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July 14, 2009

Jeff Killelea
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P.O. Box 47600
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Subject: Proposed Industrial Stormwater General NPDES Permit

Dear Mr. Killelea:

Weyerhaeuser NR Company comments on the June 3, 2009 proposed Industrial Stormwater General NPDES Permit (ISWGP) are provided.

Comment 1

In S1.A. Table 1 – The draft permit specifies that facilities having “road maintenance shops, equipment cleaning operations, or deicing operations” from SIC codes 40xx, 41xx, and 43xx are required to obtain coverage. The sentence structure and wording indicates the entire physical facility would be subject to the ISWGP. Note that EPA’s NPDES regulation at 40 CFR 122.26(b)(14)(viii) includes an important exemption:

“Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or which are otherwise identified under paragraphs (b)(14)(i)-(vii) or (ix)-(xi) of this section are associated with industrial activity.” (emphasis added)

The current ISWGP includes this exemption. It should be retained, either through acceptance of the current permit language or the addition of a footnote to Table 1. There is really no reason why Washington’s ISWGP should deviate from the federal requirement on this point.

Comment 2

S1.A. Table 1, Footnote 1. – The direction that “facilities with activities similar to those described in the Table” need apply for coverage is unacceptably vague and should be removed. A small font footnote is the wrong means to provide notice. Ecology should clearly articulate in S1.A any other categories of industrial facilities subject to the permit.

Discussion – The open-ended footnote language is not sufficient to inform on ISWGP applicability. Note that Ecology’s remedy for requiring an industrial facility not fitting into a

Table 1 SIC code to obtain permit coverage is detailed in S1.B. *Significant Contributors of Pollutants*.

Comment 3

S1.A.2. and S1.D.5. – Eliminate S1.A.2. and simply establish a working practice within the Water Quality Program that any facility regulated through an individual NPDES permit will also authorize and establish appropriate regulatory conditions for all industrial stormwater discharges.

Discussion – These two sections potentially create an awkward situation. S1.A.2. directs that discharge authority be obtained under the ISWGP if there are any stormwater discharges associated with industrial activity not otherwise permitted. S1.D.5. excludes from coverage any facility authorized to discharge stormwater under an existing individual or general permit. Providing some clarity now will perhaps avoid some turmoil in the future.

Comment 4

S1.F. -- *Conditional “No Exposure” Exemption* -- Eligibility for a *Conditional “No Exposure” Certificate* should not be precluded because of flooding conditions arising from storm events greater than the design storm.

Discussion – One of the prerequisites for the “No Exposure” Certificate is that “all areas of industrial activity and materials handling...(be)...protected from exposure to ...runoff.” Is there an exception to this condition for area flooding arising from storm events having a greater magnitude/duration than the “design storm”?

Comment 5

S2.C.1. – The relationship between the permit application timeline and permit issuance is still unclear. While S2.A.2.b. requires the submittal of a complete and accurate permit application 180 days prior to the commencement of a new discharge, it appears that a permit authorizing the discharge could be issued/effective within 61 days per S2.C.1. Is that correct?

Discussion -- The Fact Sheet discussion on this point is inconsistent with permit language (see page 61 of the Fact Sheet). The Fact Sheet indicates that new facilities must submit an Application for Coverage at least 60 days before beginning operation or implementing a significant process change, and makes reference to permit sections that don't exist. Ecology needs to reconcile the permit and Fact Sheet discussion.

Note that General Condition G21 refers to a 45 day application process.

Comment 6

S2.C.1. – The relationship between the permit application timeline and permit issuance is still unclear. Do the permitting requirements proceed sequentially or can they occur contemporaneously?

Discussion – Must the public notice requirements and SEPA review (through a Determination of Non-Significance) be fully completed for an Application for Coverage to be considered “complete”? Or, would an Application for Coverage be considered “complete” once it is submitted for Ecology processing and with the public notice announcements and SEPA review process running concurrently?

Comment 7

S3.A.2. – This subsection creates an open-ended and ambiguous demand that simply will not translate to an understandable set of actions by the typical ISWG permittee. It seems to serve as legal boilerplate to establish the Stormwater Pollution Prevention Plan as the repository for those “necessary” BMPs to satisfy federal and state statutory requirements.

Ecology should consider rewording subsection A.2. to assert a positive and definitive message.

2. A SWPPP shall which includes the mandatory Best Management Practices detailed in S3.B., and any required corrective actions detailed in S8., will be presumed to:

- a. ~~Specify the Best Management Practices (BMPs) necessary to provide all known, available, and reasonable methods of prevention, control and treatment (AKART) of stormwater pollution.~~
- b. ~~Specify the BMPs necessary to comply with state water quality standards.~~
- c. ~~Specify the BMPs necessary to comply with applicable federal technology-based treatment requirements under 40 CFR 125.3.~~

Discussion – As presently worded this section undercuts one of Ecology’s stated goals of this permit development process, which was to write a permit which is less complex, with readily understood requirements, that when implemented would result in confident permit compliance. Our suggested rewording integrates and equates Ecology’s requirements for mandatory BMPs and corrective actions with the pro forma legal demands, and has the added advantage of being consistent with RCW 90.48.555(6).

Comment 8

S3.A.3. – The requirement to ensure BMPs are “consistent” with the Stormwater Management Manual for Western Washington (or Eastern Washington), or Ecology-sponsored revisions to the Manuals, or to provide equivalent BMPs (with an elaborate demonstration process), deserves the same criticism voiced in Comment 7. This subsection provides little value and should be deleted from the permit.

Discussion – Subsection S3.B. consists of a seven-page directive on mandatory BMPs. The S8. *Corrective Action* section specifies reliance on the Stormwater Management Manuals for BMP selection. Why is it necessary for this permit to include S3.A.3., which provides little useful information and might well conflict with the actual selection of BMPs directed by S3.B. and

S8?¹ Also, it would be logical if the Stormwater Management Manuals are stable for the five-year permit term, such that no in-permit term “catch-ups” are required.

Finally, whatever the Ecology decisions are on S3.A.2. and S3.A.3., it would be better to bury these subsections at the back of S3. or in the General Conditions section of the permit. As now drafted these subsections will offer little value/direction to the typical ISWG permittee and simply distract from the actions Ecology would like permittees to focus on. A more meaningful presentation for ISWG permittees would have S3. beginning with the *Specific SWPPP Requirements* in S3.B.

