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Ms. Harriet Beale
Municipal Stormwater Permit Comments
Washington State Department of Ecology
Water Quality Program
P.O. Box 47696
Olympia, WA 98504-7696

RE: Phase II Draft Permit Language

February 3, 2012

Dear Ms. Beale,

Attached are comments from two of the Cities in Kitsap County ~ Port Orchard and Poulsbo. These have been sent to your attention as independent comment, and are shown here to demonstrate the extent of concern among local jurisdictions over the broad impacts that the proposed, draft changes to Municipal Stormwater Permits imply.

The Kitsap Regional Coordinating Council is the council of local governments in Kitsap that collaborates on land use, transportation, and implementation of the Growth Management Act. Typically, we would work together to identify comments and concerns about these proposed changes, but we have not had the time to do so. This is not necessarily a criticism of the Department of Ecology's outreach process. Rather, the full impacts have become so alarming as we have considered the multi-faceted interactions of the GMA, the Puget Sound Partnership's draft Action Agenda and targets, Puget Sound Regional Council proposed guidelines for Roadway Preservation transportation funding, and our own ailing financial realities. This "death by a thousand cuts" was brought home to our policy makers at your informational session held in Kitsap County just four days ago.

We are writing to request that you extend the deadline for review and comment so that we (and jurisdictions throughout the State) have additional time to understand the interlocking effects and implications of the proposed policy changes.

Thank you for your consideration.

Mary McClure
Executive Director
Kitsap Regional Coordinating Council

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City of Poulsbo

Public Works Engineering Division



February 2, 2012

Ms. Harriet Beale
Municipal Stormwater Permit Comments
Washington State Department of Ecology
Water Quality Program
P.O. Box 47696
Olympia, WA 98504-7696

RE: Phase II Draft Permit Language

Dear Ms Beale:

The City of Poulsbo would like to thank you for the opportunity to comment on the draft language for the draft permit and manual.

We also appreciate the Department of Ecology coming to Poulsbo and presenting a workshop on the draft permit and manual to help us understand the changes that are being proposed to the permit and manual, as well as help explain what the Department of Ecology is intending to accomplish with these changes. We would however, like to request that the comment period be extended beyond the current cut-off date of February 3, 2012. As you are well aware, all communities, especially the smaller Phase II communities, are working with very reduced staffing and have very little staff time available for review of these documents. We would also like to point out that coming to our community on January 30th and then expecting quality comments on the Friday of that same week is not conducive to us being able to provide high quality and comprehensive comments. The changes proposed are wide ranging, the documents very large and technical, and the implications of the changes proposed are very broad. We would like very much to have the time to allow staff to perform a proper and more thorough review of the documents, prepare presentations to our City Council so that the Council can become aware of the proposed changes and their broad implications. This will allow our Council to formulate a position and provide you with an official response from the elected officials of our community.

We would also like to point out that we feel that concurrent review of the draft permit, draft manual and draft LID manual all at the same time is very difficult, and the fact that all of the documents are interrelated to a great degree further complicates review of the documents. These complicating factors greatly increase the staff time necessary for a comprehensive and high quality review of the documents.

General Comments:

Expansion of Scope:

We feel that the current draft permit goes well beyond what is required by both the Clean Water Act and the Puget Sound Pollution Control Hearings Board decision and is well beyond what is appropriate. Expanding into the areas of vesting and requiring comprehensive review and changes to other land use codes is, in our opinion, not appropriate for stormwater regulation. Additionally, the financial and manpower costs associated with the requirements proposed appear to be virtually unattainable for Phase II communities.

Testing and Monitoring:

The level and extent of both testing and inspection/monitoring being proposed is virtually unattainable for Phase II communities. We feel that the level of inspection and monitoring being required is setting up communities for failure. We also feel that the level of testing being required for design of projects will increase the costs of project design for both municipal and private development projects to the point that they will be unaffordable.

Requirement of LID:

The City has been a supporter and driver of LID construction techniques and has many successful municipal projects constructed incorporating LID techniques, but we do not feel that mandating LID in all construction is an appropriate approach to success. Rather we feel that it will cause LID to be implemented in inappropriate locations and virtually guarantee failures, which will increase resistance to LID techniques among the local development community and slow the progress of LID implementation where it might have been appropriate and successful. It should also be pointed out that Poulsbo like many other communities in Kitsap County is mostly sited on glacial till soils not suited to management of stormwater with LID techniques. Requiring LID stormwater management measures instead of encouraging their creative use in those areas *where possible* we feel further increases the chances for failure, subsequently slowing the implementation of LID stormwater management techniques where they are more possible and appropriate.

