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DEPARTMENT OF PUBLIC WORKS
Design and Engineering

May 27, 2015

Municipal Permit Comments
Washington State Department of Ecology
PO Box 47600
Olympia, WA 98504-7600

**Re: Stormwater Control Transfer Program: May 2015 Draft
(Publication no. 15-10-017)**

As requested, I have reviewed the above publication. This letter includes some general comments and suggestions. Additional comments specific to the draft document are included in the attached PDF (Attachment 1).

This is an excellent idea to optimize the use of local funds in developing a more active watershed rehabilitation capability for the Department of Ecology, given the difficulty in obtaining state funding for important watershed projects. Additional benefits should accrue to related environmental programs such as wetland restoration and endangered fish recovery programs.

To be successful, the strategy will need to be *effective, cost-effective, legally defensible, and attractive to participants*. By essentially constructing two needed and effective projects rather than one, the strategy will be *effective*, as long as good project selection criteria are used. For similar reasons, the strategy will be *cost-effective* watershed rehabilitation. The project will also share the same *cost effectiveness* benefits as other proven strategies such as wetland banking. Stormwater projects typically come with additional environmental benefits other than flow control or water quality treatment, also adding to their *cost-effectiveness* (from a watershed standpoint).

By providing full water quality treatment and flow control to the Existing Condition there will be no impacts at the project site and so the strategy will be *legally defensible*; however:

- It is important that a single measure, such as a WWHM Flow-Duration analysis, is used to determine “no impact” at the project site, and that that single measure suffices for all agencies charged with reviewing projects. Uncertainty in obtaining all the necessary approvals may cause potential partners to abandon proposals, potentially after having expended a great amount of time and funding.
- Note that a very similar proposal for off-site stormwater mitigation was attempted by Clark County and was successfully challenged at the Pollution Control Hearings Board level. The essential stormwater mitigation transfer component of Ecology’s current proposal should be checked with the Board and legal staff to assure that a similar outcome will not occur. Attachment 2 provides some supporting information for the county’s previous proposal.

With this proposed strategy, Ecology essentially shifts from performing a purely regulatory function into becoming a more active partner in watershed restoration efforts. If Ecology is to be successful in this new role, the program will need to be *attractive to participants*. Following are some considerations that may help Ecology attract partners and funds for the hoped-for watershed improvements:

- The onsite-plus-offsite stormwater mitigation alternative will need to be cheaper than the standard onsite mitigation-only alternative.
- The program should facilitate simple proposals from the permittee that can be completed in a timely manner without relying on the completion of long-duration studies or similar.
- The proposal should not require an excessive amount of additional analysis beyond that currently required for a standard design.
- A high degree of certainty in approval, from all approving agencies, is needed. Ecology will need to work carefully on the draft language with other agencies to accomplish this.
- Good assurance of approval needs to be established early in the proposal process.
- The program should acknowledge and make allowances for the additional responsibilities of Ecology's partnering agencies, such as drainage and flood control. The environmental improvements should not come at the risk of flooding of upstream or downstream roadways and homes. In this regard, we have found at Clark County that it is best to have totally separate "Hydrologic Accounting" modeling (i.e. computation of "stormwater credits"; hypothetical upstream basin) and "Final Hydrologic and Hydraulic modeling" (actual upstream basin; may include required single-event hydrologic modeling).
- The program should not require unnecessary and unduly burdensome post-project requirements, e.g. performance monitoring.
- The success of the program in attracting proposals from permittees, and in constructing watershed improvement projects *is* worth monitoring to identify potential program improvements (incentives, multi-benefit opportunities, etc.)

More specific comments related to each of the above are included in Attachment 1.

I believe this is an excellent initiative from Ecology that could potentially be highly effective in helping "jump start" watershed restoration and endangered fish recovery efforts that have stalled due to a lack of reliable funding. Ecology's Western Washington Retrofit Grant Program, and WSDOT/Ecology's DAT approach, show similar promise in this regard. Ecology is to be commended for taking this new active approach and moving us forward towards watershed restoration and sustainability.

Yours Sincerely,

John Milne, P.E.

CC: Ken Lader, John Davis, Mike Soliwoda, Jeff Kostechka