PUBLIC WORKS
Kevin M. Nielsen, *Director*

80 Columbia Avenue
Marysville, Washington 98270
Phone (360) 363-8100
Fax (360) 363-8284
www.marysvillewa.gov

February 3, 2012

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

RE: Comments on the Draft Western WA Phase II Municipal Stormwater Permit

Ms. Beale:

The City of Marysville has prepared the following comments on the Draft Western Washington Phase II Municipal Stormwater Permit. Please accept these comments as a supplement to the comments prepared and submitted by the Association of Washington Cities (AWC) which the City fully endorses and supports. As described in the AWC comment letter, the City of Marysville has been striving to deal with increased permitting and regulatory demands with limited staff and funding. The City understands the directives of the Pollution Control Hearings Board (PCHB), and Ecology's mandate to include certain new requirements and initiatives in the draft Permit language. With that understanding, the City submits there are areas in the draft Permit where requirements have been elevated and are not a direct mandate of the Clean Water Act or the PCHB. When reviewing the number of comments you will receive on this draft language, please consider that statement and remove language and requirements that are not mandated.

The implementation of the new permit requirements as currently proposed and drafted will place a serious and unattainable burden on the City of Marysville. Marysville is a growing full service city with a population of approximately 58,100 persons. The City has 21 square miles within which it would be required to manage, inspect and monitor per the new storm water requirements. The City employs 10 FTE's at the current time in order to comply with the current permit as well as other stormwater related requirements. With the new requirements it simply will be unable to meet all requirements without finding additional sources of revenue to hire additional staff. With the current economic climate, over the past two years the City has had significantly

declining revenues in all areas of its governmental operations and has in fact had to cut many essential services, including Police, Fire, Streets, Parks, and has been forced to lay off a significant number of employees and make many other cost cutting measures. To ask for additional funding from citizen taxpayers and ratepayers in the current economic climate is unrealistic and unreasonable when other basic services are being cut. The economic situation cities are facing is real and there is no light at the end of the financial tunnel as to when a recovery from the recession will occur. Accordingly, the timing of the implementation of the new permit could not be at a more difficult time.

With the understanding that a new Permit is directed to be issued pursuant to RCW 90.48.260, the City of Marysville is in support of extending the permit issuance date by three years rather than one. The City plans to support proposed Senate Bill 6207 for this deferral in order to provide fiscal relief to jurisdictions and to plan for the additional and extensive new requirements.

1. **One Year Permit August 1, 2013 – July 31, 2018**
   Although we understand the reasons behind the one year extension of the existing permit, we are concerned with Ecology's legal interpretation of some of the required due dates. For instance, the use of the term "to be completed by the end of permit term" could be literally read to require those activities to be complete in a one year time frame vs. the five year period they were intended for. Completion of some of the mandates in a one year period would be unattainable.

The following comments are referenced by the page and line in the draft permit where the language appears:

2. **S5.C.1 Public Education and Outreach**
   Location: Page 18, lines 33-35
   Comment: The opening paragraph says that the education program should be "aimed at residents, businesses, industries, elected officials, policy makers, planning staff and other employees of the Permittee." This sentence does not align with the target audiences listed in this section.
   Recommendation: Revise this sentence to include only the audiences that are listed as targets further into the section.

   Location: Page 20, lines 13-19
   Comment: There are new target audiences and new subject areas. The wording now implies that Permittees should measure the understanding and adoption of those "new" audiences and subject areas. We do not think Ecology intends to require the measurement of understanding and adoption on specific topics, yet to add an additional measurable audience to their current program.
   Recommendation: Change the word "new" to "additional" to provide clarification.

3. **IDDE Language**
   Location: Page 21, lines 13-14
   Comment: The sentence "The SWMP shall include an ongoing program to identify, detect, remove and prevent illicit connections and illicit discharges into the MS4" is

unrealistic from both a practical and scientific basis. Permittees will not be able to identify all illicit connections.
Recommendation: We recommend the addition of the word "intended" or "designed" after the word "program".

Location: Page 25, lines 6-8
Comment: The sentence "Each Permittee shall implement an ongoing program to identify and detect….." is unrealistic from both an operational and scientific stand point.
Recommendation: We recommend the addition of the word "designed" after the word program.

Location: Page 25, lines 30-32
Comment: The new first sentence is very vague. How should the Permittee decide what methods are "appropriate to the characteristics of the MS4"?
Recommendation: Remove the sentence "The Permittee shall implement a field screening methodology appropriate to the characteristics of the MS4 and water quality concerns." The remaining portion of the paragraph provides the Permitee with sufficient guidance and leeway to choose an alternative screening method and adequately explains how to document the choice, without having to demonstrate or prove somehow what is appropriate for the characteristics of the MS4.

