

**PUBLIC WORKS DEPARTMENT
Administration**

October 14, 2005

Department of Ecology
Water Quality Program
P.O. Box 47696
300 Desmond Drive
Lacey, WA 98504-7696

ATTN: Karen Dinicola

Subject: **DRAFT PHASE II PERMIT FOR EASTERN WASHINGTON
CITY OF RICHLAND COMMENTS**

Dear Karen:

Enclosed are the comments developed by the City of Richland in response to the draft NPDES Phase II Permit for Eastern Washington. If you have any questions concerning our comments, please contact me at either naldrich@ci.richland.wa.us or 509-942-7508.

Thank you.

Sincerely,

NANCY ALDRICH
Environmental Affairs Analyst
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cc: Pete Rogalsky

Draft NPDES Phase II Stormwater Permit
For Eastern Washington

Comments by the City of Richland

Submitted by:

*Nancy Aldrich
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General Comments

1. There has been much discussion on the subject of including Appendix 2 into the Phase II Permit. The City of Richland believes any effort to include this appendix is contrary to every discussion that was had during the development of the Eastern Washington Stormwater Manual. Appendix 2 was developed to provide guidance and including it into the Permit places more requirements on local agencies. The City of Richland recommends Appendix 2 be removed from the Permit.
2. The City of Richland believes there exist conflicts between the draft NPDES Phase II Permit language and the language in the draft Construction Stormwater General Permit. These conflicts should be taken care of before any Permit is issued.

Specific Comments

(City of Richland comments are in italics)

1. Page 1 of 37 Line 23
 - a. Is owned or operated by a city; town; county; or district, association or other public body ... having jurisdiction over disposal of stormwater, sewage, industrial wastes, or other wastes ...

The paragraph should read as follows:

- a. *Is owned or operated by a city; town; county; or district, association or other public body created pursuant to State law having jurisdiction over disposal of stormwater, including special districts such as sewer districts, flood control districts or drainage districts, or similar entities.*

2. Page 4 of 37 Line 25

The operator chooses to opt out of this General Permit. If the operator of a regulated small MS4 listed in Appendix I choose to opt out of this permit they must do so no later than the issuance date of this Permit. Any operator of a regulated small MS4 that chooses to opt out of this Permit must submit an application for an individual MS4 permit in accordance with 40 CFR 122.23(b)(2)(ii).

If a small MS4 listed in Appendix I does not have discharges to surface water and chooses to opt out of this General Permit, why must they then submit an application for an individual permit? This language needs to be clarified to allow small MS4's that do not discharge to surface waters the ability to opt out of the General Permit completely.

3. Page 6 of 37 Line 1

“Stormwater discharges to ground water not in hydraulic continuity with surface water are covered by this permit only under state authorities.”

Who in Ecology will make the determination if the ground waters an MS4 discharges to is or is not in hydraulic continuity with surface waters?

4. Page 6 of 37 Line 16

“This permit authorizes discharges from fire fighting activities, except training exercises, unless the discharges from fire fighting activities are identified as significant sources of pollutants to waters of the State.

The inability to use water for training purposes, when there is no containment to prevent water run off entering the stormwater system, will eliminate critical firefighter training evolutions. No training facility can replicate the challenges and demands of operating in the field. Firefighting is a high risk-low frequency event for our staff and their ability to practice under fireground conditions is imperative.

How can a fire department incident commander reasonably determine whether the discharge from firefighting activities are a significant source of pollutants or not? In it's simplest form ALL fires suppressed by a water attack will result in pollutant run-off. Modern construction, fittings, furnishings, and other contents in a home will produce vast quantities of toxic substances, many will be carried in the water. Water is the best means available to suppress a fire. Run-off will result. Is it envisaged that water attack will not be used to fight fire? The fire service mission is to save lives, property, and protect the environment - in that order!

Waters from testing hydrants should be authorized as well as any training activities. This may present a legal liability for cities with fire departments.

AWWA requires fire hydrants be tested on a regular basis to ensure their use in case of a fire.

5. Page 6 of 37 Line 20
“S7.D.4”.

I believe this reference is incorrect and should be S5B.4.

