

Notes from SWG discussion of draft comment letter on June 15

June 9, 2011

Harriet Beale
Washington Department of Ecology
Water Quality Program
P.O. Box 47696
Olympia, WA 98504-7696

RE: Stormwater Work Group Comments on Preliminary Draft Monitoring Requirements

Dear Ms. Beale:

The Stormwater Work Group (SWG) is a coalition of federal, tribal, state and local government, business, environmental, agriculture, and research interests working to develop a Stormwater Monitoring and Assessment Strategy for Puget Sound. The strategy is intended to provide a coordinated, integrated approach to quantifying the stormwater problem in Puget Sound and help us efficiently and effectively manage stormwater to reduce harm to the ecosystem.

This strategy is part of a larger regional monitoring program (ecosystem and stormwater) that is a shared responsibility of local, state, and federal governments. The specific components of the regional stormwater program recommended by the SWG and included in the proposed draft monitoring language are specifically intended to inform local stormwater management activities. The SWG members strongly believe that implementation of this monitoring program will directly benefit all participating municipalities and the region as a whole. For example, each municipality will gain information on the overall impacts of urbanization on our receiving waters.

In the past year, we have reached two important milestones. On July 1, 2010, we submitted to the Department of Ecology (Ecology) and to the Puget Sound Partnership our 55 key recommendations for a new regional stormwater monitoring program for Puget Sound. On October 29, 2010 we submitted 33 further recommendations focused on proposing stormwater monitoring requirements that Ecology should include in the National Pollutant Discharge Elimination System (NPDES) municipal stormwater permits for Puget Sound (see <http://www.ecy.wa.gov/programs/wq/psmonitoring/swworkgroup.html>). While working to help implement the recommendations for the NPDES municipal stormwater permits, the SWG is also working to fully implement the stormwater monitoring program recommendations to include other permit types, other water bodies, and other agencies and funding sources to truly be a regional, coordinated monitoring program.

Ecology has now released preliminary draft monitoring language for the next municipal NPDES permits for informal review. This letter represents the SWG's comments on this preliminary draft language. We anticipate that many of the entities with representatives on the SWG will also send comment letters separately representing their interests more fully.

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The SWG would like to thank Ecology for releasing the preliminary draft monitoring requirements for the next municipal National Pollution Discharge Elimination System (NPDES) permit for informal review. We believe that the shift in the monitoring paradigm expressed within these preliminary draft requirements warrants the extra review obtained by having a preliminary draft release prior to the official draft permit release in October, 2011.

The SWG would also like to thank Ecology for largely following the recommendations we submitted last fall. In particular, we note that the monitoring includes the following recommended components:

- Conducting stream and marine nearshore status and trends monitoring
- Conducting studies of the effectiveness of stormwater management programs
- Sharing information regarding source identification monitoring
- Utilizing a pooled resource approach for maximizing efficiency and ensuring regional benefits
- Utilizing Ecology as the administrator of the pooled resources for this permit cycle
- Relying on the SWG for oversight of the pooled resources and support during development and implementation of the program.

~~The SWG continues to believe that implementation of this monitoring program will directly benefit all participating municipalities and the region as a whole. For example, each municipality will gain information on the overall impacts of urbanization on receiving waters~~

Overall, we appreciate the strong cooperation between Ecology and the SWG in formulating a coordinated stormwater monitoring program that is cost-neutral for Phase I permittees, reflects a reasonable cost for what would be required for Phase II permittees to implement new monitoring requirement, and effective in answering important management questions. We are looking forward to ongoing cooperation with Ecology on this topic in the future.

The SWG would like to make the following comments on the permit language, the draft interagency agreement language, the draft scope of work for the interagency agreement, and the cost estimate and method for allocating costs.

