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Subject: Comments on Draft Puget Sound Nutrient General Permit

Ms. Ott:

Thank you for the opportunity to comment on the Draft Puget Sound Nutrient General Permit. Our organizations advocate for clean water in Puget Sound and the Salish Sea. Clean water is good for people, communities, wildlife, and the Puget Sound ecosystem. We are glad to see the Department of Ecology requiring Puget Sound utilities to transition to more protective sewage treatment standards. As you know, many cities and counties have already implemented nutrient-removal technology, from Shelton to Spokane. It's time for all utilities in the region to step up and to do so quickly. The Orca Recovery Task Force recommended reducing nutrients and other pollution from wastewater discharges, and we know this issue is important to Governor Inslee.

Natural sources of nitrogen from the Pacific Ocean, rivers draining forested areas, and background atmospheric deposition contribute to naturally low levels of oxygen in some parts of Puget Sound. However, sewage treatment plants discharge additional nitrogen to the marine waters of Puget Sound, which spurs excess algae growth. When algae die and decay, the process robs water of oxygen and also worsens ocean acidification. The additional human-caused nitrogen must be controlled, starting foremost with reducing nitrogen and carbon from sewage treatment plants. Sewage treated to secondary levels also discharges pharmaceuticals and other chemicals of concern.

While we want this permit to move forward, we would also like to call your attention to areas of improvement that are needed to adequately protect water quality.

Deadlines needed

We understand that this permit has a 5-year duration. However, we urge you to set deadlines for ultimate implementation of these capital investments by 2030 for the largest discharges. The Nutrient Reduction Evaluation calls on cities, counties, and utilities to provide a timeline for improvements. We are concerned that this lack of clarity will lead utilities to submit plans that extend out to the 2040s, 2050s, and even beyond for constructing advanced nutrient removal technologies. Ecology must clearly indicate a more urgent timeline in this permit. Some dischargers have claimed that Ecology has given them no indication that nutrient removal would be required, and we want to avoid a claim of surprise in the next permit term.

Create a “mega discharge” category and require the largest dischargers to do more and more quickly

King County, which serves Seattle with three plants discharging to marine waters, and Tacoma, with two plants, are the largest nitrogen pollution dischargers. Together, they contribute over 70% of the wastewater nitrogen load, and they need to move further and faster during this permit term. In fact, both utilities have publicly released analyses and cost estimates clearly indicating that they have already completed the basic planning steps that this permit term requires through the Nutrient Reduction Evaluation. King County and Tacoma need to implement actual reductions in the next five years, while also engineering designs for construction by 2030. Given that both have indicated extremely long timelines would be needed to comply, we recommend that Ecology require them to implement sidestream treatment during this permit term to decrease loads as they grow and plan for nutrient technology transitions.

We cannot afford to wait for these utilities to stretch out their obligations further. In contrast, LOTT has implemented nutrient-removal technology for over 25 years. Small communities like Shelton, Sequim, and Oak Harbor have invested in nutrient removal. And Pierce County designed its most recent Chambers Creek expansion to bring nutrient removal online without substantial capital improvements because they knew this requirement was coming. We do not want to see Ecology reward the tactics used by King County and Tacoma to avoid timely implementation.

Nutrient load action levels are too permissive

The nutrient load action levels remain far too permissive. Ecology set these at the 99th percentile upper confidence limit of current loads, even though no one advocated for this permissive of a statistic. This inadvertently allows tons of nitrogen pollution above safe levels for Puget Sound to protect a number that simply triggers planning activities. We recommend that action levels be based on 75th or 90th percentiles of nitrogen load estimates by each plant.

We are also concerned that Permittees may renegotiate for a higher - but not lower - nutrient action level. Further, the action level compliance assessment should be assessed starting at the inception of the Permit - not in 2023.

Annual nutrient loads should be reported as ranges

Ecology used a statistical technique to estimate current loads from individual plants, then applied an unnecessarily permissive 99th percentile upper confidence limit for the single values listed in the Draft Permit. As described above, that inadvertently increases the allowable load to Puget Sound. Because an overly permissive statistic was used, we are concerned that when individual plants report their annual loads as pounds per year as a single number, those are highly likely to be under the 99th percentile simply as a matter of statistics. We recommend that Ecology require plants to report annual loads as 5th, 10th, 50th, 90th, and 95th percentile load estimates rather than a single number. Dischargers have stated that they see high uncertainty in the load estimates, and reporting the ranges will improve the information available annually to assess uncertainty.

Reporting and corrective action requirements should be on a more protective timeline

By way of comparison, the Industrial Stormwater General Permit requires quarterly reporting and, if a Permittee exceeds a benchmark, implementation of progressively more protective corrective actions. For example, two quarterly exceedances in a calendar year trigger a “level 2” corrective action - namely, structural source control BMPs; three quarterly exceedances in a calendar year triggers a “level 3” corrective action - namely, the installation of treatment BMPs. The current reporting and corrective action requirements are on an overly permissive timeline, which will not protect clean water.

