

COUNTY OF WALLA WALLA

STATE OF WASHINGTON

BOARD OF COUNTY COMMISSIONERS

January 30, 2012

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

RE: Municipal Stormwater Permit Comments

TO WHOM IT MAY CONCERN:

Walla Walla County appreciates this opportunity to comment on the Draft Eastern Washington Phase II Municipal Stormwater Permit. We believe Ecology should reissue the current Phase II Permit for a longer period of time and modify the effective date of the new permit to early 2015, particularly as we, along with numerous other Washington cities and counties, have serious concerns regarding the proposed monitoring and Low Impact Development (LID) requirements in the draft permit. Our most pressing concerns are outlined below.

Monitoring

Walla Walla County objects to the draft permit language requiring monitoring from all Phase II permittees. Under previously published guidance, Walla Walla County was excluded from Stormwater Monitoring and Runoff Treatment BMP Effectiveness Monitoring. As such, Walla Walla County's Monitoring Plan did not include these elements, nor did we include them in our long-term budgets. The draft Permit now includes two options for monitoring: jurisdictions can either join a consortium to conduct Ecology-approved regional "effectiveness studies" or they can conduct a local, narrowly-prescribed discharge monitoring program at great expense.

Ecology presents the first option as a method for permittees to collaborate and fund studies that may be of interest to all, such as "does more frequent street sweeping actually reduce pollutants in stormwater?" While we appreciate Ecology's efforts to propose a lower-cost method of assessing the effectiveness of our stormwater management program, we would expect Ecology to take the lead in determining what measures reduce stormwater pollution, particularly since Ecology has been requiring permittees to perform these actions at great expense for some years now.

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Further, we have concerns about liability from third-party lawsuits. The consortium approach requires collaboration, but the Permit explicitly states a permittee is still responsible for meeting all permit deadlines when partnering with another entity. At the very least, Walla Walla County requests a clear statement within the Permit that a permittee is in full compliance with Permit requirements as long as good faith efforts are made to collaboratively conduct effectiveness studies.

The second option for monitoring, discharge monitoring, requires an exorbitant level of time, money, and effort. One Phase II jurisdiction estimates the cost of conducting such monitoring at \$70,000 a year. Another permittee estimates costs at \$90,000 for the full five year permit term. Requiring either level of funding from Walla Walla County strikes us as patently unfair. Approximately 7,000 people live within Walla Walla County's Phase II Permit area, and there are only four direct outfalls to creeks within the permitted area. To conduct monitoring on our own, to learn what might be in our own stormwater, Ecology requires we sample one-quarter of our outfalls, at a projected cost of at least \$18,000 per year.

We question what Ecology has done to establish that the draft requirement for flow-weighted composite sampling is the only way to obtain meaningful data. We further question why the monitoring requirements in the Phase II Stormwater Permits issued by the Environmental Protection Agency (EPA), which include grab samples taken without specialized equipment and analysis for a narrower suite of contaminants, is not good enough for Ecology.

The draft language increases Walla Walla County's monitoring obligations while effectively eliminating local control over what types of studies will be performed and where. It limits our ability to use existing staff to conduct studies, and necessitates we send County dollars elsewhere, to fund jobs elsewhere, to gain information about someone else's watershed.

Walla Walla County has had great success in forming local partnerships to define and solve local water problems, and we ask we be afforded the same privilege for our stormwater management program. There is significant interest in improving water quality among multiple entities in the Walla Walla watershed, and it is our strong desire that any monitoring or effectiveness studies be designed and conducted to benefit existing programs as well as our stormwater management program.

Low Impact Development

The draft Permit language would require Walla Walla County to allow Low Impact Development, presumably within the public right of way, before we have equipment and expertise to maintain it (page 32, line 31). We object to Ecology requiring us to accept a largely-undefined technology within the public right of way.

Additionally, Walla Walla County Code currently requires onsite retention of stormwater from the 25-year, 24-hour storm. We feel we are already in compliance with the intent of Low Impact Development, which is to disperse and infiltrate stormwater. We request that jurisdictions already requiring onsite detention and infiltration be allowed to retain their existing regulations, without modification.

Inclusion of Roads in Common Plan of Development or Scale Definition

Projects that take place at different times or schedules, but are considered to be part of a single plan, may trigger compliance with Phase II Permit requirements when the total disturbed area exceeds 1 acre. The definition of "Common plan of development or sale" (page 65, line 14) has been modified to include "linear projects such as roads, pipelines, or utilities". Without a timeframe for consideration of linear projects, every road project could conceivably be considered part of a common plan of development, and therefore every minor road project may be subject to the Phase II Permit requirements. We request a timeframe be included for linear projects. Line 15, page 65 could be modified to read "linear projects such as roads, pipelines, or utilities within a contiguous area constructed within a 3-year period shall be considered part of a common plan of development".

While best management practices are used for all County road projects to reduce stormwater impacts, significant reporting and recordkeeping requirements, as well as permit fees, are incurred whenever a project triggers compliance with the Phase II Permit. It is unreasonable to require a stormwater site plan, stormwater calculations, an erosion and sediment control plan, discharge monitoring reports, etc., for every minor road project.

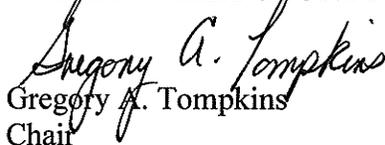
Annual Reports

The draft Permit calls for annual reporting. This is in excess of EPA's rules and regulations regarding reporting, which call for reporting in years two and four during the second 5-year permit term. Annual reporting is a significant drain on County resources, with relatively modest benefits. Less frequent reports would free up more staff time for implementing stormwater management activities, such as storm drain cleaning, detection of illicit discharges, and conducting stormwater outreach and education, without reducing accountability or compliance. In addition, the draft annual report form expands the amount of data to be included in the annual report; for example, annual reports must now include organizational charts with the name and position of everyone whose duties may impact stormwater. We question Ecology's need for this level of information and request the annual reporting requirements for the next 5-year Permit term be scaled back to be consistent with current annual reporting requirements.

Again, we appreciate this opportunity to express our ongoing concerns with the expanded Phase II Permit requirements, and we look forward to working with Ecology and other permittees to find mutually satisfactory, cost-effective methods to protect water quality. Thank you for your attention to these issues.

Sincerely,

WALLA WALLA COUNTY BOARD OF COMMISSIONERS


Gregory A. Tompkins
Chair