



**CITY OF PORT ORCHARD**  
**Public Works Department**

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February 2, 2012

Ms. Carrie Graul  
WA Department of Ecology  
Water Quality Program  
P.O. Box 47696  
Olympia, WA 98504-7696

Re: Draft Stormwater Management Manual for Western Washington, 2012

Dear Ms. Graul,

The City of Port Orchard would like to thank you for the opportunity to comment on the draft Stormwater Management Manual for Western Washington, 2012. The City has reviewed the aforementioned draft and has the following comments:

**General Comments**

**Stormwater Manual as Guidance Document**

The Ecology workshops, the Ecology website, and the manual itself refers to the manual as a guidance document. However, the Ecology website, and the presentations made at public workshops by Ecology staff, clearly indicate that the updates made to the 2012 manual were in preparation for this document to be required by the NPDES stormwater permits. Therefore it is clearly Ecology's intent and design that this manual will be used as a regulatory document, and as such must go through the appropriate review process, including SEPA review and Economic Impact Assessment as justified below:

**SEPA Review Required**

As Ecology is aware, SEPA cannot be avoided through incremental implementation of policies, rules, or a project if these elements are part of a larger plan or project. The same holds true for the Stormwater Management Manual for Western Washington. SEPA cannot be avoided by stating that this manual is a guidance document, if it clearly is Ecology's intent to make it a regulatory document through the implementation of its NPDES stormwater permits. Therefore, SEPA review is required.

**Economic Impacts**

Compliance with 19.85 RCW Regulatory Fairness Act – The Act defines “small business” as “. . . any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated

*independently form all other businesses, and that has fifty or fewer employees.”*  
The Act finds that uniform regulatory requirements can impose a disproportionate burden on small businesses (19.85.011 Findings – 2007 c 239 (5)). Further, Section 19.85.030 (1)(a) of the Act requires agencies to prepare a small business economic impact statement if a proposed rule will impose more than minor costs on businesses in an industry. The City is concerned along with other jurisdictions that the proposed mandatory LID requirements will have significant economic impacts on small businesses and developers and this will in turn result in an adverse economic impact on the City and other jurisdictions. In addition, prior to instituting such a mandate, a small business economic impact statement is required.

### **Detailed Comments**

Pursuant to a request made by Ecology Staff during public workshops for the draft stormwater manual on January 30, 2012, the City will not repeat the detailed comments on Appendix 1 of the Phase II Permit in this letter. Please reference the comment letter submitted to Harriet Beale from the City of Port Orchard to get these comments.

Please feel free to contact my office should you have any questions.

Sincerely,



Andrea Archer, P.E.  
Assistant City Engineer/Stormwater Manager

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cc: Tim Matthes, Mayor  
Mark R. Dorsey, P.E., Public Works Director/City Engineer  
Anne Dettelbach, Water Quality Program, Department of Ecology NWRO  
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