

November 13, 2020

Electronic Public Comments Submittal

RE: Comments on the draft Mid-Yakima River Basin Bacteria Total Maximum Daily Load and Water Quality Improvement Report, Publication 20-10-030 (draft TMDL)

Dear Mr. Cole Provence,

The Washington State Department of Transportation (WSDOT) Environmental Services Office has reviewed the draft TMDL and appreciates the opportunity to provide public comments. First and foremost, WSDOT is committed to working collaboratively with the Department of Ecology (Ecology) and others to help improve water quality across the state.

WSDOT understands the draft TMDL is based on older data and development of this TMDL was put on hold due to other priorities. WSDOT believes that proactive stakeholder engagement from Ecology prior to releasing a public comment draft could have minimized our comments, or at least provided the clarity needed to understand Ecology's approach in the draft TMDL. We respectfully ask that Ecology work collaboratively with TMDL stakeholders prior to releasing public comment draft TMDLs in the future, rather than using the short timelines of the public comment mechanism to address potentially substantive issues.

WSDOT's current Municipal Stormwater Permit (MS4 Permit) has 31 TMDLs statewide, which makes consistency very important for tracking and compliance assurance purposes. WSDOT is interested in having higher-level discussions with Ecology regarding inconsistencies across the state on TMDL approaches, wasteload (WLA) vs. load allocation (LA) calculations and assignments, and NPDES implications. WSDOT seeks additional clarification on existing policies for TMDL development related to these topics, especially related to WLAs vs. Las, as demonstrated by the following comments.

Specific comments and recommendations:

1. (p. xiv, fourth paragraph) "All of the known 'existing' point sources within the TMDL project area that have the potential to discharge significant amounts of FCB pollution and their WLAs are presented in Table 1."

Comment: This language suggests all point sources within the TMDL project area are assigned WLAs. As stated on page 2, "If the pollutant comes from a discrete (point) source subject to a National Pollutant Discharge Elimination System (NPDES) permit...that facility's share of the loading capacity is called a wasteload allocation (WLA)."

Recommendation: Suggest clarifying for consistency with text on page 2, “All of the known ‘existing’ point sources within the TMDL project area *subject to NPDES permits* that have the potential to discharge significant amounts of FCB pollution *have been assigned WLAs* presented in Table 1.”

2. (p. xvii, Table 1)

Comment: Based on recent discussions with the TMDL Lead, it is WSDOT’s understanding that the WLA being assigned is specific to WSDOT’s Union Gap maintenance facility, and other WSDOT facilities covered under our MS4 Permit within the TMDL boundary have been deemed an insignificant source (i.e., not assigned a WLA).

Recommendation: Suggest adding a footnote to Table 1 clarifying the site-specific applicability of WSDOT’s WLA, and that other WSDOT facilities covered under our MS4 Permit were deemed an insignificant source (i.e., no WLA assigned).

3. (p. 2, fourth paragraph) “Similarly, all point source dischargers in the watershed must also comply with their respective WLA established by this WQIR in Table 1. The presently known point sources within the TMDL project area’s surface waters include...”

Comment: Same comment as #1.

Recommendation: Suggest clarifying for consistency with text on page 2, “Similarly, all *NPDES permitted* point source dischargers in the watershed must also comply with their respective WLA established by this WQIR in Table 1. The presently known point sources *subject to NPDES permits* within the TMDL project area’s surface waters include...”

4. (p. 12, Table 8)

Comment: Same comment as #2. Also, WSDOT’s MS4 Permit is not technically a Phase II permit. The WQWebPortal and PARIS both refer to WSDOT’s permit type as “Municipal SW GP”.

Recommendation: If WSDOT’s WLA is being assigned specifically to the Union Gap maintenance facility, suggest editing the Receiving Water column of Table 8 to specify the water body that WSDOT’s Union Gap maintenance facility discharges to, which is where the WLA will apply. Also, suggest removing “Phase II” from the Permit Type column and footnote 3 in Table 8.

