



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

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Seattle, WA 98101-3140

APR 28 2016

OFFICE OF
WATER AND WATERSHEDS

Dear Ecology Municipal Permit Program:

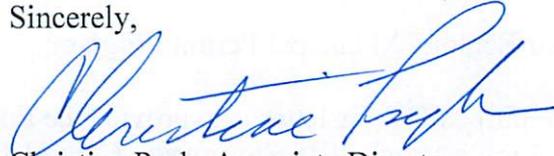
The purpose of this letter is to provide the Environmental Protection Agency's comments on Ecology's March 2016 Stormwater Control Transfer Program 2nd draft guidance. The EPA appreciates and supports changes incorporated into the 2nd draft guidance, including limiting the program to flow control and specifying that Ecology will use administrative orders for approval of local transfer programs. As noted in our comments on the first draft guidance, the EPA supports testing of stormwater control transfer programs and believes, if done correctly, the program can accelerate environmental improvements in priority watersheds while ensuring all watersheds have ongoing improvement from re-development.

As noted in our previous comment letter, the EPA believes the program should also include the specific identification of sending watersheds. The guidance specifies the identification of receiving watersheds and would allow all other watersheds within the jurisdiction to serve as sending watersheds. The EPA is concerned that the current approach is too broad for the sending watersheds due to concerns that a significant amount of land would have deferred flow control improvements from re-development. The EPA recommends sending watersheds be those targeted for growth, especially high density urban development that have urban streams with relatively low restoration value. Thus, the program would have both receiving and sending watersheds, as well as watersheds where no transfers would take place. Designing the program in this way would align better with the complementary Building Cities in the Rain guidance, minimize concerns of deferred environmental benefit from sending projects, and maximize economic and environmental value of future stormwater investments associated with re-development. The EPA also notes that by retaining the treatment and LID requirements in sending areas, re-development in these urban growth areas will contribute to improved water quality.

The EPA also continues to be concerned about the use of state and federal stormwater retrofit grant funds to support local stormwater transfer programs. If a grant flow-control project is allowed to serve as a credit for a re-development project via a "fee-in-lieu" program, this will result in delayed environmental improvement because absent the transfer program the environmental improvement would occur when the grant project is built and when the re-development project occurs. Under the credit and "fee-in-lieu" program, the environmental benefit associated with a re-development project would occur later in time when the jurisdiction has gathered sufficient fees to build a 2nd flow control project. Thus, in general, the EPA believes grant funded projects should not be allowed to serve as credits for a transfer program. However, to help jump start a transfer program, it could be reasonable to allow the "fee-in-lieu" program to pay back the local match of a grant funded project to serve as local match for a future grant project. Lastly, flow control improvements associated with a transfer program must be independent of flow control improvements associated with the jurisdiction's structural control program requirements under the municipal stormwater permit.

Thank you for the opportunity to provide comments on the 2nd draft guidance. If you have any questions, please contact John Palmer in our office at (206) 553-6512.

Sincerely,



Christine Psyk, Associate Director
Office of Water and Watersheds