

To DOE

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Underlined text are my wards and non underlined portions are to give context

S1 page 1

**In the past DOE has not been effective in renewing the permits within the lifetime of the permit thus leading to permit shock when incremental strengthening or making of the permit to be more rigorous. If incremental actions beyond the intended in this case 5 year period would be added we could avoid this problem**

S1 page 6E1a

**Even if these Diking or drainage districts are being operated by agricultural interests some of them partly or principally convey residential, commercial and industrial stormwater and should be addressed under this section especially when these districts lie within the Urban Growth Boundaries.**

202 plans are not integrated into new NPDES permits consequences for Vancouver Lake how not covered by TMDLs

### **Sediment Phthalates Work Group**

The Sediment Phthalates Work Group was convened in 2006 to address the re-contamination of cleaned up sites in urban bays of Puget Sound. The Duwamish and Foss Waterways are

**Why are we not looking at Phthalates in other paerts of the state.**

As part of the 1987 CWA amendments, Congress added section 402(p) to cover stormwater discharges to waters of the United States. Under the Federal Clean Water Act (33.U.S.C. Section 1342 (p)(3)(b)) permit requirements for discharges from municipal separate storm sewer systems include:

Municipal Discharge. – Permits for discharges from municipal storm sewers –

(i) May be issued on a system-or jurisdiction-wide basis;

(ii) Shall include a requirement to effectively prohibit non-stormwater discharges into the storm sewers; and

**Smoke and othe testing of Storm sewes should be required so as to accommodate this requirement.**

## **S4. COMPLIANCE WITH STANDARDS...**

A.

**The Washington state Standards do not acknowledge or provide for the needs of critical receiving waters like lakes impaired waters or estuaries. These areas need higher standards as biologicals and**

sediments can accumulate nutrients and toxins in these areas. Not acknowledging these areas with TMDLs has led to situations where these TMDLs institutionalize the degradation of these critical receiving waters. ....

B.

This permit still fails to regulate or manage negetiv and pervasive ground and surface(hydrophilic zone) water polution comming from septic systems. These systems are not ment to be perminate systems and need to be only permitted for a time spcific. Proper maintaince is not the anser as nutriant removal is reliant on arobic drain fields when in western Washington thes drain felds are saturated under winter time conditions these nutriants are pulsed into the groundwater which is at some point comes in contact with surface water where they beeing in an arobic state some nutriants acumulate.

C.

The MEP required for Critical receaving waters with a plan expressed in the Western Manule for the implementing of nutriant BMPs is not high enough it needs to also include all waters contributing to Criticle Receaving waters, like lakes or estuaries.. This should include any receaving water that is 303 listed not just that presently have a plan

F1

There needs to be a way for therd party complaints to access this system otherwise this will almost never occer.

## **S5.0 Antidegradation**

Pg 49 of CC Stormwater plan **WATER QUALITY COMPLAINT INVESTIGATION**

There is no Tracking. Tracking should occur with water quality issues raised in every part of this permit otherwise we are 'rearranging deck chairs on the Titanic.'

**S5A1** Preparation and revision of SWMP

**Provisions for this being a public process open to stakeholder participation need to be included.**

**S5A4** Public Involvement and Participation

Could you require all correspondence and reporting pursuant to this permit to be required to be listed on the website.

**S5A5** Controlling Runoff from New Development, Redevelopment and Construction sites

We need to start dealing with problems generated by existing development if we are to successfully improve Critical Receiving Waters like lakes and estuaries. Starting to map and plan for progamatic and capital projects to address these problems need to be required in this permit

**S5A5C** i and ii Watershed scale stormwater planning requirements:

**I thank DOE for requiring one Watershed plan for Each Phase I Permittee but these should best be chosen with relevance to our most impacted critical receiving waters like lakes and estuaries. For Clark County this would be Vancouver lake and Lacamus Lake. DOE has refused to do TMDLs on these watersheds and continues to look at the problems of these watersheds in a fragmentary manner if at all and has refused to establish higher standards for BMPs, regulatory or programmatic elements that would decrease nutrient loading to the point that these lakes could be managed for fishery and recreational uses.**

**These Watershed planning processes should be open to stakeholder participation and decision making not just public review as is required in iv. of this section.**

S5A6 Structural Stormwater Controls

**This section fails to require any funding of these projects**

S5 A7 Source Control Program for Existing Development

**This requires mapping and all kinds of planning and review but no specific funding.**

S5A 8b. *Illicit Connections* and Illicit Discharges Detection and Elimination

**Putting this off till 2018 seems a long time and this should be more forward loaded.**

**S5Abii** Conditionally Allowable Discharges:

**The changes to this section are of a drastic and declining nature. They have been poorly infoced but are still important.**

