February 3, 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 Sedro-Woolley has reviewed the Draft 2012 – 2013, and the Draft 2013 – 2018 Western Washington Phase II Municipal Stormwater Permits. We wish to thank you for the opportunity to provide comments.

The City of Sedro-Woolley also wishes to echo the concerns of many other permitees regarding the concurrent review process of several key documents proposed to be incorporated in the new permit, the lack of any economic impact analysis regarding the mandates of LID requirements and their economic affects on small businesses, developers and the City itself, and that proposed LID and monitoring requirements go beyond the minimum requirements of the EPA and Clean water Act. In addition, lack of clarity of the LID requirements relating to smaller systems also leaves doubt as to the ability of the local jurisdictions to monitor these systems.

In addition, the city notes that the Section S8 Monitoring requirements under the draft permit will result in a significant increase in the cost of the permit requirements, in Sedro-Woolley's case an estimated $6,916 per year for Option B, and even higher for Option A. This monitoring is state-wide in significance, and should be funded by the state rather than the local jurisdiction.

Draft 2012 – 2013 Western Washington Phase II Municipal Stormwater Permit – one year permit

Page	Lines	Reference	Text
29	32 - 37	S5.C.5.d	Inspection of all catch basins and inlets owned or operated by the Permittee at least once before the end of the permit term. Clean catch basins if the inspection indicates cleaning is needed to comply with maintenance standards established in the 2005 *Stormwater Management* Manual *for*

			Western Washington.
30	6 – 10	S5.C.5.e	Compliance with the inspection requirements in b, c and d above shall be determined by the presence of an established inspection program designed to inspect all sites. Compliance during this permit term shall be determined by achieving an annual rate of at least 95% of inspections no later than 180 days prior to the expiration date of this permit.

Comment – Deadlines for compliance within the one year permit need to be addressed so it is clear that the permit is a continuation or extension of the previous permit and none of the deadlines, except the annual report requirements, are in effect.

Draft 2013 – 2018 Western Washington Phase II Municipal Stormwater Permit – 5 year permit

Page	Lines	Reference	Text
19	31	S5.C.1.a.iii	Dumpster maintenance for property owners.

Comment – Delete "for property owners". Language is limiting.

20	15	S5.C.1.c	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. Cities need to be allowed the flexibility to effectively manage their education and outreach programs, by making decisions on whether to reevaluate and update an existing program or evaluate a new program.

21	10	S5.C.2.b	SWMP

Comment – Typo should read SWMPR.

21	13 - 14	S5.C.3	The SWMP shall include an ongoing program to identify, detect, and remove and **prevent** illicit connections and illicit discharges into the MS4

Comment - Suggest rewording for clarity and remove word "prevent" since prevention is not possible in all cases. The SWMP shall include an ongoing program to detect, identify and remove illicit connections and illicit discharges into the MS4.

21	31 - 34	S5.C.3.a.iii	Permittees may rely on permanent stormwater

			control plans for mapping LID BMPs provided they are spatially referenced to the MS4 map and maintained on an ongoing basis.

Comment – Please clarify this statement or define "permanent stormwater control plans" so the reader doesn't need to rely on the fact sheet to interpret.

24 & 25	37-41 1-2	S5.C.3.b.v.	The compliance strategy should address the maintenance of permanent stormwater treatment, flow control facilities and catch basins which discharge to the Permittee's MS4..

Comment-This section duplicates requirements within section S5.C4.c.i. of this draft permit. Please remove this section from the IDDE portion of the permit.

26	3-6	S5.C.3.c.i	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 after.

Comment-Please remove this language from the permit. As we and several other jurisdictions commented on during the public workshops, outfall screening is not an effective tool for identifying illicit discharges due to the intermittent nature of illicit discharges. Adding conveyances onto this screening process will not change that fact, it will only take additional time away from the more effective tools of IDDE detection, such as business inspection and education programs.

27	36	S5.C.3.d.iv	All illicit connections to the MS4 shall be eliminated.

Comment - Add the word *confirmed or known* to read "All **confirmed** illicit connections to the MS4 shall be eliminated". The existing language exposes permittees to too much liability.