Comment 9

S3.A.4. a. – This subsection should be limited to addressing deficiencies in the content or implementation of the SWPPP. Draft permit section S8. *Corrective Actions* should be relied on to respond to performance issues; i.e., when benchmark values are not achieved. At present, this subsection creates an opportunity for an Ecology inspector to undercut the S8. *Corrective Actions* process. The resulting regulatory uncertainty can be avoided if the permit language were modified to say:

- a. The permittee shall modify the SWPPP if, during inspections or investigations conducted by the owner/operator, or the applicable local or state regulatory authority, it is determined that the SWPPP ~~is, or would be, ineffective in eliminating or significantly minimizing pollutants in stormwater discharges from the site.~~ does not include or has not implemented the specific SWPPP requirements in S3.B.
 - i. ~~The SWPPP shall be modified as necessary to include additional or modified BMPs designed to correct problems identified.~~
 - ii. i. The Permittee shall modify the SWPPP to correct the deficiencies identified in writing from Ecology within 30 days of notice.

Discussion -- Experience under the current permit indicates Ecology inspectors routinely give written direction in site inspection reports demanding BMP upgrades when benchmark values have not been continuously achieved.² These ad hoc determinations typically fall outside the S8. *Corrective Actions* process and might well create conflicts with on-going Level One, Two or Three responses.

¹ For example, S3.B.3.b. allows for the customization of a BMP to fit site conditions. That customized BMP might then not be “consistent” with the application SWMM. Would S3A.3. then demand a separate technical and AKART regulatory evaluation because the chosen BMP was not “consistent” with the SWMM?

² For example, see the Water Compliance Inspection Report letter from Kevin Hancock – WDOE, to Sylvia Markham – Weyerhaeuser, April 27, 2009; under the Requirements section the first entry states “1. The facility has consistent Action Level exceedences of turbidity, BOD, and problems staying under the benchmarks for DO, pH and zinc. By September 30, 2009 submit to the Department an engineering report with time frames showing how the facility will treat their stormwater to be consistently under the permit benchmarks.” (emphasis added)

Comment 10

S3. Stormwater Pollution Prevention Plan – Does permit section S3.B. constitute AKART for this general permit? Ecology should unequivocally declare that achievement of the S3.B. requirements constitutes AKART.

To remove ambiguity we suggest the following addition to S3.B.

B. Specific SWPPP Requirements

The SWPPP shall contain a site map, a detailed assessment of the facility, a detailed description of the BMPs, Spill Prevention and Emergency Cleanup Plan, and a sampling plan. These SWPPP elements, once implemented and maintained in accordance with the SWPPP, constitute all known, available, and reasonable methods of prevention, control, and treatment (AKART).

The Permittee shall identify any parts of the SWPPP which the facility wants to claim as Confidential Business Information.

Discussion – Washington law (RCW 90.48.040 and RCW 90.48.520) specifies that NPDES permittees install/provide technology-based water pollution controls representing AKART. RCW 90.48.555 specifies that narrative effluent limitations requiring the implementation of best management practices shall be the primary means to achieve AKART requirements. Proposed permit section S3.B. details seven pages of mandatory BMPs and other narrative requirements.

Ecology's articulation of AKART is important to the proper administration of this permit. A clean statement in permit language will allow permittees to plan and implement confident actions to ensure compliance with permit conditions.³ Permittees and Ecology will both benefit from unambiguous, "bright-line" statements directing compliance actions.

EPA's Multi Sector Industrial Stormwater Permit provides a good model on this point. EPA asserts that compliance with statutory requirements for Best Practicable Technology, Best Available Technology, and Best Conventional Technology is achieved with the implementation of non-numeric technology-based effluent limits. (which EPA refers to as "control measures")⁴

Comment 11

S3.B.3.b. – This subsection needs to be modified to sanction the most likely reason site-specific adjustments from these mandatory BMPs will occur. Please consider this modification

- b. No later than July 1, 2010, the Permittee shall include each of the following BMPs in the SWPPP and ensure that they are implemented unless site conditions render the BMP

³ Entirely separate, of course, are other narrative or numeric effluent limitations and requirements designed to comply with state water quality standards.

⁴ See Part 2.1 and Part 8, *Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity*, Environmental Protection Agency, May 27, 2009.

unnecessary or not possible, or there are alternative and equally effective BMPs, and the exception is clearly justified in the SWPPP.”

Discussion – The central issue is not “feasibility to implement,” it is rather to describe the functional BMP that is applicable and appropriate, and responds to the categories presented in S.B.3. So long as the SWPPP includes an explanation documenting good faith efforts to apply the appropriate categories of BMPs, this should be acceptable to Ecology.

Comment 12

S3.B.1. and 2. Specific SWPPP Requirements – There are a least eight instances in these two subsections where the draft permit creates mandatory requirements to speculate on industrial activities, pollutants, quantities and environmental impacts of pollutants, etc., associated with precipitation and stormwater. The permit phrases include, “have the potential to contribute,” “may potentially,” “potential...pollutant contact,” “potentially may be exposed,” “potential of the pollutant to be present,” etc. These are unnecessary and blatantly unfair requirements, that will simply divert permittee time and effort from essential work, and will create uncertainty on the legal adequacy of the SWPPP. All of these references should be eliminated.

Discussion - Ecology should have an unwavering commitment to draft an ISWGP containing simple, unambiguous and “bright-line” requirements. Directing a permittee to create a SWPPP to address “potential” conditions, stormwater pollutants, and stormwater impacts, simply falls short of this objective. Ecology’s regulatory interest should be limited to requiring SWPPP updates/upgrades when actual change occurs at a permitted site. This interest is surely met through the presence of S3.A.4. This subsection provides

“The permittee shall modify the SWPPP whenever there is a change in design, construction, operation, or maintenance at the construction site that has, or could have, a significant effect on the discharge of pollutants to waters of the state.”

Support for this suggested change comes from EPA’s recently issued *Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity*. That permit does not force permittees to address in the SWPPP this set of speculative/potential requirements.⁵

Comment 13

S3.B.3.a. General BMP Requirements – This paragraph simply mimics the requirement specified in S3.A.2. It does not add new or different regulatory requirements and should be deleted.

Comment 14

S3.B.3. Best Management Practices (BMPs) – This permit should offer specific direction/references to permittees on where the *Operational Source Control, Structural Source*

⁵ See Part 5.1, *Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity*, Environmental Protection Agency, May 27, 2009.

