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November 8, 2018

Abbey Stockwell
Washington Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

RE: 2019 Municipal Stormwater Permits for Phase I and Phase II Permittees, Formal Drafts

Dear Ms. Stockwell,

On behalf of Futurewise and our thousands of members throughout Washington State, we are writing to provide comments on the Department of Ecology's 2019 Draft Western Washington Municipal Stormwater Permits for Phase I and Phase II permittees, as well as the Phase II Eastern Washington Stormwater Permit. Our organization is concerned about the declining health of Puget Sound and Washington waters. Since polluted stormwater runoff is the biggest source of toxic pollution in Puget Sound and its tributaries, the NPDES Municipal Stormwater Permits are a vital tool to protect our iconic salmon runs, the Southern Resident killer whale population, our vibrant economy, and the health of our communities. This is a critical time to hone policy and regulatory tools for Puget Sound health concurrently with the update of the Puget Sound Action Agenda and the recommendations of the Governor's Orca Recovery Task Force.

We appreciate the opportunity to comment on the development of these permit drafts since 2016 along with Washington Environmental Council (WEC) and Puget Soundkeeper. We also appreciate that some of those early comments have been addressed in part in the current draft; the inclusion of more specific retrofit projects to be documented through the retrofit incentive points in Structural Stormwater Controls; the expansion of watershed planning through the new requirements for Stormwater Management Action Planning for Phase II jurisdictions; and finally, the movement towards more consistency between Phase I and II requirements.

Below are our comments on the 2019 Permits, some of which are included in the joint letter with WEC and Puget Soundkeeper Alliance and some are unique to our priorities. For our review, we focused on the watershed planning and source control retrofits sections, as well as a review of Section 5 of the Phase II Eastern Washington permit, and some sections of the Stormwater Management Manual for Western Washington (the Manual).

Environmental Justice: Stormwater Action Planning (SMAP) in Comprehensive Stormwater Planning Section

Current SMAP guidance encourages municipalities to "Give higher priority to basins with receiving waters that show low to moderate levels of impairment..." because these waters are "...expected to benefit more quickly as a result of stormwater improvements." This could lead to a bias of basins being selected in wealthier communities. We urge Ecology to do an environmental justice analysis for this Permit cycle to analyze whether this bias is happening and how it could be corrected to give equally high priority for basins where water quality has health impacts on communities of color and low-income communities. We also recommend that EPA's EJSCREEN mapping tool be integrated into the SMAP process explicitly.





Comprehensive Stormwater Management and Land Use Planning

The Permit Fact Sheet acknowledges in several places the importance of land use planning and policies beyond the individual site and subdivision scale:

“...it is not possible to maintain water quality and habitat in lowland streams in Washington State without considering land use and how the landscape is developed.” (p. 38, Fact Sheet)

and

“To the extent possible, stormwater management must be an integral part of long-range planning documents that determine where and how development that will result in stormwater discharges to the MS4 should occur.” (p. 39, Fact Sheet)

Despite the acknowledged importance of long range planning, permittees are only required to describe “how stormwater management needs and protection/improvement of receiving water health are informing the planning update processes and influencing policies and implementation strategies.” (p. 19, Phase I Draft Permit) Not only should stormwater and water quality inform long range plans, but these plans should inform Comprehensive Stormwater Planning. Permittees could use more specific guidance on incorporating landscape scale data from long range plans (such as Critical Area Ordinances and Shoreline Management Programs) to inform the assessment of water conditions. Planning documents can also inform the assessment of development pressure in the chosen basin – how much growth is likely to occur and whether sensitive parts of the basin likely to be protected. The long-term actions and adaptive management sections of permittees’ SMAP should address how stormwater planning will be incorporated into CAO’s and SMP’s. This would also be included in the Annual Report, question 28.

Innovative finance for stormwater, especially LID: SMAP Guidance

In the “Proposed Implementation Schedule and Budget Sources” section of the SMAP Guidance (p. 10), we suggest the following wording to encourage municipalities to expand their options for potential funding sources and delivery mechanisms for stormwater management.

Permittees are encouraged to look for a variety of methods to fund and deliver stormwater management programs and to create multi-benefit projects that can might not be funded from traditional stormwater sources. Multi-benefit projects such as green stormwater infrastructure (rain gardens, bioswales, trees) that can meet water quality goals, as well as habitat, recreation, jobs and other community goals, can increase public support of stormwater pollution prevention, which will ultimately improve water quality. Permittees are encouraged to investigate various incentives for increasing the scale of stormwater projects (rebates, regulatory relief), development of public/private partnerships, and leveraging state funds to get better interest rates on public funds.

- **Transportation and stormwater: Section S5 and Appendix 12**

Road runoff is a significant contributor to stormwater pollution in Western Washington. We propose that in the Structural Stormwater Control Projects, permittees are awarded some incentive points (1.0, equivalent to removal of impervious surfaces) for reducing the pollution from cars on their roadways by: 1.) reducing the vehicle miles travelled (VMT’s) on high traffic roads under local





jurisdiction or 2.) increasing mode shift and trip reduction. We recognize there would be some jurisdictional and quantitative issues to work out, so perhaps there could be a pilot done with a Phase I community this permit cycle.

- **Incentives for green infrastructure in retrofit incentive point system: Structural Stormwater Controls and Appendix 12**

We notice that the incentive factors for green infrastructure and protection/restoration of forest, streams, and floodplains have lower incentive factors than more expensive capital projects, despite that preserving forests, floodplains, and riparian areas is a very cost-effective way of providing flow control and water quality benefits. The explanation given in the guidance is that these projects could be construed to be mitigating, in part, for prior negative impacts from the MS4. In terms of benefits to the community and the water, these projects are still beneficial and cost effective and should receive higher incentive points. These types of projects also have the potential for watershed scale retrofits and maximizing use of public funds with public/private partnerships.

- **Inspection and Maintenance of Private Stormwater Facilities: Section S5.B.5 c iii from the Eastern WA Permit**

Resident concerns with inadequate maintenance of private residential stormwater facilities is of concern in some areas of Eastern Washington. (This has also been reported by engineers in suburban and rural areas in Western Washington.) In the previous Phase II Eastern Washington Stormwater Permit, the following language removed accountability for municipalities to ensure inspections of BMP's, since it required proof of a water quality violation:

If a BMP is not inspected, the Permittee is not in violation of this provision unless a violation of water quality standards occurs due to a lack of operation and maintenance of the facility.

Thus, we support the removal of this language from the Eastern WA Permit.

- **Same enhanced treatment for small residential lots as for townhouses and apartments – Stormwater Management Manual for Western Washington, Volume III, Section 1.2**

Pollutants such as pesticides, pet waste, zinc from roof or flashing material, and petroleum leaks from cars all can enter stormwater from residential lots and these for lots in urban growth areas are getting smaller. On these smaller lots, there is less opportunity for infiltration through rain gardens and permeable pavement. We propose that for single family lots under 7,200 square feet, the same requirements apply for enhanced water quality treatment as for townhouses and apartments. We should be incentivizing, not disincentivizing, multi-family homes in urban growth areas for the stormwater benefits that come from denser development, less impervious surface per home, more walkable neighborhoods, and less vehicle miles traveled.

Thank you for the opportunity to comment.

Sincerely,

Amy Waterman

Water, Fish, and Wildlife Director

Futurewise