5. (p. 12, second paragraph) “The WSDOT highways and facilities are required to be covered under an MS4 permit (e.g. U.S. Highways 97 and U.S. Highway 12, Interstate 82, and State Route 24). There is a WSDOT Road Maintenance Facility in the City of Union Gap near

the confluence of East Spring Creek with Wide Hollow Creek, just prior to the confluence with the Yakima River.”

Comment: The majority of the sections of WSDOT roadways referenced are either within WSDOT’s MS4 Permit coverage area but outside the TMDL boundary, or within the TMDL boundary but outside of WSDOT’s MS4 Permit coverage area.

Recommendation: Suggest editing the sentences to state, “WSDOT highways and facilities *within the Phase I and II MS4 permit boundary* are covered under WSDOT’s MS4 Permit. *Only* WSDOT’s Road Maintenance Facility in the City of Union Gap near the confluence of East Spring Creek with Wide Hollow Creek, just prior to the confluence with Yakima River, *has been identified as a source and assigned a WLA.*” Suggest editing the map, Figure 1 (below), to show the MS4 Phase II permit coverage areas to clarify where MS4 permit requirements apply relative to the TMDL boundary:



6. (p. 81) “The MS4 entities may comply with their individual WLAs by utilizing the percent target reduction given in Table 45...”

Comment: This language is not applicable to WSDOT. WSDOT’s compliance with WLAs is achieved through permit compliance or implementation of specific TMDL actions (See Appendix 3 of WSDOT’s MS4 Permit).

Recommendation: Suggest editing the sentence to state, “The *Phase I and II* MS4 entities may comply with their individual WLAs by utilizing the percent target reduction given in Table 45, or by an implementation target calculated by the MS4.” Then add language used in other TMDLs specific to WSDOT compliance, “*Where TMDLs have assigned WLAs for WSDOT stormwater discharges, compliance with the action items listed in Appendix 3 of the WSDOT permit constitutes compliance with the WLAs.*”

7. (pp. 83-84, Table 45)

Comment: Table 45 appears to be a duplicate of Table 1. Same comment as # 2.

Recommendation: Same recommendation as #2.

8. (p. 94, sixth bullet) “The Washington State Department of Transportation (WSDOT) is responsible for MS4 stormwater discharges from its maintenance facility in the City of Union Gap, as well as from State highways throughout the TMDL project area.”

Comment: This language could create confusion. As previous comments note, the TMDL should be clear about where WSDOT’s MS4 Permit coverage area and the TMDL project area overlap, and then be clear about which WSDOT facilities are covered by the WLA.

Recommendation: Suggest editing to state, “The Washington State Department of Transportation (WSDOT) *implements its MS4 permit in Phase I and II areas*. MS4 stormwater discharges from WSDOT’s maintenance facility in the City of Union Gap *has been assigned a WLA*.”

9. (p. 102, Table 52) “Implement applicable BMPs in order to meet WLAs established in this WQIR.”

Comment: The action listed for WSDOT is unclear since only one WLA was assigned to WSDOT and should be specific to the Union Gap maintenance facility. Additionally, this action seems unnecessary because the Union Gap maintenance facility is known to be in compliance with water quality standards as indicated in footnote on page xvii.

Recommendation: Suggest deleting this implementation strategy from the table, or edit it to state, “*If stormwater discharges that transport bacteria over natural background levels to listed receiving waters are found from sources within WSDOT’s right-of-way and control, WSDOT will apply BMPs from their SWMP or perform remediation to correct bacteria discharges. For run-on sources of bacteria identified by WSDOT that are from outside of WSDOT’s right-of-way, WSDOT will notify Ecology and work cooperatively with Ecology, the local jurisdiction, and other parties involved for their resolution.*” This language has been used in other bacteria TMDLs that issue WSDOT a WLA. When feasible, WSDOT appreciates consistency in TMDL actions for compliance tracking purposes.

Thank you for considering our comments. If you have questions or wish to discuss these comments, please contact WSDOT’s Statewide TMDL Lead, Elsa Pond, ponde@wsdot.wa.gov.

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Sincerely,

A handwritten signature in blue ink that reads "Jana Crawford". The signature is written in a cursive style with a large initial "J" and "C".

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