

Skagit County

Attached is a comment letter and a list containing additional detailed comments on the draft TMDL for Padilla Bay.



SKAGIT COUNTY PUBLIC WORKS DEPARTMENT

1800 Continental Place, Mount Vernon, WA 98273-5625
(360) 416-1400 FAX (360) 416-1405

November 20, 2020

Scott Bohling, Water Quality Specialist
Department of Ecology
3190 160th Avenue SE
Bellevue, WA 98008-5452

Re: Padilla Bay TMDL Comments

Dear Mr. Bohling,

The Natural Resources Division of Skagit County Public Works would like to thank the Department of Ecology for the opportunity to comment on the draft Padilla Bay Freshwater Tributaries Fecal Coliform Bacteria Total Maximum Daily Load Report (TMDL).

Skagit County's Pollution Identification and Correction (PIC) program has been active in the Padilla Bay Watershed since 2015 when Skagit County partnered with Ecology on hosting the Padilla Bay TMDL kickoff public meeting on October 1, 2015. At the beginning of the project, Ecology worked closely with Skagit County and SCD Storm/Stream Team citizen volunteers to incorporate existing data and use local knowledge to select sample sites. Unfortunately, ECY's communication of this TMDL effort dwindled to be almost nonexistent due to staff changes and a shift to other priority areas.

It was not until September of 2020 that Ecology again initiated active communication and outreach to Skagit County on this TMDL project. Skagit County agreed to review the TMDL and be part of the Technical Advisory Group. However, Skagit County is deeply concerned about the lack of involvement of the TAG before releasing the document for public review. There have only been two meetings of the TAG and those were primarily presentations from ECY staff and did not have sufficient time for technical review. In addition to the TAG only being provided the full document four working days prior to public release, neither Skagit County nor the TAG were provided an opportunity to review the "Eastern Padilla Bay Tributaries Fecal Coliform Bacteria Total Maximum Daily Load Study: Water Quality Study Findings" before it was used to develop the draft TMDL.

Unfortunately, the final draft TMDL that was shared with the public was not the best example that could have been presented. This TMDL could have been greatly improved and more accepted by the community if a more sincere effort had been made to work with the TAG to develop the plan. Unfortunately, the draft TMDL provided for public comment has a significant number of typos and technical errors that could have been corrected with an adequate review period.

The Washington Department of Ecology is an essential and outstanding partner in Skagit County's mission to reduce bacterial pollution in the Padilla Watershed. Skagit County encourages ECY to extend the review period for this TMDL, go back to the TAG to address technical concerns, and work with community stakeholders to improve the overall tone of this document so as to achieve better community acceptance of the plan.

If you have any questions about this letter or the attached spreadsheet of detailed comments, please feel free to contact me at (360) 416-1455 or email at michaels@co.skagit.wa.us.

Sincerely,

Michael See
Natural Resources Division Manager
Skagit County Public Works

Cc:

Dan Berentson, Public Works Director
Ralph Svrjcek, Washington Department of Ecology

Padilla Bay TMDL Comments

Commentor	Page/Section	Comment		
<i>Kevin Jackman</i>				
	General	The squeezing in of an FC plan one month prior to FC no longer being the standard will upset people, no doubt. The length of time required to sample everything with E. coli instead would be long. I imagine it would take at least two years or more of data.		
	General	The TMDL claims shellfish harvesting as an important part of why it is implemented, but reveals that the nearest beds are 3 miles away, constantly flushed, and that the sloughs of Padilla Bay contribute less than 1% of the fresh water.		
	General	The claim on page 20 that wet season FC concentrations are much higher than the dry season does not appear to be accurate when broken down further. The first half of the wet season is typically high, the second half is typically low		
	General	Numerous typographical errors occur throughout the document. Document needs significantly more time for review and editing.		
	P. 7, Table 1	Are these exceedances in column 1 (Basis Statement) seasonal? 3 out of 19 is very low, and if they all occurred in a 3 or 4 month window, then that is remarkably clean for the rest of the year. This is addressed on page 19.		
	P. 7	Bulthuis 2013 as saying all the tributaries only account for less than 1% of the water exchange, total. That sentence raises a question as to the justification for spending money to reduce the amount of pollution in 1% of a system.		
	P. 13	The statement that FC concentrations are generally higher than E. coli is not helpful and semi-inaccurate. E. coli is a proportion of FC, so it cannot ever be more than 100% of the FC number, and as mentioned prior, may be 1:1 at some sites.		
	P. 34	The claim that using the 100 cfu geomean parameter is more conservative and appropriate for an MOS than is the 90% parameter is confusing. By far, more sites fail the 90% parameter. That is true in other TMDLs and is also claimed in this TMDL. Many sites pass the 100 cfu geomean and fail the 90% parameter. This would be opposite of an MOS.		
	P. 34	The second MOS claim makes for a very strong MOS, because watercourse attrition is not even considered. A large amount of bacteria never make it to the end of the watercourse, not due to sunlight or temperature.		
<i>Karen Dubose</i>				
	General	The lack of involvement from the Tech Advisory Group and stakeholders is concerning. Insufficient time provided for a meaningful review from the Technical Advisory group.		
	General	The "Eastern Padilla Bay Tributaries Fecal Coliform Bacteria Total Maximum Daily Load Study: Water Quality Study Findings" published in February 2020 was not shared or reviewed by the Technical group. It appears that the document was not distributed to Skagit County as a key partner and stakeholder.		

