

Director Ted Sturdevant

Dear Director Sturdevant,

Please accept these comments on the Draft Municipal Stormwater General Permits.

Toxic stormwater pollution in Puget Sound has an increasingly harmful effect on orca and their prey (salmon), as evidenced by the EPA classification of Orca carcasses as toxic waste. Stormwater pollution is incredibly diffuse, coming from many different sources to create the largest water pollution problem in Washington State. Polluted runoff also infiltrates the food web, creating problems for humans and other wildlife like our iconic and threatened salmon species. This pollution problem must be addressed.

The draft permit contains very broad "feasibility" and "competing needs" exemptions. We are concerned that these loopholes and others will allow jurisdictions and developers to evade low impact development requirements.

Some of these exemptions are vague or overly conservative. Loopholes that excuse LID requirements due to a perceived impact of flooding or soil erosion are especially troublesome. We suggest creating thresholds that would require program evasion to be based on specific flooding levels or specific erosion levels. Without a threshold, these loopholes will be abused. It is up to Ecology to provide clear direction through standards that all contractors can equally rely on in order to ensure maximum compliance.

In addition, exemptions in many cases will still contribute to flooding in nearby roads, streams and rivers, and add to the incidence of CSOs. An exemption or waiver from installing LID techniques and practices will simply cause or contribute to flooding and water pollution in another location. These impacts should also be evaluated. Ecology staff have stated that Ecology will review the use of waivers and exemptions in the future to determine if they are being "abused". Ecology should provide guidance on both the use of such waivers and how it will evaluate their use and/or abuse.

As a last-resort alternative to compliance we encourage mitigation for those who find compliance to (BMP T5.13) unfeasible. Mitigation in these circumstances makes sense, and can often solve feasibility issues when non-compliance occurs. For mitigation to be successful, watershed based stormwater plans would need to be developed.

We recommend inclusion of additional time-tested low-impact development techniques to the methods of compliance list (BMP T5.13). The draft

permits fail to adopt and encourage proven green infrastructure strategies that would make a big difference in preventing polluted runoff and improving the long-term health of Puget Sound. Methods that deserve to be integrated into BMP T5.13 include: increasing permeable surfaces, reducing in impermeable surfaces, prohibiting paving green space, retaining site vegetation, encouraging water re-use and encouraging green roofs. These techniques are seemingly ignored in the recommended compliance list, where we think they belong. Without a core foundation of protecting vegetation and reducing new impervious area, the remaining LID approaches like pervious concrete and rain gardens are unlikely to succeed.

We support the requirements S5(C)5(b) which call for an update of local codes, particularly given recent improvement in the Puget Sound Partnership guidance manual on this subject. Updates to the codes may lead to some of the most significant improvements in terms of vegetation retention and reduction of impervious surfaces. That said, the permit language lacks detail in this area and the guidance is not prescriptive, which will lead to challenges in implementation.

We support watershed/basin planning requirements in S5(c)5c but suggest that it be expanded to include additional jurisdictions. We appreciate the fact that the proposal calls for a "full build out analysis" of future growth in these basins. While we support the requirement of plans to achieve protection of "beneficial uses," we believe that a more specific performance standard which includes a vegetation goal is needed.

The draft permits are silent on the question of whether LID practices are required in watersheds that drain to large bodies of water that are "flow exempt". The purpose for the exemption relates to flooding and erosion, but does not consider pollution control. In light of the enormous impact polluted runoff has on Puget Sound, we believe that developments in these areas should also be subject to LID standards and practices.

We support new monitoring requirements contained in Section S8 of the permit. However, the total funding that will be generated for the project under Monitoring Option #1 is inadequate to pay for the type of monitoring necessary to evaluate success of stormwater programs.

Please ensure the monitoring methods are up to date with laboratory methods, in order to assure the data can be used across disciplines and has the highest level of accuracy.

We strongly support the decision by DOE to harmonize the Phase I and II permits in terms of the size of projects regulated. Projects under 1 acre have very significant impacts on our receiving waters and Phase II jurisdictions should be required to evaluate and minimize those impacts.

We are concerned that stormwater permits are too limited in their

scope. The current strategy to protect clean water should also include an additional focus on retro-fitting existing developments. Without a focus on retrofit, we may slow the bleeding, but cannot truly heal the patient.

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