Control, Treatment, and Stormwater Peak Runoff Rate and Volume Control BMPs can be located in the Stormwater Management Manuals. To simply refer to “*Ecology’s SWMM*” will be overwhelming to most ISWG permittees.

Discussion – The SWMM’s are formidable documents. The Western Washington Stormwater Management Manual consists of five volumes, 25 chapters, and over 500 pages of advanced discussion on state-of-the-art stormwater management techniques. Ecology should aspire to develop an ISWGP which is simple and can be understood by the typical ISWG permittee. The current approach of referencing the SWMM’s simply fails this test.

Comment 15

S3.B.3.b.i.1) Operational Source Control BMPs – This sentence (and the parallel requirement addressing Structural Source Control BMPs at S3.B.3.b.ii,1)) should be modified to read

1) The SWPPP shall include the Operational Source Control BMPs relevant to the industry type and activities occurring on site, and listed as “applicable” in Ecology’s SWMMs.

Discussion – This suggested modification clarifies the actual permit requirement.

Comment 16

S5.A.2. Tables 2 and 3 – Ecology has inexplicably shifted the intended function of benchmark values from the original intent in the ESSB 6415 legislation (2004) and since the reissuance of the ISWGP in January 2005. The regulatory concept was that performance producing stormwater discharge values above a benchmark would signal the need for additional BMP evaluation and perhaps implemented.

Discussion - Through the development of the ESSB 6415 legislation (2004), and then as codified in RCW 90.48.555, there was general acceptance that “monitoring benchmarks” were to serve as the “adaptive management indicator” to assess the efficacy of BMPs. The legislation does not say that “monitoring benchmarks” are to serve as (effectively) water quality-based effluent limitations.

Yet the permit Fact Sheet now explains that

“Benchmarks are not water quality criteria or numeric effluent limitations; benchmarks are numeric indicator values used to assess compliance with a water quality-based narrative effluent limitation.”⁶

Ecology apparently considers a benchmark to be a static value somehow aligned with a water quality criterion. If this is so, it then hardly serves as an “adaptive management indicator.”

⁶ Page 71, *Fact Sheet for draft Industrial Stormwater General NPDES Permit*, June 3, 2009

The benchmark concept from the 2004 legislation related to the pollutant discharge performance which might be expected with the implementation of industry-specific best management practices. This modeled EPA development of the benchmark concept. In fact, many of the benchmark values in this current permit originated from EPA development work on their *Multi-Sector General Permit for Industrial Activities* and are based on statistical analyses of industry specific performance data with BMPs in place (Refer to Table 3, 65 FR 64767, October 30, 2000).

Comment 17

S5.A. Table 2 and Table 3 – Does this draft ISWGP include any numeric effluent limitations on stormwater discharges into non-303(d) waterbodies? If yes, for which benchmark parameters?

Comment 18

RCW 90.48.555(4) defines criteria that Ecology must take account of in establishing numeric effluent limitations if

- (i) “discharges... have reasonable potential to cause or contribute to violation of state water quality standards; and
- (ii) Effluent limitations based on nonnumeric best management practices are not effective in achieving compliance with state water quality standards.”

Does the proposed ISWGP include numeric effluent limitations based on RCW 90.48.555(4) for permittees discharging into non 303(d)-listed waterbodies? If so, what are these proposed numeric effluent limitations?

Comment 19

S5.A. Table 2 and Table 3 – Does Ecology contend the benchmark values in the Tables 2 and 3 represent the stormwater discharge performance that can be continuously achieved with the provision of AKART?

Discussion - Ecology has made recent regulatory determinations that AKART control for turbidity in stormwater discharges is 50 NTU. It is simply not credible that a benchmark value for turbidity in this draft ISWGP would be more stringent than an AKART determination in contemporaneous individual construction stormwater permits. Please consider:

- There are numerous and recent individual construction stormwater NPDES permits where the Department has made regulatory determinations that AKART is 50 NTU.⁷ Further, these permits direct that best management practices contained in the *Stormwater Management Manual for Western Washington*, Ecology 2005, will be used.

⁷See for example: Issaquah Highlands, NPDES Permit #WA-003188-7; Brightwater Conveyance System Project, NPDES Permit #WA-003205-1; Brightwater Wastewater Treatment Plant, NPDES Permit #WA-003204-2; Snoqualmie Ridge II, NPDES Permit #WA-003201-8; Redmond Ridge East, NPDES Permit #WA-003208-5

- RCW 90.48 requires Ecology to develop technology-based effluent discharge limitations reflecting the “all known, available, and reasonable methods of treatment” (AKART) in all NPDES permits. AKART is defined in WAC 173-201A as

“...the most current methodology that can be reasonably required for preventing, controlling, or abating the pollutants associated with a discharge. The concept of AKART applies to both point and non-point sources of pollution. The term “best management practices,” typically applied to nonpoint source pollution controls is considered a subset of the AKART requirement.” (emphasis added)

To summarize this point, Ecology has issued numerous AKART determinations for controlling turbidity in stormwater. Those regulatory determinations indicate the “most current methodology that can be reasonably required for preventing, controlling, or abating the pollutants associated with a discharge” could yield discharge waters with a 50 NTU turbidity concentration. How then can Ecology develop a turbidity benchmark value of 25 NTU which is to serve as an indicator of the performance of best management practices contained in approved stormwater management manuals?

Stated differently, RCW 90.48.555(6) requires that “all applicable and appropriate” best management practices contained in approved stormwater management manuals be provided to industrial and construction stormwater dischargers authorized under general NPDES permits. Does Ecology believe “all applicable and appropriate” BMPs are somehow different from those BMPs representing the “most current methodology that can be reasonably required for preventing, controlling, or abating the pollutants associated with a discharge”?

Comment 20

S5.A. Table 2 – There is virtually no technical or regulatory information to support the appropriateness of a benchmark value for turbidity at 25 NTU. This benchmark value appears to be arbitrary. The 25 NTU value should be withdrawn and a technical evaluation process undertaken to establish a reasonable and defensible benchmark value in accord with statutory and regulatory criteria.

