



Water Quality Permit Coordinator
Department of Ecology, Northwest Regional Office
3190 160th Avenue SE
Bellevue, WA 98008-5452

October 18, 2019

RE: Preliminary Determination to Develop a Puget Sound Nutrients General Permit

To Whom It May Concern:

Puget Soundkeeper (Soundkeeper) is a non-profit environmental organization whose mission is to protect and preserve the waters of Puget Sound. The North Sound Baykeeper program is a function of the Clean Water team at RE Sources for Sustainable Communities. They are charged with protecting and restoring marine and nearshore habitats of North Puget Sound.

We strive to improve water quality through our monitoring and enforcement, education and engagement, and policy and advocacy work. Soundkeeper is committed to a future where one day, all waters throughout the Puget Sound region will be swimmable, fishable and drinkable, with zero impaired waterways. Soundkeeper supports a nutrients general permit to ensure that Puget Sound meets water quality standards for nutrients, subject to specific conditions outlined below.

Ecology has known for decades that wastewater treatment plants are causing or contributing to water quality violations throughout Puget Sound. Puget Sound is impaired for nutrients. Nutrient pollution is causing too much plant and algae growth, reducing the amount of dissolved oxygen in the water. Many parts of Puget Sound have oxygen levels that fall below what is needed for marine life to thrive, causing fish kills, and do not meet our water quality standard. Some algal blooms are harmful to humans because they produce elevated toxins and bacterial growth. Nutrient pollution can make people sick if they come into contact with polluted water, consume tainted fish or shellfish, or drink contaminated water. Research has shown that wastewater treatment plants are the most significant contributor to the nutrient pollution problem. Many wastewater treatment plants are out of date, with outdated permits.

Population growth and climate change are compounding pressures that make this dire situation even more urgent. The region's total population is now 4.2 million, according to Washington State Office of Financial Management, and according to the Puget Sound Regional Council, it will grow to nearly 6 million people by 2050. Additional people means additional sewage flows



heading to our wastewater treatment plants. Changing climate patterns, including rising temperatures, increased snowmelt and droughts, are already impacting water quantity and quality, exacerbating existing pollution issues. We must act now to increase capacity, reduce pollution, and improve the handling of waste at municipal wastewater treatment plants in our region. We must address nutrient pollution now, before Puget Sound becomes a deadzone.

Soundkeeper is concerned that Ecology has requested comment on its proposal to develop a nutrients general permit without providing concrete details of its intended provisions. A nutrients general permit has the potential to comply with the law, or not, and the potential to stop nutrient pollution, or not. We support a strong framework that will meet the requirements of the Clean Water Act and stop nutrient pollution, as detailed below.

1. Applicability To All Wastewater Treatment Plants

While we support the general permit framework, we see no distinction sufficient to warrant exceptions for the 30 or so up-river wastewater treatment plants discharging to watersheds that ultimately lead to Puget Sound. These plants are causing or contributing to water quality violations. Even a very conservative fate and transport study designed to look at discharges from these upstream facilities would show that they had an impact on water quality in Puget Sound. A significant amount of pollution is coming from rural, upriver, and other watershed sources. As such, the general nutrients permit must apply to all wastewater treatment plants in the Puget Sound watershed.

2. Water Quality Based Effluent Limitations Required

In its request for comments, Ecology has not provided a draft permit, or specified the terms that will be included in the permit. The proposed nutrients general permit must comply with the Clean Water Act and its implementing regulations, and thus be calibrated to achieve water quality standards. To do so, the permit must include water quality-based effluent limitations and standards designed to achieve clean water. 40 CFR § 122.44(a)(1) mandates that state NPDES general permit programs include technology-based effluent limits (TBELs), and where TBELs are not enough (as here), 40 C.F.R. § 122.44(d) mandates the use of any requirements in addition to or more stringent than promulgated effluent limitations guidelines or standards necessary to achieve water quality standards, including narrative criteria.

Strong effluent limits wastewater treatment plants in Puget Sound should include 3 mg/L for total nitrogen (TN) and 0.1 mg/L for total phosphorus (TP). These limits should be based on monthly average flows, not yearly, because seasonal differences in flow can skew annual averages, allowing discharges that may cause or contribute to water quality violations. The technology to achieve these levels has been around since the 1980's for mechanical plants with various flows. Further, upgrades to achieve these average monthly effluent limits can be accomplished within one 5 year permit cycle. We are dedicated to work with officials at the local, state, and federal level to secure additional



funding that may be needed, and wastewater treatment plants have the ability to raise utility rates, sufficient to cover the costs of meeting new permit requirements.

While we support a general nutrients permit, we do not support a permit that will take 10-15 years to control pollution. Nutrient caps, monitoring and planning are insufficient tools to reduce nutrient pollution and meet water quality standards. It is feasible, legally required, and critical for our waters that the general permit include strong limits.

3. Other Tools Need Not Be Abandoned

A general nutrients permit is an appropriate tool to regulate wastewater treatment plants and reduce nutrient pollution in Puget Sound. However, issuance of a general nutrients permit should not replace other, additional actions necessary to meet water quality standards.

In addition to a general nutrients permit, Ecology must develop water quality criteria for nitrogen and phosphorus in Puget Sound. 40 C.F.R. § 131.11 mandates that States adopt water quality criteria that protect each designated use of a water body, based on sound scientific rationale and containing sufficient parameters or constituents to protect the designated use. While Ecology's failure to develop water quality criteria for nutrients does not preclude issuance of a general permit designed to reduce nutrient pollution by addressing dissolved oxygen, ultimately, Ecology must still develop these standards.

Ecology must also develop TMDLs for all impaired waterbodies in Washington. A general nutrients permit does not obviate this requirement, nor will a general permit address nutrient discharges from other sources that are causing or contributing to impairment.

In numerous presentations and discussions throughout the Puget Sound Nutrient Source Reduction Process, Ecology has acknowledged and demonstrated that additional sources are causing or contributing to nutrient pollution throughout Puget Sound apart from the 70 plants that discharge directly to Puget Sound. These include non-point sources discharging to watersheds. TMDLs are not only legally required to clean up impaired waters, but a TMDL is an appropriate tool to fairly allocate necessary load reductions amongst both permitted and unpermitted dischargers. A TMDL or TMDLs to achieve clean water in Puget Sound would supplement a general nutrients permit and need not be a substitute.

Finally, In January of 2019, Ecology announced plans to update all individual NPDES permits for wastewater treatment plants discharging to Puget Sound. The undersigned are interested to understand the progress of this project and how it will dovetail with the general nutrients permit.



We appreciate this opportunity to provide feedback on Ecology's proposal to develop a general nutrients permit for wastewater treatment plants, and look forward to discussing the details of the draft permit with you.

Sincerely,

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