FM: Chris May, Kitsap County Public Works, Surface & Stormwater Management Program Director

TO: Harriet Beale, WA Department of Ecology, PO Box 47696 Olympia WA 98504

RE: Comments on Draft Phase II NPDES Municipal Stormwater Permit

The following comments are submitted for your consideration:

Appendix I:

Green Roofs: Exempting the use of GR's because of cost seems to be a slippery slope – other stormwater BMP's could be argued to be "not cost effective" – recommend staying away from cost and sticking to science and engineering feasibility as the defining criteria for use

Page 13 of 38 Section 3.4 It is unclear why 4th paragraph was removed. It still seems applicable.

Page 22: Yes to the PP question box

Page 23 of 38 Table of LID Performance Standard vs. Mandatory List: For Phase II counties sites outside UGAs but within the regulated area (UGA and UA) that are 5 acre or more is unlikely.

Page 24 of 38 Minimum Measure #5: Recommend an exemption from on site flow control for sites exempted from Minimum measure #7 on page 31 of the appendix. If water bodies are not sensitive to flow from ½ the 2 yr flow to the 50 yr flow, it seems economically wasteful to require flow control from 8% of the 2 yr flow to ½ of the 2 yr flow unless there is science to suggest the later form of flow control is required while the former form of flow control is not.

Page 25 of 38 Section 4.6 Projects Thresholds: The first bullet uses the abbreviation PGIS for Pollution Generating Hard Surfaces. PGIS is defined in the definition section as Pollution Generating Impervious Surfaces. Hard Surfaces include impervious surfaces, green roofs, and Pervious Pavements. So the use of PGIS to be PGHS is confusing. Recommend you make a new definition for PGHS in the definition section.

Page28 of 38 Water Quality Design Rate

If the requirement is to size flow based BMPs such that 91% of the volume goes through the BMP at or below the treatment rate, why define different rates for pre and post detention bmps? It seems the requirement that 91% of the volume flows through the BMP at or below the treatment rate should apply to both cases without the need for differentiation. This requirement is unduly burdensome. Recommend one standard for both cases.

Page 30 of 38 3rd bullet of Thresholds: "Effective" is redundant when specifying flow rate changes that are seen off the subject property. Clearly the surfaces are effective if surface flow comes off the property. Recommend deleting it from the bullet.

Permit Language:

Page 5: The permit fact sheet and the box in the permit state that the intent of having an 80% completion rate as the minimum vs. 95% is to reduce municipal workload. This assumption shows a misunderstanding of how local governments administer development codes. If the code or design standard requires a local government review or inspection, the local government is legally bound to do so or face negligence issues should the project result in a substandard result. So, it is unlikely that the local government 15% difference in minimum performance standard will result in the local governments doing less work to administer the permit elements relating to site plan review and site inspections. If Ecology wants to lessen cost burdens on local government associated with inspection efforts, I suggest expanding the time between required inspections or reducing the total number of inspections rather than reducing the percent required to be done to show compliance.

Page 6: The Explanatory notes, Bioretention BMPs and Rain gardens section: Second sentence refers to the Rain Garden Handbook. This handbook has errors in it and does not reflect local jurisdiction requirements for proper setbacks. It is recommended that language reflecting: "Rain Garden Handbook or **equivalent** can be used for design, construction and maintenance". The existing handbook is of poor art design quality for printing, and is a proprietary artwork that cannot be modified.

Page 8: It is unclear how the pre-development "analysis of the impacts to hydrology and WQ" is to be conducted when there is no good model that exists to do this? In addition, for rural counties and development at the lower end of the spectrum, it is not really imperviousness that causes hydrologic change initially, but the loss of forest cover (see Booth and Hartley research papers on this subject), therefore there should be a % loss of forest cover to trigger this analysis as well as the % impervious trigger that is proposed – both are needed. In addition, how about a trigger for analysis when any development will push %TIA above the 10% range that has been identified as the key area where degradation begins?

