



**Washington State
Department of Transportation**

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November 16, 2018

Mr. Steve Hood

Washington State Department of Ecology Bellingham Field Office
913 Squalicum Way #101
Bellingham, WA 98225

RE: WSDOT Public Comments for South Fork Nooksack River Temperature Total
Maximum Daily Load Water Quality Improvement Report and Implementation Plan
Draft (draft TMDL)

Dear Mr. Hood:

While we understand thermal loading from stormwater running off state highways is minimal during the critical period in this watershed, interagency coordination during Total Maximum Daily Load (TMDL) development remains important to prevent confusion. TMDLs affect the Washington State Department of Transportation (WSDOT) National Pollutant Discharge Elimination System and State Waste Discharge Municipal Stormwater General Permit (Permit). WSDOT works to coordinate with Ecology TMDL Leads to ensure consistent and appropriate language is used to prevent confusion. Currently there are 28 TMDLs in WSDOT's Permit and three more will be added to our 2019 Permit. WSDOT is also attempting to track over 30 TMDLs or related efforts currently under development statewide. Tracking developing TMDL efforts is challenging due to limited resources and variabilities in Ecology's TMDL development processes. Proactive stakeholder coordination by Ecology is essential.

WSDOT's Environmental Services Office has been checking in with Ecology annually requesting updates on the development status of the South Fork Nooksack River Temperature TMDL. The last annual update we received in December of 2017 stated that Ecology was awaiting review of a communication plan and then stakeholder outreach would begin. Ecology also stated, "we should not be including WLA for stormwater dischargers" due to the minimal stormwater discharges during the critical season. Based on these annual updates, and the fact that the watershed boundary is fully outside permit coverage area, WSDOT had been tracking this TMDL as a low priority. WSDOT understands that TMDL strategies often change during the development process, which is why stakeholder outreach and coordination is important. Unfortunately, we were not invited to participate in stakeholder meetings for this TMDL nor were we notified when the draft TMDL was released for public comment. WSDOT became

aware that the draft TMDL was out for public comment during Ecology's annual TMDL Prioritization webinar.

We would like to provide the following specific comments on the draft TMDL:

- 1) Page 24, second paragraph:

The Washington State Department of Transportation (WSDOT) holds a Phase I MS4 permit in the watershed. In March 2012, Ecology issued a new modified permit to WSDOT. This permit addresses stormwater discharges from WSDOT MS4s in areas covered by the Phase I Municipal Stormwater Permit, the Eastern Washington Phase II Municipal Stormwater Permit, and the Western Washington Phase II Municipal Stormwater permit. WSDOT highways, maintenance facilities, rest areas, park and ride lots, and ferry terminals are covered by this permit when a WSDOT-owned MS4 conveys the discharges.

Comment: This language is incorrect. WSDOT does not hold a Phase I MS4 permit in the watershed. WSDOT holds a General MS4 permit, which applies in NPDES Phase I and II permit coverage areas. Additionally, our current permit was issued in March 2014 not 2012.

Recommendation: Edit the draft language above to state:
WSDOT's MS4 permit does not cover stormwater discharges in the watershed because it is fully outside WSDOT's permit coverage area.

- 2) Page 24, third paragraph:

WSDOT has a 2011 Highway Runoff Manual that provides tools for designing stormwater collection, conveyance, and treatment systems for transportation-related facilities. This manual has been approved by Ecology as functionally equivalent to the Stormwater Management Manual for Western Washington and is at www.wsdot.wa.gov/Environment/WaterQuality/Runoff/HighwayRunoffManual.htm

Comment: This information is relevant because we implement the HRM statewide, regardless of permit coverage. The HRM instructs our designers to select best management practices that will minimize impacts to impaired waters based on the pollutant of concern. Our current HRM was published in 2016, but we require new projects to use the most recent version. Additionally, the link provided in the draft does not work.

Recommendation: Edit the draft language to state:

WSDOT implements the Highway Runoff Manual statewide. The manual provides tools for designing stormwater collection, conveyance, and treatment systems for transportation-related facilities. This manual has been approved by Ecology as functionally equivalent to the Stormwater Management Manual for Western Washington. The most recent version can be found:

<http://www.wsdot.wa.gov/Publications/Manuals/M31-16.htm>

3) Page 144, second paragraph:

*Wasteload allocations are necessary for permitted stormwater discharges if they are a source of pollutant loading to the stream when receiving water temperatures are impaired. The SFNR watershed has permitted stormwater sources discharging into its mainstem or tributaries. **The largest source of permitted stormwater is WSDOT.** WSDOT has a stormwater permit that regulates stormwater discharges from state highways and related facilities contributing to discharges from separate storm sewers owned or operated by WSDOT within the Phase I and II designated boundaries. WSDOT's permit also covers stormwater discharges to any water body in the state for which there is an EPA-approved TMDL with **load allocations** and associated implementation documents specifying actions for WSDOT stormwater discharges.*

Comment: The bolded information from the draft TMDL referenced above is incorrect. WSDOT agrees that wasteload allocations are necessary for permitted stormwater discharges if they are a source of pollutant loading. However, as stated in comment 1, WSDOT's MS4 permit does not cover this watershed and therefore cannot be the largest source of permitted stormwater. As such, WSDOT should not be issued a WLA, especially if there is no data to suggest we are a significant contributor. This comment is supported by past TMDLs (e.g., Palouse River Temperature TMDL) as well as the directive from the Environmental Protection Agency commonly known as the "Wayland memo" which states, "EPA expects TMDL authorities to make separate allocations to NPDES-regulated storm water discharges (in the form of WLAs) and unregulated storm water (in the form of LAs)." Furthermore, the reference to "load allocations" in the last sentence is not correct (it should be wasteload allocations).

Recommendation: Delete all references to WSDOT in this paragraph in the subsection titled "Stormwater Wasteload Allocations" because it inaccurately described WSDOT permit and is inappropriate. If Ecology believes WSDOT's MS4 permit should be described in the TMDL, it should be described correctly in an appropriate section. Refer to the language found in WSDOT's MS4 permit Special Condition S1.B.

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4. **Comment:** As consistent with comment 3 above, WSDOT should be assigned a load allocation (LA) instead of WLA.

Recommendation: Assign WSDOT a LA and delete references to WSDOT being assigned a WLA.

Thank you for considering our comments. If you have questions or wish to discuss, please contact WSDOT's TMDL Lead, Elsa Pond, at 360-570-6654 (office) or ponde@wsdot.wa.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "K Stone".

Kenneth M. Stone
Resource Programs Branch Manager
Environmental Services Office

KMS:ep