

**From:** [Robert Dashiell](#)  
**To:** [SW Permit Comments](#)  
**Subject:** Draft Municipal Stormwater Permit Comments  
**Date:** Friday, February 03, 2012 11:51:14 AM

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This public comment is for: Western Washington Phase II Municipal Stormwater Permit

Comment regarding: Page 73, Definitions and Acronyms

Suggested actions: 1. Add key definitions to the **basic** permit section, specific examples are Impervious surface and Pervious surface. These definitions are now located in Appendix 1, and that is of limited scope (new/redevelopment).

Rational: Most stormwater projects and maintenance in Washington State are paid by ratepayers funding a **stormwater utility**. Municipal governments write an ordinance that detail the legal basis for assessing the utility fee.

In almost all cases, stormwater fees are based on impervious surface area (noting SFR's are often a single fixed fee). Since impervious surfaces used by Washington State Courts as one of the foundation of legal basis for revenue collection, the definition should be in the basic permit section.

Additional comment: There is almost no way possible to write a municipal stormwater rate structure ordinance that meets the definitions of impervious surface and all the nuances in this permit. DOE should seek the advice of the state Attorney General to establish a basic legal groundwork that municipal ordinances can vary their definitions of impervious surfaces for those of the Department of Ecology. The City of Bainbridge Island is struggling with that very problem.

It would be fabulous exercise for DOE senior managers to try to write a municipal rate structure ordinance using DOE's current impervious surface definitions.

The challenge: Set a rate for gravel and paved and asphalt and pervious pavements ... artificial turf soccer fields ... horse training and stable facilities ... green roofs ... pre and post permit LID's ... rain gardens and detention and retention ponds (some work, some don't) ... density of development (some with hard structure stormwater facilities, some virtually rural with not even a drainage ditch) ... etc. Again, an exercise that might trigger some difficult problem discussions.

Final comment: As the stormwater permits extend farther from MS4 and flood control (the initial basis for a storm utility) to a broad concept of general watershed management, somebody soon will very likely litigate the stormwater utility concept, saying the utility is much like the judicial ruling of fire hydrants in Seattle ... it's a general fund, overarching public good, not a deliverable or measurable utility. That isn't the end of the world, but it moves stormwater from a fee to a tax, and that will have dramatic implication. That said, DOE managers I talk to have expressed that being a legal and legislative issue, not a DOE issue.

I understand that rational, but simply strongly disagree that DOE should not be concerned and an active player about possible future municipal defunding of the stormwater programs.

Respectfully,

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