Page 9: How does one conduct a watershed analysis for a UGA change that drains to a 303d or TMDL water-body? If the water-body already does not meet state water quality standards, it would theoretically be impossible to meet the permit guidelines.

Page 9/10: The timelines of measurable targets related to watershed change brought about by zoning changes would be much greater than the permit term of 5 years. The requirement would need to be repeated in subsequent permits to be meaningful.

Page 9: The minimum performance measures should not rely on WQS alone – flow monitoring and the use of flow metrics would be appropriate as would BIBI scores.

Monitoring:

Page 11: There should be some way to account for annexations and incorporations in the fee

Page 11: There needs to be a method of "crediting" jurisdictions for on-going monitoring that meets the goals of the monitoring program

Page 11: Kitsap prefers Option 3 and we do not think jurisdictions should be able to "opt-out"

Definitions & Acronyms:

Page 75: There needs to be some additional clarification on the definition of illicit discharges with regard to leaking sanitary sewer pipes (i.e. I&I issues). There could be conflicts between this definition and requirements under the IDDE section on this permit and the existing wastewater permit. Which takes precedence and how are sewer I&I problems to be handled, as a stormwater or wastewater priority?

Miscellaneous/General Comments:

Page 14: Please clarify the difference between S4.F notification and G20 notification and when each applies.

Page 26: It is our experience that outfall screening has limited value in IDDE. Adding conveyance screening will not improve the value of this method, but instead will waste resources. Source control measures, education and outreach, business inspections, and other tools are much more effective in attaining IDDE goals. That being said, some additional clarification is required in section S5.C3.c.i as it is currently written – the percentages of the MS4 need to specify area, pipe length, number of structures, etc. Basically, jurisdictions need to know what the measurement targets are for field screening.

Page 29: Deadlines for compliance under the one-year permit need to be clarified so that it is clear that this permit is a continuation of the existing permit and specify which requirements are in effect.

Page 32: The 90% construction threshold language requiring semi-annual inspections is problematic. Many developments are constructed over many years. There does not seem to be much value in these inspections during periods when no development activities are underway. Some rewording of this section could address this issue.

Page 37: This section addresses the cleaning of an entire MS4 "circuit", to include all conveyances and catch basins. Some clarification is needed as to what is included in the "conveyance" category – piping, ditches, etc. In addition, a more clear definition of "circuit" is needed in the definitions section (P. 74).

Page 79: Please add a definition for "interflow".

There appears to be some inconsistencies in the use of "hand surfaces" and "impervious surfaces" throughout Appendix 1.

The following email is also submitted as input to the monitoring program development process:

From: Chris May [mailto:cmay@co.kitsap.wa.us]
Sent: Tuesday, June 07, 2011 1:47 PM
To: Dinicola, Karen (ECY)
Cc: Mindy Fohn
Subject: Small Streams Monitoring Concerns

Karen – I know I am new to the process and was not involved in the earlier discussions, but I wanted to express my concerns as a scientist and as a jurisdictional representative. I did voice these same concerns very early in the process when the workgroup was in its early stages, so these are not new concerns. What I am concerned about is the monitoring plan for small streams under the "status and trends" that we just reviewed.

I may be wrong, but I think the questions we want to answer are:

1. What is the current status of our small lowland streams with respect to impacts from urbanization and stormwater?
2. How has stormwater impacted these resources (physical, chemical, and biological, as well as beneficial uses) with respect to CWA goals?
3. How has our current stormwater management strategy factored into this equation?

Going forward, we'd like to see what trends develop under current and evolving stormwater management scenarios – correct?

Therefore, I think we need a different way to select sites than a purely random/probabilistic model – something that selects a range of development-impacted sites and tracks those over time. In my mind, the statistical based approach works for selecting sites to sample within Puget Sound itself, but not for streams because of the variability of land-use impacts that need to be accounted for in the sample design.

I also have some real concerns with the use of WQI as a primary monitoring tool and some of the other parameters – I am afraid we will spend lots of money and end up with just a bunch of data that is not useful.