Discussion – Ecology’s justification supporting the 25 NTU turbidity benchmark in the draft ISWGP Fact Sheet is limited to

“Ecology best professional judgment”

“Ecology retained the turbidity benchmark of 25 NTU from the existing permit. Based on field experience, Ecology staff determined that a stormwater discharge of 25 NTU or less will typically cause no water quality standards violation. (2002 ISWGP Fact Sheet, page 34)”⁸

⁸ Page 73, *Fact Sheet for draft Industrial Stormwater General NPDES Permit*, June 3, 2009

A Public Disclosure Act request was submitted to the Department of Ecology on June 11, 2009, and then amended on June 16, 2009, requesting an opportunity to review all records in Ecology's possession which support the "Ecology Best Professional Judgment" determination and the "field experience" the agency drew on to establish the 25 NTU turbidity benchmark value. The Department of Ecology has not produced any records as of this date.

Comment 21

S5.A. Table 2 – Ecology now explains that benchmark values serve as "numeric indicator values used to assess compliance with a water quality-based narrative effluent limitation." When coupled with the S8. *Corrective Action* process, the practical effect is that the turbidity benchmark works as a numeric effluent limitation. The 25 NTU value should be withdrawn and a regulatory process completed to establish a benchmark value consistent with statutory and regulatory criteria. As this benchmark value will direct corrective actions for hundreds of ISWG permittees and with a probable cost impact of more than ten million dollars during the permit term, we request an opportunity to review and offer comments on the derivation of the turbidity benchmark value.

Discussion - The permit Fact Sheet explains that

"Benchmarks are not water quality criteria or numeric effluent limitations; benchmarks are numeric indicator values used to assess compliance with a water quality-based narrative effluent limitation."⁹

Despite the careful wording, the distinction between a water quality-based narrative effluent limitation and a water quality-based numeric effluent limitation quickly dissolves if a stormwater discharge is unable to continuously achieve a benchmark value. Discharges above 25 NTU will soon trigger the need for a Level Four response in the S8. *Corrective Action* process. Level Four requires permittee-specific studies and perhaps the installation of an Active Stormwater Treatment System.

Ecology's casual and unsupported choice of a 25 NTU turbidity benchmark is overly-conservative and unreasonable.

Comment 22

S5.A. Table 2 – Ecology now explains that benchmark values serve as "numeric indicator values used to assess compliance with a water quality-based narrative effluent limitation." Yet the permit lacks any explanation on how the turbidity benchmark value relates to the WAC 173-201A water quality criterion for turbidity. Please provide the scientific and regulatory basis for the turbidity benchmark. As this benchmark value will direct corrective actions for hundreds of ISWG permittees and with a probable cost impact of more than ten million dollars during the permit term, we request an opportunity to review and offer comments on the derivation of the turbidity benchmark value.

⁹ Page 71, *Fact Sheet for draft Industrial Stormwater General NPDES Permit*, June 3, 2009

Discussion -- Ecology makes no attempt in the permit Fact Sheet to explain how a stormwater discharge of 25 NTU turbidity relates to the specific elements of the turbidity water quality criteria in WAC 173-201A-200 and -210.

Comment 23

S5.A. – If it is necessary for this ISWGP to include a benchmark value for turbidity, Ecology could derive a value based on WAC 173-210A principles and past Ecology regulatory direction.

Discussion - Ecology now explains that benchmark values serve as “numeric indicator values used to assess compliance with a water quality-based narrative effluent limitation.” If so, the following regulatory factors could be considered in establishing an appropriate turbidity benchmark.

- Stormwater permittees employ AKART. Required by statute and ISWGP.
- WAC 173-201A water quality criteria allow for some upstream/downstream increase. Depending on the use-class, the acceptable difference is either 5 or 10 NTUs over background when the background is 50 NTUs or less. When background is greater than 50 NTUs, the acceptable maximum increase is either 10 or 20 percent.
- WAC 173-201A does not specify the upstream/downstream point for assessing compliance. However, in a number of individual stormwater construction permits Ecology has provided guidance. Consider, for example, the permit issued to Quadrant – Snoqualmie Ridge II¹⁰

“(a) For waters up to 10 cfs flow at the time of construction, the point of compliance shall be one hundred feet downstream from activity causing the turbidity exceedance. (sic)

(b) For waters above 10 cfs up to 100 cfs flow at the time of construction, the point of compliance shall be two hundred feet downstream of activity causing the turbidity exceedance. (sic)

(c) For waters above 100 cfs flow at the time of construction, the point of compliance shall be three hundred feet downstream of activity causing the turbidity exceedance. (sic)

(d) For projects working within or along lakes, ponds, wetlands, estuaries, marine waters or other nonflowing waters, the point of compliance shall be at a radius of one hundred fifty feet from activity causing the turbidity exceedance.” (sic)

- Assume a typical permittee will have at least a 100:1 mixing ratio in the receiving water, even during critical conditions.

¹⁰ Page 11, Fact Sheet, NPDES Permit WA 003201-8, Quadrant Snoqualmie Ridge II

- The State of California Water Resources Board has proposed a “numeric action level” of 250 NTU for turbidity in the stormwater “Associated Construction and Land Disturbance Activities” General NPDES Permit.¹¹ This NAL is to provide

“operational information regarding the performance of the measures used at the site to minimize the discharge of pollutants and to protect beneficial uses and receiving waters from the adverse effects of construction-related storm water discharges.”

While California’s construction stormwater permit brings no precedent value to Washington, it is informative that their assessment of an appropriate numeric action level (which seems equivalent to Ecology’s evolving view of Washington’s benchmark concept) yields a 250 NTU value.

Comment 24

S5.A. Table 3 – The benchmark values for TSS applying to the Timber Products Industry should be withdrawn and a regulatory process completed to establish a benchmark value consistent with statutory and regulatory criteria. At this time, the permit lacks any explanation on how the TSS benchmark value relates to the WAC 173-201A water quality criterion for turbidity.

Discussion - Ecology now explains that benchmark values serve as “numeric indicator values used to assess compliance with a water quality-based narrative effluent limitation.” Ecology makes no attempt in the permit Fact Sheet to explain how a stormwater discharge of TSS at 100 mg/l relates to the specific elements of the turbidity water quality criteria in WAC 173-201A-200 and -210 (e.g., allowed fixed or percent increase from background to downstream) or implementation issues such as where upstream/downstream measurement should occur.