	P. 46	In the No Name Source Analysis, wildlife is listed as a possible source for localized issues. Wildlife is not listed as a potential source in any of the other watersheds. We know that migratory birds are interspersed throughout the area – from lower Little Indian Slough all the way to upper Joe Leary Slough. Migratory birds should be listed as a possible source in all of the watersheds to assure residents that we are looking at ALL sources of bacteria and not just focusing on one or two.		
	P. 48 & 51	The "reference source not found" statement is not explained, is this an error?		
	P. 70	The section on forest practices is confusing and seems out of place on a TMDL focused on FC.		
Andy Wargo				
	P. 1	<i>"Bacteria can get into our waters from improperly functioning septic systems, contaminated stormwater, poorly managed livestock and agricultural lands, and feces from pets and wildlife"</i>		
		Why not say "poorly managed pets"? Language equity is important. Subtle shifts in tone can leave certain stakeholders feeling unfairly targeted.		
	P. 1	<i>"The goal of this report is to ensure that inland waters in the Padilla Bay freshwater tributaries attain Washington State water quality standards for FC"</i>		
		This statement may be technically correct for TMDL jargon but it adds a lot of noise to the goal. When you state a goal you need to be simply tell people what it is you want to do and it should be obvious why you want to do it.		
	P. 3	<i>"Skagit County Public Works and Skagit County Environmental Health Department are actively working to reduce existing and potential water quality impacts through land use planning, code updates and enforcement, implementation of best management practices, water quality monitoring, and active communication with the public regarding water quality issues."</i>		
		Add Skagit County Planning and Development Services		
	P. 4	Figure 3 Map – This map appears to show Higgins Slough, but Higgins slough is not counted as a tributary in the TMDL.		
	P. 13	<i>A comparison between FC and E. coli bacteria concentrations shows a good relationship.</i>		
		What is the sample size for this calculation? Skagit County Public Works has had several samples analyzed for both FC and EC over the past few years and the results range from 1:1 to 2:1 and sometimes as high a 10:1. Some measurements suggest that sloughs tend to be 1:1 in the dry season and change to something more like 1.5:1 during the wet season. Based the available data, we question that a regression can reliable predict one from the other.		
	P. 14	<i>"The recommended cumulative reductions for the loading capacities were developed to focus on reducing bacteria sources in upstream areas of each slough. By addressing sources of pollution upstream, water quality conditions downstream are expected to improve. These cumulative reductions will be used to guide an adaptive management strategy and implementation activities where efforts will be targeting upstream sources to protect downstream beneficial uses in the freshwater tributaries as they discharge into Padilla Bay."</i>		

