

City of Anacortes  
August 10, 2015

Water Quality Program  
Department of Ecology  
PO Box 47696  
Olympia, WA 98504-7696

To Water Quality Program Staff:

I appreciate the opportunity to comment on the proposed draft Construction Stormwater General Permit. As Ecology is currently accepting public comments on this draft permit through August 10, 2015, we would like to formally comment on one of the proposed amendments to the existing permit.

In Section S2 (Application Requirements) of the special conditions, part 1(f) has been added to the draft CSWGP. This new part requires that “applicants must notify Ecology if they are aware of contaminated soils and/or groundwater associated with the construction activity.” The word “aware” is vague in this instance. As it is unclear what constitutes awareness of contamination, we suggest modifying part 1(f) of Section S2 to require notifying Ecology of any sites currently listed on any of Ecology’s searchable databases. This would provide a more concrete requirement for what potential sources of contamination should be included with the Notice of Intent (NOI).

In addition, the term “contaminated” is also vague. While “contaminant” is defined as “any hazardous substance that does not occur naturally or occurs at greater than background levels” on page 55 of the draft CSWGP, this definition is dependent on the fact that background levels of any potential hazardous substances are readily available information. We suggest that the use of “contaminated” in part 1(f) of Section S2 be amended to include only those hazardous substances that are above Model Toxics Control Act (MTCA) cleanup levels. As Ecology’s searchable databases provide data on whether or not known contaminated sites are above MTCA cleanup levels, this would provide a more concrete benchmark for what sites of known contamination should be reported with the NOI.

Sincerely,  
Fred Buckenmeyer  
Public Works Director  
City of Anacortes



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1119 Pacific Avenue, Suite 1600  
Tacoma, Washington 98402-4374  
Phone 206.287.9130

August 10, 2015

Amy Moon  
Water Quality Program  
Department of Ecology  
PO Box 47696  
Olympia, WA 98504-7696

**Re: Anchor QEA Comments on Proposed Construction Stormwater General Permit  
Language**

Dear Amy:

Thank you for the opportunity to review the draft permit language for the renewal of the construction general stormwater permit (Permit). Our company (Anchor QEA) works with many public and private organizations that will be subject to the proposed Permit language as part of their implementation of cleanup, reuse and restoration projects. We offer the attached comments in the interest of enhancing clarity and effectiveness of the proposed Permit language.

**Comment #1 - Provide Definitions for Contaminated Soil and Groundwater:** A key element of the proposed Permit language is to provide a uniform notification provision for projects involving construction activities that will generate stormwater contacting contaminated soils and/or co-mingling with contaminated groundwater. This expansion of the permit is appropriate and reflects existing Ecology procedures. However, the threshold is not as clearly defined as it needs to be.

We recommend that definitions for “Contaminated soils” and “Contaminated Groundwater” be included in the Permit to better identify when the additional notification provisions apply.

Ecology's Model Toxics Control Act (WAC 173-340) regulations (and the associated expertise of the Toxics Cleanup Program staff) provide an appropriate threshold for these definitions. Specifically the MTCA regulations provide appropriate "short-lists" of contaminants and concentrations that capture the majority of contaminated sites to be regulated under the Permit. These "short-lists" are contained in the MTCA Method A cleanup levels for contaminated soil and groundwater [WAC 173-340-740-720(2) and 173-340-745(3)]. For more complex sites, the MTCA regulations contain detailed procedures for determining when chemical concentrations exceed applicable thresholds.

**Recommendation:** The proposed Permit language should provide clear definitions for "contaminated soils" and "contaminated groundwater" that reflect these established thresholds. In light of the foregoing, we offer the following suggested definitions for inclusion in the Permit:

**"Contaminated Soils:** Soils to be disturbed by proposed construction activity that contain contaminant concentrations exceeding applicable MTCA Method A soil cleanup levels promulgated under WAC 173-340-740(2) or 173-340-745(3), or applicable site-specific cleanup levels as defined under WAC 173-340-740 or 173-340-745."

**"Contaminated Groundwater:** Groundwater to be co-mingled with stormwater to be discharged during proposed construction activity that contains contaminant concentrations exceeding applicable MTCA Method A groundwater cleanup levels promulgated under WAC 173-340-720(3), or applicable site-specific cleanup levels as defined under WAC 173-340-720."

**Comment #2: Clarify when projects require additional notifications related to contaminated soils and/or groundwater:** Currently, section S2.A.1.f of the Permit requires that project proponents that are "aware of contaminated soils and/or groundwater associated with the construction activity..." implement additional notifications to Ecology. However, in practice, this threshold is ambiguous. Based on previous projects that we have been involved with, it is

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not as clear as Ecology intends when the levels of contaminants at a site trigger this notification provision.

**Recommendation:** We recommend that the language be clarified to specify that the additional notification provisions of Section S2.A.1.f only apply if the contaminated soils are “expected to be exposed to stormwater discharged under this Permit” and/or if contaminate groundwater “is expected to be comingled with stormwater to be discharged under this Permit”.

**Comment #3 - Recommended revisions to Permit language:** Based on the foregoing comments 1 and 2, we recommend that the Permit language in Section S2.A.1.f be updated as follows:

**Recommended Language:** “Applicants must notify Ecology if they are aware of contaminated soils that are expected to be exposed to stormwater discharged under this permit, or contaminated and/or groundwater that is expected to be comingled with stormwater to be discharged under this permit.~~associated with the construction activity.~~ Provide ~~detailed summary~~ information with the NOI (as known and readily available) ~~on regarding~~ the nature and extent of the contaminated soil and/or contaminated groundwater contamination (type, concentrations, locations, and depth) within the site areas to be disturbed by the construction activity regulated by this permit, as well as pollution prevention and/or treatment BMPs proposed to control the discharge of contaminated soil and/or contaminated groundwater ~~contaminants constituents~~ in stormwater. Examples of such ~~detail information~~ may include, but are not limited to,

- i. List or table of ~~all~~ known contaminants with laboratory test results showing concentration and depth within proposed construction areas,
  - ii. Map with sample locations,
  - iii. Temporary Erosion and Sediment Control (TESC) plans, Draft Construction Stormwater General Permit – December 1, 2010 Page 11
  - iv. Stormwater Pollution Prevention Plan (SWPPP) modified to address contaminated soils and/or groundwater, v. Dewatering plan and/or dewatering contingency plan.”
-

**Comment # 4 - Need for development of benchmarks:** With recent proposed language, Ecology is increasingly bringing the monitoring and control of priority pollutants into the scope of the stormwater general permits. This includes both recent proposed changes to the Industrial Stormwater General Permit as well the current proposed changes to the Construction Stormwater General Permit. However, to date, permit benchmarks are only available for a limited number of chemical constituents.

**Recommendation:** We recommend that prior to developing permit requirements or other stormwater requirements relating to priority pollutants in stormwater discharges, Ecology invest the resources necessary to develop scientifically sound and technically appropriate benchmarks for management of these priority pollutants. The availability of these scientifically and technologically based benchmarks will ensure clarity and consistency during implementation of the stormwater permitting programs.

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Anchor QEA appreciates the opportunity to comment on the proposed Construction Stormwater General Permit language. Please do not hesitate to contact me if I can provide additional clarification regarding our comments. I can be reached at (206) 903-3359 or at [mlarsen@anchoragea.com](mailto:mlarsen@anchoragea.com).

Thank you for your commitment to protection of the environment that we share.

Sincerely,



Mark Larsen  
Principal Scientist/Partner  
Anchor QEA, LLC

Cc: Nicole LaFranchise, Anchor QEA  
Nathan Soccorsy, Anchor QEA

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August 10, 2015

Ms. Amy Moon  
Water Quality Program  
Department of Ecology  
PO Box 47696  
Olympia, WA 98504-7696



Subject: Boeing Comments on Draft 2015 Construction Stormwater General Permit

Dear Ms. Moon:

The Boeing Company (“Boeing”) appreciates the opportunity to provide comments on the July 1, 2015 Draft Construction Stormwater General Permit (“Draft CSWGP”).

Boeing is the world’s largest aerospace company and largest U.S. exporter in terms of sales. Boeing designs and manufactures commercial aircraft, rotorcraft, electronic and defense systems, missiles, satellites, launch vehicles, and advanced information and communication systems. Boeing also provides numerous military and commercial airline support services. Boeing employs approximately 80,000 employees in Washington State to provide these products and services to customers in more than 150 countries around the world.

Boeing agrees with the views expressed in the Fact Sheet that a general permit is an efficient method to establish regulatory requirements for a broad range of construction activities and that a general permit is consistent with EPA’s permitting strategy which provides flexibility under the Clean Water Act for a workable and reasonable permitting system. These qualities of a general permit are important to a company like Boeing, which must operate in an efficient and timely manner in order to meet the needs of its customers.

With regard to the proposed revisions in the Draft CSWGP, Boeing notes that Ecology has characterized the revisions as “minor changes overall” with the exception of the addition of Element 13 as a SWPPP requirement to protect permanent Low Impact Development BMPs by reducing disruption to natural site hydrology. Boeing understands that, aside from the addition of Element 13, Ecology’s primary objectives in the revisions to the CSWGP are to clarify existing requirements in the CSWGP and to promote efficiency in meeting the requirements of the CSWGP. Consistent with the scope of the revisions, Boeing’s comments are directed towards proposed revisions to the CSWGP that are not clear and to procedural aspects of the permit process that could be enhanced to improve efficiency.