Finally, we will resubmit a comment directed to Ecology in the 2005 and 2007 ISWGP renewal activities. Ecology committed in the 2002 ISWGP renewal process to review and, if warranted, to adjust benchmark values. Various stakeholders commenting on the 2002 ISWGP renewal had questions and/or were critical of several benchmark parameters and values incorporated in the permit. One of the complaints was that turbidity would not be a good measure of BMP effectiveness and that the value of 25 NTU was unrealistically low. Ecology responded with an explanation for the choice of the parameter and value, and then offered that

Response: ...Except for the turbidity benchmark value, all the values are from the EPA multi-sector general permit. Ecology will not consider any revision of these values now but will reconsider them when the permit is reissued in 5 years. The data collected under this permit may provide the basis for such consideration.

Response: ...Ecology will reassess the use of benchmarks and the values used during the next permit cycle. The data gathered under this permit will be part of this assessment.¹²

¹¹ Page 9, draft “NPDES General Permit for Stormwater Discharges Associated Construction and Land Disturbance Activities,” April 22, 2009

¹² Both references are from pages 79-80 of “*Fact Sheet for Industrial Stormwater General Permit – Summary*,” Industrial Stormwater General NPDES Permit, 2002

In summary, the Department of Ecology committed to a data-based review on the appropriateness of the benchmark parameters and values, to occur in conjunction with the 2007 permit renewal activities. Ecology was reminded in early 2006 and again in 2008 of timber products industry interest in a data-based review.¹³

The *6415 Final Report* actually recommends that TSS be used as the benchmark parameter primarily because “TSS provides a much better reflection of BMP performance.”¹⁴ The *6415 Final Report* suggests a very low TSS benchmark value but cautions that

“Given the small amount of available data for deriving these values and the large difference between the EPA targets, the TSS permit targets should be re-evaluated when more monitoring data are available.”¹⁵

The ISWGP should provide the option to use total suspended solids and/or settleable solids as the appropriate adaptive management parameters for solids discharges. A TSS benchmark value of 100 mg/l would conform to the EPA proposed benchmark value in the draft Multi-Sector General NPDES Stormwater Permit (2005) and is less than the State of Oregon’s Industrial Stormwater General Permit benchmark value of 130 mg/l (2006). Ecology has long used a settleable solids discharge limitation of 0.1 ml/l as an indication of good solids removal; e.g, see the Water Treatment Plant Industry General NPDES Permit, WAG-64.

Finally, Ecology’s permit Fact Sheet criticism of a possible TSS benchmark value of 100 mg/l¹⁶ overlooks the obvious reality that rapid mixing of stormwater in a receiving waterbody will in nearly all situations result in a much lower ambient concentration and for limited time periods; i.e., the NOAA concerns of “acute mortality after a few days exposure at this level” (100 mg/l TSS) represents an unrealistic receiving water condition.

Comment 25

In S5.A. Table 3 – The permit Fact Sheet explains that Ecology may be willing to eventually consider an alternative benchmark pollutant parameter for turbidity once sufficient performance data on TSS has been collected and analyzed. This is really unacceptable. Any decision to switch to TSS will certainly occur after this permit has required significant capital/operating investments directed at continuous achievement of the 25 NTU turbidity benchmark value. Ecology should address this issue by offering alternative benchmark parameters and values in this permit renewal.

Discussion – Monitoring data produced from the Timber Products Industry has indicated 51% of the sample data were reported as above 25 NTU. Thirty-three percent of the data are above a

¹³ Letter – Ken Johnson, Weyerhaeuser, to Jim LaSpina and Pat Brommer, WDOE, dated March 14, 2006.

¹⁴ Page 32, “*Evaluation of Washington’s Industrial Stormwater General Permit*,” prepared for the Dept of Ecology by EnviroVision and Herrera Environmental Consultants; November 2006

¹⁵ *Ibid*, page 35

¹⁶ Page 82, *Fact Sheet for Industrial Stormwater General Permit*, Washington Department of Ecology, November 2007

value of 50 NTU.¹⁷ These results are not surprising. Facilities in this industry are predominately located in Western Washington, are 10-100 acres in size with expansive outside storage of raw materials and finished products, and have significant heavy equipment travel on both paved and rocky surfaces. For these reasons turbidity and suspended solids concentrations will typically be higher in stormwaters discharging from Timber Products industry facilities.

This draft ISWGP adds monitoring requirements for the Timber Products Industry to explore the relationship between turbidity and TSS. The idea is that these data might be used to inform the decision for more appropriate benchmark parameters and concentrations in the 2015 ISWGP renewal. This concession on the issue will simply be too late. As the ISWGP is drafted, permittees exceeding benchmark levels will be forced by the S8 *Correction Action* process into making significant financial investments through the Level Four process.

Comments 26

In S5.A. Table 2. The ISWGP benchmark value for turbidity of 25 NTU is inconsistent with Ecology's recent determinations on technology and water quality-based effluent limitations placed in the Sand and Gravel General NPDES permit.

Discussion - The Response to Comments in the Sand and Gravel General NPDES Permit (2006) evidences a correct evaluation of the WAC 173-201A water quality criterion for turbidity in its determination of an effluent limitation.¹⁸ Ecology asserts that the 50 NTU turbidity effluent limit is both a technology-based and water quality-based limitation.

“Ecology interprets the turbidity criteria to be an ambient “in-water” parameter, applied to various class of surface waters in the State of Washington, and not directly applied to point source dischargers....It is assumed that, in a vast majority of situations, a 50 NTU discharge will not cause or contribute to a violation of water quality standards in the receiving waterbody.”

“In an effort to prevent violations of the turbidity standard within the context of a general permit, Ecology has used Best Professional Judgment (BPJ) and applied a conservative dilution factor of 10 which resulted in the 50 NTU ‘end of pipe’ effluent limitation.”

The analysis Ecology employed in the Sand and Gravel permit has direct application to the selection of a benchmark value for this ISWGP. Ecology's Water Quality Program should adhere to a common logic on a turbidity AKART determination and implementation of the WAC 173-201A turbidity criterion.

¹⁷ “*Evaluation of Monitoring Data From General NPDES Permits for Industrial and Construction Stormwater,*” page A-1, Prepared for the Dept of Ecology by Herrera Environmental Consultants, March 23, 2006

¹⁸ Addendum to Permit Fact Sheet, The Sand and Gravel General NPDES Permit, modification date May 17, 2006, pages 53-54

Comment 27

S5.A.Table 3 – Please delete the newly-proposed benchmark parameters of COD and TSS for the Timber Products Industry.

Discussion – The COD and TSS additions are especially objectionable.

