

Looker Properties, LLC

176th & Canyon Road Recycling Pit

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Looker Properties (Looker) appreciates the opportunity to comment on the Department of Ecology's draft Sand and Gravel General Permit (permit). We are concerned that the draft permit does not clarify permit coverage for the process water that is generated from materials imported for use in mine reclamation. Looker, and most permittees, have been accepting vector truck spoils from clean hydro excavation for decades and have never been informed that it was outside the coverage of the permit. The vector truck industry is growing rapidly as the result of the passing of new laws that require hydro excavation in many jurisdictions, and if it is the intent of Ecology to remove the accepting of this material from the permit, the vector truck industry will be left without this affordable and environmentally responsible option.

It is important to clarify that this material is clean fill dirt that is excavated using hydro excavation, not sewer, catch basin debris, or other potentially contaminated material. This material is being received, dewatered, and used for reclamation in many construction sand and gravel mining operations (NAICS code 212321), including Looker's Fredrickson Pit. As long as the facility implements a materials acceptance program to ensure the hydro excavation material is from a noncontaminated source, the dewatered material meets the definition of "clean soils" per WAC 173-350-100 and does not need to be managed as a solid waste.

Dewatering the material generates a process water stream the facility must manage under their permit. However, the draft permit does not specifically clarify that the permit covers discharge of dewatering water from reclamation fill material. It relies on the interpretation of each site operator and Ecology inspector to determine that receiving, dewatering, and placing reclamation materials are "uses related to the NAICS Codes or activities listed in Table 2" (S2.D.).

This creates the potential for similar facilities to be held to different standards, thereby creating confusion, business disruptions, and unfair competitive advantages between facilities. In the worst case, if some facilities with permit coverage were forced to stop receiving clean hydro excavation material based on the discretion of a single Ecology inspector, it would create a significant market impact for the customers who rely on being able to send clean vector material to these facilities. It would also further strain the capacity of storm and sanitary decant facilities by increasing the volume of material to be managed.

In contrast, adding language to the permit making it clear that receiving, dewatering, and placing clean refill material is "related to" the NAICS codes in Table 2 will provide clarity to facilities and Ecology inspectors about which activities must be monitored under the permit to ensure protection of surface and groundwaters of the state. It will ensure that all facilities managing this material are held to a common standard and will implement consistent BMPs and monitoring.

To provide this clarity we suggest that the following language (in bold) be added to Table 8 in Appendix A of the permit, under NAICS Code 212321 (pg 59):

*Coverage is provided for mining and on-site processing of sand and gravel for construction or fill purposes. Processing means washing, screening, crushing, or otherwise preparing sand and gravel for construction uses. **"Mining" includes receiving, processing, dewatering, and placing clean reclamation material or inert material as allowed by a DNR reclamation permit. Discharge of process water from these operations is also covered.***

Alternatively, if Ecology decides that the discharge of dewatering water from reclamation fill is not covered by the permit, we request that language be added to S1.C1 clearly excluding it, so that all facilities are held to the same compliance standard. Further, if dewatering water is excluded from coverage, we request that this change should be phased in over multiple years so that permittees have time to implement changes to their operations while remaining in permit compliance, and also providing time for the development of additional capacity for the rapidly growing and required by law hydro excavation industry.