

January 30, 2012



City of Bothell™

Municipal Permit Comments  
WA Department of Ecology  
Water Quality Program  
P.O. Box 47696  
Olympia, WA 98504-7696

To Whom It May Concern:

The comments contained in this letter are in regards to the 2013-2018 Western Washington Phase II Municipal Stormwater Permit draft released on October 19, 2011 with comments due by February 3, 2012.

The City of Bothell has the following comments:

## Permit Re-Issuance

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*Regarding one-year permit re-issuance:*

Since this is a re-issuance and not an extension, there is language pertinent to the existing permit that must be addressed. Tasks in the permit are due based on the issuance and expiration dates of the permit. For example: All catch basins are to be cleaned during permit term. For the one-year permit as it is written, all catch basins are required to be cleaned during the one-year permit. It is understood that the intent of the one-year permit is to maintain the ongoing work programs, not to start over and complete five years of work in one year. However, as written, requirements go beyond that expectation.

❖ **We ask that revisions are made to address this issue clearly.**

## Education and Outreach Requirements

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**S.5.C.1** *“An education program may be developed **and implemented** locally or regionally.”*

**The City understands that Ecology is attempting to give us credit for working regionally to**

Community Development &  
Public Works Departments  
9654 NE 182nd St.  
Bothell, WA 98011  
CD 425.486.8152 PW 425.486.2768  
[www.ci.bothell.wa.us](http://www.ci.bothell.wa.us)

administer education and outreach programs, but recommends that Ecology separate awareness requirements from behavior change requirements as these involve two different methods of delivery.

Example – We currently conduct the regional King County Natural Yard Care Program with six other jurisdictions (we coordinate on regional outreach materials, staffing, speaker training, etc.) to save on costs. However, we conduct our own behavior change workshops that are tailored to our local needs and demographics in order to make the program successful.

- ❖ **The City supports awareness implementation on a regional level but would ask that the social marketing behavior change models take place on a local level.**

*S.5.C.1.a.1 “General Public, including school age children.”*

The City recognizes that Ecology singled out youth in our specific target audience requirements. This will allow us to receive direct credit for our current efforts and will provide opportunities to partner with other jurisdictions on youth education programs.

*S.5.C.c “No later than February 2, 2015, Each Permittee shall begin measuring the understanding and adoption of the targeted behaviors for at least one new targeted audience in at least one new subject area. No later than February 2, 2016, the resulting measurements shall be used to direct education and outreach resources most effectively, as well as to evaluate changes in adoption of the targeted behaviors.”*

The City would like to receive clarification on the word “new” when referring to a target audience. Some jurisdictions are interpreting that once we conduct evaluation for a resident target audience, we are no longer allowed to use residents as a target audience for other evaluation purposes.

## Illicit Discharge and Elimination

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*S5.C.3 (pg 21, line 14) “The SWMP shall include an ongoing program to identify, detect, remove, and prevent illicit connections and illicit discharges into the MS4.”*

- ❖ **It should be SWMPR.**

Adding the word “prevent” is concerning, and a potential liability. The City can create codes and policies that do not allow illicit connections, create educational material, and outreach to

citizens with the goal of minimizing connections; however, preventing the actions of individuals is not always possible nor is it a realistic expectation.

- ❖ **Suggested revision: “The SWMPR shall include an ongoing program to identify, detect, and remove, ~~and prevent~~ illicit connections and illicit discharges into the MS4. Concerted effort shall be made to educate Public and businesses in an effort to prevent future illicit connections”**

*S5.C.3.b.v (pg 24, line 30) “The Permittee shall implement a compliance strategy that includes informal compliance actions such as public education and technical assistance as well as the enforcement provisions of the ordinance or other regulatory mechanism.”*

- ❖ **Thank you for stressing compliance. We believe that the primary goal should be compliance, which will minimize the need for enforcement.**

*S5.C.3.d.iv (pg 27, line 36) “All illicit connections to the MS4 shall be eliminated.”*

For an illicit connection to be removed, it must be known that it exists. While we have programs to identify currently unknown connections, it may not be possible nor a reasonable expectation to find all illicit connections.