29	15 – 27	S5.C.4.a	The program shall implement an ordinance or other enforceable mechanism that addresses runoff from new development, redevelopment, and construction site projects. Pursuant to S5.A.4., existing local requirements to apply stormwater controls at smaller sites, or at lower

			thresholds than required pursuant to S5.C.4., shall be retained. The ordinance or other enforceable mechanism to implement (i) through (iii), below, shall be adopted and effective no later than December 31, 2015.
34	21 – 32	S5.C.4.g.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 (BMPs). The intent of the revisions shall be to make LID the preferred and commonly-used approach to site development. In reviewing the local codes, rules, standards, and other enforceable documents, the Permittees shall identify opportunities to minimize impervious surfaces, native vegetation loss, and stormwater runoff in all types of development situations. Permittees shall conduct a review and revision process similar to the steps and range of issues outlined in the following document: *Integrating LID into Local Codes: A Guidebook for Local Governments (Puget Sound Partnership, 2011).*

Comment – All ordinance, procedure, standard, technical manual revisions related to development should be scheduled to occur at the same time. These tasks will represent a tremendous undertaking across multiple municipal departments therefore the due date should be December 31, 2016 or later.

29	23-26	S5.C.4.a	Local program adopted to the requirements of S5.C5.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 and shall apply to projects approved prior to January 1, 2016 which have not started construction by January 1, 2021.

Comment- This vesting language is clear in regards to projects approved prior to January 1, 2016. However, it does not address vesting for projects whose

applications are under review and accepted as complete prior to January 1, 2016. Please provide clear vesting language to address projects under review and accepted as complete prior to the deadline. Said vesting language should be consistent with state law and legal precedent.

32	19-21	S5.C.4.c	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 the case of a five lot subdivision, the last lot may remain unconstructed/vacant for many years or even decades, during which time there would likely be no environmental benefit from bi-annual inspections. 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)…"

35	15	S5.C.4.h	S5.C.4.c

Comment – Confirm reference, it appears that it should actually be S5.C.5.c.

37	1-2	S5.C.5.d	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 CB and inlets is unattainable for most Phase II's, especially given these economic times.

37	17-23	S5.C.5.d.i.	Inspections <u>at least once every two years</u> maybe conducted on a 'circuit basis" whereby a sampling of catch basins and inlets within each circuit is inspected to indentify maintenance needs. Include in the sampling an inspection of the catch basin immediately upstream of any system outfall. Clean all catch basins within a given circuit for which the inspection indicates cleaning is needed to comply with maintenance standards <u>established under S5.C4.a., above.</u>

Comments

- Please change the inspection frequency back to five years. A two year inspections standard of all CB and inlets is unattainable for most Phase II's, especially given these economic times.
- Please change the second sentence to read "Include in the sampling an inspection of the catch basin immediately upstream of any system outfall, <u>if applicable</u>. CB inspection circuits are often based on land use or traffic areas and do not necessarily include system outfalls. This change will clearly give permittees the flexibility needed to effectively and efficiently manage these assets.

37	25-26	S5.C5.d.ii	The Permittee may clean the entire MS4 within a circuit, including all conveyances and catch basins, once during the permit.

Comments- Please define "conveyances" in the Definitions and Acronyms section.

49	17	S7	oro priot

Comment – Correct typo.

74	31-34	Definitions	Circuit means a portion of the municipal separate storm sewer system (MS4) discharging to a single point and serving a discrete area determined by both topography and the configuration of the MS4…

Comments- Please revise the above language to read as follows: "Circuit means a portion of the municipal separate storm sewer system (MS4) discharging to a single point ~~and~~ <u>or</u> serving a discrete area determined by ~~both~~ <u>traffic volumes, land use type</u>, topography ~~and~~ or the configuration of the MS4". CB inspections circuits may need to be based on land use or traffic areas and do not necessarily include system outfalls or single discharge points. These changes will allow permittees the flexibility we need to effectively and efficiently manage these assets.

75	35-39	Definitions	Illicit Discharge means any discharge into <u>or from</u> 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, <u>and infiltration/exfiltration of non-stormwater that takes place in pipe bedding.</u>

Comments

- Please remove the words "or from" from the first sentence. This additional language opens permittees up to too much liability potential from non-compliance and third party lawsuits, as we cannot control non-point source discharges into the MS4 and the resulting cumulative impacts to the MS4 discharge.
- Please remove the words "and infiltration/exfiltration of non-stormwater that takes place in pipe bedding" from the last sentence. This additional language also sets permittees up for non-compliance as we have no control over infiltration/exfiltration of non stormwater into pipe bedding. Further, we do not have the ability to effectively trace and remove discharges into pipes or structures from groundwater or pipe bedding.

79	36	Definitions	interflow

Comment – Define interflow.

Appendix 1 pg 5	31-33	Definitions	Receiving waters- Bodies of water or surface water systems to which surface water runoff is discharged via point source of stormwater or via sheet flow. Ground water to which surface water is directed by infiltration.

Comment- Please remove the last sentence from this definition and return it to its original form. Adding ground water to this definition opens permittees up to a new world of liability. Further, this broadened definition would result in conflicts with the intent and benefits of LID- filtration and infiltration, as well as its implementation. This would also create conflicts with state water standards: For example: Based on this definition, sediment ponds that infiltrate would meet the definition of receiving waters, and by definition violate state water quality standards when turbid water is discharged to them.