Boeing has provided technical comments on specific sections of the Draft CSWGP in Attachment 1. Please note that Boeing’s key concerns with the Draft CSWGP pertain to the proposed new Section S2.A.1.f. As discussed in more detail in Attachment 1, Boeing believes that the proposed new Section S2.A.1.f should be revised so that it tracks the existing language in the Notice of Intent Application and includes a schedule for Ecology review of information on contaminated soil and/or groundwater.

Boeing thanks Ecology in advance for its consideration of Boeing's comments on the Draft CSWGP. Please do not hesitate to contact the undersigned or Paul Wright (phone: (425) 260-8310 or email: [paul.j.wright@boeing.com](mailto:paul.j.wright@boeing.com)) if you have questions about Boeing's comments on the Draft CSWGP.

Sincerely,



Thomas Gallacher  
Director Environment  
Engineering, Operations and Technology  
The Boeing Company

**Enclosures**

**Attachment 1:** Boeing Technical Comments on July 2015 Draft Construction Stormwater General Permit

## ATTACHMENT 1

### **I. Ecology must revise Section S2.A.1.f in order to be consistent with the Construction Notice of Intent (NOI) Application and to include a schedule for Ecology review of information on contaminated soil and/or groundwater.**

The Draft Construction Stormwater General Permit (“CSWGP”) includes a new Section S2.A.1.f that would require applicants to notify Ecology “if they are aware of contaminated soils and/or groundwater associated with construction activity” and to provide “detailed information with the NOI (as known and readily available) on the nature and extent of contamination . . .” At the recent workshops, Ecology stated that the proposed new Section S2.A.1.f is intended to be consistent with the NOI Application. However, although the proposed new section of the CSWGP largely corresponds to existing Section VI of the NOI Application, Section S2.A.1.f includes different language from Section VI of the NOI. Specifically, the language in Section S2.A.1.f of the Draft CSWGP uses the phrase “associated with the construction activity,” which is not found in the NOI Application and is not susceptible of a clear interpretation. The language in proposed new Section S2.A.1.f would therefore reduce clarity of the requirements of the CSWGP. Boeing therefore recommends that Ecology revise the language in proposed new Section S2.A.1.f to track the language in the NOI.

Further, as noted above, the current NOI Application Form requires an Applicant to submit detailed information if the Applicant is aware of contaminated soils or groundwater on the site and if the contaminated soil will be disturbed and/or the contaminated groundwater will be discharged due to the proposed construction activity. In some cases, the Ecology review of information on contaminated soil and/or groundwater has resulted in unnecessary delays in approval of permit coverage, which has significant impacts on businesses like Boeing that need to construct new infrastructure on schedule in order to produce and deliver products to customers. Boeing therefore recommends that Ecology establish a schedule, similar to the Permit Coverage Timeline in the Industrial Stormwater General Permit (ISGP), for Ecology review of information on construction projects with contaminated soil or groundwater and for notification of applicants of permit coverage notification.

Boeing suggests the following changes (additions shown in italics/deletions shown in strikethrough) to Section S2.A.1.f of the Draft CSWGP:

~~“f. Applicants must notify Ecology if they are aware of contaminated soils and/or groundwater associated with the construction activity.~~ *If an applicant is aware of contaminated soils or groundwater contamination within the construction site boundary, and such contaminated soils will be disturbed and/or such contaminated groundwater will be discharged due to the proposed construction activity, the applicant must provide detailed information with the NOI Application on the contaminants, contaminant locations, contaminant concentrations, and contaminant depth (if known and readily available), and pollution prevention and/or treatment Best Management Practices (BMPs) proposed to*



control the discharge of soil and/or groundwater contaminants in stormwater. The information should also include related portions of the Stormwater Pollution Prevention Plan (SWPPP) that describe how contaminated and potentially contaminated construction stormwater and dewatering water will be managed. Additional information may include the following:

- i. Map identifying location of contaminants;
- ii. Temporary Erosion and Sediment Control Plans;
- iii. Cleanup order(s) and oversight agency contact information that apply to the construction site.

Provide detailed information with the NOI (as known and readily available) on the nature and extent of the contamination (concentrations, locations, and depth), as well as pollution prevention and/or treatment BMPs proposed to control the discharge of soil and/or groundwater contaminants in stormwater. Examples of such detail may include, but are not limited to,

- i. List or table of all known contaminants with laboratory test results showing concentration and depth,
- ii. Map with sample locations,
- iii. Temporary Erosion and Sediment Control (TESC) plans,
- iv. Stormwater Pollution Prevention Plan (SWPPP) modified to address contaminated soils and/or groundwater,
- v. Dewatering plan and/or dewatering contingency plan.

*If Ecology believes that the NOI Application does not include sufficient information to meet the requirements of this Section S2.A.1.f, Ecology will notify the applicant in writing within 15 days of receiving the NOI Application.”*

## **II. Ecology must revise Section S4.D pH range to properly account for Washington rainfall pH.**

Ecology has proposed changes to the CSWGP that specify a pH range of 6.5 to 8.5 su. These proposed revisions fail to take into account the fact that the pH range for stormwater permits was previously addressed in the ISGP. Specifically, the benchmark pH range in the ISGP was revised in 2009 to take into consideration the pH of Washington rainfall. In the [2009 Ecology response to comments](#)<sup>1</sup>, Ecology stated (on page 17):

*“pH. Several commentors objected to Ecology’s proposal to replace the previous permits’ pH benchmark (6.0-9.0 su) and action level (outside 5.0-10.0 su), with a pH benchmark value of 6.0 -9.0 su. Many commentors objected to the lower end of the proposed pH benchmark range (6.0), citing the commonly low pH of rainfall in Washington State (between 5.0 and 6.0 su). Ecology believes that it would be inappropriate for permittees to be performing corrective actions to address pH excursions that were due to acidic rainfall (between 5.0 – 6.0 su), considering the*

*very low probability of stormwater discharges to cause violations of water quality standard for pH. Ecology has decided to set the pH benchmark range at 5.0 – 9.0 su”.*

Ecology’s decision to set the pH benchmark range at 5.0 – 9.0 su was upheld in the 2011 PCHB No.s 09-135 through 09-141 order.

Consistent with the above, Boeing requests that the following sections of the Draft CSWGP be revised (additions shown in italics/deletions shown in strikethrough) to reflect the appropriate “5.0 to 9.0 (su)” range for pH:

- S4.D.1 “... until stormwater pH is in the range of ~~6.5 to 8.5~~*5.0 to 9.0* (su).”
- S4.D.2 “... stormwater pH is in the range of ~~6.5 to 8.5~~*5.0 to 9.0* (su).”
- S4.D.6  
“ The benchmark value of pH is ~~8.5~~*9.0* standard units. Anytime sampling indicates that pH is ~~8.5~~*9.0* or greater, the Permittee must either:
  - a. Prevent the high pH water (~~8.5~~*9.0* or above) ...
  - b. If necessary, adjust or neutralize the high pH water until it is in the range of pH ~~6.5 to 8.5~~*5.0 to 9.0* (su) ...”

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<sup>i</sup> WDOE Industrial Stormwater General Permit, Addendum to Fact Sheet: Appendix C – Response to Public Comments, Page 17 (October 21, 2009)



111 21<sup>st</sup> Avenue SW | Olympia, WA 98501  
360.352.7800 | [www.BIAW.com](http://www.BIAW.com)

Amy Moon  
Water Quality Program  
Department of Ecology  
PO Box 47969  
Olympia, WA 98504  
[cswgpcomments@ecy.wa.gov](mailto:cswgpcomments@ecy.wa.gov)

August 6, 2015

**RE: CONSTRUCTION STORMWATER GENERAL PERMIT PUBLIC COMMENT**

Ms. Moon:

Thank you for the opportunity to comment on the proposed changes to the Construction Stormwater General Permit (CSWGP) and the electronic Notice of Intent (NOI). The Building Industry Association of Washington (BIAW) is the champion of affordable housing in Washington State and represents nearly 8,000 members engaged in all aspects of new home construction.

BIAW appreciates a number of revisions, including:

**NOI Section IX. Discharge/Receiving Water Information:** Creating a distinction between initial discharge point into a conveyance system that leads to a water body versus the same downstream water body indirectly impacted is a positive change. This has been a small point of contention and the new language offers needed clarification lacking in the previous version. BIAW encourages Ecology to keep this valuable change in the final NOI.

**NOI Section XII. Certificate of Permittees:** Revising the signatory requirements from “vice president” to a “responsible corporate officer” is a welcome and appropriate change.

**S5.F Noncompliance Notification:** BIAW appreciates the change from “immediately” to “within 24 hours” to notify the applicable regional office, this ensures notice of noncompliance happens in a reasonable amount of time and clearly states the timeframe.

**S10.B NOTICE OF TERMINATION** Allowing the Notice of Termination (NOT) to be submitted electronically is also a welcome change. This will help streamline the various reporting requirements as the NOI is required to be an electronic submission, it makes sense to allow the NOT to also be electronic. BIAW encourages DOE to quickly update the website to make electronic submission available sooner rather than later.

In addition to the above improvements to the CSWGP listed above, BIAW recommends a few minor changes to the proposed rule language for the purpose of clarification that we believe the Department was attempting to correct from the underlying and current permit. It is vitally important the permit language be clear so homebuilders know explicitly what is required instead of allowing for inference which leads to different enforcement.

**S9.D.13. Protect Low Impact Development (LID) Facilities:**

- b. Permittees must prevent compacting Bioretention and Rain Garden facilities by ***excluding*** construction equipment and foot traffic. Protect completed lawn and landscaped areas from compaction due to construction equipment.