**S5Abv. Page 36**. Maintenance of stormwater facilities regulated by the Permittee

**The 80% requirement should be increased to 100% as this permit should build on the last**

**S5Acii page 38 Establishing a program to inspect Stormwater facilities after 10 year 24 hour storm**

**events**This program should be retained and specifically required by a date certain.

S5AC10 page 43 the stricken d on education reporting

**Reporting of education number and eforts should continue to be reported as only with such numeric reporting can we anylise how well these eforts work.**

**S53Bii Coordination**

**Failure to Cooperate by sub interties should be reported and dealt with by DOE.**

#### **NPDES S5D**

No later than two years from permit coverage date, provide staff training or coordinate with existing training efforts to educate relevant staff on proper *best management practices* for preventing spills and illicit discharges. All relevant staff shall be trained.

***I have spoken with the people at WSUV and this training has not taken place. I do not think that CC has made secondary Permittees aware of their responsibilities***

#### **Structural Stormwater Controls S5C6**

a. The SWMP shall include a program to construct structural stormwater controls to prevent or reduce impacts to waters of the state caused by discharges from the MS4. Impacts that shall be addressed include disturbances to watershed hydrology and stormwater pollutant discharges.

***This section is supposed to address existing problems/development, a more signifecant comitment to addressing existing problems not just new development needs to be expressed in this permit. This section needs to address 303 d listings not now being served by impairment related TMDLs. This section needs spcific levels of funding too,***

#### **S5C3 Coordination, b,i.**

***This coordenation needs to be extended to Industerial, Waste Water and DOT permits too, with time and dates for compliance. These letters of coordenation shold also be reviewed by the same commitee of regional stakeholders that is developing regional monitoring plans and standards.***

***We need a way to identify criticle reseaving waters like lakes or estuaries and also coordenate TMDLs and NPDES permits related to contributing waters.***

**S5C7Source control b.ii Minimum Performance Measures for Source Control Program .**

**100% of Businesses should be inspected in a 5 year period. It is possible to ignore critical polluting industry for multiple permit cycles or favor busyness for political or criminal purposes to the profit of inspecting entities.**

## **5.1 Background**

Federal regulations (40 CFR 131.12) and the Water Quality Standards for Surface Waters of the State of Washington (WAC 173-201A-300, 310, 320, 330) establish a water quality antidegradation program. The purpose of the antidegradation program is to:

- Restore and maintain the highest possible quality of the surface waters of Washington.
- Describe situations under which water quality may be lowered from its current condition.
- Apply to human activities that are likely to have an impact on the water quality of surface water.
- Ensure that all human activities likely to contribute to a lowering of water quality, at a minimum, apply all known, available, and reasonable methods of prevention, control, and treatment (AKART).
- Apply three Tiers of protection (described below) for surface waters of the state.

**We have been unable to get DOE to require nutrient BMPs for the watershed contributing to Vancouver Lake even though this is required by an existing 202 plan and is required under the Western Stormwater Management Manule under nutrient controls Vol 2-3 and4 Chapt 3**

## **5.2 Formal Adaptive Process to comply with WAC 173-201A-320(6)**

Washington's Tier II requirements for general permits are outlined in WAC 173-201a-320(6):

- a) Individual activities covered under these general permits or programs will not require a Tier II analysis.*
- b) The department will describe in writing how the general permit or control program meets the antidegradation requirements of this section.*
- c) The department recognizes that many water quality protection programs and their associated control technologies are in a continual state of improvement and development. As a result, information regarding the existence, effectiveness, or costs of control practices for reducing pollution and meeting the water quality standards may be incomplete. In these instances, the antidegradation requirements of this section can be considered met for general permits and programs that have a formal process to select, develop, adopt, and refine control practices for protecting water quality and meeting the intent of this section. This adaptive process must:  
November 4, 2011 Draft Phase I Municipal Stormwater Permit Fact Sheet 24*
  - (i) Ensure that information is developed and used expeditiously to revise permit or program requirements;*
  - (ii) Review and refine management and control programs in cycles not to exceed five years or the period of permit reissuance; and*
  - (iii) Include a plan that describes how the information will be obtained and used to ensure full compliance with this chapter. The plan must be developed and documented in advance of the permit or program approved under this section.*
- d) All authorizations under this section must still comply with the provisions of Tier I (WAC 173-210A-310).*

**Phase II permittees should be incorporating old 202 plans and implementing Western Manule Nutrient .....BMPs at a mininum yet this is not now required.**

## **6.5 S5 – Stormwater Management Program for City and County Permittees**

### **S5.A**

This section of the permit establishes the requirement for the cities and counties, named in S1.B, to implement a stormwater management program (SWMP). Consistent with the objective to simplify permit language, Ecology proposes to remove language in S5.A that defines the SWMP. This language is redundant with the definition of the SWMP located in the *Definitions and Acronyms* section of the permit.

