

Mr. Bill Moore
Water Quality Program
Washington Department of Ecology
PO Box 47696
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Via email: SWPermitComments@ecy.wa.gov

Re: Preliminary Draft Municipal Stormwater General Phase I and II Permits: Low Impact Development Requirements

Dear Mr. Moore,

Thank you for an opportunity to comment on the pre-draft version of the Stormwater General Permits. The groups listed below are deeply concerned about growing problems associated with stormwater runoff and the failure of traditional management techniques, such as detention ponds, to fully address the problem. We believe that it is essential that the state move forward aggressively with new emerging techniques to prevent the generation of stormwater, namely Low Impact Development and Basin Planning techniques. We believe that Ecology has a tremendous opportunity with the reissuance of the Phase I and II Municipal Stormwater General Permits to change the manner in which we conduct land use development and, in so doing, dramatically reduce water quality problems throughout the state.

While we appreciate the time and effort that Ecology staff has devoted to this project over the past year and half, we are deeply concerned that the preliminary draft permit language does little to move the ball forward on LID.

Site and Subdivision Requirements

First and foremost, the proposal does little to require that new development protect on-site vegetation and reduce overall "hardened" surfaces. As you know, these two strategies are fundamental LID techniques. In fact, most experts agree that these techniques are generally the most effective way to prevent stormwater problems associated with any new development. The Preliminary Draft Permits contain a vague requirement in Appendix I, Section 4.1 ("Minimum Requirement #1) that all new development preserve vegetation and reduce impervious surfaces to the extent "feasible." There is no performance standard associated with this requirement, no way to measure or quantify when a project meets this requirement. When combined with the very broad "feasibility" exemptions discussed below, the "requirement" becomes almost meaningless.

Second, the new permit does little or nothing to require the use of well recognized LID techniques including water harvest and reuse, green roofs, and "pin" foundations. While these techniques are referenced in the definition of "LID Principles" they are not included in the "Minimum Requirements"

(Appendix I, Section 4) for new development. The one exception being consideration of “commercial green roofs,” but, even here, your staff suggests that exemptions for “cost” would likely all but eliminate consideration of this technique.

Third, the proposal contains overly broad “feasibility” exemptions in Appendix I, Section 8. While we support exemptions for technical feasibility, these exceptions go far beyond that. Project proponents may avoid compliance with rain garden requirements by simply arguing that the “design” of the project will not accommodate a rain garden. Other exemptions are vague or overly conservative. More work is needed to tighten the language in this section.

Finally, smaller projects are largely exempt from LID requirements for the most part under Appendix I, Section 3.2. These projects should be required to utilize pervious pavement and some level of rain gardens at a minimum.

Ultimately, after all the exemptions are applied, we are concerned that the permits would require little more than pervious pavement where feasible with occasional rain gardens where the design allows. This is a far cry from what is needed to protect Puget Sound, our lakes, and rivers from further degradation.

Watershed Approach

We appreciate that Ecology has recognized that, in addition to site and subdivision requirements, additional tools are necessary to evaluate how we develop at the landscape level. Basin Planning is currently a technique used by a number of jurisdictions to evaluate and plan for the potential water quality impacts throughout an entire watershed. As you are aware, best available science on this subject suggests strongly that loss of more than 65% of vegetated cover in a watershed or increased impervious surface above 10% of a watershed have very significant detrimental impacts on aquatic ecosystems. We believe that it is important that we begin to use this research and other scientific data to fully evaluate impacts and limit development accordingly. This process should be done basin by basin, starting with basins that are largely intact.

While the Ecology proposal in Appendix I, Section 7 begins to link land use planning with water quality analysis, it is hardly the type of “watershed” or “basin” planning that experts in this field have called for. We would urge you to include an approach like the one described above, looking at entire basins and setting clear vegetation and impervious surface goals before development patterns result in large scale water quality problems.

The current proposal in the Preliminary Draft Permits in Section 7 has value but cannot replace true basin planning. In addition, it requires more definition, a number of the requirements are vague, and a clearly defined public involvement process.

Regional Monitoring

We strongly support the inclusion of Regional Monitoring Requirements in this permit. New monitoring requirements will allow us to better evaluate the effectiveness of LID and other management strategies throughout the region. We do have some concerns about the adequacy of the funding for this effort. This project will also require strong oversight of work which is contracted out so as to ensure the dollars are well spent.

Areas of Improvement

Finally, we would like to thank the Department for several important improvements in the Preliminary Draft Permits over previous versions. The elimination of the One-Acre Threshold for Phase II permits is an important new change that will allow LID and other requirements to be applied much more broadly across the state. We also appreciate the removal of several exemptions for “highly urbanized areas” and “flow control exempt” areas that were included in the previous “concept paper” on LID. These changes will, again, allow for much broader application of the requirements in the permit.

Again, thank you for the opportunity to comment. We look forward to working with you to improve the draft permit language.

Sincerely,

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JJ Brenner Oyster Co.

Ann Aagaard
League of Women Voters of Washington

Fiona Douglas-Hamilton
Northwest EcoBuilding Guild

Geoff Menzies
Dayton Harbor Community Shellfish

John Lentz
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David Burger
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