Appendix 1 pg 11	2-3		All new development, regardless of size, shall be required to comply with minimum requirement #2.

Comment- Please remove the new language "regardless of size". This requirement is too burdensome on smaller developments or projects, which generally create minimal off-site impacts.

Appendix 1 pg 23	22		All known, available and reasonable source control BMPs must be required **for to all** projects approved by the Permittee.

Comment – Correct "for to all" typo.

Appendix 1 pg 24		Minimum Requirement # 5	List #1 and List #2

Comment – Since developers can opt out of following these lists by using the Low Impact Development Performance Standard the lists should not be called "Mandatory".

Appendix 1 pgs 24-26		Minimum Requirement # 5	Entire MR #5 section

Comment – This entire section is difficult to understand and follow, even when looking at the fact sheet. Consider rewriting for clarity.

Appendix 1 pg 24	10-12	Minimum Requirement # 5	Projects triggering **only** Minimum Requirements #1 through #5 shall use On-site Stormwater Management BMP's from Mandatory List #1 for all surfaces within each type of surface listed below

Comment - ...for all surfaces within each type of surfaces listed below. What does that mean? What surfaces listed below? The next thing below is a table that applies to projects that trigger Minimum requirements 1 – 9. Should this paragraph be moved to the Mandatory List #1 section on page 25, either at line 12 or 17?

Appendix 1 pg 25	6-7	Minimum Requirement # 5-LID Performance Standard	...Project sites that must also meet minimum requirement #7-flow control- must match flow durations between 8% of the 2-year flow through the full 50-year flow.

Comment- Please remove this language. This increased flow standard is too burdensome and many consider it to be unattainable. The way this is currently written could be interpreted to mean that <u>all</u> projects subject to MR #7 have to meet this revised flow standard. Also there is no reference in MR #7 regarding this revised standard as to how it is to be applied.

Appendix 1 pg 26	1-40	Minimum Requirement # 5	Mandatory List # 2

Comment - Mandatory List # 1 is for projects that trigger Minimum Requirements 1-5. What is Mandatory List # 2 for?

Appendix 1 pg 31	3-6	Minimum Requirement # 7	Except as provided below, the Permittee must require all projects provide flow control to reduce the impacts of stormwater runoff from **impervious surfaces** and land cover conversions. The requirement below applies to projects that discharge stormwater directly or indirectly through a conveyance system, into a fresh water.

Comment – The words "hard surfaces" has replaced the words "impervious surfaces" in most other instances. Should this read impervious surface or hard surface?

Appendix 1 pg 32	8-9	Thresholds	Projects in which the total of effective **impervious** surfaces is 10,000 square feet or more in a threshold discharge area, or

Comment – The words "hard surfaces" has replaced the words "impervious surfaces" in most other instances. Should this read impervious surfaces or hard surfaces? The term effective hard surfaces is not listed in the definitions.

Appendix 1 pg 32	10-13	Thresholds	Projects that convert ¾ acres or more of **native** vegetation to lawn or landscape, or convert 2.5 acres or more of **native** vegetation to pasture in a threshold discharge area, and from which there is a surface discharge in a natural or man-made conveyance system from the site, or

Comment – The word native was removed from flow charts Figure 3.2 and 3.3. Should it remain in this list of triggers for flow control?

Appendix 1 pg 37	35	Section 8. Feasibility Criteria	Where the drainage area is less than 5000 sq ft …..

Comment- Please revise language to read "Where the <u>project</u> drainage area …"to clarify the limits of the drainage area.

Appendix 6 pg 1	24		Discharge to a ~~municipal sanitary sewer~~ <u>MS4</u> requires approval of the sewer authority.

Comment – Keep as municipal sanitary sewer.

Appendix 10 pg 7	38-42	Source Identification and Diagnostic Monitoring Information Repository	Develop an Illicit Discharge Detection and Elimination (IDDE) Manual for Western Washington…

Comment- Please remove this section from Appendix 10. Permittees have already developed individual IDDE manuals based on EPA accepted guidance. It is inappropriate to turn around and develop new standards, when existing EPA guidance is already being met.

If you have any questions on our comments, please contact David Lee, City Engineer, at 360-855-3219.

Sincerely,

David E. Lee, P.E.
City Engineer/Phase II NPDES Permit Coordinator

cc: Mike Anderson, Mayor
Eron Berg, City Supervisor
Mark Freiberger, Director of Public Works
Patsy Nelson, Finance Director
Jack Moore, Planning Director/Building Official