



February 2, 2012

Municipal Permit Comments
WA Department of Ecology
Water Quality Program
PO Box 47696
Olympia, Washington 98504-7696

Re: Comments on the Stormwater Phase II Permit Draft Language for 2013-2018 Permit

The attachment included with this letter respectfully provides comments from the City for the subject permit. The City encourages the Department of Ecology to carefully consider the impacts of the new permit requirements, particularly in this time of our distressed economy.

If you have any questions with regard to this permit, please contact my Director of Public Works and Utilities, Glenn Cutler P. E., at 360-417-4800 or gcutler@cityofpa.us or my Director of Community and Economic Development, Nathan West, at 360-417-4751, nwest@cityofpa.us.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kent Myers". The signature is stylized and written over the printed name and title.

Kent Myers
City Manager

Attachment

City of Port Angeles Comments and Concerns Stormwater Phase II Permit Draft Language for 2013-2018 Permit

Comments from the Community and Economic Development Department:

1. As proposed the new permit circumvents the intent of the Growth Management Act by dictating inclusion of LID and other BMP requirements into the City's zoning code. GMA was created to be the foundation of land use planning within Washington it guides cities in the development of local policies that are the starting point for land use code.

Both the Department of Commerce and the Department of Ecology have witnessed the pronounced difficulty that has resulted from trying to coordinate GMA updates with critical area ordinances and the shoreline master program. This permit is inserting itself as a land use control that will add confusion to an already overly complex situation that local jurisdictions must face. Any land use/zoning code changes must be established through GMA as intended by its origin.

2. The City and Clallam County have worked diligently over the last 7 years to create Green Built development standards for single lot development and subdivisions that strongly encourages LID through an incentive based approach. This approach has worked well and considering these economic times, the City cannot support moving from an incentive based approach to a regulatory mandate on LID. Our existing grass roots program should be evaluated on considered before we are told we are not doing good enough on LID.

Since the original phase II permit was issued we have had a number of businesses relocate out of Port Angeles because of the new requirements. The existing requirements are already difficult and problematic for our local development community to adjust to. Further regulations with have a drastic impact the growth and redevelopment of the Port Angeles area.

3. As drafted the current permit does not respect the fact that a large portion of Port Angeles is already developed. It assumes I-5 corridor paced new development growth. Port Angeles has never seen the type of growth rate that could effect change through zoning code changes. A growth dependent mechanism to provide clean stormwater is not conducive to results in a limited to no growth jurisdiction. At our rate of development it would take centuries to effect change with these new requirements.

Comments from the Public Works and Utilities Department:

1. The Permit specifically lists Clallam County as a potential Permittee. However the coverage area in the draft permit language for Clallam County is listed as just the urban growth areas to the east and west of the City of Port Angeles. Our recent discussions with the County indicate that they are now being considered for exclusion from the permit entirely. The City believes that currently development is pushed out of the City to the UGA areas due to the additional development restrictions and cost. The new lower development thresholds would just aggravate this situation. Since these areas are an extension of the urbanized areas of the City, they continue to infill without the appropriate LID or other stormwater regulation. Not only does this have immediate impact to the City by loss of a fair playing field for development to occur, it will be exceptionally more difficult and costly to bring them up to standards at a later date.

Another concern with the potential inclusion of just the UGA areas of the County (or exclusion of the County altogether) is the lack of stormwater regulation in our watershed upper basins (within the County. Please see the figure referenced in verbal testimony given by Glenn Cutler, City Public Works Director, in the Renton public hearing on 1/24/2012). None of our upper watersheds would be required to be controlled even if Clallam County is declared a Permittee. All of the City's urban streams are 303d listed. Without appropriate stormwater controls and regulation, water quality issues will continue to originate in these areas and directly impact water quality downstream in the City. The City believes that both the UGAs and the upper watersheds that connect to the City and UGAs should be included for Clallam County.

2. Under Permit condition S5.5.c, Ecology requires that the City check potentially damaged flow control and treatment BMPs after a major storm. In the new Permit, Ecology removes the 10 year storm definition of major. The storm definition lowers the City's liability, and keeps the City from having to legally determine the definition of "major". The City believes that the 10 year storm definition for "major storm" should remain in the new permit.

3. In Permit definitions and acronyms, on page 75, the State includes the following statement in the definition, "Illicit discharges include, but are not limited to, spills, discharges associated with illicit connections and infiltration and exfiltration of non-stormwater which takes place in pipe bedding." The City is already required to evaluate and correct inflow and infiltration (I&I) issues within the wastewater system through our Wastewater NPDES Permit, Section S4F. Allowing the definition of illicit discharges within the stormwater permit to include "infiltration and exfiltration of non-stormwater which takes place in pipe bedding" creates a situation where the City is legally required to resolve the same issue under two different State issued permits. This creates confusion and conflicting criteria and liability. The City prefers resolving the I&I issues within the definitions of our wastewater permit. Understand that every wastewater utility has infiltration. There is no system that is completely tight, and the older the system, the more infiltration exists. As defined here, any infiltration or exfiltration is an IDDE event. This places permittees in the situation of either being non-compliant and suffering significant legal risk, or spending exorbitant sums of precious funding trying to achieve absolute elimination of this, which is

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virtually impossible to do. This requirement, as defined and without bounds, just does not make sense. Even the EPA has an expectation that infiltration be managed rather than completely eliminated. Thresholds exist in the EPA regulation such as the 120 gpcd threshold. This threshold gives the City a reasonable limit on the amount of I&I which can be allowed, and does not require immediate resolution of all I&I issues at great expense. Again, the City prefers resolving the I&I issues within the definitions of our wastewater permit rather than as a loosely defined IDDE requirement.

4. The lowering of the thresholds for applying stormwater controls to new development and redevelopment will have a large financial effect on the City. Given our personnel and funding resources, we struggle to review, inspect, enforce and maintain the records for our development projects under the current thresholds.

In addition, lowering the thresholds at which we apply stormwater controls to our street projects will increase the cost of the projects, and impact our ability to maintain our streets.

5. Appendix 1, Minimum Requirement #5 requires on site stormwater management. If the purpose of Minimum Requirement #5 is for flow control, this minimum requirement (including LID and the LID performance standard) should not be applied to flow control exempt surface water bodies. For flow control exempt waterbodies, there is minimal hydrological benefit to applying LID and would incur additional costs with minimal, if any benefit. The requirement for Minimum Requirement #5 for flow control for exempt surface water bodies should be excluded from the permit.