The use of the word “excluding” makes this portion difficult if not impossible to physically comply with on certain sites. BIAW acknowledges that low impact development (LID) areas do need care not to over work the soils, create stockpiles on LID areas, or stage/park or cycle heavy equipment on an LID area. The wording could be clearer to ensure the LID areas are treated differently, but minor equipment and foot traffic use are inevitable. There is a need to protect these areas so they continue to function by not over compacting the area. We recommend changing it to the following wording:

- b. Permittees must prevent compacting Bioretention and Rain Garden facilities by ***restricting unnecessary use*** of construction equipment and foot traffic. Protect completed lawn and landscaped areas from compaction due to construction equipment.

or:

- b. Permittees must ***maintain porosity of*** ~~prevent compacting~~ Bioretention and Rain Garden facilities by ***protecting against compaction by*** ~~excluding~~ construction equipment and foot traffic. Protect completed lawn and landscaped areas from compaction due to construction equipment.

Finally, BIAW objects to removing the less than one acre sampling exemption in **S4.B.1**. Removing this sampling exemption will add cost and delays to small projects with little to no water quality impact.

Again, thank you for the opportunity to comment on the proposed changes to the CSWGP and NOI. BIAW appreciates much of the clarification that is offered in the proposed rule and hopes that the small changes recommended above are taking into consideration and added into the final permit.

Sincerely,



Art Castle  
Executive Vice President

cc: Bill Moore

# CPM DEVELOPMENT CORPORATION

CORPORATE OFFICE • 5111 E BROADWAY • SPOKANE VALLEY, WA 99212  
P.O. BOX 3366 • SPOKANE, WA 99220-3366 • OFFICE: (509) 534-6221 • FAX: (509) 536-3051



Central Pre-Mix  
Concrete Co.



Central Pre-Mix  
Prestress Co.



Inland Asphalt Co.



Interstate Concrete  
& Asphalt Co.



ICON Materials



Wenatchee  
Sand and Gravel



Central Washington  
Concrete



Eugene  
Sand & Gravel



Viking Redi-Mix



Green & White  
Rock Products



Klamath Pacific  
Corporation

Bandon Concrete  
& Development



River Bend  
Sand and Gravel



Salem  
Road & Driveway



Valley  
Concrete & Gravel

August 10, 2015

Department of Ecology  
Attn: Ms. Amy Moon, Water Quality Program  
P.O. Box 47696  
Olympia, Washington 98504-7696

Subject: Comments on Draft Construction Stormwater General Permit.

Dear Ms. Moon,

CPM Development Corp. appreciates the opportunity to offer comments and suggestions on the Department of Ecology's Draft Construction Stormwater General Permit published July 1, 2015. CPM Development Corp. is submitting the following comments (note all page numbers are referenced to the published red-line version):

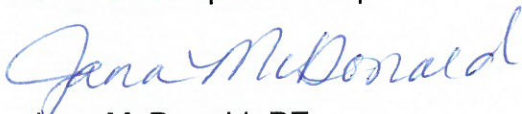
1. S1.C.3 - The restriction the Agency is imposing on the use of potable water on jobsites related to chlorination levels is completely unrealistic and unachievable. Potable water is most often the only source of water available at jobsites and it is unrealistic to impose significant restrictions on this use of this water. Such a restriction impedes the ability of contractors to conduct business. Dechlorination of potable water should not be required for dust control, if it is hot and dry, the majority of it is going to evaporate. The language related to chlorinated potable water should be removed from the permit.
2. S2.A.1.f - The construction stormwater general permit is a NPDES permit that regulates water quality. This permit is not a solid waste permit and Ecology is attempting to regulate solid waste through a water quality permit. The Agency is setting an undefined threshold when requesting information related to soils "contamination" on a jobsite. This entire section of permit should be removed as it is not feasible, it is burdensome, and will have significant impacts on contractors and construction jobs.
3. S4.D.2 - What does the Agency mean when saying "...until the recycle concrete is fully stabilized..."? Ecology should re-consider the language in this section as this objective may never be technically achievable.
4. S9.D9.g - The language in this section refers to a permittee managing the pH of water to protect surface and ground water. The CSGP does not regulate ground water discharges and the use of the word Groundwater should be removed in this section. The CSGP should be consistent with the regulations and not allow language that doesn't reflect the rules in the permit.

5. S9.D9.h - Concrete washout water is allowed onto the ground in areas that are formed and set to receive concrete paving within a short period of time (1 to 2 days). This is information which the Industry has received directly from Ecology and this should be maintained in the proposed permit. There are limited options for washing out concrete truck chutes and the option of washing into formed (i.e contained) areas is critical to ensure smooth jobsite operation. Areas which are formed and set to be paved and where a truck washes out receive very little washout water. The permit should be revised to allow this practice to continue.

Thank you for the opportunity to provide comments on the draft Construction Stormwater General Permit. Please feel free to contact me at 509.534.6221.

Sincerely,

CPM Development Corp.



Jana McDonald, PE  
Environmental Engineer



August 10, 2015

Department of Ecology  
Attn: Ms. Amy Moon, Water Quality Program  
P.O. Box 47696  
Olympia, Washington 98504-7696

Subject: CalPortland comments on Draft Construction Stormwater General Permit.

Dear Ms. Moon,

CalPortland appreciates the opportunity to offer comments and suggestions on the Department of Ecology's Draft Construction Stormwater General Permit published July 1, 2015. CalPortland is submitting the following comments (note all page numbers are referenced to the published red-line version):

1. S1.C.3 - The restriction the Agency is imposing on the use of potable water on jobsites related to chlorination levels is completely unrealistic and unachievable. Potable water from municipal sources contains a residual level of chlorine or ozone to control bacterial growth. The residual level is extremely low and not a concern to water quality. Potable water is most often the only source of water available at jobsites and it is unrealistic to impose significant restrictions on this use of this water. Any runoff of potable water from a jobsite could not possibly have any environmental affect especially considering that this water will mix with other water before entering receiving waters. Such a restriction impedes the ability of contractors to conduct business. The language related to chlorinated potable water should be removed from the permit.
2. S2.A.1.f - The construction stormwater general permit is a NPDES permit that regulates water quality. This permit is not a solid waste permit and Ecology is attempting to regulate solid waste through a water quality permit. The Agency is setting an undefined threshold when requesting information related to soils "contamination" on a jobsite. There is no defined due diligence standard for determining the presence or non-presence of contaminated soil. Furthermore, the Agency is asserting that any contaminant, even if found on de-minis level, constitutes "Contaminated Soil". This section of regulation should be removed.
3. S4.C - Note 6 on the bottom of page 18 - Ecology has established that pH monitoring is required for jobsites where 1000+ yards of concrete will be poured. The language in note 6 indicates that there is no minimum

threshold whereby pH monitoring is triggered when recycled concrete or other cement materials are used on site. There should be a defined de-minimis amount of these materials that are allowed on a jobsite before triggering pH monitoring. This footnote should be revised.

4. S4.D.2 - What does the Agency mean when saying "...until the recycle concrete is fully stabilized..."? Fully stabilized is a nebulous phrase as the chemical reactions which occur between concrete and the atmosphere are slow and never ending. Ecology should re-consider the language in this section as this objective may never be technically achievable.
5. S9.D9.g - The language in this section refers to a permittee managing the pH of water to protect surface and ground water. The CSGP does not regulate ground water discharges and the use of the word Groundwater should be removed in this section. Managing water at an infiltration point is not the same as "Groundwater".
6. S9.D9.h - Concrete washout water is allowed onto the ground in areas that are formed and set to receive concrete paving within a short period of time (1 to 2 days). This is information which the Industry has received directly from Ecology and this should be maintained in the proposed permit. The ability to washout concrete truck chutes is a critical function of jobsites. There are limited options for washing out concrete truck chutes and the option of washing into formed (i.e contained) areas is critical to ensure smooth jobsite operation. Areas which are formed and set to be paved and where a truck washes out receive very little washout water. The small amount of washout water (which has an elevated pH) has no impact on groundwater. CalPortland understands that extended washing out of concrete chutes into the same area would be problematic and this is not the suggestion. CalPortland requests that this provision be re-written to maintain the established protocols for jobsite washout.

Thank you for the opportunity to provide comments on the draft Construction Stormwater General Permit. If you should have any questions please contact me at 206-764-3021.

Sincerely,



Matthew L. Hinck  
Environmental Manager, Washington Division





August 12, 2015


Water Quality Program  
Department of Ecology  
PO Box 47696  
Olympia, WA 98504-7696

Dear Amy:

Recently the Washington State Department of Ecology (Ecology) has issued its draft Construction Stormwater General Permit (CSWGP) that will replace the existing CSWGP set to expire on December 31, 2015. We understand the deadline for Ecology accepting public comments on this draft permit is August 10, 2015. We appreciate your efforts to improve the CSWGP and would still like to comment on your proposed amendments to the existing permit.

In Section S2 (Application Requirements) of the special conditions, part 1(f) has been added to the draft CSWGP. This new part requires that "applicants must notify Ecology if they are aware of contaminated soils and/or groundwater associated with the construction activity." The word "aware" is vague in this instance. As it is unclear what constitutes awareness of contamination, we suggest modifying part 1(f) of Section S2 to require notifying Ecology of any sites currently listed on any of Ecology's searchable databases. This would provide a more concrete requirement for what potential sources of contamination should be included with the Notice of Intent (NOI).

In addition, the term "contaminated" is also vague. While "contaminant" is defined as "any hazardous substance that does not occur naturally or occurs at greater than background levels" on page 55 of the draft CSWGP, this definition is dependent on the fact that background levels of any potential hazardous substances are readily available information. We suggest that the use of "contaminated" in part 1(f) of Section S2 be amended to include only those hazardous substances that are above Model Toxics Control Act (MTCA) cleanup levels. As Ecology's searchable databases provide data on whether or not known contaminated sites are above MTCA cleanup levels, this would provide a more concrete benchmark for what sites of known contamination should be reported with the NOI.