- The original request for alternatives to the turbidity and BOD benchmark parameters and values arose with the 2000 and then 2005 ISWGP renewals. Credible regulatory and science-based arguments were presented to Ecology. The agency has never responded to these comments. For Ecology to now add TSS and COD, as benchmark parameters/values, subject to the corrective action process, is unfair. It would be acceptable to add these parameters as monitoring requirements.
- The permit Fact Sheet discussion in support of the TSS and COD benchmarks is especially misleading and shallow.¹⁹ Comparing Timber Products Industry permittees to the total ISWGP population lacks relevance.
- As detailed in other comments, no rationale has been offered to support the benchmark parameters values as “numeric indicator values used to assess compliance with a water quality-based narrative effluent limitation.” Please take note of Comments 24, 28 and 29.

Comment 28

S5.A. Table 3 -- The benchmark values for BOD and COD applying to the Timber Products Industry should be deleted.

Discussion - We note Ecology’s own discussion on the limitations of BOD and COD as meaningful indicators of stormwater impact to receiving water quality.²⁰ For the purposes of addressing new stormwater discharges into waterbodies listed on the CWA 303(d) for dissolved oxygen the agency has concluded that high BOD discharges have a “far-field” effect and

“that can make it difficult to show a direct relationship between the discharge of oxygen-demanding substance and a low D.O. problem without site-specific water quality modeling.”

The analysis for the effect of COD on a receiving waterbody would be the same.

As important, the agency notes that low dissolved oxygen in receiving waterbodies typically occurs during the warm summer months when rainfall totals are low and stormwater runoff is rare.

Given that Ecology has explained that benchmark values are “numeric indicator values used to assess compliance with a water quality-based narrative effluent limitation,” and that the sole

¹⁹ Page 82-83, *Fact Sheet for draft Industrial Stormwater General NPDES Permit*, June 3, 2009

²⁰ Page 50, *Fact Sheet - Industrial Stormwater General Permit*, June 3, 2009

purpose for the Timber Products Industry benchmarks for BOD and COD must be to protect against violations of the WAC 173-201A dissolved oxygen criterion, it seems Ecology's logic would support elimination of these benchmarks.

Comment 29

S5.A. Table 3 – The benchmark values for BOD and COD should be withdrawn and a regulatory process completed to establish a benchmark value consistent with statutory and regulatory criteria. At this time, the permit lacks any explanation on how the BOD and COD benchmark values relate to the WAC 173-201A water quality criterion for dissolved oxygen.

Discussion - Ecology now explains that benchmark values serve as “numeric indicator values used to assess compliance with a water quality-based narrative effluent limitation.” Ecology makes no attempt in the permit Fact Sheet to explain how a stormwater discharge of BOD at 30 mg/l and COD at 120 mg/l relate to the specific elements of the dissolved oxygen water quality criteria in WAC 173-201A-200 and -210 (e.g., allowed anthropogenic increase of 0.2 mg/l from background to downstream) or implementation issues such as where upstream/downstream measurement should occur.

Comment 30

S5.A. Table 2 and Table 3 – Is Ecology's development/selection of benchmark values for ISWGP discharges into non-303(d) waterbodies in any way influenced by the anti-backsliding provisions in 40 CFR 122.44(1)? If yes, which benchmark parameters and values?

Comment 31

S5.A. Benchmark values for Total Zinc, Total Copper and Total Lead – The Herrera (2009)²¹ report, used to establish benchmark values for total metals, is overly-conservative. Ecology's acceptance of Herrera's work will have the result of forcing several hundreds of ISWG permittees through the Level Four corrective action process based on a naïve and unrealistic evaluation of stormwater pollutant discharges on water quality criteria. The transaction and compliance costs to both ISWG permittees and Ecology will be very significant.

The proposed metals benchmark values should be withdrawn and a technical evaluation process undertaken to establish a reasonable and defensible benchmark value in accord with statutory and regulatory criteria.

Discussion - Ecology now explains that benchmark values serve as “numeric indicator values used to assess compliance with a water quality-based narrative effluent limitation.” The agency has apparently decided to establish the benchmark value for permittees based on a very simplistic and conservative “pollutant discharge/reasonable potential to violate water quality standards”

²¹ Herrera Environmental Consultants. 2009. Water quality risk evaluation for proposed benchmarks/actions levels in the Industrial Stormwater General Permit. Washington Department of Ecology, Olympia

scenario. Weyerhaeuser is aware that comments will be submitted by the Copper Development Association that offers a critique of the Herrera report. We endorse those comments.

Comment 32

S5.A. – Determinations of Benchmarks. Ecology should provide options and flexibility for ISWG permittees to develop appropriate and relevant, science-based, site-specific benchmark values. The programmatic inefficiencies of forcing all ISWG permittees to work through the S8. *Corrective Action* process to achieve proposed benchmark values is very large. Specifically, this permit should allow for use of the Kennedy-Jenks probabilistic model to derive permittee and water body-specific benchmarks. The proposed ISWGP should be modified to read

A. Benchmarks and Sampling Requirements

1. Permittees may choose to be subject to the benchmark values presented in Table 2 (and Table 3 for specific Industry Groups), or may derive site-specific benchmark values using the Kennedy-Jenks probabilistic model, or other Ecology-approved approach. The permittee will indicate in the Stormwater Pollution Prevention Plan the choice of benchmark values and, in the case of the Kennedy-Jenks model, the input data used to derive the site-specific benchmark values, and the resulting benchmarks.

2. 4. Permittees shall sample their stormwater...

Discussion - Ecology now explains that benchmark values serve as “numeric indicator values used to assess compliance with a water quality-based narrative effluent limitation.” The proposed S8. *Corrective Action* process could require enormous monetary expenditures, all tied to an inability to continuously achieve these ill-fitted “water quality-based narrative effluent limits.” Ecology should create a regulatory process and encourage individual permittees to develop site-specific benchmark values. The agency should reserve the ability to review and reject any benchmark values that have not been derived in a credible, science-based manner.

Comment 33

S5.A. Table 2 – The benchmark parameter listed as “no visible oil sheen” should be deleted. If some justification can be produced, the current benchmark parameter of “Petroleum – Oil and Grease” at a 15 mg/l value, could be retained.

Discussion – A benchmark value of “no visible oil sheen” is simply a bad idea, and especially so for the Timber Products Industry. This industry stores large quantities of logs, hog fuel, wood chips, finished wood products, etc., on manufacturing sites. These wood-based materials will degrade and/or express organics which appear on water as a “sheen.” It is often difficult to visually distinguish between petroleum and these vegetation-based organics. A benchmark parameter based on any visual detection of “oil sheen” poses a high risk of detecting a false positive for what we assume Ecology’s true interests are – the loss of fuels, lube oils, hydraulic oils, greases, etc., to stormwater.