Location: Page 26, lines 3-6
Comment: The new paragraph that states "Permittees shall prioritize conveyances and outfalls and complete field screening for at least 40% of the MS4 within the Permittee's coverage area…." is not a realistic or feasible expectation. This approach has not proven to identify problems and remedies appropriately in the past.
Recommendation: This paragraph should be removed allowing jurisdictions to implement an IDD&E program, as required in the prior paragraph that would be able to be tailored to local needs and concerns, which would include business inspections, outfall inspections and the like.

Location: Page 26, lines 22-24
Comment: The sentence "Each Permittee shall implement an ongoing program to address illicit….." should be rewritten more broadly.
Recommendation: We recommend the addition of the word "designed" or "intended" after the word program.

Location: Page 27, lines 36
Comment: The sentence "All illicit connections to the MS4 shall be eliminated" is a broad statement that is neither realistic nor feasible of being achieved because there is no practical or scientific methodology to identify and eliminate all such connections.
Recommendation: This sentence should be eliminated or reworded to tie in with the paragraph with which it is associated. For example, add the word "known" illicit

connections could be inserted as a qualifier as we believe that was the intention of the sentence.

4. **O&M**

Location: Page 32 and 36
Comment: Ecology cannot expect the Permittees to inspect everything that is defined as "stormwater treatment and flow control BMPs/facilities." If LID practices are followed, then facilities will end up being small, numerous, and dispersed across private property. For example, the City of Marysville has approximately 21 square miles of property over which it would need to secure access and inspection rights. Such an undertaking is legally and practically impossible. Although Ecology is attempting to require it, Permittees do not have the legal or financial capabilities to secure access rights to inspect private permeable driveways, walkways or back yard bioretention areas, etc.
Recommendation: Inspections of LID facilities should only be required of the Permittee if the facilities are in right-of-way or tracts dedicated to or owned by the Permittee. If LID facilities are placed on private lots to meet Minimum Requirements 6 or 7 then education and outreach concerning the function and maintenance of these facilities should be targeted to homeowners and businesses that have those facilities on their property.

Location: Page 37, lines 1-28
Comment: Changing the inspection frequency from 5 years to 2 years has major implications to Phase II jurisdictions, and is simply not feasible as demonstrated by the submission of G.20 letters from Phase I Permittees. Circuit cleaning, as described in d.i, is not realistic for jurisdictions such as Marysville. We have numerous pocket neighborhoods with older catch basins, varying sump depths, etc. Cleaning catch basins just upstream from an outfall does not represent the rest of the circuit and could cause neighborhood flooding. If the intention of d.ii is to allow cleaning, not just inspecting of all catch basins in a jurisdiction at least once in the 5 year permit term, such language is vague and misleading. As written, d.ii includes cleaning the entire MS4, within a circuit, effectively extending the catch basin cleaning requirement far beyond catch basins. It also excludes cleaning or inspecting the rest of the entire system and does not achieve the ultimate goal of protecting water quality.
Recommendation: Please re-word d.ii to say "The Permittee may clean all catch basins and inlets owned or operated by the Permittee once during the permit term." There should be no reference to conveyances or the entire MS4.

5. **RSMP Cost Allocations**

Location: S8. Monitoring
Comment: Although the City of Marysville understands the regional concept for the monitoring requirements in the Permit, it strongly believes that the cost allocations are not fairly distributed. Phase I monitoring costs should not be drastically reduced, while Phase IIs are implemented for the first time and not currently budgeted. In addition we continue to be concerned with the cost allocations if some jurisdictions choose to not participate in the RSMP.

Recommendation: For this next permit cycle, we believe Phase I monitoring costs should be weighted differently than Phase IIs (not just in that first year), as Phase I permittees have had a number of permit cycles to ramp up and secure funding. Phase IIs have not had sufficient time to react to the considerable funding demands that the new requirements would impose.

6. **S7 Compliance With Total Maximum Daily Load Requirements**
   Location: Page 49, line 17
   Comment: Fix typo "oro priot"

7. **Definitions and Acronyms**
   Location: Permit, page 75, line 35
   Comment: The inclusion of "or from" into the Illicit Discharge definition does not seem to fall within the realm of this Permit directive.
   Recommendation: Please remove "or from" in this definition.

   Location: Permit, page 79, line 36
   Comment: "Interflow" should not be included in the stormwater definition.
   Recommendation: Please remove "interflow" from the definition.

   Location: Permit, page 80, line 3
   Comment: The definition for the Stormwater Management Manual for Western Washington is not clear as to what manual year it is referring to.