- ❖ **Suggested revision: “All known illicit connections to the MS4 shall be eliminated.”**

*Annual Report Question #21 references the section of the permit above. It says, “Attach a summary of actions taken to characterize, trace and eliminate any illicit discharges found by or reported to the permittee. Include a description of actions according to required timeline per S5.C.3.d.iv.”*

The time required to complete such a report does not provide a great enough benefit for the cost to generate the report. The staff time required for such an endeavor could be better utilized in the field.

- ❖ **Please provide guidance on the expectations for this summary report.**
- ❖ **The City strongly advocates for a concise summary report that tabulates how many incidents were handled, lists all the methods used, how many times each method was used, and then summarizes the average response and investigation timelines as determined for compliance. These statistical type answers can be easily built into and queried from databases in a reasonable amount of time when preparing the annual report.**

- ❖ **The City strongly advocates against providing a detailed summary of each incident individually.**

## New & Re-Development and Construction Sites

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**S5.C.4.a (pg 29, line 23)** *“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.”*

- ❖ **The reference should be to S5.C.4.a(i) through (iii).**

The five-year timeline proposed is inconsistent with other state mandated timelines. For example, plat applications are required to be honored for seven years. Also, shoreline permits are valid for a time period that varies based on other permit applications.

- ❖ **The City advocates removing this provision from the permit altogether. However, if this requirement moves forward, more study of state statutes is needed to ensure that it remains consistent with existing development timeline requirements and does not create new conflicts.**

**S5.C.4.g (pg 34, line 21)** *“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 BMPs.”*

- ❖ **The City advocates for separate deadlines for the review process of the existing code and the subsequent revisions to the code.**

## Maintenance and Operations

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**S5.C.5.d** *“Inspection of all catch basins and inlets owned or operated by the Permittee at least once **every two years...**”*

The City is committed to achieve this two-year maintenance cycle requirement. However, there will most likely be issues/constraints outside of the City’s control that might threaten

this guaranteed level of service. For example, a harsh winter that involves extensive manpower requirements to deal with snow and ice can create difficulties in achieving the two-year goal of inspections and servicing catch basins. The City's policy is to be proactive after storm events. Efforts are focused on promptly cleaning streets and removing debris to prevent its entry into the stormwater system. The proactive efforts often cause other pre-planned work to be put on hold. The on-hold projects create a ripple effect that will lead to having to reassign workloads later to play catch-up. With this understanding, the City has concerns about meeting the every two years inspection and cleaning requirement.

- ❖ **The City recommends that the permit allow for flexibility in attaining the two-year service requirement. The flexibility should give credit to jurisdictions that have a proactive storm response program in place. The credit could take the form of an extra year added onto the two-year service requirement to accommodate years in which there are significant weather events.**

## Monitoring

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### *S.8.C.1 Status and Trends Monitoring*

The City commends Department of Ecology for promoting region-wide trend and status assessments. The use of a regional approach to test the permit requirements' effect upon the region is a needed feedback component. However, what the regional assessment will not give us is determination as to how an individual Phase II entity is managing their receiving waters. The results cannot be linked to a particular jurisdictional activity because there is no statistical correlated response.

For example, out of the 100 proposed monitoring sites, only one is located within the City of Bothell (at North Creek at 228<sup>th</sup> Street SE). Furthermore, what occurs in North Creek at this site is influenced by Snohomish County, City of Everett, City of Mill Creek, and City of Bothell. There is no direct means to tie the observations to the activities of a particular individual jurisdiction. In contrast, Bothell is currently monitoring tributary watersheds that are wholly or nearly all within the City limits. This allows a direct correlation between what is observed instream and City activities. This direct monitoring feedback provides the optimum value to the City.

- ❖ **The City suggests that WDOE provide incentives to jurisdictions to conduct their own status and trend monitoring that is comparable with the proposed regional assessment study.**

The cost of the pay in option does not appear equitable when compared to what the City receives from its own ambient water quality monitoring program. The one site that is proposed to be sampled once during the permit cycle within Bothell (Regional Assessment Study, Option 1) will cost the City \$8,163 per year, equating to a 4-year cost of \$32,652.