Removal of 1 acre threshold:

We understand the desire to bring those communities that currently do not at all regulate projects under one acre up to some level of regulation for those properties. However, we do not feel that enforcing the full measure of the 2005 or 2012 stormwater manual is appropriate. Rather, we feel that the current approach taken by the City of Poulsbo to regulate those under one acre properties under the 1992 DOE manual, and over one acre properties with the 2005 DOE manual is a better approach. Poulsbo has a huge number of small properties that were developed long before stormwater regulation and currently have no quality and no quantity control for stormwater leaving the site. These sites are virtually guaranteed to not redevelop if the full measure of either the 2005 manual or the proposed 2012 manual is imposed upon them. We feel that by regulating those properties under a slightly relaxed but still very good set of regulations will encourage those properties to redevelop and bring both a water quality and quantity benefit that would not otherwise be realized. At a minimum we feel that redevelopment of those under 1 acre properties should be held to a lesser standard if not all properties under the one acre threshold.

Green Roof Requirement:

We feel that the requirement for green roofs being proposed is completely unreasonable and should be entirely removed.

Lack of Experience:

We would like to point out that we have only reviewed one single project under the current adopted permit and manual and do not have enough experience yet with implementation of the existing regulations to be able to consider adding additional new requirements. That single project was not even reviewed at the detail level, as it is a conceptual stormwater plan at the Master Plan level. Further detailed review of stormwater plans will be required for each phase of that project. During that review we have discovered many issues that are not easy to resolve (and/or are not yet resolved) related to issues with infiltration galleries and utilities among other issues. We have discovered that while we would prefer to not allow utilities in or through infiltration galleries at all, due to utility design and placement limitations in many cases it is unavoidable for utilities to either run through or cross infiltration galleries. This brings up many issues, including but not limited to INI issues and issues with separation between water and sewer utilities, not to mention maintainability of those same utilities.

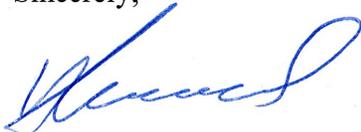
Pervious drive aisles for municipal streets

These draft documents would appear to require the use of pervious pavements for non-arterial municipal streets in most cases. In addition to the above mentioned unresolved issues with utility conflicts (noting that we much prefer our utilities to be sited within our roadway prisms for many reasons), the long term costs of these pavements are as yet completely untested. It appears from early experience with pervious pavements that they have greatly reduced lifespans compared to conventional pavements. In further appears that long term maintenance costs will be greatly increased as well. At a time that communities are struggling with and/or failing to properly maintain their existing roadway network we feel that the additional financial and manpower burdens being imposed by the required usage of pervious pavements in municipal drive aisles are not attainable by Phase II communities.

We do not consider these comments to be comprehensive or complete at this time. We will continue to review the permit and associated manuals and will endeavor to provide further comments on the broad implications of these proposed changes in as timely a fashion as possible.

Thank you again for the opportunity to provide comments on the draft language, we look forward to working with you to help in the goal of drafting more appropriate and attainable language for the permit and manual(s).

Sincerely,



Andrzej Kasiniak, P.E., City Engineer
City of Poulsbo



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February 2, 2012

Ms. Harriet Beale
WA Department of Ecology
Water Quality Program
P.O. Box 48696
Olympia, WA 98504-7696

Re: Draft Western Washington Phase II Municipal Stormwater Permit Comments for the One Year Permit (Aug. 1, 2012 – July 31, 2013) and Five Year Permit (August 1, 2013 – July 31, 2018)

Dear Ms. Beale,

The City of Port Orchard would like to thank you for the opportunity to comment on the draft municipal stormwater permits. The City has reviewed the aforementioned drafts and has the following comments:

One Year Permit, Stormwater Management Plan (Pg. 15, Line Nos. 24-26, S5.A.1)

“The SWMP shall be developed and implemented in accordance with the schedules contained in this section and shall be fully developed and implemented no later than 180 days prior to the expiration date of this Permit.”