For cities and counties, the SWMP is a set of actions and activities designed to reduce the discharge of pollutants from the MS4 to the maximum extent practicable (MEP) and to protect water quality. The SWMP for cities and counties includes the components listed in S5, actions under

**The MEP standard needs to also include full watershed rather than fragmented TMDL approach and also bring forward 202 plan requirements and programs.**

### **S5.C.2. Municipal Separate Storm Sewer System Mapping and Documentation**

**This section continues, and increases, the mapping requirements. Ecology reorganized this section to clarify the ongoing mapping requirements and detail the new mapping requirements. Watershed planing needs to be incorporated into this section. These plans need to include interactions with other NPDES permits and have agreements defining these interactions.**

### **Mapping Stormwater infrastructure requirement**

**Response not usable outside Clark County Clean water Program offices as is proprietary system Violation of transparency/public involvement.**

**There is no tracking system for problems identified in inspection of facilities that are referred to operations, Code enforcement, DOE, Regional sewer agency, Vancouver WDOT etc.....We can go through this empty exercise again and again NPDES permit after NPDES permit and no one has to do or is responsible for anything.**

In S5.C.2.a.iii

**These plans need to not only relate to the Watershed or basin but to the receiving waters as per Puget Sound or Vancouver Lake simply meeting minimum State standards has led us to a steady downward spiral of water quality and flooding.**

S5.C.2.b.iii – Ecology proposes to improve the connectivity of Permittees' MS4 maps by requiring mapping of connections between stormwater treatment and flow control BMPs/facilities owned, operated, or maintained by the Permittee and the mapped tributary conveyances. Ecology also proposes that Permittees map any connections for emergency overflows from these facilities. Improving connectivity of the MS4 maps should aid in spill response and illicit discharge detection. It may also aid Permittees in understanding flow patterns within the MS4.

Although the requirements are not explicit, Ecology expects that Permittees will also map structures such as catch basins and inlets to support their illicit discharge detection and elimination activities when they map tributary conveyances. This information would be particularly important for purposes of tracing illicit discharges and preventing harm from spills.

**The requirements to map Catch Basins and inlets as part of the illicit discharge program should be made explicit.**

### **S5.C.2.c and S5.C.2.d**

This section provides detail on mapping availability requirements including format. A key proposed change is to require electronic format with fully described mapping standards, rather than stating this as the preferred format. All Phase I jurisdictions maintain mapping in electronic format. This website: <http://www.ecy.wa.gov/services/gis/data/standards/standards.htm> contains example mapping standards.

**These formats need to be non proprietary and publicly available. Electronic formats being utilized by Clark County are not able to be reviewed by the public.**

### **S5.C.3 Coordination**

This permit requirement calls for establishment of coordination mechanisms both internally and externally to aid in the implementation of the SWMP. Ecology proposes a reporting requirement for information about intra-governmental coordination that describes roles, responsibilities and organizational relationships. Permittees implementing the current (2007) permit found that problems occurred when internal communication and coordination did not happen. This reporting requirement is consistent across all municipal stormwater permits and should assist Permittees with determining communication and coordination mechanisms. In the requirement for external coordination, Ecology recognizes that other entities may not choose to cooperate. It also recognizes the difficulty of defining shared water bodies and understands that such coordination may occur at a variety of scales appropriate to the activities being coordinated. Permittees in most parts of western Washington worked together in a variety of formal and informal coordination groups during the current (2007) permit term.

**Short comings identified through complaints or programmatic activities need to be systematically taken care of internally or referred to other agencies or departments but tracked so that they are taken care of/resolved in a timely manner. This is not required under current permit.**

### **Watershed-scale Stormwater Planning**

Stormwater management is inherently related to land cover changes. Scientists recognize that it is not possible to maintain water quality and aquatic habitat in lowland streams in Washington State without considering land use and how the landscape is developed. This must occur at a watershed scale that is broader than individual site and subdivision projects. The PCHB Phase I *November 4, 2011 Draft Phase I Municipal Stormwater Permit Fact Sheet 37*

ruling acknowledged the need for a watershed-scale approach to stormwater management based on the testimony of stormwater experts on all sides of the appeal. The Board directed Ecology to amend the current Phase I permit to require the “Permittees to identify, prior to the next permit cycle or renewal, areas for potential basin or watershed planning that can incorporate development strategies as a water quality management tool to protect aquatic resources.” That statement implies an expectation for a permit requirement in the next Phase 1 permit cycle in regard to basin planning. In response to that ruling, Ecology presented a proposal in the May preliminary draft for public comment. That preliminary draft proposed planning for watersheds subject to a proposed expansion of the UGA by 80 or more acres; or a land use action causing a projected five percent

