



CITY OF PACIFIC

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February 14, 2007

The Pollution Control Hearings Board
4224 - 6th Avenue SE, Rowe Six, Bldg. 2
P.O. Box 40903
Lacey, WA 98504-0903

The Department of Ecology
Appeals Coordinator
P.O. Box 47600
Olympia, WA 98504-7608

Reference: **CITY OF PACIFIC APPEAL** Western WASHINGTON PHASE II MUNICIPAL STORMWATER PERMIT

Sir or Madame;

Please consider this correspondence as the City of Pacific's appeal of its Department Of Ecology Western Washington Phase II Municipal Storm Water Permit.

The appellant's name and address;
City of Pacific, WA
100 Third Ave SE
Pacific, WA 98047

The date of the permit;
Date: January 17, 2007

The City of Pacific requests relief from provisions of this permit as most of the components of the permit is cost prohibitive. Their implementation will force the City to increase its Storm Water Utility Rates beyond the means of the ratepayers. Additionally, the escalated rates and regulations will inhibit economic development activity within the community, thereby depriving the City of much needed revenue and its residents from economic prosperity. The use of scarce funds should be used in development of infrastructure in achieving greater clean water objectives. This permit will change the structure of our local government's financial recording system, adding an unplanned expense the City cannot afford.

The listed Section (by reference to the permit) is the subject of the appeal:

Section S2. Authorized Discharges C.

Delete: "emergency"

The Code of Federal Regulations did not use the word “emergency” with respect to “fire fighting activities”. WA DOE went too far in this permit. Without establishing a definition of emergency with respect to firefighting activities, could set up the City for enforcement actions.

The listed Section (by reference to the permit) is the subject of the appeal:

S4 C

The term MEP and definition .

WA DOE exceeded CFR 40, section 122.34(a) clearly states the following: “Implementation of best management practices consistent with the provisions of the storm water management program required pursuant to this section and the provisions of the permit required pursuant to CFR 122.33 constitutes compliance with the standard of reducing pollutants to the “maximum extent practicable”.”

The listed Section (by reference to the permit) is the subject of the appeal:

Section S5 A.3

Request: Modify the Permit language that references to “tracking the cost of the development and implementation”

The requirement to track the amount of funds expended during one particular permit term should not be used as a standard to meet future permit compliance and renewals. If this is going to be used, DOE must establish specific targeted thresholds for each community. This requirement sets the City up for enforcement actions

The listed Section (by reference to the permit) is the subject of the appeal:

Section S5 C 1. Public Education and Outreach

Request: Modify the Permit Language.

WA DOE exceeded CFR 40 “Public education and outreach on storm water impacts” (122.34.b 1) CFR states the following (122.34.b.1.i) “You must implement a public education program to distribute educational materials to the community or conduct equivalent outreach activities about the impacts of storm water discharges on water bodies and the steps the public can take to reduce pollutants in storm water runoff”

The language within the WA DOE Permit requires measurement, by whose definition? The current language sets up the City for enforcement action and is not measurable.

The listed Section (by reference to the permit) is the subject of the appeal;

Section S5. C.1.a

Request Modification of Language

The Permit Language requires the City to develop an outreach program shall be designed to achieve measurable improvements in each target audience's understanding of the problem and what they can do to solve it and measurable improvements in the percentage of each target audience regularly carrying out the intended action or behavior change. The education and outreach program shall increase regular adoption of the behaviors in the chosen target audiences by four years after the effective date of this Permit".

This language exceeds CFR and is not measurable and quantifiable. It sets the City up for enforcement actions.

The listed Section (by reference to the permit) is the subject of the appeal;

S5 C.1.b.

Modify the Permit Language

"Each Permittee shall implement or participate in an effort to measure understanding and adoption of the targeted behaviors among the target audiences"

This language exceeds CFR and is not measurable and quantifiable. It sets the City up for enforcement actions.

The listed Section (by reference to the permit) is the subject of the appeal;

Section S5 C.3.

Modify the WA Permit Language to use CFR 40, Part 122.34(b)(3) should be used in this section.

The proposed WA DOE Permit uses language introduces too many uncertainties and potential legal challenges. The City has no ability to "prevent" or block, an illicit discharge from happening. The City may have laws and programs in place, however the City would be in violation of the Permit for allowing the accident to occur. The language is too broad.

The listed Section (by reference to the permit) is the subject of the appeal;

Section S5

Request: Modify Permit Language

“Discharge from potable water sources, including water line flushing, hyper chlorinated...”. The use of “potable water sources” is too broad and would cover insignificant sources of potable water – including irrigation or lawn watering

The listed Section (by reference to the permit) is the subject of the appeal;

Section S5. B.3.b.ii.

Request: Modify language

The City should not be required to prohibit discharges from lawn watering and other irrigation runoff unless these sources are identified as significant sources of pollutants to the City’s system.

This requirement puts the City at risk of legal action from third parties claiming that the City is not enforcing their ordinance.

This is a water conservation programs and should not be subject to this NPDES permit.

The listed Section (by reference to the permit) is the subject of the appeal;

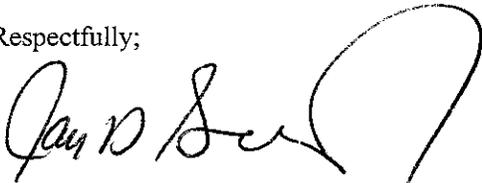
Section S5. C.3.f.

Request: Modify Permit language

The permit requires that the City provide appropriate training for municipal field staff...”. This is not measurable language and sets the City up for enforcement actions.

Please note that the City of Pacific requests that I be listed as the point of contact for all correspondence and information request regarding this appeal. I may be reached at the address listed above, by telephone at 253-929-1113, or by e-mail at jbennett@ci.pacific.wa.us.

Respectfully;



Jay D. Bennett – Community Development/Public Works Director
City of Pacific

PC: Richard Hildreth – Mayor
Al Abuan – City of Pacific Attorney
file