

February 25, 2022

Abbey Stockwell (Phase II Municipal Stormwater Permit Writer) and Emma Trehwitt (Phase I Municipal Stormwater Permit Writer)
Department of Ecology
300 Desmond Drive SE,
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Dear Ms. Stockwell and Ms. Trehwitt:

Thank you for the opportunity to provide early input on the 2024 Municipal Stormwater Permit Reissuance. Washington Environmental Council is a 501(c)(3) organization founded in 1967. Our mission is to develop, advocate, and defend policies that ensure environmental progress and justice by centering and amplifying the voices of the most impacted communities. We are committed to clean water protections for all Washington State waters.

WEC has a deep history pushing for additional progress to prevent and manage stormwater, both to reduce pollution and to reduce impacts to habitat. We will continue to do so as the 2024 Municipal Stormwater Permit is developed. Each permit cycle must make progress toward eliminating impacts to waters, people, and aquatic life. For the next permit cycle, we would like to see exceptional progress toward the goal of clean water for all.

In particular, we would like to see improvements around the following issues in the 2024 permit:

Environmental Justice and Tribal Sovereignty

During the last round of municipal stormwater permit updates, we advocated for initial work around centering environmental justice in approaches used by municipalities to reduce stormwater pollution. Interestingly, that led to inquiries from municipalities to WEC to brainstorm how that might be done as well as pronouncements that considering environmental justice would add to the burdens of local governments.

In recent research we will be publishing with Puget Soundkeeper Alliance, we found that some communities are investing in stormwater solutions that benefit low-income communities and communities of color, sometimes intentionally and sometimes blindly. Given the passage of the HEAL Act as well as Ecology's current strategic priorities, now is the time to make environmental justice a more direct and integral component of requirements under the Municipal Stormwater Permit.

One approach was used in the Puget Sound Nutrient General Permit, which is to require local governments to assess how their plans address environmental justice. While this would be a step forward in general, we also recommend calling for more specifics around how they intentionally use

environmental justice in their decisionmaking processes and also how they center environmental justice in their stormwater investments. The Washington Environmental Health Disparities Map is a good start for demographic and geographic analyses, and we expect this type of information to improve in the future.

WEC also recognizes that mapping resources currently available do not adequately reflect Tribes with Usual and Accustomed Areas that are impacted by stormwater discharges. We realize that this is a work in progress, but we would also like to see municipalities actively plan for reducing impacts to Tribes and to resources used or potentially used by Tribes. For example, because of the deep connectivity of freshwater ecosystems and also marine waters, discharges in one location can impact water quality and aquatic resources far away. Pollution crosses municipal boundaries. Toxics in general and particularly bioaccumulative toxics need to be reduced to reach healthy levels in fish to protect the health of people who eat fish and to protect the survival of the fish themselves. Stormwater from developed areas contribute toxic loads, and Tribal communities consume more fish than the general population. Therefore, to meet Tribal Treaty Rights, stormwater toxics loads need to be decreased.

Structural Stormwater Controls (SSCs)

We remain disappointed by the pace of retrofits of existing developed areas using structural stormwater controls. While we do not have long-term quantitative data gathered consistently, we suspect that the last permit's SSC requirement did not spark the increase that we had hoped to see when we negotiated the points system. Instead, our interpretation is that local governments simply gamed the system to continue doing what they had always been doing, with no measurable uptick in addressing stormwater from existing development.

We know that already-developed areas discharge the highest concentrations of toxic chemicals compared with any other land cover type. We also know that urban streams do not provide healthy habitat for aquatic life due to the combination of physical, chemical, and biological impacts from stormwater. Local governments often point to the high cost of retrofits in urban areas as a way to justify continuing to work at the urban fringe. While fringe areas are also important, we have to make more substantive progress on addressing stormwater impacts in more densely developed areas as well.

For the next permit round, we would like to see distinct requirements for both the urban fringe and the more densely developed areas within municipalities. And the total must add up to more progress than the current approach is providing.

In recent research we will publish with Puget Soundkeeper, we found that Ecology is crediting investments in floodplain projects as SSCs. While we agree that floodplains need greater attention both to alleviate current harm and protect from future harm, these high-cost projects are not addressing the built environment sufficiently and they should not be "counted" in any way toward SSC programs.

Finally, we also found that many municipalities are double-counting progress that they are already undertaking as salmon recovery, repurposing them to also count as SSCs. Since we already know that salmon recovery is not keeping pace with the need, we should not be providing another offramp for continuing on the same sluggish pace for both stormwater and salmon needs.

Outfall Mapping

Each permit term has improved the information available on stormwater outfalls, as each municipality has had to document its system. However, we still lack a central repository, where the public can easily access information about these systems, particularly in areas where more than one jurisdiction owns infrastructure. With mapping technology improving every day, we need to increase transparency and public accountability and require that municipalities enter location information in a central repository just as they submit permit requirements to central databases. The public needs a portal to find this information easily.

Utility Rates

More and more we are hearing undocumented statements that permit requirements are driving up utility rates for customers. We understand that rates and rate structures are driven locally and must comply with state laws such as customer classes. The Puget Sound Nutrient General Permit includes provisions requiring permittees to develop plans addressing the needs of low-income communities, and that might be something the stormwater permit includes as well. In addition, WEC conducted research on water utility rate structures throughout the Puget Sound region and found vastly different approaches but consistently under-utilized programs for low-income customers. We do see these as critical tools to use in the future and urge you to work in affordability to permit considerations.

Comprehensive Plans under the Growth Management Act (GMA)

Over the past several years, WEC has heard municipalities set up a false choice between complying with the Clean Water Act and complying with the Growth Management Act, most recently around wastewater. The claims appear to be that GMA trumps clean water provisions. We patently disagree, as municipalities must meet both. To address this seeming inconsistency, Ecology should have municipalities document how these Clean Water Act requirements will be met while also planning for growth.

6PPD-quinone

The science around 6PPD-quinone has received tremendous visibility in the media and in discussions within the stormwater community. This has benefits, since it is such a clear case of acute toxicity of a

stormwater-transported pollutant. We believe that 6PPD-quinone needs to be addressed through a combination of source control (tire formulations) and treatment (green infrastructure that eliminates the acute toxicity). However, we are concerned that the focus on what to do about 6PPD-quinone has lost sight of the fact that the chemical family was discovered only after finding the solution itself – running the stormwater through bioretention in the form of a column of plants and sand.

We would like to see far more progress on implementing stormwater solutions – bioretention – rather than punt solutions to follow another decade of study. We fear that the focus on 6PPD-quinone and the real needs of coho salmon may inadvertently pull resources from the larger stormwater needs to reduce harm to people and aquatic life. While a nuance, the permit language must refer to this new need as additive beyond the need to implement SSCs and green stormwater infrastructure in areas with the highest loads of multiple toxic chemicals.

If you have any questions on these comments, please do not hesitate to contact me. Thank you again for the early input opportunity.

Sincerely,



Mindy Roberts
Puget Sound Program Director