Please restore the requirement for watershed scale planning, limiting this only to the developing basins damages the remaining basins as they too are developing albeit slower. All basins with any development need watershed scale planning. Watershed outfall quantity and quality needs to be included also. Without such basin planning beneficial uses will be lost. DOE's intention of limiting this planning to just one basin per Permittee is short sighted and will assure institutionalized degradation among the basins not so addressed. Requiring interjurisdictional cooperation only on the one basin being planned for ignores the need to have other jurisdictions and other NPDES Permittees of all type communicating and having agreements in support of beneficial uses in each and every watershed.

#### **S5.C.9 Operation and Maintenance Program**

The changes proposed for this section would require continuing implementation of the operation and maintenance programs developed during the current (2007) permit term. Proposed changes should add LID related terms, reflect the 2012 edits to the *Stormwater Management Manual for Western Washington* (SWMMWW), and improve the flexibility for some activities.

We need stronger protection for ditches that are vernal and year round streams in support of Salmon recovery

#### **Pg 49 of CC Stormwater plan WATER QUALITY COMPLAINT INVESTIGATION**

There is no Tracking. Tracking should occur with water quality issues raised in every part of this permit.

Page 17 of the CC stormwater plan assumes that the life cycle length of a facility has been determined and that facilities are put on a calendar to be systematically handled. This also seems rather a subjective process. Life of facility needs to be taken into consideration in revision of this permit.

Page 18 of the CC Stormwater plan The permit calls for characterization not attributes this would include quality of water conveyed It also appears the responsibility matrix is empty of any responsibilities "to be determined" This section is absent.

Page 19 of the CC Stormwater plan the commitment in 2010 to start on mapping catchments connected to 24 in outfalls seems to little to late need to check deadline in NPDES for this requirement also note all this information is not another map layer to the county GIS system but a proprietary GIS system only available to Clark County employees licensed to use the system. see S5C2 I and ii This is required as of January of year 4 of the permit 2011 This needs to be a publicly assessable system. This element of public accessibility needs to be incorporated into the permit.

Page 20 of the CC Stormwater plan Facility Ownership and Maintenance Responsibility Verification When this is done life of facility should also be assessed Improperly retired or rendered dysfunctional facilities should also be noted including facilities so rendered by County staff.

**Page 21 of the CC Stormwater Plan. Do we really want to record all of this valuable information in a proprietary GIS system ( Stormwater Click) that lacks public accessibility? Public access should be required by this permit.**

**The commitment to update the Stormwater facility inventory on a regular bases seems a vague and indefinite commitment. Should be required in yearly report by permit.**

S5.C.9.c.ii – Spot Checks – Ecology proposes to remove the storm event size from this requirement to conduct spot checks after major storm events. Some Permittees provided feedback that their systems are too variable to tie this to a prescriptive storm event, and that when damage may be occurring, they prefer to deploy their staff where it is most needed. Ecology recognizes the importance of this flexibility and defers this to local discretion.

**The lowering of this activity at these proscribed times makes it so we no longer seek base line data that will inform us as to degradation that needs to be addressed if we are to manage watersheds.**

## **6.7 S7 Compliance with Total Maximum Daily Load Requirements**

Under some circumstances, when the water quality of a water body is impaired, the federal Clean Water Act requires States to set limits on the amount of pollutants that the water body receives from all sources. States may also set limits on pollutant loads when water bodies are threatened. These limits are known as Total Maximum Daily Loads (TMDLs). A TMDL is developed through a defined process to identify the maximum amount of a pollutant that may be discharged from all sources to a water body without causing violations of water quality standards. Pollutant control strategies are developed in a TMDL to keep the pollutant loading below that level. TMDLs include an assignment of Waste Load Allocations (WLAs) to NPDES permitted dischargers and Load Allocations to control the load from non-point pollution sources.