Comment: The SWMP has already been developed under the current permit and would not need to be redeveloped since the permit is reissued. Continued implementation of the SWMP during the permit cycle would make more sense.

Suggestion: “The SWMP shall continue to be implemented in accordance with this section and shall remain fully implemented until the expiration date of this Permit.”

One Year Permit, Public Involvement and Participation (Pg. 18, Line Nos. 29-32, S5.C.2.a)

“No later than one year from the effective date of this Permit, all permittees shall create opportunities for the public to participate in the decision-making process involving the development, implementation and update of the Permittee’s entire SWMP.”

Comment: The one year uses the entire permit term. Just as the permit is expiring jurisdictions would have to create more opportunities for public involvement.

Suggestion: “Permittee’s shall continue to create opportunities for the public to participate in the decision-making process involving the development, implementation, and update of the Permittee’s entire SWMP.”

One Year Permit, Illicit Discharge Detection and Elimination (Pg. 19, Line Nos. 12-14, S5.C.3)

“Permittees shall fully implement an ongoing illicit discharge detection and elimination program no later than 180 days prior to the expiration date of this Permit.”

Comment: Program has already been fully implemented prior to this permit.

Suggestion: “Permittees shall continue an ongoing illicit discharge detection and elimination program developed under the permit that was effective on February 16, 2007 until the expiration date of this Permit.”

One Year Permit, Illicit Discharge Detection and Elimination (Pg. 23, Line Nos. 13-15, S5.C.3.d)

“No later than 180 days prior to the expiration of this Permit, distribute appropriate information to target audiences identified pursuant to S5.C.1.”

Comment: Please clarify this point since this has already been completed once. Would the information be required again or an update to the information be sent out?

Suggestion: “If information distributed to target audiences identified pursuant to S5.C.1 has changed, then update the information and route again prior to the expiration of this Permit.”

One Year Permit, Catch Basin Cleaning (Pg. 29, Line Nos. 32-33, S5.C.5.d)

“Inspection of all catch basins and inlets owned or operated by the Permittee at least once before the end of the permit term.”

Comment: Since the “permit term” will be one year from August of 2012 to July of 2013, you are requesting that the entire system be inspected time frame much shorter than the current permit cycle or the proposed cycle in the permit for 2013 to 2018. Even with the circuit approach, there could be an excessive amount of work proposed during this permit cycle.

Suggestion: “Permittee shall inspect at least 50% of system in highest pollution generating areas before the end of the permit term.”

One Year Permit, Annual Report (Pg. 43, Line Nos. 16-18, S9)

“No later than March 31 of each year beginning in 2008, each Permittee shall submit an annual report. The reporting period for the first annual report will be from the effective date of this permit through December 31, 2007.”

Comment: Permit date for the annual report does not take into account the reissuance of this permit.

Suggestion: “The reporting period for the first annual report will be from the effective date of this permit through December 31, 2012.”

One Year Permit, Duty to Reapply (Pg. 52, Line Nos. 7-8, G18)

“The Permittee must apply for permit renewal at least 180 days prior to the specified expiration date of this permit.”

Comment: Jurisdictions already have met this requirement for the permit cycle from 2013 through 2018.

Suggestion: “The Permittee must apply for permit renewal, if this requirement hasn’t been previously completed, at least 180 days prior to the expiration date of this permit.”

One Year Permit, Certification and Signature (Pg. 52, Line Nos. 23-28, G19.C)

“Changes to authorization. If an authorization under condition G19.B.2 is no longer accurate because a different individual or position has responsibility for the overall development and implementation of the stormwater management program, a new authorization satisfying the requirements of condition G19.B.2 must be submitted to the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.”

Comment: Due to reissuing the permit, any jurisdiction that has delegated authorities for any part of the permit, will have to redo these in mid-2012 and again in mid-2013 due to the succession of the permits.

Suggestion: “If an authorization under condition G19.B.2 has changed from the permit originally effective on February 16, 2007 is no longer accurate because a different individual or position ...”

Five Year Permit, Public Education and Outreach (Pg. 19, Line No. 31, S5.C.1.a.iii)

“Dumpster maintenance for property owners”

Comment: The indication of property owners is too limiting, it does not take into account leasees, renters, or not for profit organizations.

