June 17, 2011

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

Subject: Stormwater Work Group Comments on Preliminary Draft NPDES 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 and implement a Stormwater Monitoring and Assessment Strategy for Puget Sound. The strategy is intended to provide a coordinated, integrated approach to quantify the stormwater problem in Puget Sound and to help the region efficiently and effectively manage stormwater to reduce harm to the ecosystem. The strategy is part of a larger effort to create a regional monitoring program that is a shared responsibility of local, state, and federal governments.

In the past year, the SWG reached two important milestones:

1. On July 1, 2010 we submitted 55 key recommendations for a new stormwater monitoring program for the Puget Sound region to the Department of Ecology (Ecology) and the Puget Sound Partnership.
2. On October 29, 2010 we submitted 33 further recommendations focused on National Pollutant Discharge Elimination System (NPDES) municipal stormwater permit monitoring requirements that Ecology should include for Puget Sound. These recommendations proposed that specific components of the regional program be implemented through the permits in order to build upon and leverage other monitoring conducted by federal, state, and local governments.

While working to help implement the recommendations for the NPDES municipal stormwater permits, the SWG is also working to fully implement the stormwater monitoring strategy recommendations to include other permit types, other water bodies, and other agencies and funding sources to truly be a regional, coordinated monitoring program. The SWG members strongly believe that implementation of this monitoring program will directly benefit all participating municipalities and the region as a whole. The specific monitoring components recommended by the SWG and included in the proposed draft permit monitoring language are specifically intended to inform local stormwater management activities. For example, each municipality will gain information on the overall impacts of urbanization on our receiving waters.

Ecology released preliminary draft monitoring language for the next municipal NPDES permits for informal review in May-June 2011. This letter presents the SWG's comments on Ecology's preliminary draft monitoring language. Many of the entities represented by SWG members will likely send comment letters separately to represent their individual interests more fully.

The SWG thanks Ecology for sharing preliminary draft monitoring requirements for the next NPDES municipal stormwater permits for informal public review. The shift in the monitoring paradigm expressed within the draft documents warrants the extra review obtained by having a preliminary comment period prior to the release of the official draft permit for public comment in October 2011.

The SWG thanks Ecology for largely following the recommendations we submitted last fall. In particular, we note that the proposed monitoring includes the following SWG-recommended components:

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

Overall, we appreciate the strong cooperation between Ecology and the SWG in formulating a coordinated regional 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 requirements, and is effective in answering important management questions. We are looking forward to ongoing cooperation with Ecology on this topic in the future.

The SWG members collectively offer the following specific comments on the draft permit language, interagency funding agreement and scope of work, and the cost estimates and allocation of costs. We recommend that:

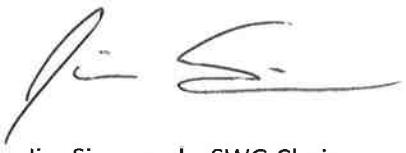
1. The scope of work attached to the interagency funding agreement between Ecology and the permittees should directly require Ecology to use the Pooled Resources Oversight Committee as described by the SWG in the proposed charter.
2. Ecology should review and update the cost estimates for the coordinated monitoring program to ensure that they are accurately calculated and the funds generated will be 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.
3. The final cost allocation should include appropriate contingency funds (approximately 10%). The final cost estimate should not contain the contingency fund; it should be a separate line item.
4. The costs to permittees (including contingencies) should not be revised during the permit term.
5. The duration of the interagency funding agreement should be until the permit is reissued.
6. The scope of work that accompanies the interagency funding agreement should address the process to identify the monitoring that will be conducted if the permit remains in effect longer than 5 years.
7. The SWG will continue to work with Ecology on establishing the process for selecting effectiveness study topics.
8. The permit should note that local governments are encouraged to address their financial commitments to the regional monitoring program in their annexation agreements.

Three of the SWG's October 2010 recommendations addressed topics about which the SWG members had not come to consensus, and for which recommendations agreed upon by a majority of the SWG were proposed. Ecology has proposed decisions to move forward with each of these topics. The SWG has again discussed our positions on these three items and we now offer the following comments:

1. (Pay-in Option Recommendation #11) The SWG members now agree that Ecology should administer the pooled resources until another viable entity is identified. This agreement is based on the development of a formal Pooled Resources Oversight Committee to mitigate the concerns that have been raised about Ecology, as the regulator, also administering the monitoring program funds.
2. (Pay-in Option Recommendation #12) The SWG will continue to discuss ways that an option for municipalities to conduct their own effectiveness studies (the "opt-out" or "go-alone" provision) could work.
3. (Effectiveness Studies Recommendation #5) Substantial disagreement remains among the members of the SWG regarding the appropriate size of the permittees' investment to make in effectiveness studies. The local jurisdiction caucus supports an investment no larger than that proposed in the preliminary draft. Other caucuses support larger investments, ranging up to several times higher than the proposed investment. We appreciate Ecology's difficulty in determining the effectiveness study investment level given this lack of SWG consensus.

We appreciate Ecology's commitments to the SWG's efforts and to implementing 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 our Project Manager Karen Dinicola at 360.407.6550 or karen.dinicola@ecy.wa.gov if you have any questions or concerns.

Sincerely,



Jim Simmonds, SWG Chair
On behalf of the members of the Stormwater Work Group