Stormwater dischargers authorized by this permit are required to implement actions necessary to achieve the reduction in pollution called for in applicable TMDLs. Applicable TMDLs are TMDLs which EPA has approved prior to the date the final permit is issued or prior to the date that Ecology issues coverage under this permit, whichever is later. Information on Ecology's TMDL program is available on Ecology's website at <http://www.ecy.wa.gov/programs/wq/tmdl/>

**This should also incorporate 203 programns such were done in suport of the Vancouver lake cleanup that were aproved by the EPA and that reduced nutriant loading in the contributing watersheds and exselerated septic tank to sewer conversio. There must be some way to address criticle receaving waters like Puget Sound, Vancouver or Lacamas Lakes or estuaries.**

## **S6. STORMWATER MANAGEMENT PROGRAM FOR CO-PERMITTEES AND SECONDARY PERMITTEES**

### **B. Coordination**

The SWMP shall include mechanisms to encourage coordinated stormwater-related policies, programs and projects within a watershed and interconnected MS4s. Where

relevant and appropriate, the SWMP shall also include coordination among departments of the Secondary Permittee to ensure compliance with the terms of this permit

*The Coordination required under this section and S5C3 has not occurred These would include the smaller cities WSUV dyking districts Regional Sewer agency etc....*

## 6.8 S8 Monitoring

*The RSMP was not an open public process. This proposed action shows that DOE has caved to Permittees rather than supporting the resource. Stake holders not just regulators and Permittees deserve to have a seat at this table. We need a continuing baseline built into this and future permits so as to act as a tool for managing water resources and Salmon recovery. We need to know if the three legs of the Clean water act stool are enough to stop degradation and where stronger measures and TMDLs are prioritized. We also need in stream monitoring and watershed outlet monitoring to show us where we need more effort. I wish that DOE's role in this process would be expanded with more money/effort into the TMDL program rather than expanding standards and permits as Standards and permits are not politically popular and are at best reactive. This proposed shared funding of regional monitoring seems to me to be an excellent tool to support the needs of regional water quality programs like the WIRAs and an incremental method of addressing critical receiving waters like lakes and estuaries that are poorly treated in the existing NPDES Standards and TMDL programs. South West Washington and other areas having critical receiving waters as I have described earlier should all have the benefit like those on the Puget Sound of involving all the stake holders in the developing of a long term shared program to restore and manage its critical receiving waters. This should not be a process dominated by DOE and the Permittees as is proposed in the new permit.*

*In the 1980s we had a 208 plan that called for efforts on the watersheds contributing to Vancouver Lake We have repeatedly requested TMDLs on the lake and DOE has refused due to complications and a lack of money. We are seeing 2 TMDLs one on Burnt Bridge Creek and one on Salmon Creek neither of which include the needs of Vancouver Lake. This is the proverbial Catch 22 where DOE refuses to do anything for Vancouver Lake yet because you are close to the Puget Sound you are willing to do allot. We deserve a regional effort too. Clark County has demonstrated their contempt for the Clean water act by refusing to comply with it for almost a decade until they were forced to do so by law suit. Why not open up this regional monitoring plan to other stakeholders rather than just Permittees like you have with the Puget Sound Permittees. We deserve an equal effort. The token one watershed should be required anyway as a part of the needed expansion of the permit due to declining water quality. As for the Choice for Clark County of The Salmon Creek or the Whiple creek watersheds these choices perpetuate the artificial*

fragmentation of watersheds that make it impossible to manage or improve Crittckel Receiving waters like lakes or estuaries. I would instead select two Critical Receiving waters that that we have spent substantial moneys on in an attempt to manage already, Vancouver Lake and Lacamas Lake.

Phase 1 and II Permittees need to participate in this plan and should not be given a choice. There negative choice regardless will be expressed as appeals anyway. Population should be the only consideration for allocating cost regardless of Phase 1 or II status. Regional monitoring considerations are more important than census numbers from the 1970s. I hope that this Regional Monitoring moves forward but I fear that backward jurisdictions like Vancouver and Clark County will appeal regardless.

Reporting on the Assessment of BMPs

For the improvement of BMPs a stakeholder group should be convened not dominated by Permittees or builder/realtor groups but inclusive of resource users and recreation too.

## 6.10 General Conditions

This section is to Puget Sound centric and needs to include the needs of South West Washington. We have regional fishery ,critical receiving waters and recreation needs too.

## S7 TMDLs

There needs to be a way to implement new TMDLs that are approved before the end of this permit or the perhaps more lengthily process until a new permit is issued. Perhaps the statement that an addendum will be issued for this permit for the implementing of new TMDLs 5 years after this permit is issued if a new permit is not issued at that time.

## S8C2 Monitoring Clark County

Clark County should be developing Watershed plans and monitoring. The amount of money in the permit is arbitrary and should be subject to the needs of a stakeholder committee. The Phase I and Phase II permits should be incrementally combined