Suggestion: “Dumpster maintenance on private property” or “Dumpster maintenance for any individual, association, organization, partnership, firm, corporation, business, leasee, or other entity recognized by law acting as either the owner or owner’s agent, and/or having responsibility, charge, and/or control over any property”

Five Year Permit, Public Education and Outreach. (Pg. 20, Line No. 15, S5.C.1.c)

“. . . new targeted audience in at least one new subject area.”

Comment: The use of the word “new” limits jurisdictions flexibility to effectively manage their education and outreach programs. We are forced to look at a new program when a little more work on an existing program would reach the results that were intended before moving to another program.

Suggestion: “. . . targeted audience in at least one subject area.”

Five Year Permit, IDDE (Pg. 21, Line Nos. 13-14, S5.C.3)

“The SWMP shall include an ongoing program to identify, detect, remove and prevent illicit connections and illicit discharges into the MS4.”

Comment: Preventing illicit discharges is not always possible. Please remove the word prevent.

Suggestion: “The SWMP shall include an ongoing program to detect, identify, and remove illicit connections and illicit discharges into the MS4.”

Five Year Permit, Field Screening (Pg. 26, Line Nos. 3-6, S5.C.3.c.i)

“Permittees shall prioritize conveyances and outfalls and complete field screening for at least 40% of the MS4 within the Permittee’s coverage area no later than February 2, 2016, and 20% each year thereafter.”

Comment: If you are screening at the outfall instead of within the conveyance systems, the City's workload would triple. Also, by adding conveyances which are already addressed in S5.C.5.d, when inspections are performed on catch basins and cleaning is needed, the conveyance system falls within that inspection and cleaning since it is connected to the catch basin. The annual inspections used to be based on water bodies instead of the entire system, this adds significantly to jurisdictions with shoreline areas. Also, jurisdictions were required under the current NPDES Permit to develop tools for identifying illicit discharges through business inspection and education programs, but the proposed method will not address intermittent discharges and will undermine the programs' jurisdictions' have already placed into working order. The due date of February for streams and water bodies is unreasonable since most streams are at their high flow points during that time. Perhaps adjusting the timeframe for the due date would alleviate this problem and allow inspections to be completed during dry weather.

Suggestion: "Permittees shall prioritize and visually inspect water bodies and outfalls for three high priority water bodies within their permit coverage area no later than October 31, 2016. One high priority water body shall be inspected each year thereafter."

Five Year Permit, IDDE Program (Pg. 27, Line No. 36, S5.C.3.D.iv)

"All illicit connections to the MS4 shall be eliminated."

Comment: The City can only remove what it knows; it cannot remove nor have a property owner remove an illicit connection if they do not know about it.

Suggestion: "All known illicit connections to the MS4 shall be eliminated."

Five Year Permit Removal of the One Acre Threshold for Permitting (Pg. 29, Line Nos. 7-10, S5.C.4)

"This program shall be applied to all sites that disturb a land area of 1 acre or greater, including projects less than one acre that are part of a larger common plan of the development or sale."

Comment: Removal of the one acre threshold or projects that are part of a common plan of development makes it more labor intensive for jurisdictional staffing. Permitting small projects like one or two residences within City Limits will cause an increase in necessary inspections, which will drive permitting fees and utility fees up for smaller jurisdictions which currently do not permit below the one acre threshold currently in place.

Suggestion: Keep the threshold at one acre for the first three years, then lower it to give jurisdictions time to adjust gradually with their citizens instead of an all at once increase to necessary fees and staffing to meet this requirement.

Five Year Permit, Ordinance for Runoff from New Development, Redevelopment, and Construction Site Projects (Pg. 29, Line Nos. 20-26, S5.C.4.a)

"The ordinance or other enforceable mechanism to implement (i) through (iii) below, shall be adopted and effective no later than December 31, 2015. The local program adopted to meet the requirements of S5.C.5.a(i) through (iii), below shall apply to all applications submitted after January 1, 2016 and shall apply to projects approved prior to January 1, 2016, which have not started construction by January 1, 2021."

Comment: The last sentence contradicts the City's adopted municipal code and Washington State law regarding the time a permit can be held open. The City has consistently used the time frame for the applicability of active permits of "a maximum of three years from the date of

issuance.” At three years the applicant shall stop work and reapply for a new permit to bring them current with all regulations and standards in effect at that time. Additionally, projects may be submitted for review prior to January 1, 2016, but are not issued a permit until after January 1, 2016, but this language does not address which codes the applicant would be required to adhere to. Additionally, there is not an acknowledgement of legal precedent and state law that has been previously set.

