

From: [Rick Rogers](#)
To: [SW Permit Comments](#)
Subject: Comment about Draft Eastern Washington Draft Municipal Stormwater Permit
Date: Wednesday, October 26, 2011 8:32:46 PM

COMMENT:

As regards the following language from the Draft Permit (S1.B.1.b) for Eastern Washington:

Is located within, or partially located within, an urbanized area as defined by the latest decennial census conducted by the U.S. Bureau of Census or is designated by Ecology pursuant 9 to either 40 CFR 122.35(b) or 40 CFR 122.26(f);

Representatives of the United States Census Bureau have stated to this commenter directly, in essence, that "...urbanized areas designated by the Census Bureau are NOT INTENDED to be used by other federal agencies, SPECIFICALLY THE EPA, to determine the basis for either setting or enforcement of federal regulations..." This is particularly problematic in the case of the Lewiston Urbanized Area, which crosses two State borders, two County borders, two City borders, and multiple lesser jurisdictions, like Port districts, Sewer Districts, Water Districts, etc.

Borders, particularly State borders, exist for reasons beyond the ability of the Environmental Protection Agency to violate without due process. More particularly, by their very definition, these State borders must restrict the Washington State Department of Ecology. The primary reason for not using cross-border urbanized areas to define Stormwater boundaries is the issue of States Rights, a United States Constitutional issue that has not as yet been properly or completely litigated relative to this Permit or its predecessor. In this particular case, the mere existence of a city in Idaho has resulted in a tax burden, disguised as a "fee", and other onerous regulations, on citizens of Washington State, specifically those of Asotin County. This burden has been placed on Washington State citizens at the behest of, and/or with the active, official encouragement of, or threat by, the Washington State Department of Ecology, in causing Asotin County to form a Stormwater Utility and impose said "fees" to fund its operation. Without the inclusion in the Lewiston Urbanized Area, while the major urban part of Asotin County (defined as the city of Clarkston) could possibly meet the nominal minimum population density requirement, the remaining rural portions of Asotin County would not meet the basic population requirements for control of stormwater as defined by EPA in that agency's interpretation of the Clean Water Act.

Commenter:

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