

City of Edmonds

October 10, 2019

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

Subject: Ecology's Preliminary Determination to Develop a Puget Sound Nutrients General Permit

The City of Edmonds respectfully submits the following comments and questions regarding the use of a General Permit to control nutrients in discharges from domestic wastewater treatment plants to the Puget Sound as presented by the Department of Ecology (DOE) during the August 7, 2019 forum. Prior to sharing our comments and questions on the use of a General Permit, we will outline our concerns with the current approach.

We have heard that the driver for this expedited approach is the threat of legal action from a third party. The General Permit approach appears to be somewhat reactionary and based upon a "willingness to pay" criteria instead of continuing with Ecology's previous thoughtful and scientifically-based approach which is based on accepted water quality modelling impacts. While the threat of legal action is real and becoming more prevalent in our society, a third party litigant will not be held accountable for the unintended consequences that may result. Making a precipitous change in direction based on threatened or filed legal action seems like a misguided approach to improving the health of the Puget Sound and does not guarantee a cleaner Puget Sound. We encourage DOE to continue with their original approach, i.e. using a calibrated water quality model, to set discharge limits based on the size and location of the discharge and the resulting nutrient loadings. Please do not let the threat of legal action push you into an expedient regulatory response that may result in unintended consequences but will surely result in far greater costs.

Without understanding the specifics of how a General Permit would be utilized, it is difficult to comment on the approach in a qualified and comprehensive manner. Under the right conditions, the City might support a General Permit; however the manner in which it is applied and integrated with the current Individual Permit should be clearly presented by the DOE.

We believe that the Individual Permit is the best approach to control the impact that a facility has on the receiving body of water. The Individual Permit is already in place, it is clearly understood, it is facility focused, and evaluates the mixing zone and discharge loads. Using the Individual Permit would not create future conflicts with requirements that may be contained in a General Permit and its requirements are clear and concise. The DOE needs to explain precisely how a General Permit would improve upon the Individual Permit approach and how the two permits would be integrated. A general permit can't possibly account for differences in discharge location, different currents, different nutrient concentrations, and other characteristics that vary from plant to plant.

Using a General Permit would mean maintaining yet another layer of permitting requirements. A new permit must be managed, meaning it will require additional paperwork and a lengthy application process. This level of effort requires additional resources both within the agency affected and within the DOE. There will no doubt be additional fees established to fund the DOE level of effort. These funds would best be used to reduce or contain nutrients or achieve other water

quality or habitat goals.

We do understand that a potential benefit of using a General Permit could be that agencies might work together in order to develop nutrient sharing models or processes to "share the load." We are aware that this approach may have been utilized in other areas of the country, however we do not have confidence this approach will be successful in the Puget Sound area. There is a concern that the larger agencies, with available staff, will dominate the conversation and the outcome. We believe that a sharing model or trading scheme may border on overreach in an effort to extend this massively expensive program to all facilities through a General Permit when the largest six contributors to nutrient enrichment are located close to where the problems are and where controls would have the biggest impact. If these six facilities are primarily responsible for the dissolved oxygen depletion in South Puget Sound (based on modelling), it seems that is where this program should start. If controlling nutrients at those facilities does not result in an adequate amount of improvement then phase 2 of this program could be initiated with additional participants. Otherwise you end up with all of the little, remote facilities helping the larger facilities (with many more ratepayers) pay for the problem they have arguably created.

Specific comments and questions are:

- Please clarify "capping the load". Will smaller plants not at full capacity and are in an urban growth setting be limited in order to allow larger plants, typically in the more populated areas, to realize future growth?
- Some trading schemes, such as the Chicago Carbon Exchange have not proven effective in achieving their goals. Other schemes, such as the Long Island Sound model, demonstrate that it may be possible for nutrient trading to occur however without the benefit of water quality improvement in the targeted area. Would a credit from the north Puget Sound carry the same weight as a credit from the south Puget Sound? Would a nutrient trading scheme be applied only to load limits? Any scheme that is developed that does not target the water quality of the South Sound would likely not be supported. It is questionable whether a nutrient trading scheme would be beneficial even if one were to be developed.
- Will the General Permit contain all limits associated with nitrogen or would be additional nitrogen limits imposed (i.e., concentration limits for nitrate) to the Individual Permits?
- This effort is referred to as a "Nutrients Limit" implementation. Is it limited to Nitrogen only or are you also planning on addressing phosphorus at some point. If not why is it referred to as a nutrients limit and not a nitrogen limit?
- The General Permit announcement indicated additional data could be requested and submitted by the affected treatment plants during the comment period but does not give any examples of the type of data Ecology might find useful. What sort of data would be useful to this process? How will the data be used and shared? If additional data is needed, we question the wisdom/value of moving forward so quickly with the implementation of a General Permit.
- Can the two-tiered implementation concept, which was shared during the last forum, be accomplished by using Individual Permits?
- A previous version of the Puget Sound Oxygen model described a "line in the sound". This line represented a delineation between flows and mixing zones between the South Sound and the Northern Sound. Will this delineation between North and South be further studied? If not, why not?

- It is not clear how a General Permit for WWTP's will provide an ability to approach the larger watershed management needs? As outlined in the DOE presentations, the challenge appears to be greater than the WWTP loads alone.
- If a General Permit is utilized, would any compliance schedules for meeting nutrient limits be contained in the General Permit or would they be included in Individual Permits?
- Is the DOE considering both Load limits and concentration limits?
- Would ammonia limits (particularly as it pertains to concentration limits for acute and chronic toxicity) remain in the Individual Permits or would they be within the General Permit?
- DOE has indicated that in response to the NWEA petition nutrient loads will be capped for WWTPs. Will these caps set the initial allocation for nutrient loads under the General Permit based on rated facility capacities or will new permitted loads be established?
- If existing facilities were already achieving nutrient limits, would they still need to apply under the General Permit? If yes, arguably the effect would be to solely share the cost of the new program.
- WWTPs are permitted based on BOD and TSS removal. Would the General Permit require re-rating of existing facilities with regard to nitrogen removal? If so, what happens to a facility that is at 50% of capacity vs. a plant at 80% capacity?

The City of Edmonds does not support the use of a General Permit at this time. There are too many unknowns which must be clarified prior to supporting the use of General Permit.

We suggest a series of meetings be held so that the Ecology can fully explain the benefits, risks, and cost implications of using a General Permit. We ask for time to form a coalition, develop a structure in which to work, establish rules of engagement, and establish clear goals and criteria to address nutrient removal as a community. A coalition approach may prove beneficial in order to develop partnerships and advice to both legal and environmental concerns that have impact on our communities and the Puget Sound.

While we all take pride in our mission and commitment to protect the Puget Sound there must be scientific evidence, a level playing field, and an impact-based approach established that focusses the effort on the area of concern.

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Respectfully,

Pamela Randolph
City of Edmonds WWTP Manager