Sincerely,  
  
Ken Gill, P.E.  
City Engineer



GARY MERLINO  
CONSTRUCTION COMPANY, INC.  
9125 10th Avenue South, Seattle, WA 98108

SEATTLE WA 980

11 AUG 2015 PM 7 L



Washington State Department of Ecology  
Attn: Amy Moon, Water Quality Program  
P.O. Box 47696  
Olympia, Washington 98504-7600



985047600





# GARY MERLINO CONSTRUCTION COMPANY

DEPARTMENT OF ECOLOGY

August 10, 2015

AUG 12 2015

WATER QUALITY PROGRAM

Washington State Department of Ecology  
Attn: Amy Moon, Water Quality Program  
P.O. Box 47696  
Olympia, Washington 98504-7600

**Subject:** Gary Merlino Construction Company's comments on the draft of the proposed changes for the Construction Stormwater General Permit to be reissued January 1, 2016.

Dear Ms. Moon,

Gary Merlino Construction Company (GMCC) greatly appreciates the opportunity to provide comments on the Department of Ecology's newest draft of the Construction Stormwater General Permit to be reissued January 1, 2016. Gary Merlino Construction Company respectfully submits the following comments:

**Comment #1:**

**Stormwater Associated with Construction Support Activity (S1.C.2)** – It appears that on-site portable rock crushers have been redlined within the examples of authorized stormwater discharges from support activities related to permitted construction sites. Gary Merlino Construction Company questions why an onsite portable rock crusher has been removed from this example list? Are stormwater discharges associated with onsite portable rock crushers still authorized under this permit? If not, what is Ecology's justification for this change?

**Comment #2:**

**Authorized Discharges – Non-Stormwater Discharges (S1.C.3.i)** – This permit authorizes "Uncontaminated water used to control dust. Permittees must minimize the amount of dust control water used." However, the supporting paragraph at the bottom of S1.C.3 states, " ...At a minimum, discharges from potable water...must undergo the following: dechlorination to a concentration of 0.1 parts per million (ppm) or less, and pH adjustment to within 6.5-8.5 standard units (su), if necessary. The dechlorination requirement should not be required for dust control water. If dust control is necessary, conditions are certainly hot and dry enough to a point where there is not a significant threat for the release of large amounts of chlorine to waterbodies from dust control water. Moreover, potable water from municipal sources contains a residual level of chlorine to control bacterial growth. The residual



## GARY MERLINO CONSTRUCTION COMPANY

level is extremely low and not a concern to water quality. Potable water is most often the only source of water available at jobsites and it is unrealistic to impose significant restrictions on this use of this water.

Additionally, S9.C.1 Stormwater Best Management Practices (BMP) states that "BMP's must be consistent with: Stormwater Management Manual for Western Washington (most current approved edition at the time this permit was issued,) for sites west of the crest of the Cascade Mountains." In the 2012 version of Stormwater Management Manual for Western Washington there is no requirement and/or mention of dechlorinating the water used for application of this BMP. The language related to chlorinated potable water should be removed from the permit.

### **Comment 3:**

**Application Requirements (S2.A.1.f)** - Gary Merlino Construction Company is concerned about the logistical feasibility as well as the actual intent behind of the new S2.A.1.f requirement. S2.A.1.f obligates applicants to notify Ecology as a part of the NOI if they are aware of contaminated soils and/or groundwater associated with the construction activity. Ecology also requires that applicants include detailed documentation such as a TESC Plan, SWPPPs, dewatering plans and/or sampling results. However, contractors/owners generally do not have this type of detailed information available at the time of application. Contractors generally receive sampling results and devise a plan and move forward with excavations within a matter of days if not hours. As such, Ecology's timelines for reviewing and processing the information regarding contaminated materials is unreasonable. Thus, if the S2.A.1.f requirement remains as a part of the application process; it has the potential to create significant problems in the form of further complicating and delaying an already long and over burdensome process.

Additionally, Ecology has not defined a threshold as to what is/isn't considered contaminated soils. Will MTCA Method A be the trigger? Contamination is present on 80+ percent of all urban jobs. Contractors are well versed in handling these materials in a manner that is efficient and protective of waters of the state. Why is Ecology now emphasizing its regulation of these materials? Is there any scientific basis or justification indicating that the remediation of contamination is a significant source of pollutants to waters of the state? Gary Merlino Construction Company respectfully requests that this section of the regulation should be removed.

### **Comment #4:**

**Recycled Concrete Sampling (S4.D.2)** - The new requirement that the permittee must begin weekly pH monitoring when the recycled concrete is first exposed to precipitation and must continue until the recycled concrete is fully stabilized and stormwater pH is in the range of 6.5 to 8.5 (SU) is ambiguous and poorly written. What does Ecology mean by recycled concrete being fully stabilized? Ecology should re-consider language in this section.



# GARY MERLINO CONSTRUCTION COMPANY

## Comment #5:

**“Prevent contamination of stormwater runoff by pH-modifying sources” (S9.D.9.f)** this requirement is overly burdensome on permittees and unnecessary. Permittees should not be required to prevent contamination of stormwater runoff by pH-modifying sources. There are many common best management practices (BMPs) currently implemented in the field such as containment by berms, grade/elevation changes, portable storage tanks, treatment devices as well as sewer discharge permits, which are used to manage and contain stormwater that has come in contact with such materials to prevent a discharge that does not meet benchmark values set forth by this permit. As long as stormwater is managed in such a way that it successfully meets these benchmarks, permittee should not be subjected to a requirement to prevent stormwater runoff water from coming into contact with sources of pH.

## Comment #6:

**Adjust the pH of stormwater or authorized non-stormwater if necessary to prevent an exceedance of groundwater and/or surface water quality standards. (S9.D.9.g)** Why did ecology insert “groundwater” into this requirement? This is the only place in the entire permit where groundwater quality standards are discussed. The permit has historically discussed surface waters or waters of the state; it does not specifically regulate nor discuss ground water. It is inappropriate and unprofessional for Ecology’s permit writer to insert the reference to groundwater solely “because she wanted to” (Ms. Moon’s comment during South Seattle Community College Information Session). This language should be removed and the existing permit should be retained.

## Comment #6

**Washout Areas. S9.D9.h** states that “assure that wash out of concrete trucks is preformed off-site or in designated concrete wash out areas only. Do not wash out concrete trucks or concrete handling equipment onto ground, or in storm drains, open ditches streets, or streams.” However, this requirement is not consistent with what is stated in the most current 2012 version of the Stormwater Management Manual for Western Washington for BMP C154: Concrete Washout Area. Under the conditions of use, it states that “if less than 10 concrete trucks or pumpers need to be washed out on-site, the wash water may be disposed in a formed area awaiting concrete....” The ability to washout concrete truck chutes is a critical function of jobsites. There are limited options for washing out concrete truck chutes and the option of washing into formed areas is critical to ensure smooth jobsite operation. Areas which are formed and set to be paved, receive very little washout water. The small amount of washout water (which has an elevated pH) has no proven impact on groundwater. GMCC requests that this provision be re-written to maintain the established protocols for jobsite washout.



# GARY MERLINO CONSTRUCTION COMPANY

**Comment #7:**

**Reporting a cause for modification (G6) Contractors** should not have to report to Ecology every time there is a discovery of contaminated soils and/or groundwater that may impact the discharge. This is an overly burdensome requirement and opens the contractor to untold liability. Contamination on jobsites is encountered on a daily basis. Contractors are well versed in identifying and dealing with contamination and should not have to report every time they hit an unforeseen pocket of contaminated materials. Also the reporting trigger is unclear. What does Ecology define as contamination? Method A levels? Anything above background levels? Any staining or odor? This requirement would cause undue harm to contractors due to the amount of time necessary to constantly report contaminated materials to Ecology.

Thank you for your consideration of these comments. Please feel free to contact me directly should you have any questions.

Thank you,

A handwritten signature in black ink, appearing to read 'J. Blais', with a long horizontal flourish extending to the right.

Jimmy Blais

**Gary Merlino Construction Co. Inc.**  
9125 10th Avenue South  
Seattle, WA 98108  
Ofc 206-762-9125/ Fax 206-763-4178/ Cell 206-255-5153  
[JBlais@gmccinc.com](mailto:JBlais@gmccinc.com)

Permit Section	Comment
S.1.D.4.	<p>We appreciate the proposed blue font edits for this section, but please consider including more inclusive language because shaft drilling occurs on other projects (e.g., tunnel portals, underground transportation and wastewater facilities, etc.).</p> <p>Please consider adding the language insert in red font below:</p> <p style="text-align: center;"><i>Slurry materials and waste from shaft drilling, <u>including process wastewater from shaft drilling for construction of, including but not limited to, tunnel portals, underground transportation and wastewater facilities; building, road, and bridge foundations unless managed according to Special Condition S9.D.9.</u></i></p>
S.1.D.4.	<p>Please clarify that the only process wastewater that can be managed per Special Condition S9.D.9 is uncontaminated water from water only based shaft drilling. It is not clear that slurry materials and waste can be managed per S9.D.9. Perhaps if it were worded as follows, it would provide clarity:</p> <p>Please consider adding the language insert in red font below:</p> <p style="text-align: center;"><i>Slurry materials and waste from shaft drilling, <u>except process wastewater from water-based shaft drilling for construction of, including, but not limited to, tunnel portals; underground transportation and wastewater facilities; and building, road and bridge foundations may be managed pursuant to Special Condition S9.D.9.j.</u></i></p>
S.1.D.4.	<p>King County recommends the formation of an Ecology-led intergovernmental Process Wastewater Task Force to fully identify the issues and potential solutions regarding process wastewater management and disposal. King County appreciates the improvements made to the draft permit for managing uncontaminated water-only based shaft drilling water, and encourages Ecology to pursue similar management options for other sources of uncontaminated process wastewater. Though House Bill 1695 relates to the reuse of aggregate and concrete, Section 1 (e) recognizes the environmental value in reducing truck trips. The ability to manage uncontaminated process wastewater on-site can certainly reduce truck trips, especially in rural areas where viable disposal locations can be many miles from the construction site.</p>
S2.A.1.f.	<p>Clarify expectations for site review and how much pre-sampling constitutes due diligence. In addition, a process flowchart or additional details explaining how a permittee proceeds once contamination is identified on a site would be incredibly helpful. This process should also clarify what the permittee should do if contamination is discovered when construction is underway and a CSWGP has been issued to the site.</p>