6. Page 7 of 37 Line 15
“All new stormwater discharges must comply with all applicable surface water...”.

This implies that all stormwater discharges must comply whether they discharge to a MS4 or not.

7. Page 7 of 37 Line 16
“New stormwater discharges authorized or allowed by the”.

This should be changed to read “New stormwater discharges to a regulated MS4 authorized or allowed by the”.

8. Page 7 of 37 Line 18
“New stormwater discharges include new stormwater sources and new stormwater outfalls, including all sources contributing to the new stormwater outfall.”

This points to retrofit and will need to be clarified in the next draft. It should be clarified that normal maintenance, pipe replacement or upsizing of a pipe should not be included in the New Stormwater Discharges.

9. Page 7 of 37 Line 27
“each Permittee must provide information to proponents of projects of projects which disturb greater than or equal to one acre”.

This results in an onerous administrative burden for each Phase II Permittee.

10. Page 8 of 37 Line 23
“... and any additional actions necessary to meet the requirements of applicable TMDL’s.”

This should read that any “additional actions necessary to meet the requirements of the Permit”.

11. Page 10 of 37 Line 35
“Illicit Discharge Detection and Elimination”

Dates should be removed and timelines left up to the local agency. Or if Ecology believes there should be set times in the Permit then they are suggested as follows:

The map must be complete no later than five years from the effective date of this Permit.

12. Page 11 of 37 Line 21
“...discharges from fire fighting activities (but not fire fighting training exercises) are allowed in the MS4.”

Page 6 of 37 make a distinction on when discharges from fire fighting activities are not allowed in a MS4 but that distinction is not made here. They conflict with each other.

13. Page 11 of 37 Lines 33-40
“Individual residential car washing. This ... stream flow.”

These are activities that can easily put into ordinances but regulating is not realistic. This opens any permitted local agency to third party lawsuits.

Page 12 of 37 Lines 5
“Foundations drains ... conditioning condensation.”

These are activities that can easily put into ordinances but regulating is not realistic. This opens any permitted local agency to third party lawsuits.

14. Page 12 of 37 Line 1-4
“Flows from riparian pumped ground water.”

These discharges occur naturally and to change the flows or direction of flows could result in third party lawsuits or lawsuits from Ecology on interfering with natural habitats and wetlands

15. Page 13 of 37 Line 20
“Within one year ... has not been obtained.”

It was understood at the last meeting this paragraph would be removed and become a fact sheet.

16. Page 14 of 37 Line 4
“No later than 2 years from the effective date of this Permit, all Permittees shall develop and adopt an ordinance to requires erosion and sediment controls ...”

The Construction Stormwater General Permit goes into effect December 2005. Procedures outlined in c. speak to erosion and sediment controls that go into effect this year yet this Permit will allow a local agency two years to develop these programs. Which Permit takes precedence?

17. Page 16 of 37 Line 1
“greater than or equal to one acre and to projects”.

Shouldn't this read “greater than or equal to one acre of disturbed land”?

18. Page 16 of 37 Line 26
“The ordinance or other regulatory mechanism shall include a provision for construction phase and post construction access for Permittees to inspect stormwater BMPs on private properties.”

This will never fly with any local agency. This should be an Ecology problem to solve, maybe, put into law.

19. Page 19 of 37 Line 40
“Existing flood management projects shall be prioritized and at least five...to improve water quality.”

This should read “Any new flood management projects, from the date of the Permit, that discharge to a regulated MS4 that discharges into a surface water body shall be prioritized....”.

20. Page 25 of 37 Line 33
“With the exception of any water quality monitoring for compliance with TMDLs, ... effective date of this Permit.”

Once again this conflicts with the requirements of the draft Construction Stormwater General Permit.

21. Page 26 of 37 Line 5
“Each Permittee shall track the cost of development and implementation of the Stormwater Management Program (SWMP).”

This should be phased into the Permit and required in year three. Some local agencies will need to make accounting changes to follow these costs.

22. Page 26 of 37 Line 31
“Notification of any recent or proposed annexations ... for the SWMP.”

The words recent or proposed should be deleted from this sentence.