Suggestion: “The ordinance or other enforceable mechanism to implement (i) through (iii) below, shall be adopted and effective no later than December 31, 2015. The local program adopted to meet the requirements of S5.C.5.a(i) through (iii), below shall apply to all applications submitted after January 1, 2016 and shall apply to projects approved prior to January 1, 2016, which have not started construction in accordance with adopted municipal codes, state laws, and legal precedent.”

Five Year Permit, Residential Development, (pg. 32, Line Nos. 19-23, S5.C.4.c.ii)

“Inspections of all new stormwater treatment and flow control BMPs/facilities and catch basins for permanent residential developments every 6 months until 90% of the lots are constructed to identify maintenance needs and enforce compliance with maintenance standards as needed.”

Comment: In cases where jurisdictions have a short plat subdivision, which may only have four lots total, achieving the 90% compliance means that during the economic times we currently face jurisdictions must use already limited staff to perform inspections on developments with little hope of forward movement for quite some time. This is staff time that would be better served meeting other areas of the permit or addressing citizen comments within a jurisdiction.

Suggestion: “Inspections of all new stormwater treatment and flow control BMPs/facilities and catch basins for permanent residential developments every 6 months during the period of heaviest construction (i.e. 1 to 2 years following subdivision approval) to identify maintenance needs and enforce compliance with maintenance standards as needed.”

Five Year Permit, Development Code Revisions (pg. 34, Line Nos. 21-32, S5.C.4.g.i)

“No later than December 31, 2016, Permittees shall review and revise their local development-related codes, rules, standards, or other enforceable documents to incorporate and require LID principles and LID Best Management Practices (BMPs). The intent of the revisions shall be to make LID the preferred and commonly-used approach to site development. In reviewing the local codes, rules, standards and other enforceable documents, the Permittees shall identify opportunities to minimize impervious surfaces, native vegetation loss, and stormwater runoff in all types of development situations. Permittees shall conduct a review and revision process similar to the steps and range of issues outlined in the following document: Integrating LID into Local Codes: A Guidebook for Local Governments (Puget Sound Partnership, 2011).”

Comment: The revisions that are required thru this section of the permit constitute almost a complete overhaul of codes for both Public Works and Planning Departments. Through the current economic conditions the City of Port Orchard has maintained a small staff which currently has difficulty some days meeting land use and construction requirements. Furthermore, you are directing changes that contradict the Growth Management Act and the Shoreline Management Act. During your presentations you stated as an organization that the land use vesting and permitting are separate from the stormwater codes and permitting, yet here you request major changes to land use regulations. Additionally, there needs to be some consideration for updates to Comprehensive Plans which are also directly affected due to the requirements. A longer time frame to implement all of the legal changes allowed under a

stormwater driven permit is necessary. Also, consideration of who is to assume the liability invoked from the changes required to the Municipal Codes needs to be taken under advisement. The additions required to the development codes opens jurisdictions to third party and owner/developer based liability and lawsuits.

Suggestion: “No later than December 31, 2017 (or the end of the permit term), Permittees shall review and revise their local development-related codes, . . . “

Five Year Permit, Spot Checks (Pg. 36, Line Nos. 33-35, S5.C.5.c)

“Spot checks of potentially damaged permanent stormwater treatment and flow control BMPs/facilities after major storm events.”

Comment: What is a major storm event in Ecology’s view? Based on the previous permit it was the 10-year recurrence interval rainfall.

Suggestion: Base it on the storm event size, though subjective, it does give a threshold to jurisdictions.

Five Year Permit, Catch Basin Cleaning (Pg. 37, Line Nos. 25-26, S5.C.5.d.ii)

“The Permittee may clean the entire MS4 within a circuit, including all conveyances and catch basins, once during the permit term.”

Comment: Contradicts the language above in S5.C.5.d.i about inspecting every two years. Also, this is not very clear about what conveyances are. Please add additional language in this section to clarify what Ecology considers conveyances or add a definition to the definitions section.

Suggestion: “The Permittee may clean the entire MS4 within all circuits, including all conveyances and catch basins, once during the permit term in lieu of inspections every two years.”