Permit Section	Comment
S4.C.2.g.	Please better clarify what "stabilized" means.
S5.F.	<p>Regarding the language below, please clarify specifically what effluents and what limits:</p> <p style="text-align: center;"><i>In the event the Permittee is unable to comply with any part of the terms and conditions of this permit, and the resulting noncompliance may cause a threat to human health or the environment, <u>or exceed numeric effluent limitations</u>, the Permittee must, <u>upon becoming aware of the circumstance</u>:</i></p>
S9.D.9.b.	Secondary containment: if possible, add clarification that secondary containment should be made of material that can withstand the chemical / pollutant it is intended to contain (and for an appropriate duration). Without more distinct guidelines, the consequences are that the cheapest options are often purchase (e.g., kiddie pools). Cheaper options might ensure containment for the short term. However, the unintended consequence is increased containment failure and plastic disposal, which is not environmentally friendly.
G2	Please provide an option for permittees to submit paper copies of NOIs. Some agencies have an internal process requiring a formal hardcopy signature process from a high-ranking official; it would not be practical for this person to have a signatory account.
APPENDIX A – DEFINITIONS  Page 61	<p>Please consider adding the language insert in red below:</p> <p>Water-only Based Shaft Drilling is a shaft drilling process that uses water only and no additives are involved in the drilling of shafts for construction of, <i>including, but not limited to, tunnel portals; underground transportation and wastewater facilities; and building, road, or bridge foundations.</i></p>
General Comment	In terms of when are you supposed to prepare / submit written reports to Ecology for "non-compliance," clarify what it means / when is this triggered.
General Comment	<p>King County recommends the formation of an Ecology-led intergovernmental Process Wastewater Task Force to fully identify the issues and potential solutions regarding process wastewater management and disposal.</p> <p>Chris Tiffany, Senior Water Quality Planner, King County Department of Natural Resources and Parks, Wastewater Treatment Division, would be pleased to volunteer as a panel member / participant.</p>



Permit Section	Comment
General Comment	<p>The PDF of the permit on Ecology's website is not searchable with Adobe Reader. Please post a searchable version.</p> <p>Other helpful tools for the future:</p> <ul style="list-style-type: none"><li>• Mobile version of the DOE website, CSWGP, or SWMMWW. These would be great when hardcopies are not within the immediate vicinity.</li><li>• Flowcharts for processes with more than a few steps.</li></ul>



**King County**

**Water and Land Resources Division**

Department of Natural Resources and Parks

King Street Center

201 South Jackson Street, Suite 600

Seattle, WA 98104-3855

**206-477-4800** Fax 206-296-0192

TTY Relay: 711

August 10, 2015

Amy Moon  
Construction Stormwater Permit Comments  
Washington State Department of Ecology  
Water Quality Program  
PO Box 47696  
Olympia, WA 98504-7696

RE: Comments on Construction Stormwater General Permit, Draft Language, August 10, 2015

Dear Ms. Moon:

King County would like to thank you for the opportunity to provide comments on the draft Construction Stormwater General Permit (CSGP). We appreciate the changes and updates that have been proposed in the draft language, and we are excited about how these updates can positively impact stormwater associated with construction in Washington. King County's comments focus on the need for additional clarification for certain sections of the draft permit. Enclosed is a table of King County's comments on the draft CSGP.

We look forward to working with you on the implementation of this permit in a way that provides protection to the environment, using solutions that are effective and attainable by our programs and funding capacities. If you have any questions, please feel free to contact me at 206-477-4783.

Sincerely,

Douglas D. Navetski  
Environmental Programs Managing Supervisor  
Water Quality Compliance Unit  
Stormwater Services Section

DN:JE:bgD10

Enclosure

cc: Wally Archuleta, Product Line Manager, Department of Permitting and Environmental Review  
Rob Fritz, Supervising Ecologist, Roads Maintenance Section (RMS), Road Services  
Division (RSD), Department of Transportation (DOT)  
Katie Merrell, Environmental Engineer III, RMS, RSD, DOT  
Chris Tiffany, Capital Project Manager III, Regulatory Compliance Unit, Wastewater  
Treatment Division, Department of Natural Resources and Parks (DNRP)  
Curt Crawford, Manager, Stormwater Services Section (SWSS), Water and Land Resources  
(WLR) Division, DNRP  
Jessica Engel, Project/Program Manager II, SWSS, WLR Division, DNRP



400 Valley Ave. NE / Puyallup, WA 98372 • Office (253) 383-3585 • Fax (253) 572-8648 • MILESRL897RK

August 10, 2015

Department of Ecology  
P.O. Box 47696  
Olympia, WA 98504-7696

Attn: Ms. Amy Moon, Water Quality Program

Re: Draft Construction Stormwater General Permit

Dear Ms. Moon:

We offer the following comments on the Draft Construction Stormwater General Permit published July 1, 2015.

- S1.C.3.i: The word “Uncontaminated” has been added to water used to control dust. Why has this word been added? What will be required to show that the dust control water is uncontaminated? Do not use the term uncontaminated as it will lead to confusion.
- S2.A.1.c: This section is now unclear as so much has been deleted. This now just states “as required by WAC173-226-200(2). The “as” is lower case and appears to start in the middle of a sentence.
- S2.A.1.f: This requirement has been added to the permit. “Applicants must notify Ecology if they are aware of contaminated soils.” At permit application time, the applicant would not know if there is contaminated soil or have developed any TESC, SWPPPS, dewatering plans, etc. This is a STORMWATER PERMIT not a contaminated soil permit. Ecology has other requirements for handling contaminated materials. S2.A.1.f should be deleted from this permit.
- S4.D.2 pH Sampling Requirements: “For sites with recycled concrete, the permittee must begin the weekly pH monitoring period... and must continue until the recycled concrete is fully stabilized...” How is fully stabilized determined? What proof does Ecology have to show this requirement is needed? During a listening session I asked what Best Available Science (BAS) Ecology had to prove pH from recycled concrete is contaminating surface water. Ecology stated they did have BAS and would send it to me. What I received was violations for runoff from a site that was not taking care of their responsibilities. This is an

Department of Ecology  
August 10, 2015  
Page 2

enforcement problem, not BAS. Any requirements within this permit for recycled concrete should be eliminated as Ecology lacks BAS.

- S9.D.9.g: This requirement mentions an exceedance of pH to groundwater. By rule this permit does not include discharges to groundwater. The word groundwater should be removed.
- S9.D.13: Why is there a requirement for Low Impact Development (LID) BMPs? Requirements for LID are a local government's permitting requirement. Ecology should not be involved with permits issued by other government's authorities. Please delete this requirement.

Thank you for the opportunity to comment.

Very Truly Yours,

A handwritten signature in black ink, appearing to read 'DL' followed by a long horizontal flourish and the initials 'DL' at the end.

Dave Lewis



400 VALLEY AVE NE • PUYALLUP, WA 98372-2516  
www.MilesSandandGravel.com • (253) 833-3705  
CONCRETE • GRAVEL • CRUSHED ROCK • SAND

August 10, 2015

Amy Moon  
Washington State Department of Ecology  
Water Quality Program  
PO Box 47696  
Olympia WA 98504-7696

RE: Miles Sand & Gravel Company  
Comments on the Draft Construction Stormwater General Permit

Ms. Moon,  
Miles Resources has several comments on the Draft Construction Stormwater General Permit released by the Washington State Department of Ecology (WADOE). In general WADOE has made changes that have put undue burden on permit holders for water quality and have taken action to include solid waste requirements in the draft permit. The following are comments addressing the issues we see with the draft construction stormwater general permit.

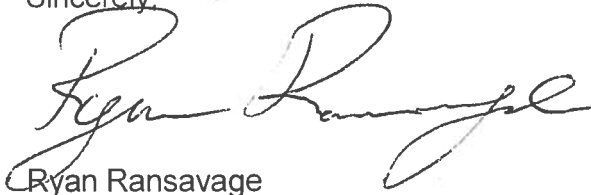
- S2.A.1.f
  - This section was added to require the reporting of all contaminated soils and groundwater. The permit is exclusively a permit on stormwater, not a solid waste permit. It is unacceptable to incorporate solid waste standards in a general stormwater permit. In addition the language used is vague and does not define clear limits to contaminated soils and no protocol for determining if there is contaminated soils/groundwater on site. This section should be removed.
  
- S4.D.2
  - This section, relating to recycled concrete, has several issues for monitoring. The first is the use of “fully stabilized” which has no defined end. The second is adding monitoring when “recycled concrete is first exposed to concrete”. This is another term that is very broad. Does exposed mean monitoring as soon as the material is placed? Or does it mean when the recycled concrete has had precipitation fall on it? OR does it mean when there is measurable runoff from the material? This section needs to be rewritten to be much more specific and detailed in order for users of the permit to properly address

potential for pH pollution. Also a standard similar to significant concrete work should be implemented before testing is required.