Ecology should determine AKART, not individual plants

Ecology should not delegate responsibility for determining what represents “reasonable” technology to individual plants. Ecology must maintain the responsibility to determine what constitutes “All Known and Reasonable Technology” or AKART. We are concerned that this sets a poor precedent and will lead to uneven application of this standard.

Environmental Justice reviews miss Tribal Usual and Accustomed Areas

We appreciate that Ecology has included elements of environmental justice in plant requirements. However, this will not account for Tribal Usual and Accustomed Areas. The waters of Puget Sound are highly connected, and pollution released in one location impacts water quality miles and miles away. Salmon and other aquatic life are subject to pollution throughout their life cycles, from freshwater streams where juvenile salmon spend their earliest life stages to nearshore environments where they transition to salt water conditions and on into Puget Sound, the Salish Sea, and beyond for adult life stages. Further, salmon rely on an intricate food web that reflects the cumulative effects of Puget Sound discharges. Because the effects of multiple discharges overlap in areas like South Puget Sound, requiring a discharger-specific evaluation of environmental justice would inadvertently miss these cumulative effects that could have significant harmful impacts to the long-term resources needed to support Tribal Treaty Rights. We encourage you to work directly with Tribes to ensure that the analyses that plants conduct are protective of Tribal Treaty Rights.

Bubble Permit areas within the Permit

We oppose inclusion of bubble permit areas within the Permit. Ecology must ensure that any discharges by permitted facilities do not cause or contribute to water quality standards violations. This has not been demonstrated in jurisdictions that are allowed to make reductions at some plants instead of others under the bubble concept. Furthermore, a Nutrient Reduction Evaluation should be required for each individual facility included in the “bubble.”

Sidestream treatment needs to be brought online sooner

The Draft permit appears to have lost sidestream treatment as a viable short-term option to reduce nutrient loads while plants accommodate population growth in the next five years. While the Nutrient Reduction Evaluations required in the permit will be helpful steps forward, with the caveat that they must include a specific deadline by which dischargers would meet low-nitrogen effluent, this is not a substitute for short-term implementation of actual load reductions. Many dischargers already have cost estimates and performance expectations for sidestream treatment. We agree that bringing these online for five years or less may constitute a “stranded asset.” Dischargers have stated repeatedly that it will take them decades to implement large-scale capital improvements. Therefore, Ecology should require the largest dischargers to invest in sidestream treatment in this permit term unless a discharger can show that capital improvements will be implemented within 10 years.

Septage handling needs more nuanced approach

The Draft permit appears to prohibit or allow prohibition of septage handling, which will have the unintended consequence of making routine maintenance of onsite sewage systems and possibly pumpout facilities more complicated and to potentially lead to worse outcomes for Puget Sound. We recommend consulting with utilities like LOTT, which has a storage tank where pumper trucks unload, allowing LOTT to slowly meter the septage into the plant to avoid shock loading.

Permit needs concrete actions that will trigger if WQBELs stall

While Ecology has committed to develop nutrient limits using the Salish Sea Model by 2022, nothing in the current Permit draft commits Ecology to modify this permit, adopt those limits, or implement reductions to achieve those limits on a specific timeline. We recommend that Ecology include a provision that requires transition to 3 mg/L nitrogen effluent concentrations for all dischargers unless water-quality based effluent limits indicate less-protective technologies will lead to water quality attainment on a reasonable timeline.

Retain protective elements in draft permit

In addition to the improvements needed above, we urge Ecology to retain and not weaken a number of positive elements in the draft permit:

- Distinction between Dominant and Small dischargers. The Dominant category accounts for over 99% of the load, and these utilities rightfully should do more and faster than the smaller utilities.
- Require all utilities to conduct planning rather than based on triggered loads discussed in earlier stages of permit development. Given the overly permissive numbers, we are worried that load triggers would unnecessarily delay what we already know needs to be done.
- King County’s nutrient loads appear more in line with information shared during the Puget Sound Nutrient General Permit Advisory Committee, rather than the artificially elevated numbers in the Preliminary Draft permit. Do not backslide on these values.

In closing, while you may hear false claims that the science is uncertain or that cleaning up sewage really will not make a big difference in overall Puget Sound health, please know that we disagree. Now is the time to reduce sewage pollution. Puget Sound, its waters, and the communities that rely on it deserve this protection. For far too long, wastewater treatment has relied on the old false adage that dilution is the solution to pollution. We can no longer allow plants to add more nutrients to the Sound as our population grows, and in fact, a strict diet to reduce the current nutrient loading is absolutely necessary.

Sincerely,

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