Five Year Permit, Reporting in WA WebDMR (Pg. 63, Line Nos. 22-24, S9)

“Permittees shall submit annual reports electronically using Ecology’s WA WebDMR program available on Ecology’s website at [Draft permit placeholder for link to appropriate Ecology webpage] unless otherwise directed by Ecology.”

Comment: Under General Condition 19 Section B Permittees are able to use a duly authorized representative to act on behalf of the principal executive officer. Access to WebDMR to complete the annual report may require more than one person access to submit data. Please see WebDMR for reporting on Construction NPDES permits.

Suggestion: Please set the program up to allow once person access to submit the report, duly authorized representative or executive official, and other employees access to input and review data, but not submit to Ecology.

Five Year Permit, Appendix 1, New Development (pg. 11, Line No. 2-3, Section 3.2)

“All new development, regardless of size, shall be required to comply with Minimum Requirement #2.”

Comment: The term “regardless of size” has been added here, yet in Minimum Requirement #2 on Page 13 it only applies to “projects which result in 2,000 sq. ft. or more of new plus replaced hard surface area, or which disturb 7,000 sq. ft. or more.” A person trying to build a small home

on a small lot typically does not reach 2,000 sq. ft. in hard surface area. This requirement just adds additional burdens to owners, developers, and jurisdictions to meet compliance.

Suggestion: “All new development with 2,000 sq. ft. or more of new plus replaced hard surface area, or which disturb 7,000 sq. ft. or more, shall be required to comply with Minimum Requirement #2.”

Five Year Permit, Appendix 1, Mandatory List #1 (pg. 25, Line No. 24-31, Roofs Section)

“Roofs:

- 1. Full Dispersion in accordance with BMP T5.30 in Chapter 5 of Volume V of the SWMMWW*
- 2. Downspout Infiltration Systems in accordance with Section 3.1.1 of the SWMMWW*
- 3. Rain Gardens in accordance with design procedures in the “Rain Garden Handbook for Western Washington”*
- 4. Downspout Dispersion Systems in accordance with BMP T5.10 of the SWMMWW”*

Comment: The list is a good start for a developer when starting with a piece of property that has not had any plat conditions attached to it. However, a homeowner or developer who has a lot within an approved plat needs to look at the conditions of that plat and determine whether disconnecting, or not connecting at all, the downspouts is a viable option to be in compliance with the plat to achieve a Certificate of Occupancy. If a developer or owner wishes to disconnect the downspouts to use one of these techniques in an area where conditions currently state that a closed conveyance system must be used, the owner or developer will be forced to do a plat amendment for the entire plat to modify their piece of property. For most owners or developers this would make this project infeasible due to the amount of time and cost involved.

Suggestion: “Roofs (Please check your plat conditions or consult your local jurisdiction before continuing to make certain a plat amendment will not be necessary):

- 1. Full Dispersion . . .”*

Five Year Permit, Appendix 1, Mandatory List #1 (pg. 25, Line No. 24-31, Roofs Section)

“Roofs:

- 1. Full Dispersion in accordance with BMP T5.30 in Chapter 5 of Volume V of the SWMMWW*
- 2. Downspout Infiltration Systems in accordance with Section 3.1.1 of the SWMMWW*
- 3. Bioretention BMPs (See Chapter 7 of Volume V of the SWMMWW) that have a minimum horizontal projected surface area below the overflow which is at least 5% of the of the total surface area draining to it. If the short-term native soil infiltration rate is less than 0.3 in/hr, do not use this option unless the roof is classified as pollution-generating impervious surface.*
- 4. Downspout Dispersion Systems in accordance with Section 3.1.2 of the SWMMWW*
- 5. For a commercial building, a vegetated roof or an impervious roof with runoff routed below permeable pavement. If the latter option is not used, a cost analysis is necessary to claim infeasibility of a vegetated roof.”*

Comment: The list is a good start for a developer when starting with a piece of property that has not had any plat conditions attached to it. However, a homeowner or developer who has a lot within an approved plat needs to look at the conditions of that plat and determine whether disconnecting, or not connecting at all, the downspouts is a viable option to be in compliance with the plat to achieve a Certificate of Occupancy. If a developer or owner wishes to disconnect the downspouts to use one of these techniques in an area where conditions currently state that a closed conveyance system must be used, the owner or developer will be forced to do a plat

amendment for the entire plat to modify their piece of property. For most owners or developers this would make this project infeasible due to the amount of time and cost involved. Also, a typo in item 3 needs to be addressed “. . . 5% of the total surface area . . .” of the was repeated twice.

