

February 2, 2012

Municipal Permit Comments
WA Department of Ecology
Water Quality Program
PO Box 47696
Olympia, WA 98504-7696

Sent via email SWPermitComments@ecy.wa.gov

Re: **Building Industry Association of Clark County Comments on Draft
NPDES Permit**
Our File No. 51418-70506

JAMES D. HOWSLEY

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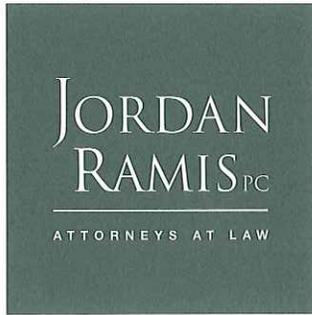
To Whom It May Concern:

On behalf of the Building Industry Association of Clark County (“BIA”) we submit these comments regarding the Washington Department of Ecology’s draft NPDES permit. The BIA is a trade association of more than nine hundred members representing the interests of all businesses involved in land development and construction. BIA members come from all sectors of the building trades including bankers, plumbers, electricians, attorneys, excavators, and of course, builders.

Infiltration Issues

A number of civil engineers and geotechnical professionals produced a white paper on infiltration. For your convenience, we attached a copy of this ASCE white paper on infiltration. And while some of the proposed low impact development “LID” methods for treating stormwater may be theoretically reasonable in limited circumstances, they are not reasonable and appropriate in all circumstances. Methods other than LID may prove to be just as effective and will not dramatically increase the costs of installation, monitoring and maintenance.

And the requirements under the new permit would increase the number of test pits required to demonstrate adequate infiltration. For a single family home development this would essentially require a pit to be dug on every lot. Engineers estimate that each test pit costs around \$5,000+. The added costs of tests, construction, maintenance and monitoring of LID will add to the soaring costs of homes.



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Low Intensity Storm

This new permit requires that developments achieve flow control for low intensity storms. The new permit's preferred method to achieve flow control on these low intensity storm events is to require LID. But LID is not going to work in all areas and will not achieve the desired result. In areas of poor infiltrating soil, LID simply will not be feasible. And therefore to achieve flow control for the low intensity storm event, storm drainage detention ponds will increase dramatically in size.

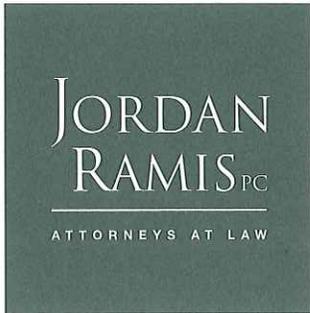
We question whether or not flow control for low intensity storms should even be required. In much of Clark County the environment has adapted either because it urbanized or was cleared for agriculture in the distant past. Attempting to account for these non-erosive flows provides no environmental benefit while dramatically increasing the costs to development. And we believe it may negatively impact the environment by requiring large detention ponds which reduces the buildable land supply necessary to accommodate population growth as required under the Growth Management Act "GMA".

And furthermore, the intent of the Clean Water Act is to prevent backsliding from 1976 forward. This permit moves beyond this standard and clearly seeks restore watersheds by placing the burden solely on new development rather than seeking to remedy developments built without stormwater controls.

Cost to Local Government

The costs associated with the new permit requirements not only impact private development directly, but they indirectly impact private development by requiring additional monitoring, retrofitting and planning be done by Clark County. Clark County is already suffering tremendous budgetary problems and a crushing unemployment rate of 12%. Requiring local government to conduct and pay for watershed/basin planning is untenable. If Ecology believes that watershed/basin planning is needed, then the funds need to come from the legislature.

And even more puzzling in this equation is that fact that Ecology would like County to pay to monitor the effectiveness of LIDs. If LIDs are all known, available and reasonable methods of treatment "AKART" why is Ecology requiring monitoring to evaluate the effectiveness of LID? Logic would



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dictate that Ecology appears to be testing unproven methods for treating stormwater on a mass scale and passing all of the costs of monitoring and enforcement off to local government.

Long Term Maintenance of LID Facilities

We believe that this aspect of the permit has not been well thought out. The permit appears to require the County to go out and inspect lots every six months until 90% of the lots are complete and then after that annual inspections. Each local government would have to hire scores of new inspectors just to keep pace with this requirement. Again this has tremendous budget implications.

What is more troubling are the aspects related to long term maintenance and inspection. If LIDs are located on private property how can local government intrude on private party to inspect the LIDs. And what becomes the mechanism for failure of these facilities? There are simply way to many questions without adequate answers.

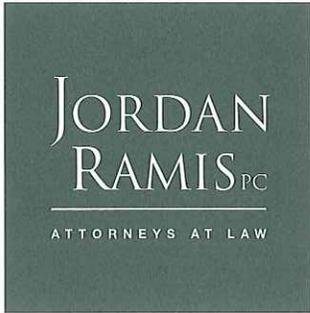
Vesting

The current draft permit limits vesting to three years. We understand that this language has been corrected in the Phase II permit and that Ecology intends on amending the permit language to five years as allowed various state law. We respectfully remind Ecology to make this change.

Pervious Pavement

Many questions remain about the practicality and applicability of requiring pervious pavement. Many in our industry believe that it will be impossible for a developer to bond for a pervious public street. This is compounded because it is well know that the leaves from trees effectively destroy the effectiveness of pervious pavement over time.

And furthermore, no consideration of cost goes into this analysis of whether pervious pavement should be used at all. Pervious pavement may work on a large commercial parking lot with a 2% grade. But the requirements here would require pervious pavement up to a 5% grade. At that level costs per lineal foot dramatically increases because catch basins would need to be developed under the road to meet the flow control standards. Again this is financially unreasonable for most projects.



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ATTORNEYS AT LAW

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Requiring pervious pavement on a large scale, especially in subdivision where trees are required for landscaping and mitigation under local codes, invites a problem of failure of these systems on a large scale. Similar to the LID issue mentioned above, additional research into the long term effectiveness of this technique is needed before it is employed statewide on a grand scale.

Comments by Reference

BIA adopts by reference comments submitted by the Building Industry Association of Washington, SGA Engineering, Clark County, AKS Engineering and Olson Engineering.

We thank you for the opportunity to provide comments on this draft. And we welcome a dialogue to resolve issues identified in this letter. Please feel free to contact me directly at 360-567-3913 or email me at jamie.howsley@jordanramis.com

Sincerely,

JORDAN RAMIS PC

A handwritten signature in blue ink that reads "James D. Howsley". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

James D. Howsley

cc: Avaly Mobbs, Building Industry Association of Clark County
Ryan Zygar, Building Industry Association of Clark County