1. ~~The SWG continues to recommend that an option for municipalities to conduct their own effectiveness studies be included in the permit. MOVE BELOW We understand the complications this option raises with implementing a regional program and with increased permit complexity and oversight, but we continue to believe that this would provide additional flexibility to permittees to cost-effectively address local needs while still providing regional benefits. Agreed to have with Seattle rep dissenting. Consider repeating wording in October report about not reaching consensus on this recommendation. The studies must be demonstrated to fit within the regional monitoring strategy and follow established SOPs. Until the regional effectiveness studies are defined, local governments wish to have flexibility (highlighted notes not to be included in final). What does this mean for the \$1.5M/year pool? Address in process: new subgroup identified.~~

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2. ~~The SWG recommends that the cost allocation for permittees be established in a manner that allows for adjustments to be made to account for annexations and incorporations that might occur during the permit cycle. Preferably the approach selected would not require reopening of permit conditions, and might be based on implementation of annexation agreements. The permit should note that local governments are encouraged to address their financial commitments to the regional monitoring program in their annexation agreements.~~ **Agreed**
3. The SWG recommends that the scope of work attached to the interagency agreement directly require Ecology to use the SWG's Pooled Resources Oversight subcommittee as described by the subcommittee charter. **Agreed**
4. The SWG recommends that Ecology review and update the cost estimates for the coordinated monitoring program to ensure that the funds generated are accurately calculated ~~and are~~ sufficient to implement the described program, including data management and Ecology's costs to administer the program. The SWG's technical subgroups will review the assumptions made in the process of estimating costs and help Ecology finalize the numbers. **Agreed**
- 4-5. ~~The final cost allocation should~~ ~~and~~ contain appropriate contingency funds (approximately 10%). The cost estimates should not contain the contingency fund, it should be separate. **Agreed**
6. The costs to permittees (including the 10% contingency) should not be revised during the permit term. **Agreed**
- 5-7. ~~The SWG recommends that Ecology refine the language in the interagency agreement to provide greater assurance on delivery of the monitoring program within the stated costs. As the manager of the pooled resources, the SWG would like Ecology to provide assurances regarding delivery within the agreement within the available funding.~~ **Agreed** to delete previous section. The Scope of Work that accompanies the Interagency Agreement between Ecology and the local jurisdictions should address how to identify the monitoring that would be conducted if the permit remains in effect longer than 5 years. **Agreed** with Tacoma rep dissenting: this is part of the QAPPs not the permit. Discussion: this is Scope of Work, not permit. Dana: applies throughout the whole process, not just >5 years which is start-up.
8. The SWG recommends that Ecology leverage ~~and formalize~~ the current process being implemented by the SWG to solicit and prioritize effectiveness study topics. The SWG's initial list of priority study topics should ~~to~~ be included ~~in~~ as a "living" attachment to the draft scope of work of the interagency agreement to be released in October, 2011, and for including the final prioritized list of specific studies, that would be implemented within the constraints of available funding, in the final scope of work of the interagency agreement to be released in summer, 2012 as an initial starting point. The transparent and open process should continue throughout the permit term, and the list of study topics will continue to evolve. Mixed level of agreement. We'll drop this comment. Replace with: The SWG will continue to work with Ecology on establishing the process for selecting effectiveness study topics. **Agreed**
9. The duration of the Funding Agreement (interagency agreement) should continue until the permit is reissued. **Agreed**
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Our October recommendations included three non-consensus topics. Ecology has made decisions to move forward with each of these topics. We have discussed our position on these items and offer the following comments:

1. The SWG will continue to discuss ways that an option for municipalities to conduct their own effectiveness studies could work (the "opt-out" provision). **Agreed**
2. The SWG would also like to acknowledge that substantial disagreement remains among the members of the SWG regarding the appropriate size of the investment to make in effectiveness studies. The local jurisdiction caucus supports an investment no larger than that proposed in the preliminary draft language. Other caucuses support larger investments, ranging up to several times higher than the proposed investment. We appreciate Ecology's difficulty in determining effectiveness study investment levels given this lack of SWG consensus. **Agreed**
3. We agree that Ecology should administer the pooled resources until another viable entity is identified. This agreement is based on the development of an Oversight Committee to mitigate the concerns that have been raised about Ecology, as the regulator, also administering the funds. **Agreed**

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We appreciate Ecology's commitment to the SWG's effort and to implement our monitoring recommendations for the NPDES municipal stormwater permits. Please feel free to contact either me at 206.296.1986 or jim.simmonds@kingcounty.gov, or Karen Dinicola our Project Manager, at 360.407.6550 or kkaren.dinicola@ecy.wa.gov if you have any questions or concerns.

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Sincerely,

Jim Simmonds, Chair

On behalf of the members of the Stormwater Work Group

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