- S9.D.9.h
  - Concrete washout on the jobsite needs to be managed appropriately, but a few exceptions need to be made. One of these exceptions should allow for concrete mixers to wash their hopper area and chutes in form areas that will not allow the concrete wash water to run outside of the form and will be filled shortly with concrete. The amount of water used to wash the mixer hopper and chutes are minimal and the area that has been washed into will soon be covered up by impervious material (with the exception of pervious concrete). This would not contribute in any significant way to pollution and would allow for better site management and more efficient use of time and materials.

Thank you for the considerations of these comments and I look forward to see WADOE's response to our concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Ryan Ransavage". The signature is fluid and cursive, with a large initial "R" and a long, sweeping tail.

Ryan Ransavage  
Miles Sand & Gravel Company

**From:** [Don Motes](#)  
**To:** [ECY RE CSWGPComments](#)  
**Subject:** CSWGP Comment  
**Date:** Monday, July 6, 2015 10:41:45 AM

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In review of the proposed permit language changes I have a question. On page 5 under S9.C.1. "Clarification- BMPs must be consistent with: Stormwater Management Manual for Western Washington for sites east of the crest of the Cascade Mountains. Shouldn't the Stormwater Management Manual for Eastern Washington be used for sites east of the crest of the Cascade Mountains. Please let me know if I'm misinterpreting something. Thanks!

**Don Motes**

Environmental Coordinator  
Okanogan County Public Works  
1234-A Second Ave. South  
Okanogan, WA 98840  
Desk 509/422-7310  
Fax 509/422-7301



August 10, 2015

Amy Moon  
Water Quality Program  
Department of Ecology  
PO Box 47696  
Olympia, WA 98504-7696

Dear Mrs. Moon:

**SUBJECT: Construction Stormwater General Permit Draft Comment Period  
July 1 – August 10, 2015**

The City of Olympia reviewed the proposed draft permit documents for the Construction Stormwater General Permit. We appreciate the opportunity to provide comments to these documents. The City of Olympia is committed to working collaboratively with Ecology and others to address pollution prevention on construction project/activities.

We welcome, appreciate, and support Ecology's work toward clarifying language in the permit. We believe the proposed edits will promote consistency, increase understanding, and ultimately better protect human health, water quality, and aquatic habitat.

The City of Olympia invites Ecology to consider drafting clarifying language for construction projects identified as self-contained. These sites should immediately receive coverage under the permit once a discharge is triggered at the site. We believe this is an ongoing issue occurring throughout the construction community. Applicable language within the permit will help municipalities ensure appropriate coverage under the Construction Stormwater General Permit as well as Municipal Stormwater General Permits.

Thank you for considering our comments. If you have questions or need any additional information, please contact Olympia's Surface Water Quality Planner, Jeremy Graham, at 360.753.8097 or [jgraham@ci.olympia.wa.us](mailto:jgraham@ci.olympia.wa.us)

Sincerely,

**ANDY HAUB**  
Water Resources Director  
Public Works Department

AH/lm

\\calvin\PW Water Resources\WR Administration\Andy Haub\Correspondence\2015\Letter to WDOE Re City Comments on Construction SW General Permit\_08-10-15.docx



**From:** [Scott Darst](#)  
**To:** [ECY RE CSWGPComments](#)  
**Subject:** CSWGP Comment  
**Date:** Wednesday, July 29, 2015 10:45:38 AM

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Perhaps there is a federal rule that would prohibit this, but I wanted to throw it out there.

I think that the approach to process water should be reevaluated. Water treatment technology has advanced to a point where removal of contaminants and adjustment of water quality parameters is attainable and cost effective. There are times when discharge to sewer is not an option, and water treatment could be more cost effective than trucking the water offsite. Even if the water quality requirements were onerous, having the option could be valuable to projects, and could reduce the environmental impact when you consider the carbon/pollution footprint of trucking water.

Thanks for your consideration,

Scott Darst  
Environmental Manager  
O'Neill Service Group  
425.681.9295



August 10, 2015

Ms. Amy Moon  
Washington State Department of Ecology  
Northwest Regional Office  
3190 160th Avenue SE  
Bellevue, WA 98008-5452  
Sent electronically to [cswgpccomments@ecy.wa.gov](mailto:cswgpccomments@ecy.wa.gov)

**Subject: Draft Construction Stormwater General Permit**

Dear Amy Moon:

We appreciate the opportunity to provide comments on the Draft Construction Stormwater General Permit.

We are happy to present our comments which show proposed language in the permit, Notice of Intent (NOI), and Fact Sheet as bold and italicized; the Port's comments and recommendations immediately follow the proposed language.

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## **DRAFT CONSTRUCTION STORMWATER GENERAL PERMIT COMMENTS**

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***S2.A.1.c. Unless Ecology responds to the complete application in writing, based on public comments, or any other relevant factors, coverage under the general permit will automatically commence on the thirty-first day...***

**Comment # 1:**

Currently, applicants are not notified if the application is complete. If an applicant does not hear from Ecology within 31 days of the second public notice, they assume they are covered under the permit and start work. If Ecology deems the application incomplete, the applicant is subsequently out of compliance without knowing it. Ecology should establish a response time to inform the applicant whether the NOI is considered complete or not, particularly given that NOIs are now required to be submitted electronically. PARIS is not a reliable source to determine if Ecology deems the application complete.

**Recommended Language:**

*Ecology shall respond to the applicant within seven (7) days to notify whether the application is considered complete. Unless Ecology responds to the complete application in writing, based on public comments, or any other relevant factors, coverage under the general permit will automatically commence on the thirty-first day, unless Ecology specifies a later date in writing within the 30-day comment period.*

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**S2.A.1.f.iii, iv, and v. TESC plans, SWPPP modified to address contaminated soils and/or groundwater, Dewatering plan and/or dewatering contingency plan.**

**Comment # 2:**

Public entities (agencies, municipalities, etc.) are required to obtain all permits prior to putting a project out to bid. Pollution prevention and/or treatment BMPs and/or TESC plans and/or SWPPPs and/or dewatering plans cannot be dictated to contractors because it is up to the contractor's means and methods to perform the work. Therefore, the BMPs Ecology requests for contaminated sites may not necessarily be used during project construction. NOI cannot be considered complete and accurate and a permit issued when the information provided may not be the methods implemented. Please clarify if it is Ecology's expectation that plans have been finalized when submitting a NOI. This is not feasible for public entities, and could create long delays and project costs.

**Recommendation:**

Remove S2.A.1.f.iii, iv, and v. from the Permit.

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**S3.D. *Where construction sites also discharge to ground water (sic), the ground water (sic) discharges must also meet the terms and conditions of this CSWGP.***

**Comment # 3:** Many sites use infiltration to manage stormwater. This condition appears to conflict with S1.2.a. which states that operators are not required to seek a permit if discharging to groundwater, etc. as long as there is no point source discharge to surface water or a storm sewer system that drains to surface waters of the State. Please clarify.

**S4.C.2.g. *The Permittee may reduce the sampling frequency for temporarily stabilized, inactive sites to once every calendar month.***

**S4.C.3.b. *The Permittee may discontinue sampling at discharge points that drain areas of the project that are fully stabilized to prevent erosion.***

**Comment # 4:**

These two conditions appear to conflict with one another. If discharge points that drain areas are stabilized and inactive, why would a Permittee continue to sample in that area? Please clarify.

**Recommended Language:**

Remove S4.C.2.g. from the Permit.

**S4.C.3.b. *The Permittee may discontinue sampling at discharge points that drain areas of the project that are inactive and stabilized to prevent erosion.***

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**S4.D.1.**      *...when the concrete is first poured and exposed to precipitation, and continue weekly throughout and after the concrete pour and curing period, until stormwater pH is in the range of 6.5 to 8.5 (su).*

**Comment # 5:**

PH sampling is supposed to occur weekly during pours and curing. A Permittee should not be required to sample for pH after the active pour and/or during the curing period if pH is within range. Some concrete can take years to fully cure.

**Recommended Language:**

*...when the concrete is first poured and exposed to precipitation, and continue weekly until stormwater pH is in the range of 6.5 to 8.5 (su).*

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**S4.D.2.**      *For sites with recycled concrete, the Permittee must begin the weekly pH monitoring period when the recycled concrete is first exposed to precipitation and must continue until the recycled concrete is fully stabilized and stormwater pH is in the range of 6.5 to 8.5 (su).*

**Comment # 6:**

Define “fully stabilized” for recycled concrete. Concrete from a demolition should not be considered to be “recycled concrete”. Recycled concrete is often in rubble form and is used as a stabilizer for soft ground, etc. Recycled concrete should be considered fully stabilized when stormwater discharge is within range.

**Recommended Language:**

*...the Permittee must begin the weekly pH monitoring period when the recycled concrete is first exposed to precipitation and continue until stormwater pH is in the range of 6.5 to 8.5 (su).*

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**S4.D.1 & 2.**      *...pH is in the range of 6.5 to 8.5 (su)*

**Comment # 7:**

Make consistent with the ISGP pH range of 6.0 to 9.0 (su).