Ecology now explains that benchmark values serve as “numeric indicator values used to assess compliance with a water quality-based narrative effluent limitation.” The permit Fact Sheet lacks any cogent explanation on how a benchmark value of “No Visible Oil Sheen” relates to any WAC 173-201A water quality criterion.

If some measure of petroleum product management practices must remain in the ISWGP, Ecology would be wise to simply retain the 15 mg/l Petroleum – Oil and Grease benchmark value. An alternative will be to allow an option to use this Petroleum – Oil and Grease benchmark in lieu of the No Visible Oil Sheen. The same challenge to demonstrate how O&G works as a “water quality-based narrative effluent limit” will exist, but at least this benchmark parameter will provide objective data.

Comment 34

S5.D. -- The ISWGP should simply mimic the regulatory approach for “*Conditionally Authorized Non-Stormwater Discharges*” chosen by EPA in their *Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activities*. More specifically, Ecology should accept the same list of discharges and then dispense with the requirements in D.1.

Discussion – EPA’s list includes

“Pavement wash waters where no detergents are used and no spills or leaks of toxic or hazardous materials have occurred (unless all spilled material has been removed)”
“Routine external building washdown that does not use detergents.”²²

These types of non-stormwaters are not included in S5.D. Why wouldn’t Ecology conform the ISWGP list to the comparable EPA list?

Ecology should also simply delete D.1. That Ecology chooses to retain this section epitomizes a long-standing problem with the ISWGP. These requirements are illogic, require significant work, and are beyond the ability of ISWG permittees to comprehend and satisfy. Yet, an inadequate response would subject a permittee to CWA enforcement. Ecology would be hard-pressed to quantify meaningful environmental value from full satisfaction of D.1. requirements across the ISWGP population. EPA does not require similar evaluations in the Multi-Sector permit.

Comment 35

S5.F. General Prohibitions – Please delete this section. This section is unrealistic and superfluous.

²² See Part 1.1.3, *Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity*, Environmental Protection Agency, May 27, 2009

Discussion – The ISWGP is 70+ pages long and chock-full of regulatory requirements that are much more detailed and comprehensive in directing how stormwater pollutants will be avoided and controlled. The simple statements in S5.F. to “prevent the discharge” of categories of pollutants is subservient to the many other regulatory requirements in this permit. As a practical matter, this section has been ignored in the past by Ecology inspectors and permittees (and will be in the future) because, taken literally, it makes no sense.

Comment 36

S6.B.3.b. – New Discharges to TMDL or 303(d)-listed Waters – The proposed requirement to demonstrate attainment of “water quality criteria at the point of discharge to the waterbody” is overstated. This section should be reworded to say

- a. For discharges to waters without an EPA approved or established TMDL, that the discharge of the pollutant for which the water is impaired will meet in-stream water quality criteria consistent with WAC 173-201A ~~at the point of discharge to the waterbody;~~ or

Discussion – The permitting objective should be to ensure an impaired waterbody is not further degraded with the addition of a pollutant load above the relevant water quality criterion. Some WAC 173-201A water quality criteria require background/downstream assessments and provide for small anthropogenic pollutant changes (examples include turbidity, dissolved oxygen, pH). These elements of the state water quality standard need to be honored.

Comment 37

S6.C. and Table 5 – This section needs to be clarified such that permittees discharging to a 303(d) waterbody will receive effluent limitations and monitoring requirements only for the 303(d) pollutants that the permittee discharges, not the entire Table 5 list of parameters. The following permit modification should be incorporated

- C. 1. Beginning July 1, 2010, permittees discharging to a 303(d)-listed water body that does not have an EPA-approved total maximum daily load (TMDL) shall comply with the sampling requirements and effluent limitations in Table 5. These requirements only apply to the permittee discharge of the pollutant on which the 303(d)-listing is based.

Comment 38

S8.A., B., and C. -- Level One, Two and Three Corrective Actions – The threshold for triggering corrective actions based on “exceed(ing) any benchmark,” “during any 4 separate quarterly monitoring periods after January 1, 2010,” and “during any 8 separate quarterly monitoring periods after January 1, 2010,” respectively, is simply too low. Ecology should design a corrective action process which ratchets the requirements based on a “wet season” average of at least four samples being above a benchmark value. The draft ISWGP should be modified to read

- A. Facilities not listed in Appendix 6 (at Level 2 or 3) that exceed any benchmark value [in tables (2-6)] based on the average of at least 4 sampling results during a wet season ~~single monitoring period (quarter)~~ after January 1, 2010, shall complete a Level 1 Corrective Action in accordance with S8.A.1-4:

The Level Two and Three corrective action levels would be triggered by a second or third years' performance.

Discussion – Support for this approach includes:

- Basing regulatory determinations on a single stormwater data value (or the accumulation of single data values over a 5 year permit term) overstates the information value of discrete stormwater sampling events. These data can be expected to be highly variable for reasons Ecology is certainly aware of; e.g., grab samples, shifting intensity of storm and runoff event, variability of pollutant discharges during a storm event, competence of the sampler, etc. There can be little certainty that any single sample result properly characterizes the stormwater quality.
- EPA's Multi-Sector Permit, Oregon's Industrial Stormwater Permit, and Herrera (2006) all establish or recommend reliance on some average or median value, expressing performance over a period of time, as the basis for triggering corrective action. This approach is more credible.
- The proposed S8. *Corrective Action* section begins to impose very high transaction costs once Levels Three and Four are reached. Consequently, a more substantial demonstration of a "problem" should be in evidence before imposing higher cost requirements on permittees.

Comment 39

S8.A.2. and S8.B.2. and S8.C.2. – These subsections direct the identification/implementation of additional BMPs "with the goal of achieving all benchmark values." This amounts to "AKART Creep." Does Ecology intend this goal statement to effectively establish benchmarks as numeric effluent limits?

Discussion – It is absolutely necessary for Ecology to define AKART in this permit. Permittees can then plan, develop and implement their SWPPP with confidence, and know with certainty their status against this statutory requirement.

