



January 31, 2012

Harriet Beale
WA Department of Ecology
Water Quality Program
PO Box 47696
Olympia, WA 98504-7696

RE: Comments of the Draft Phase II Municipal Stormwater Permits

Dear Ms. Beale:

The City of Newcastle appreciates the opportunity to provide comments on the NPDES Phase II permit and recognizes the extensive effort of Ecology in creating and incorporating past comments into this current draft. We are encouraged by Ecology's willingness to adapt permit language to allow for continual protection of water quality, while providing flexibility to Permittees to implement the best management practices suited for their individual needs and goals.

Please see the following comments and suggestions:

Page 20, line 15: "new targeted audience in at least one new subject area".

Comment: Please remove the word "new" in the two places it appears in this sentence. We feel it's necessary to have the flexibility to effectively manage our education and outreach programs, by making decisions on whether to reevaluate and update an existing program or evaluate a new program.

Page 21, line 13: "The SWMP shall include an ongoing program to identify, detect, remove and prevent illicit connections and illicit discharges into the MS4."

Comment: It should be clear that the program is *designed to* or *intended to* identify, detect and remove illicit discharges, but not necessarily guaranteeing that it does. The word prevent should be removed because prevention is not possible in all cases.

Page 26, lines 3-6: "Permittees shall prioritize conveyances and outfalls and complete field screening for at least 40% of the MS4 within the Permittee's coverage area no later than February 2, 2016 and 20% each year thereafter.

Comment: Please define conveyances or remove this word. The addition of the word conveyances with outfalls adds a lot more of the system to prioritize, essentially saying prioritize sections of the entire MS4 in addition to field screening 40%. Removing the word conveyances or clarifying specifically how many conveyances and outfalls, maybe

as a percentage as well, would be helpful. Reducing the amount to 25% of the MS4 by 2016 is more realistic for Permittees with very limited staff to accomplish the field screening.

Page 27, line 36: “All illicit connections to the MS4 shall be eliminated.”

Comment: Add the word *known* to read “All known illicit connections to the MS4 shall be eliminated”. The existing language exposes Permittees to too much liability.

Page 32, lines 19-21: “Inspection of all new stormwater treatment and flow control BMPs/facilities and catch basins for permanent residential developments every 6 months until 90% of the lots are constructed to identify...”

Comment: A 90 percent construction threshold is too high of a standard. In this economic climate, reaching the 90% build out could take years or even a decade. The environmental benefit gained from bi-annual inspections is hard to quantify and should be up to our discretion. Placing this percentage value creates more liability for us to maintain extensive inspection programs. The resources for long term development monitoring are limited. Please change this language back to match the 2007 Phase II permit “every 6 months during the period of heaviest house construction (i.e. 1 to 2 years following subdivision approval)...”

Page 34, line 21-32: “i. 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 best Management Practices.

Comment: This deadline is rather ambitious and should be amended to the end of the permit cycle, 2018. It is realistic to review the documents in the set timeline, for example auditing Public Works Standards to identify barriers to LID. However, revising each document, which involves creating and adopting the appropriate changes, requires extensive time and censuses. Also when our standards are based on other standards, for example, WSDOT, we would therefore have to rely on them to enact the changes which removes small jurisdictions control over this requirement and threatens our ability to comply.

We value the importance of LID and support the integration of it where feasible. Some studies demonstrate that when LID principles are implemented on sites that support them, those measures are cost effective. However when LID is forced in areas that are less supportive, the implementation of those principles is more expensive for initial design, installation and long term maintenance. Also the measures are less effective at those sites, which could negatively influence people to assume LID doesn't work in general. The City of Newcastle is concerned that the proposed mandatory LID requirements will have significant economic impacts on small businesses and developers and this will in turn result in an adverse economic impact to the city. In addition, we

support the idea of requiring a small business economic impact statement before instituting such a mandate.

Page 37, lines 1-2: “Inspections of all catch basins and inlets owned or operated by the Permittees at least once every two years.”

Comment: Please change the inspection frequency back to five years. A two year inspection standard of all Catch basins is unattainable for most Phase II’s, especially given these economic times.

Page 37, lines 25-26: “The Permittee may clean the entire MS4 within a circuit, including all conveyances and catch basins, once during the permit.”

Comment: Please remove this sentence. It seems redundant considering it’s required to inspect and clean if needed. This sentence seems to suggest another rule, even though it says *may* and not shall.

Page 51-63 All S8.C, D & E Monitoring Requirements

Comments: Please remove these new sections from the draft permit. The expansion of monitoring requirements will provide little resource management insight into the stormwater quality issues of our region and will create an additional burden on the Permittee’s already scarce financial resources. The success of this program is dependant on the number of jurisdictions who participate and is subject to failure if the desired revenue is not collected. Additionally the allowance to interchangeable shift funds between the 3 categories is worrisome.

Furthermore the Status and Trends monitoring is not comprehensive of all the Phase II jurisdictions. Of the proposed sampling sites, not one is within the City of Newcastle boundary and therefore it’s discerning for our tax payers to support a program which doesn’t represent their individual interests or local natural resources.

Page 75, lines 35-39: definitions: “Illicit Discharge means any discharge into or from municipal separate storm sewer that is not composed entirely of stormwater or which is not an allowed discharge as specified in this permit. Illicit discharges include, but are not limited to, spills, discharges associated with illicit connections, and infiltration/exfiltration of non stormwater that takes place in pipe bedding.”

Comment: Please remove the words “and infiltration/exfiltration of non-stormwater that takes place in pipe bedding” from the last sentence. This additional language sets Permittees up for non-compliance as we have little or no control over infiltration/exfiltration of stormwater into pipe bedding. Further, we do not have the ability to effectively trace and remove discharges from groundwater or pipe bedding.

The requirements placed on Water and Sanitation Districts to effectively manage infiltration/inflow suffices the intended goals of this requirement. Districts recognize the importance of the elimination of infiltration/inflow by sewer system rehabilitation and on-going operations and maintenance because it is essential to protect their investment as well as for the protection of the environment.

General Comments:

We are concerned with the timeframe given to review and comment on draft permit language and the supporting technical documents (i.e. the 2012 Stormwater Management Manual for Western Washington and the LID Guidance Manuals) because of the order in which the documents were made available. Since these documents are interrelated and changes to one will affect the other, the existing comment period does not allow adequate time for review of all of these regulatory and technical documents. We request that the permit issuance be delayed to allow for sequential review of these documents, beginning with the technical documents.

Sections of this draft permit go well beyond the minimum requirements of the EPA and the Clean Water Act, and will create significant financial burdens on municipalities during a time when cities can not afford or justify additional costs to the tax payers. Examples of these expansions include Low Impact Development (LID) and Monitoring requirements. We request that these sections be removed from the permit and be reassessed in future permits.

Once again, we appreciate this opportunity to comment and encourage Ecology to respond to our suggestions in the final permit language. We support the Stormwater program and value the goals and objectives set forth in the Phase II requirements. However, as a smaller Phase II, under 15,000 people, we are mindful of our abilities, resources, and limitations in implementing the newly proposed items. We urge you to consider our unique position when creating and increasing requirements, and evaluate the impacts they have on our ability to comply.

Sincerely,

Laura Frolich

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