		<i>"Downstream beneficial uses in Padilla Bay are expected be protected based on the TMDL recommendations in this study because of increased bacteria die-off (depending on temperature and light conditions) in marine waters, high mixing zones and low residence times in Padilla Bay, and distance from shellfish harvesting beds of approximately 3 miles from the closest tributary outlet (Fields, 2016; Bulthuis, 2013; Sargeant et al., 2006; Solic and Krstulovic, 1992; Mancini, 1978)"</i>		
		This language is not clear. It sounds like the focus is on the upstream sources but not really clear why. It sounds like the TMDL is not focused on the downstream sources since that bacteria will die off before reaching shellfish beds? This is important information because stakeholders are interested in where you are targeting pollution sources.		
	P. 16	<i>"Point source wasteload allocations (WLAs) will be largely self-implementing through the administration of the National Pollution Discharge Elimination System (NPDES) Program."</i>		
		Relying on NPDES Permits to fix FC problems has proven unreliable in the past, since NPDES permits may not require FC sampling, sites may pass an NPDES inspection but still discharge FC, and a site with a discharge permit may be discharging FC from a different point and, therefore have FC pollution that falls outside the review of the Industrial Stormwater Permit/Individual Permit.		
	P. 26	Much of the stormwater infrastructure within the Green/DD19 area in the Bayview Ridge/Golf Course/ Frazier Heights is owned, maintained by Skagit County, so IDDE Screening and Response will be addressed by the County in much of this area rather than by DD19.		
	P. 29, Table 10	10 <i>Waterbody Names Big Indian Slough</i>		
		Little Indian Slough should be included.		
	P. 30, Table 11	<i>Waterbody Names Joe Leary Slough</i>		
		Big Indian Slough should be included.		
	P. 38, Figure 11	Map of watershed is incorrect in northern Burlington.		
	P. 39	<i>"Maintained agricultural waterways run along roads in much of the watershed. Skagit County Public Works dredges sediment and vegetation from ditches along roadways (Fields, 2016)."</i>		
		Ag ditches are often maintained by drainage districts rather than the County.		
	P. 48	<i>"Other sources of bacteria may be from wildlife using area during migration or wintering, which may lead to localized loading in surface waters and ponds."</i>		
		Please list the source for this statement.		
	P. 50	<i>"Big Indian Slough flows through residential areas, a golf course"</i>		
		BIS does not flow through the golf course.		
	P. 56	<i>"This permit provides coverage for portions of the Bayview Ridge (Urban Growth Area), Skagit County Phase II, and of the City of Burlington. Drainage District 19 is also included as a secondary permittee under Skagit County."</i>		
		The Port of Skagit County is missing and DD19 is not under Skagit County.		

	P. 61	<i>"Livestock manure should be collected, stored, composted and utilized in a manner that prevents contamination of State waters."</i>		
		This statement should be qualified to specify manure collection from confinement areas and horse paddocks. It doesn't make sense to ask that manure be removed from pastures; it should be harrowed in a timely manner in accordance with comprehensive pasture management. PIC programs have lost credibility in the past by not being specific in where manure collection should occur.		
	P.75	<i>"Departments and divisions involved in the protection and restoration of water quality, such as the Division of Public works and Planning and Development Services, and Public Health. These departments and divisions implement programs and activities at a local level and provide oversight and data collection through programs such as the Health Departments On-site Sewage program, Public Works' Pollution Identification and Correction (PIC) program which includes the Poop Smart Initiative"</i>		
		Language could be cleaner and more accurate. The three departments are: Public Works, Public Health, and Planning & Development Services.		
Michael See				
	General	Skagit County was an active partner 5 years ago at the beginning of the TMDL monitoring and initial public meeting. Since that time, there has been very little communication and information sharing from ECY until this recent push to finalize the TMDL.		
	General	Skagit County is deeply concerned about the lack of involvement of the Technical Advisory Group before releasing the document for public review. There have been only two presentations to the TAG with limited time for input. In addition, the "Eastern Padilla Bay Tributaries Fecal Coliform Bacteria Total Maximum Daily Load Study: Water Quality Study Findings" was not shared or reviewed by the TAG nor Skagit County prior to its incorporation into the TMDL document.		
	General	Skagit County is concerned about ECY's effort to rush approval of the document though the review and public comment period. Is this in order to approve it before the State switches to E. coli as the standard?		
	General	The TMDL document has a significant number of typos, technical errors, and issues that need to be corrected before sharing with the public again. A more meaningful involvement of the Technical Group and stakeholders would have resulted in a more presentable document.		
	General	The Technical Advisory Group was only provided four working days to review the draft TMDL before it was released to the public. This was not sufficient time for a meaningful review or stakeholder involvement.		
	General	The general tone and emphasis on agriculture could be improved so as to not alienate or put one stakeholder group on defense.		
	General	The tone of the report is that agriculture is the primary land use concern since that makes up the majority of the landuse in the watershed. We know from our PIC work that everyone contributes (industry, residential, roads, ect). A significantly more focused sampling effort would needed to point to a primary pollution source.		
	P. 23, P. 58	If the SCD Stream Team data was not used to assess conditions in the study area, why is their data referenced in the report?		

	P. 42	The report states that "Ecology developed this implementation plan and timeline, and worked with interested parties through an advisory group process to refine the goals and approach". There were only two meetings where ECY provided a presentation and their was limited time for advisory group involvement.	
	P. 44	Numerous typographical errors occur throughout the document. Document needs significantly more time for review and editing.	
	P. 55	Residential homes is not listed in the paragraph describing potential pollution sources.	
	P. 59	Who is the referenced Padilla Bay Watershed Implementation Lead?	
	P. 59	The report states that "Urban Stormwater MAY contribute to fecal coliform bacteria pollution...." We know from our local PIC, Ambient sampling, and IDDE work that it in fact does contribute FC pollution.	
	P. 60	The Port of Skagit County is missing as a Phase II Secondary Permittee.	