

November 22, 2020

Electronic Public Comments Submittal

RE: Comments on the draft Padilla Bay Freshwater Tributaries Fecal Coliform Bacteria Total Maximum Daily Load Report and Water Quality Improvement Report and Implementation Plan, Publication 20-10-036 (draft TMDL)

Dear Mr. Scott Bohling,

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 appreciates Ecology's efforts to initiate stakeholder outreach on this TMDL prior to releasing a public comment draft.

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.

1. (p. 25, last paragraph) "Washington State Department of Transportation (WSDOT) highways and facilities are also covered under an MS4 permit."

Comment: Per page 23, "Wasteload allocations (WLAs) are determined for point sources of pollutants, that are regulated under the National Pollutant Discharge Elimination System (NPDES) permit...WLAs are developed as part of a TMDL when National Pollutant Discharge Elimination Systems (NPDES) regulated stormwater discharges are present ...and contribute to pollutant loading." Based on this, the sentence referenced from page 25 should be clarified to explain the majority of WSDOT facilities within the TMDL boundary are not subject to the WLA as they are outside of WSDOT's MS4 Permit coverage area.

Recommendation: Suggest editing language to state, "Washington State Department of Transportation (WSDOT) highways and facilities are also covered under an MS4 permit *within Phase I and II areas.*" Suggest referring to Figure E.1 in this section to provide clarity.

2. (p. 31, Table 12)

Comment: It is unclear if the receiving waters and WLAs listed cover all WSDOT facilities within the TMDL boundary or just the facilities subject to WSDOT's MS4 Permit. This comment is related to comment #1, #3 and #8, as it appears Ecology is using all WSDOT facilities within the TMDL boundary for WLA calculations, which is not consistent with the text on page 23 that describes what a WLA is and when it is applicable. In addition, 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: Suggest only including waterbodies in Table 12 that receive discharges from WSDOT's facilities within the permit coverage area. Also, suggest removing "Phase II" from Table 12.

3. (p. 56, last paragraph) "WSDOT permits cover highway systems running through the study area, and these include Interstate Highway 5 (I-5), Washington State Route 11, State Route 20, and State Route 536."

Comment: State Route 11 is not subject to WSDOT's MS4 Permit and only sections of the other WSDOT roadways referenced are within WSDOT's MS4 Permit coverage area and within the TMDL boundary. While WSDOT does implement some MS4 permit requirements programmatically statewide (on roadways not subject to MS4 Permit), it doesn't seem prudent to use facilities outside the MS4 Permit area to calculate the WLA.

Recommendation: Suggest editing language to state, "WSDOT's MS4 permit covers highway systems running through the study area, and these include *sections of* Interstate 5 (I-5), State Route 20, and State Route 536."

4. (p. 56, last paragraph) "This TMDL expects basic WSDOT permit conditions will control much of the fecal coliform bacteria discharged to the Padilla Bay watershed."

Comment: Clarification needs to be added that this statement applies within the Phase II MS4 permit coverage area and that existing permit conditions are expected to be adequate to comply with the TMDL WLAs.

Recommendation: Suggest editing language to state, "This TMDL expects that implementation of existing WSDOT permit conditions will control much of the fecal coliform bacteria discharged from WSDOT highways and facilities within the Phase II MS4 permit coverage area to comply with assigned WLAs in the Padilla Bay watershed."

5. (p. 74, first sentence under WSDOT heading) "WSDOT actively implements a number of BMPs that can reduce local bacteria levels as part of their existing NPDES permit."

Comment: This sentence is misleading because there are no approved BMPs for reducing bacteria levels identified in Ecology's Stormwater Management Manuals or WSDOT's

Highway Runoff Manual. When a WSDOT ferry terminal or public rest area exists within a bacteria TMDL boundary, we have installed pet waste station BMPs, however, none of those facilities exist within this TMDL boundary.

Recommendation: Suggest deleting this sentence from the draft TMDL.

6. (p. 74, second paragraph under WSDOT heading) “A WLA for WSDOT infrastructure and right of way areas within the Padilla Bay Watershed is provided in this TMDL.”

Comment: Should be clarified consistent with comment #1.

Recommendation: Suggest editing language to state, “A WLA for infrastructure and right of way areas *subject to WSDOT’s MS4 permit* within the Padilla Bay Watershed is provided in this TMDL.”

7. (p. 125, first paragraph) “WSDOT permits cover highway systems running through the study area, and these include Interstate 5 (I-5), Washington State Route 11, State Route 20, and State Route 536.”

Comment: Same as comment #3.

Recommendation: Same as recommendation #3.

8. (p. 125, Table E-6)

Comment: State Route 11 is not subject to WSDOT’s MS4 permit so it is unclear why it is included in this table with WLA calculations. Furthermore, it is unclear if the acreage values for the other roadways listed represent MS4 subject roadways or all WSDOT roadway surfaces within the TMDL boundary, which would be considered a nonpoint source that would be subject to a load allocation rather than a WLA.

Recommendation: Please clarify the WLA calculations and assignments for WSDOT throughout the TMDL document, ensuring WLAs are calculated and assigned to WSDOT highways and facilities within the MS4 permit coverage areas only.

9. (p. 128, Table E-9)

Comment: It is unclear if the values used for WSDOT are appropriate. This comment is related to comment #8.

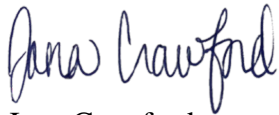
Recommendation: Please clarify the WLA calculations and assignments for WSDOT throughout the TMDL document.

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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.

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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