Suggestion: “Roofs (Please check your plat conditions or consult your local jurisdiction before continuing to make certain a plat amendment will not be necessary):

1. *Full Dispersion in accordance with BMP T5.30 in Chapter 5 of Volume V of the SWMMWW*
2. *Downspout Infiltration Systems in accordance with Section 3.1.1 of the SWMMWW*
3. *Bioretention BMPs (See Chapter 7 of Volume V of the SWMMWW) that have a minimum horizontal projected surface area below the overflow which is at least 5% of the total surface area . . .”*

Five Year Permit, General Comment, Economic Impacts

Compliance with 19.85 RCW Regulatory Fairness Act – The Act defines “small business” as “. . . any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses, and that has fifty or fewer employees.” The Act finds that uniform regulatory requirements can impose a disproportionate burden on small businesses (19.85.011 Findings – 2007 c 239 (5)). Further, Section 19.85.030 (1)(a) of the Act requires agencies to prepare a small business economic impact statement if a proposed rule will impose more than minor costs on businesses in an industry. The City is concerned with other jurisdictions that the proposed mandatory LID requirements will have significant economic impacts on small businesses and developers and this will in turn result in an adverse economic impact on the City and other jurisdictions. In addition, prior to instituting such a mandate, a small business economic impact statement is required.

Please feel free to contact my office should you have any questions.

Sincerely,

Andrea Archer, P.E.
Assistant City Engineer/Stormwater Manager

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cc: Tim Matthes, Mayor
Mark R. Dorsey, P.E., Public Works Director/City Engineer
Anne Dettelbach, Water Quality Program, Department of Ecology NWRO
File



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February 2, 2012

Ms. Carrie Graul
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Re: Draft Stormwater Management Manual for Western Washington, 2012

Dear Ms. Graul,

The City of Port Orchard would like to thank you for the opportunity to comment on the draft Stormwater Management Manual for Western Washington, 2012. The City has reviewed the aforementioned draft and has the following comments:

General Comments

Stormwater Manual as Guidance Document

The Ecology workshops, the Ecology website, and the manual itself refers to the manual as a guidance document. However, the Ecology website, and the presentations made at public workshops by Ecology staff, clearly indicate that the updates made to the 2012 manual were in preparation for this document to be required by the NPDES stormwater permits. Therefore it is clearly Ecology's intent and design that this manual will be used as a regulatory document, and as such must go through the appropriate review process, including SEPA review and Economic Impact Assessment as justified below:

SEPA Review Required

As Ecology is aware, SEPA cannot be avoided through incremental implementation of policies, rules, or a project if these elements are part of a larger plan or project. The same holds true for the Stormwater Management Manual for Western Washington. SEPA cannot be avoided by stating that this manual is a guidance document, if it clearly is Ecology's intent to make it a regulatory document through the implementation of its NPDES stormwater permits. Therefore, SEPA review is required.

Economic Impacts

Compliance with 19.85 RCW Regulatory Fairness Act – The Act defines “small business” as “. . . any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated

independently form all other businesses, and that has fifty or fewer employees.”
The Act finds that uniform regulatory requirements can impose a disproportionate burden on small businesses (19.85.011 Findings – 2007 c 239 (5)). Further, Section 19.85.030 (1)(a) of the Act requires agencies to prepare a small business economic impact statement if a proposed rule will impose more than minor costs on businesses in an industry. The City is concerned along with other jurisdictions that the proposed mandatory LID requirements will have significant economic impacts on small businesses and developers and this will in turn result in an adverse economic impact on the City and other jurisdictions. In addition, prior to instituting such a mandate, a small business economic impact statement is required.

Detailed Comments

Pursuant to a request made by Ecology Staff during public workshops for the draft stormwater manual on January 30, 2012, the City will not repeat the detailed comments on Appendix 1 of the Phase II Permit in this letter. Please reference the comment letter submitted to Harriet Beale from the City of Port Orchard to get these comments.

Please feel free to contact my office should you have any questions.

Sincerely,

Andrea Archer, P.E.
Assistant City Engineer/Stormwater Manager

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cc: Tim Matthes, Mayor
Mark R. Dorsey, P.E., Public Works Director/City Engineer
Anne Dettelbach, Water Quality Program, Department of Ecology NWRO
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