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**S4.D.5.**      *The Permittee must sample pH in the sediment trap/pond(s) or other locations that receive stormwater runoff from the area of significant concrete work or engineered soils before the stormwater discharges to surface waters.*

**Comment # 8:**

This condition states that pH sampling locations are supposed to be different than stormwater discharge locations where turbidity is measured. However, this is not specified in “sampling locations” listed in S4.C.3. Please clarify. If sampling locations for pH are supposed to be different than turbidity sampling points, add pH sampling location-specific criteria in S4.C.3., otherwise modify language in S4.D.5. to have discharge points be the sampling locations for both parameters.

**S5.F.**            ***...and the resulting noncompliance may cause a threat to human health or the environment, or exceed numeric effluent limitations, the Permittee must...***

**Comment # 9:**The CSWGP does not include effluent limitations. Effluent limitations would typically be associated with additional restrictions such as an Administrative Order. Noncompliance notifications associated with effluent limits should be specified in the Administrative Order, not the CSWGP. If effluent limits are referring to 303(d)-listed waters, then the intent should be specified clearly.

**Recommendation:**

Remove "exceed numeric effluent limitations" from S5.F.

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**S9.D.9.g.**        ***Adjust the pH of stormwater or authorized non-stormwater if necessary to prevent an exceedance of groundwater and/or surface water quality standards.***

**Comment # 10:**Stormwater that does not leave the site (i.e., infiltrated) does not require sampling; therefore a Permittee will only adjust pH if their stormwater or authorized non-stormwater is discharged to surface waters of the state or a storm conveyance system.

**Recommended Language:**

*S9.D.9.g.        Adjust the pH of stormwater or authorized non-stormwater if discharged and necessary to prevent an exceedance of groundwater and/or surface water quality standards.*

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**G6.**                ***The Permittee must submit a new application... (including the discovery of contaminated soils and/or groundwater that may impact the discharge). This application must be submitted at least sixty (60) days prior to any proposed changes.***

**Comment # 11:** Define "contaminated". Presence of "contaminated" material does not necessarily mean stormwater will be impacted. Who makes the determination that discovered contamination may impact discharge? The Permittee? Ecology? If an application needs to be submitted 60 days prior to proposed changes, it is not practical to do so if contaminated material is discovered. Is the Permittee supposed to stop work for 60 days while Ecology reviews a modified permit application? The potential economic impacts associated with delays; work that was originally scheduled for the dry season could get pushed into the wet season, etc.

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**G13. Ecology may establish specific monitoring requirements in addition to those contained in this permit by administrative order (sic) or permit modification.**

**Comment # 12:**

Administrative Orders are becoming increasingly more common. Specifics about Administrative Orders - and what triggers them - is needed. Issuing Administrative Orders to projects where controlling turbidity will control pollutants defeats the purpose of having a general permit. Having contaminants onsite does not automatically qualify a site to be considered a "significant contributor of pollutants", nor will discharging stormwater from a site with contaminants automatically create a violation of water quality standards. Having contaminants onsite should not be the deciding factor in issuing an Administrative Order. The Permittee should also have demonstrated that they are not complying with the intent of the permit through the implementation of BMPs.

Set up a stakeholders working group to discuss this issue. The stake holder working group should include industry, impacted businesses and other key stakeholders.

---

## GENERAL COMMENTS

**Comment # 13:**

Section 6.3 (Public Process) of the Permit Writer's Manual lists several options to engage the public during the permit writing stage. The third bullet reads as follows:

- Stakeholder advisory group – Consider the need for stakeholder involvement (e.g. technical, implementation issues). Discuss these with your supervisor and PIO.

The Port request that Ecology set up a stakeholders working group to discuss this issue. The stake holder working group should include industry, impacted businesses and other key stakeholders.

---

**Comment # 14:**

The majority of pollutants that are encountered during construction projects are tied to sediment. By controlling the turbidity, a Permittee is effectively controlling the pollutants. Additional Administrative Orders and other restrictions should not be issued simply by the presence of a pollutant. Ecology's approach to controlling contaminants in surface water runoff in the Industrial Stormwater General Permit is to control the solids – which is monitored through benchmarks of turbidity and total suspended solids. The CSW group should use the same approach so Permittees that have multiple permits on one site can rely on one standard in which to plan and implement their BMPs.

Potential water quality violations cannot be determined simply by what is present in the soil. Ecology cannot reasonably make a correlation between pollutant(s) in the soil with what will actually mobilize when coming into contact with stormwater. At the very minimum, it can be determined that only a fraction of what is in the soil may mobilize during a storm event. This means that even if pollutant concentration levels are above a cleanup standard in the soil, a water quality violation is unlikely if a Permittee is implementing the proper BMPs.

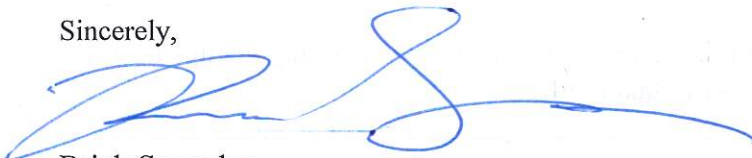
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## Conclusion

The Port of Seattle appreciates the opportunity to provide comments to Department of Ecology on the Draft Construction Stormwater General Permit. The Port and Ecology have worked together over the years on many permits. We believe that has been a very productive collaboration and we look forward to future collaborative efforts associated with the CSWGP.

Please contact me at (206) 787-3193 if you have any questions regarding this letter.

Sincerely,



Brick Spangler  
Environmental Program Manager  
Port of Seattle  
2711 Alaskan Way  
Seattle, WA 98111



August 10, 2015

Amy Moon  
Department of Ecology  
P.O. Box 47696  
Olympia WA 98504-7696

Sent electronically to [cswgpccomments@ecy.wa.gov](mailto:cswgpccomments@ecy.wa.gov)

Dear Ms. Moon,

Thank you for the opportunity to review and comment on the Draft Construction Stormwater General Permit (CSWGP or permit). The ability to review a draft of the updated CSWGP allows the development community and the Department of Ecology (Ecology) to discuss and agree upon a practical approach to environmental protection during construction projects.

The Port of Tacoma (Port) provides jobs and cargo mobility to thousands of people throughout our region, and is a substantial economic driver in Pierce County, Western Washington and the entire state. A key component of the Port's success is construction and infrastructure improvements. During the previous CSWGP cycle (2010-2015), the Port obtained and/or managed 20 CSWGPs for projects totaling over 50 million dollars. The Port is currently in the planning and/or development stages of projects that may be constructed during the new permit cycle (2016-2021), with an estimated value of over 100 million dollars.

The Port appreciates Ecology's effort to protect water quality during construction projects through the CSWGP. The Port is also committed to environmental stewardship and water quality protection. The Port has received national recognition and multiple awards associated with our innovations in stormwater treatment.

We are happy to present our comments which show proposed language in the permit, Notice of Intent (NOI), and Fact Sheet as bold and italicized; the Port's comments and recommendations immediately follow the proposed language.

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## DRAFT CONSTRUCTION STORMWATER GENERAL PERMIT COMMENTS

***S1.B.1.a. Clearing, grading, and/or excavation that results in the disturbance of one or more acres (including off-site disturbance acreage authorized in S1.C.2.)...***

### Comment # 1:

Clearing is removing vegetation to ground level; it should not be considered ground disturbance. Often vegetation (e.g., bushes, forbs, etc.) has to be removed to create staging areas but the ground itself isn't disturbed.



The addition of "including off-site disturbance acreage" is superfluous since it is already covered in S1.C.2. Staging areas, material storage areas, etc. are already supposed to be part of the project site, regardless of location. "Off-site disturbance acreage" could have implications for Permittees who use property not associated with the project but may stockpile soil or other materials for other projects.

**Recommendation:**

- Change permit language from "clearing" to "grubbing" because grubbing indicates ground disturbance, or define "clearing" in "Appendix B - Definitions" to specify that "clearing" must include soil disturbance to qualify as disturbance acreage.
- Remove "(including off-site disturbance acreage authorized in S1.C.2.)" from the Permit.

---

**S1.B.1.b.i. *Determines to be a significant contributor of pollutants to waters of the State of Washington.***

**S1.B.1.b.ii. *Reasonably expects to cause a violation of any water quality standards.***

**Comment # 2:**

Ecology should clearly identify what criteria the Department will use to determine a "significant contributor of pollutants" and define the individuals or agency contact who is responsible making the determination.

Ecology is also obligated to make notifications to a property owner that their site is considered a "significant contributor of pollutants" prior to an applicant submitting a NOI.

Define what a reasonable expectation is, that a project may cause a violation of **any** water quality standard. Recommend to replace "any" with "appropriate".

If the project is less than an acre and/or stormwater will not be discharged to surface waters or a storm system, a NOI typically will not be submitted. Ecology must clarify how the Department declares a "significant contributor of pollutants" if no NOI is submitted.

**Recommended Language:**

*S1.B.1.b.i. Has previously declared the site to be a known significant contributor of pollutants to waters of the State of Washington.*

*S1.B.1.b.ii. Expects to cause a violation of a previously established site-specific water quality standard.*

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**S1.D.7. *Wheel wash wastewater, unless discharged according to Special Condition S9.D.9.***

**Recommendation:**

Replace "*discharged*" with "*managed*" to remain consistent with language in S1.D.4.

**S2.A.1.b. *Permittees unable to submit electronically (for example, those who do not have an internet connection) must contact Ecology to request a waiver and obtain instructions on how to obtain a paper NOI.***  
<http://www.ecy.wa.gov/programs/wq/stormwater/construction/index/html>.

**Comment # 3:**

The Port recommends moving the link to earlier in the paragraph. It could easily be interpreted that applicants who can't submit electronically must go to the website to obtain a waiver.

