382-7007 or htrim@pugetsound.org.

Sincerely,

Heather Trim
Urban Bays Coordinator