



July 15, 2009

Washington State Dept. of Ecology
Attn.: Jeff Killelea
Water Quality Program
PO Box 47600
Olympia, WA 98504-7600

Dear Mr. Killelea:

Thank you for this opportunity to comment on the Draft Industrial Stormwater Permit (ISWGP) that was issued for public comment on June 3, 2009 by the Washington State Dept. of Ecology (Ecology). On behalf of ports around the state, I appreciate this opportunity to provide our observations and concerns regarding this complex permit.

We appreciate your efforts to bring transparency to this process and have enjoyed working with Ecology's Industrial Stormwater External Stakeholder Workgroup through our designee Marilyn Guthrie who manages stormwater issues for the Port of Seattle. We believe this workgroup has been a positive force and we especially applaud Ecology's use of a facilitator to resolve the many complicated issues associated with this permit. The process to date has resulted in many positive changes. For example:

- Simplification of Sampling Requirements (S4.B.): we appreciate the simplification of the requirements for a qualifying storm water event, removal of the antecedent dry period, and timing of stormwater sampling. This will make it much easier for staff to obtain qualifying samples and result in better data collection.
- Benchmarks and Effluent Limitations (S5): the removal of "action levels" simplifies the permit and makes it easier to understand.
- Reporting and Record Keeping (S9): we appreciate the more streamlined and straightforward outlines for record keeping.

Even with these improvements, however, the ISWGP still has the potential to create a significant economic impact on ports, port tenants and other businesses. This is especially true in the context of

the current economic downturn, so we encourage you to be especially sensitive not to impair or further depress economic activity that could serve as the basis for recovery.

One area of the draft permit that particularly concerns ports is language in Section 8 which concerns corrective actions. While we are generally supportive of the permit, the requirements and timelines for implementing treatment technologies as outlined in Section 8 remain fundamentally unworkable. We agree that treatment of stormwater discharges is necessary and appropriate when such treatment can be reasonably achieved. However, we do not believe the proposed timing for implementation of treatment is reasonable or that the technology to achieve the proposed benchmark is affordable.

Specifically, the timelines and triggers outlined in Section 8, Table 6 do not provide enough time to comply with the required actions and are, therefore, technically and economically unfeasible for some port and tenant operations. In addition, the triggering of action levels based on *any* parameter benchmark being exceeded – as opposed to the same parameter being exceeded more than once – significantly increases the likelihood of corrective actions being taken. This does not allow for adequate source control investigations or other actions based on a particular pollutant.

Additionally, we are concerned with language in Section 8 that would establish lower corrective action levels. The draft permit leaves all facilities in the highest triggered level of corrective action indefinitely, regardless of the effectiveness of the action demonstrated through monitoring results. Rather than pursuing this policy, the permit should provide for an off-ramp for facilities that continuously attain benchmarks after taking necessary and effective actions.

Overall, our comments regarding Section 8 are reflective of similar comments you will receive from the Port of Tacoma and the Port of Seattle. We support the comments put forward by both ports and urge you to carefully consider the solutions they propose.

In closing, we thank you again for your consideration of our concerns and for working with our organization through the Industrial Stormwater External Stakeholder Workgroup.

Sincerely,

A handwritten signature in black ink, appearing to read 'Johan Hellman', written over a horizontal line.

Johan Hellman
Assistant Director