The City's current monthly ambient monitoring of 17 sites has an annual cost of approximately \$17,443 per year. The annual cost is approximately \$2,490 per site. This lower cost per site coupled with the ability to correlate to City activities provides the City a much higher return on its monitoring investment dollars.

The City recognizes the importance of a regional assessment study that provides important status/benchmarking and trends and should pay some portion of the cost for this benefit to avail itself to the results.

- ❖ **The City suggests payment of a one-time fee equal to one year's cost under the proposed cost table, S.8.C.1. For Bothell, that would be a one-time fee of \$8,163.**

The parameters measured under "opt out option 2" should allow flexibility for individual jurisdictions to customize their monitoring program to the type of pollutants expected to be encountered. For example, Bothell lacks heavy industry; hence, requiring the sampling of sediments for industrial heavy metal inputs most likely will produce little gain.

- ❖ **The City requests under the "opt out option 2" that jurisdictions be given increased flexibility to develop status and trend monitoring. The monitoring should take into account the characteristics of the individual jurisdiction.**

The City is concerned how streams were identified under the QAPP for the Regional Assessment. The identification of streams was based on maps at the 1:100,000 scale. The 1:100,000 scale map displays large streams such as North and Swamp Creek, but does not identify smaller tributaries. This exclusion of smaller streams would severely limit the number of available streams to choose from in Bothell. It would exclude the very type of smaller tributary streams that are now being monitored in the City.

- ❖ **The City recommends that stream selection for those choosing "opt out option 2" be based on a scale that would allow inclusion of the more common type of smaller streams often found in urbanized watersheds.**

#### ***S.8.D.1 Effectiveness Study, Monitoring***

This style of BMP monitoring is well-suited to a regional approach if conducted using a case study design. The list of possible BMP studies listed in Appendix 10 is in need of revision.

For example, it includes education and outreach effectiveness studies, but it is unclear if it supersedes the effectiveness survey called for under the Public Education and Outreach section of the permit.

- ❖ **The City recommends that Ecology re-visit the BMP list to focus on regionally used BMPs specific to on-the-ground storm water control and treatment.**

#### ***S.8.E.1 Source Identification and Diagnostic Monitoring Information Repository***

The repository does not represent monitoring and should be removed from the permit and delegated out as a research project. The proposed IDDE repository is redundant. Each jurisdiction should already have an IDDE manual custom tailored to their specific conditions per permit section S.5.C.3. Having a repository is a good idea as a regional and/or national project. It should have a different funding source (i.e. State or federal).

- ❖ **The City recommends that the repository be removed from the permit monitoring requirements.**

## **Appendix 2**

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### ***Appendix 2 – TMDL (pg 10, line 17) Requiring bacteria screening within the MS4.***

A positive detection by bacteria screening is not in the same category as tracing spills like paint or gasoline. Fecal coliform is a surrogate method to detect a possible threat. A positive test result for fecal coliform bacteria does not necessarily equate to an illicit connection. The questions to be asked in the case of a positive bacteria indication are:

- 1) When does a positive test require a full illicit discharge response, versus periodic monitoring of the area to establish a trend?**
- 2) What conditions support the closure (or elimination) of the illicit discharge case?**

**For example, the City had a high fecal coliform hit within Little Swamp Creek. Despite all efforts to trace the source, the bacteria levels have varied dramatically with monitoring over time, and a definitive source for the bacteria has not been identified.**

**❖ The City advocates for a separate process with thresholds, timelines, and additional guidance for bacteria screening.**

The City of Bothell appreciates this opportunity to provide comments and suggestions on the 2013-2018 Western Washington Phase II Municipal Stormwater Permit draft. It is the City's Surface Water Program's goal to protect and restore the physical, chemical, and biotic integrity of our surface waters. We welcome our continued collaborative efforts with Washington Department of Ecology to achieve our mutual goal.

Sincerely,



Don Fiene, P.E.  
Utility Manager

cc: Erin Leonhart, Public Works Director  
Janet Geer, Surface Water Program Coordinator  
Kristin Terpstra, P.E., Environmental Engineer, Surface Water Program  
Andy Loch, Surface Water Program Coordinator