8. **Appendix I**
   Location: Appendix I
   Comment: The current Permit Appendix I slightly altered the Minimum Technical Requirements for New Development and Redevelopment found in Volume I, Chapter 2 of the 2005 Stormwater Management Manual for Western Washington. The City of Marysville put the full text of Appendix I into local code, rather than citing the Manual due to these small discrepancies.
   Recommendation: Please include language in the Permit on page 29, line 28, that would allow a Permittee to cite Volume I, Chapter 2 of the 2012 Stormwater Management Manual for Western Washington to meet the minimum performance measure in S.5.C.4.a.i.

   Location: Appendix I, page 8, lines 1-2
   Comment: The sentence implies that the flow charts should only be used for "subdivision, plat or short plat." This sentence should be corrected so that it applies to all development.
   Recommendation: Change the sentence to describe new development and redevelopment.

   Location: Appendix I, page 9
   Comment: We recommend that the words "plus replaced" should not be added to the second box in the flow chart. That text is already in the redevelopment chart and should not be in the new development flow chart.

Recommendation: Please remove the text "plus replaced" from the second box in the flow chart.

Location: Appendix I, page 22, line 28
Comment: SWPPP element number 12 requires all bioretention and rain garden BMP's to be protected from compaction. It may not be possible to prevent compaction at every location throughout a site because the BMPs will be small, numerous and widespread. This element also requires foot traffic to be excluded. This is an unrealistic and from a practical standpoint, an unenforceable expectation. For example, in order to complete and plant these areas foot traffic will be necessary.
Recommendation: This section should require protection to the MEP. This Element should include BMPs that can be used to correct areas that may become compacted during construction if compaction was unavoidable, similar to the requirement for sedimentation.

Location: Appendix I, page 23, lines 22 and 25
Recommendation: fix typo on line 22 "for to" and line 25 says "approved" twice.

Location: Appendix I, page 25, lines1-7
Comment: Meeting the pre-developed discharge rates from 8% of the 2-year peak flow is not a realistic or attainable requirement.
Recommendation: This rate should be adjusted to an attainable standard. If that standard cannot be determined, this section should be eliminated from the Appendix.

Location: Appendix I, page 26, lines 24-25
Recommendation: Please provide specific guidance on what a "cost analysis" concerning a vegetated roof entails.

Location: Appendix I, page 26, line 44
Comment: Typo, "(see table 4.1 below):" This table was removed from the text.
Recommendation: Remove text in parentheses.

Location: Appendix I, page 27, line 2
Comment: There is a typo in the acronym for pollution-generating hard surface.
Recommendation: Replace PGIS with PGHS.

Location: Appendix I, page 33, line 6
Comment: The sentence references Appendix I-G in the 2012 Ecology Manual.
Recommendation: There is not an Appendix I-G in the 2012 Draft Manual.

Location: Appendix I, page 40, line 10-14
Comment: The Mandatory List states that a cost analysis may be used to claim the infeasibility of a green roof, but Section 8,I,C. does not cite that in the infeasibility list.
Recommendation: Please include cost in the infeasibility list.

9. **Snohomish TMDLs**

Location: Appendix 2, page 8, line 1-3
Comment: The required inspection timelines are not clear. Some jurisdiction, like Marysville, spread their inspections over a 2 year timeframe and looking back three years would arbitrarily cause re-inspection of some businesses and not others.
Recommendation: Please re-write this paragraph stating expectations from the effective date of the new Permit going forward in time.

Location: Appendix 2, page 8, lines 14-16
Comment: The IDDE paragraph is not clear in what it is requiring. It is written so broadly it could be interpreted that permittees are required to implement bacterial screening of ALL MS4s outside of what was identified in their IDD&E program. In addition it would require bacterial screening in field situations that may not have justified cause for concern during the inspection.
Recommendation: Please remove this IDDE paragraph from Appendix 2.

Location: Appendix 2, page 8, line 23
Comment: The statement "Permittees shall begin to implement source identification and elimination efforts…." is not clear as there is no definition of source identification and elimination.

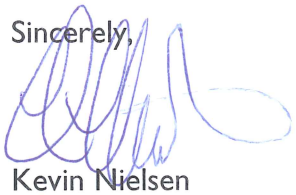
10. **Street Waste and Stormwater Facilities Disposal Guidelines**

Location: Appendix 6 and page 69
Comment: Since the local health districts and Ecology are initiating permits for compliance with these activities, it would be appropriate to reference the permits.
Recommendation: It should be cited that if a permittee is permitted and following the procedures outlined in the permit, they would be in compliance with these requirements.

Location: Appendix 6, page 1, line 24
Comment: "municipal sanitary sewer" was replaced with MS4 in error.

Thank you for the opportunity to provide comment on this most important matter.

Sincerely,



Kevin Nielsen
City of Marysville
Public Works Director