



1220 Lakeway Drive
Bellingham, WA 98229
(360) 734-9224

March 10, 2021

Eleanor Ott, PE
Washington State Department of Ecology
PO Box 47696
Olympia, WA 98504-7696

Re: Preliminary Draft Puget Sound Nutrient General Permit Comments

Dear Ms. Ott:

The Lake Whatcom Water and Sewer District, authorized as a special purpose district under Title 57 Revised Code of Washington, operates water and sewer utilities located wholly within the Lake Whatcom Watershed. Operating utilities within this environmentally sensitive area, which serves as the drinking water source for over 100,000 people, the District takes seriously its commitment to sound environmental stewardship. The District also recognizes that its environmental footprint is larger than its service area—all wastewater collected by the District is conveyed out of the watershed for treatment at the City of Bellingham's Post Point Wastewater Treatment Plant, the effluent of which is discharged to Puget Sound.

As a partner in funding any capital improvements to the Post Point WWTP, the District has closely followed the development of the preliminary draft Puget Sound Nutrient General Permit. The District fully recognizes the Department of Ecology's responsibility to maintain compliance with water quality standards and to address dissolved oxygen impairment in sensitive areas of the Sound. The District is, however, concerned with implementation of the new regulatory requirements defined within the proposed Permit without Ecology having first verified the modeling results upon which the Permit is based with sufficient sampling and data analysis, or fully exploring the effectiveness and costs of removal technologies. The District believes that the significant investments in nutrient control that will be required of treatment plants will have broad societal impacts on affordability, equity, energy use, and greenhouse gas emissions. It is with these concerns that the District Board of Commissioners has authorized the issuance of this letter as the District's formal comments on the preliminary draft Permit.

The District submits the following comments on the preliminary draft Permit issued by Ecology on January 26, 2021:

1. *Better scientific foundation:* Since discussions began about the general permit, utilities have disputed the science behind the proposed regulations. Gaps in data, uncertainties, and understanding of local and regional impacts have not been explained. This has been particularly true for dissolved oxygen standards, which are over 50 years old, and have no scientific basis. Without reliable science that demonstrates how permit requirements will produce significant benefits to the Puget Sound ecosystem, major expenditures of public money to meet Permit requirements

could be wasted at the expense of more beneficial actions for Puget Sound water quality.

2. *Better distinction between regions of the Sound:* There may be reasons to require improvements to certain facilities, depending on their location and circumstances. However, the proposed permit treats all plants throughout the region as contributing to the dissolved oxygen problem based on nitrogen concentrations and flows, and not factoring in locations. The District believes this to be incorrect and not backed by the science. Ecology's maps show what appear to be highly localized areas of dissolved oxygen impacts, yet the draft Permit treats it as a Sound-wide problem.
3. *More sound basis for triggers:* The draft Permit relies on a statistical method—"bootstrapping"—to turn minimal amounts of data into measurements of current discharge levels. While we have not seen any report showing how many monitoring points the various plants have available for this calculation method, Ecology staff has implied that at some facilities it might be a dozen or less over three years. This is not sufficient data to accurately characterize a facility's nutrient loading through seasonal variations, weather swings and pandemics. Since all agree that more data is needed, the monitoring program should not only support robust data acquisition for characterization, but also be designed to evaluate optimization since this will, at least initially, be the primary means by which nutrient levels are kept below action levels.
4. *Better defined tiers and triggers:* The proposed "tiers and triggers" are going to tip most plants into significant expenditures in the near term. Even plants that are comfortably under the 10 milligram per liter (mg/L) nitrogen level are required to carry out "optimization" programs, many of which can be costly. Very small plants will likely be kicked into Tier 3 actions—in many cases requiring significant reconstruction with new technology. In some cases, large plants have no space for expansion or reconstruction, and may need to seek to build entirely new facilities elsewhere. Since the "tiers and triggers" are what will set requirements for plants, they need to realistically take into account concerns about science, the insignificance of contributions of small facilities, and timing of required improvements.
5. *More realistic timelines:* The draft Permit requires action on extremely aggressive schedules in several ways. Significant increases in monitoring would be required just one month after the Permit's effective date. Many utilities are not able to add staff and budget in that timeframe. It is also unknown whether commercial labs (or Ecology staff) can handle the surge in new sampling and data generation. The draft Permit is also unrealistic in its schedule for treatment improvements. Major facility improvements require ten or more years to plan, design, permit, construct, and put into operation. The 5% margin allowed over current levels, especially combined with the aggressive timeline for compliance, is likely insufficient to prevent moratoria on new connections with the growth faced by the region. In addition, WQBELs are not expected to be established before 2023. Planning facilities before these limits are known could result in unnecessary or ineffective and costly facilities. Having WQBELs set for each plant before major investments are required ensures better outcomes for the region and that limited funds are wisely spent. Finally, annual nutrient optimization plan submittal and review by Ecology raises real concerns about the financial and personnel needs locally and at Ecology in order to

accomplish this in a timely fashion. Scientific scrutiny and discussion with the plants will be something akin to a discharge permit renewal. This will take time that the draft Permit does not seem to allow for. The District supports the Utility Caucus Proposal which was presented to Ecology and the Advisory Committee in October 2020. This document advances more realistic timelines for steps in the permit.

The District feels it important to reiterate its commitment to protecting the water quality of Puget Sound; however, it has significant concerns related to the draft Permit being based on disputed science, unrealistic timelines for compliance, and apparent disregard for the costs of facility improvements that will ultimately be borne by the general public through significant rate increases. The District strongly encourages that Ecology considers permit requirements that will produce effective and affordable protection of Puget Sound water quality.

Sincerely,

Lake Whatcom Water and Sewer District



Justin L. Clary, PE
General Manager

cc: Bellingham City Council
Whatcom County Council
Washington State Legislators, 40th and 42nd Districts
Washington Association of Sewer and Water Districts