The following example illustrates the issue. Does this "goal of achieving" language mean that sweeping/vacuuming a work area once per quarter (see S3.A.3.b.i.3.) needs to occur at an increased frequency if a 25 NTU turbidity benchmark is exceeded even once? If 26 NTU is the result from the next sampling event, then does three times per quarter become the expectation? Then, four quarters later there is another 26 NTU reading. Would Ecology expect another review of the SWMMM and an increased frequency of sweeping/vacuuming? And on, and on. Ecology inspectors are famous for directing the addition of more BMPs until the benchmark value.

Comment 40

S8.D.1. – Despite a specific request, Ecology has chosen to provide no details on what constitutes a satisfactory “receiving water study,” a WAC 173-240 engineering report, “additional water quality monitoring,” and an “active stormwater treatment system.” This lack of “fair warning” limits the ability of persons commenting on this draft permit to offer relevant and appropriate comments. These sparsely-defined phrases and how Ecology chooses to implement them will determine the expenditure of (potentially) hundreds of millions of dollars during the five-year permit term. Ecology should not issue this permit (or subsection S8.D.1.) until these regulatory requirements are more fully described and stakeholders have an opportunity to offer written comments.

Discussion – Ecology’s proposed S8.D.1. is irresponsible. No information on Ecology’s expectation for the work scope or the agency review process are offered. Are these \$1,000 studies or \$100,000 activities? Will the level of rigor be that Ecology expects from major NPDES permittees, or will the expectations be scaled back to fit a small business, general permittee? Will each Ecology inspector/engineer decide the needed scope of this project work, or is there a standardized approach?

To illustrate the concern, consider these examples

- Will the permittee be allowed to define and implement their best judgment on the scope of a “receiving water study,” or will Ecology dictate the study scope?
- The provisions of WAC 173-240 are ill-fitted for a stormwater discharge, so what are Ecology’s expectations for complying with that proposed requirement (for example, how would this action differ from the S8.C.3. requirement that the SWPPP be designed and stamped by a professional engineer?)
- Would an active treatment system in which one gallon/day of chitosan is metered into a 5 million gallon/day stormwater discharge be sufficient as a treatment BMP, or would Ecology expect a system that achieves a turbidity benchmark values as an effluent limitation?

It will be 2012 before any permittee is facing the requirements of S8.D.1. If the agency is unable to fully address these issues now, and allow for a public comment opportunity, this subsection should not be adopted. The agency can do its homework, re-propose the section, accept comments and adopt a rational permit section later.

Comment 41

S8. Corrective Actions – It is inevitable that permittees will request authorization for mixing zones. The permit should anticipate this reality and provide a reasonable process to obtain a mixing zone. Please modify the permit to include this language.

S8.E. In lieu of the corrective actions described in S8.A. through D., or at any time during the corrective action responses described in S8.A. through D., a Permittee may request authorization of a mixing zone consistent with WAC 173-201A-400 *Mixing*

Zones. Sufficient information will be provided to the Department to support an evaluation and authorization decision. A decision to authorize a mixing zone will be issued in an Administrative Order.

Discussion - As drafted, the S8. *Corrective Action* process is full of uncertainty. The process will be slow and have very high transaction costs. Most interactions will need customized solutions and there will be disagreements and challenges that will stymie whatever processes Ecology settles on. Permittees will seek to pursue available regulatory mechanisms to gain more favorable and certain outcomes.

Mixing zones are authorized by RCW 90.48.555(12) and WAC 173-201A-400. The authorization of a mixing zone would facilitate “reasonable potential” analyses and an effective leapfrogging of the many regulatory deficiencies with generic benchmark values and the S8. *Corrective Action* process.

Ecology should design an intentionally simple regulatory process, and then encourage and facilitate its use. The quality/quantity of information and regulatory analysis in support of a mixing zone authorization should be commensurate with a general stormwater permit. The mechanism to authorize a mixing zone could be through an Administrative Order process.

Comment 42

Does Ecology’s Water Quality Program have the resources to implement this proposed permit? If a reasoned judgment leaves any doubt, the permit should not be issued in its current form.

Discussion – This is a very robust permit. It is arguably the toughest and most complex general stormwater permit in the country. The complexity will demand what will likely be many hundreds of customized interactions between the agency and permittees over the permit term. These will include

- Permitting for new discharges into 303(d)-listed or TMDL controlled waterbodies (Administrative Order)
- Establishment of site-specific effluent limitations for permittees discharging certain pollutants into 303(d) waterbodies (Modification of Permit Coverage?)
- Permittee requests to extend S8. Corrective Action Deadlines (Modification of Permit Coverage?)
- Permittee requests to waive S8. Structural Source Control BMPs (Modification of Permit Coverage)
- Requirements for a receiving water study, an engineering report, additional water quality monitoring, and/or installation of an active stormwater treatment system, and Ecology review and response (Administrative Orders)
- Notify the permittee of AKART and WQ standards achievement (Modification of Permit Coverage)
- Notify permittee of a requirement for an individual permit or to terminate the permit
- Enforcement
- Authorization of mixing zones (see Comment 41)

The routine permit interactions with permittees will, of course, continue (new permits, permit transfers, site inspections and follow-up, DMR submittals and data entry, etc.).

The best information indicates there will be hundreds of permittees pushed into the S8. processes beginning in 2011. There will be uncertainty, disagreements, and appeals of regulatory actions. The draw on Ecology resources will be substantial.

Comment 43

The development of this renewal ISWGP has admittedly been very challenging. There are many competing interests and the agency has surely had to make tough decisions to balance those. This proposed permit signals that Ecology has largely chosen to ignore or abandon the statutory principles in RCW 90.48.555 which provided a pathway for issuing a legally-sufficient general permit that could

- be simple, effective and appropriate for 1200+ permittees with limited regulatory sophistication,
- establish efficient permit implementation procedures that fit with capabilities and resources of permittees and the Department of Ecology,
- reduce stormwater pollutant discharges through logical adaptive management and continuous improvement processes

The Department of Ecology needs to issue a permit that will be successful. If Ecology management has confidence that this is the permit and government resources will be committed to ensure success, then fine. If there is doubt, then note that other permit models have been developed which are less complex/intrusive, and which could be easily adjusted to work in Washington state. These are the EPA Multi-Sector Industrial Stormwater Permit or the AWB draft ISWGP based on RCW 90.48.555 (February 2009).

Thank you again for the opportunity to particulate in this process over the last 12 months.

Sincerely,

Ken Johnson
Corporate Environmental Manager