---

**S2.A.1.c. *Unless Ecology responds to the complete application in writing, based on public comments, or any other relevant factors, coverage under the general permit will automatically commence on the thirty-first day...***

**Comment # 4:**

Currently, applicants are not notified if the application is complete. If an applicant does not hear from Ecology within 31 days of the second public notice, they assume they are covered under the permit and start work. If Ecology deems the application incomplete, the applicant is subsequently out of compliance without knowing it. Ecology should establish a response time to inform the applicant whether the NOI is considered complete or not, particularly given that NOIs are now required to be submitted electronically. PARIS is not a reliable source to determine if Ecology deems the application complete.

**Recommended Language:**

*Ecology shall respond to the applicant within seven (7) days to notify whether the application is considered complete. Unless Ecology responds to the complete application in writing, based on public comments, or any other relevant factors, coverage under the general permit will automatically commence on the thirty-first day, unless Ecology specifies a later date in writing within the 30-day comment period.*

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**S2.A.1.f. *Applicants must notify Ecology if they are aware of contaminated soils and/or groundwater associated with the construction activity. Provide detailed information with the NOI (as known and readily available) on the nature and extent of the contamination (concentrations, locations, and depth), as well as pollution prevention and/or treatment BMPs proposed to control the discharge of soil and/or groundwater contaminants in stormwater.***

**Comment # 5:**

Define "contaminated soils and/or groundwater". Without a quantifiable definition of what Ecology considers contaminated, **any** site with above natural background levels of a contaminant could be considered contaminated (i.e., any urban area within Puget Sound and many other regions). Presence of a contaminant does not necessarily mean a site is

contaminated. Some areas have naturally occurring concentrations of contaminants that are above “natural background”. Ecology must determine what sites should be deemed “contaminated” prior to submitting a NOI. It should not be left up to the applicant to make the determination as to whether a site should be considered contaminated.

Define “*readily available*”. What if data exist but are not “readily available”? What if contamination is suspected but there are no data? This goes back to the point that an applicant should not be making the “contaminated site” determination.

Contamination may be present within the project area but located outside the ground disturbance area (e.g. an already stabilized staging area, etc.); Ecology should only need to be informed of contamination that is within the soil disturbance area.

Our concern is that the Construction Stormwater group is reaching beyond the intent of its construction stormwater mandate and may issue Administrative Orders in addition to the CSWGP, adding to agency and Permittee confusion, potential legal liability, and project delays. Administrative Orders are typically a negotiation between parties after some kind of violation occurs. Issuing Administrative Orders prior to any proof that water quality standards have been violated—or an immediate concern that they could be violated due to a Permittee’s neglect—is excessive. Issuing additional parameters to treat and sample when the majority of contaminants can be controlled by controlling the turbidity takes away from the intent of having a General Permit.

**Recommendation:**

Remove S2.A.1.f. from the Permit.

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**S2.A.1.f.i.     *List or table of all known contaminants with laboratory test results showing concentrations and depth,***

**Comment # 6:**

Sites that have contaminants at concentrations higher than the appropriate cleanup level should already be on Ecology’s radar (i.e. MTCA cleanup sites, etc.). Ecology programs should coordinate with one another during DCAP development so stormwater considerations can be addressed during the implementation of the plan and the CSWGP can remain a “general permit”.

Requiring applicants to list ***all*** known contaminants, regardless of concentration is excessive and unnecessary. This reinforces the ideology that presence equates contamination. “Contaminant” has not been properly defined. Having a consistent definition of what “contaminated” means will allow applicants to prepare a NOI that is accurate and complete prior to submittal.

**Recommendation:**

Remove S2.A.1.f.i. from the Permit.

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**S2.A.1.f.ii. *Map with sample locations,***

**Comment # 7:**

Please clarify the purpose of the map with sample locations. If contaminants are onsite in areas of soil disturbance, a map showing sample locations should not influence Ecology's review of the NOI.

**Recommendation:**

Remove S2.A.1.f.ii. from the Permit.

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**S2.A.1.f.iii, iv, and v. *TESC plans, SWPPP modified to address contaminated soils and/or groundwater, Dewatering plan and/or dewatering contingency plan.***

**Comment # 8:**

Public entities (agencies, municipalities, etc.) are generally required to obtain all permits prior to going to bid. Pollution prevention and/or treatment BMPs and/or TESC plans and/or SWPPPs and/or dewatering plans cannot be dictated to contractors because it is up to them to determine work means and methods. It is also the contractor's liability in how work is performed. Public contracting in particular is outcome-based. That is to say, there is an outcome required in the contract (in this case be in compliance with water quality standards and the permit) and it is up to the contractor to determine how that outcome will be achieved and to bid the project appropriately. Prescription of how work will be performed or changes to project requirements after the bidding process is complete will greatly increase costs to both public and private owners. A NOI cannot be considered complete and accurate and a permit issued when the information provided may not be the methods implemented. Please clarify if it is Ecology's expectation that plans have been finalized when submitting a NOI. This is not feasible for public entities, and could create long delays and increased project costs.

**Recommendation:**

Remove S2.A.1.f.iii, iv, and v. from the Permit.

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**S2.C.2.b.iii. <http://www.ecy.wa.gov/programs/wq/stormwater/construction/index.html>**

**Comment # 9:**

The link should read <http://www.ecy.wa.gov/programs/wq/stormwater/construction/resourcesguidance.html> because the Construction Stormwater main page is not where the link to the Average Annual Precipitation is located.

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**S2.C.4.**        ***The waiver is not available for facilities declared significant contributors of pollutants as defined in Special Condition S2.B.1.b. or for any size construction activity that could reasonably expect to cause a violation of any water quality standard as defined in Special Condition S1.B.1.b.ii.***

**Comment # 10:**

The terms (significant contributor of pollutants, and construction activity that could reasonably expect to cause a violation) are not defined in S1.B.1.b. or S1.B.1.b.ii. They are referenced but a definition of what these terms mean is not provided. See comments for S1.B.1.b.i and ii. Please define these terms.

---

**S3.B.**        ***...includes the preparation and implementation of an adequate Stormwater Pollution Prevention Plan (SWPPP)...***

**Recommendation:**

The SWPPP acronym has already been defined earlier in the Permit. Ecology does not need to define it again here.

---

**S3.C.**        ***Ecology presumes that a Permittee complies with water quality standards unless discharge monitoring data or other site-specific information demonstrates that a discharge causes or contributes to a violation of water quality standards, when the Permittee complies with the following conditions.***

**Comment # 11:**

Please clarify this sentence. The wording is confusing and can be misinterpreted. Is the Permittee complying with water quality standards when they comply with the “following conditions” or are they out of compliance if a discharge causes or contributes to a violation, regardless of whether they comply with the conditions?

---

**S3.D.**        ***Where construction sites also discharge to ground water (sic), the ground water (sic) discharges must also meet the terms and conditions of this CSWGP.***

**Comment # 12:**

Many sites use infiltration to manage stormwater. This condition appears to conflict with S1.2.a. which states that operators are not required to seek a permit if discharging to groundwater, etc. as long as there is no point source discharge to surface water or a storm sewer system that drains to surface waters of the State. Please clarify.

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**S4.B.            ...and all stormwater discharge points under the Permittees operational control.**

**Recommendation:**

“Permittees” should read “Permittee’s”.

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**S4.C.2.a.       ...sampling is not required on sites that disturb less than an acre.**

**Comment # 13:**

Only sites that are considered “a significant contributor of pollutants” or “reasonably expected to cause a violation of water quality standards” are required to obtain a permit for projects that disturb less than an acre. If an Operator has no way to demonstrate that they are in compliance with water quality standards, then they should not be required to apply for a permit.

---

**S4.C.2.g.       The Permittee may reduce the sampling frequency for temporarily stabilized, inactive sites to once every calendar month.**

**S4.C.3.b.       The Permittee may discontinue sampling at discharge points that drain areas of the project that are fully stabilized to prevent erosion.**

**Comment # 14:**

These two conditions appear to conflict with one another. If discharge points that drain areas are stabilized and inactive, why would a Permittee continue to sample in that area? Please clarify.

**Recommended Language:**

Remove S4.C.2.g. from the Permit.

**S4.C.3.b.       The Permittee may discontinue sampling at discharge points that drain areas of the project that are inactive and stabilized to prevent erosion.**

---

**S4.C.3.e.       The Permittee may discontinue sampling at discharge points in the areas of the project where the Permittee no longer has operational control of the construction activity.**

**Comment # 15:**

The Port agrees with this inclusion to the permit. It provides needed clarification that the Permittee is not responsible for sampling discharge points where they have no operational control.

---

**S4.D.**            *...(significant concrete work means greater than 1000 cubic yards poured concrete used over the life of a project) or the use of recycled concrete or engineered soils...*

**Comment # 16**

Please confirm that the trigger for pH sampling stormwater for the use of recycled concrete and/or engineered soils is also 1000 cubic yards. Currently, there is no quantifiable amount listed.

**Recommended Language:**

*...(significant concrete work means greater than 1000 cubic yards poured concrete, recycled concrete or engineered soils used over the life of the project)...*

---

**S4.D.1.**            *...when the concrete is first poured and exposed to precipitation, and continue weekly throughout and after the concrete pour and curing period, until stormwater pH is in the range of 6.5 to 8.5 (su).*

**Comment # 17:**

PH sampling is supposed to occur weekly during pours and curing. If the pH is within range after the initial pour, the pH will continue to neutralize while the concrete cures. A Permittee should not be required to sample for pH after the active pour and/or during the curing period if pH is within range. Some concrete can take years to fully cure.

**Recommended Language:**

*...when the concrete is first poured and exposed to precipitation, and continue weekly until stormwater pH is in the range of 6.5 to 8.5 (su).*

---

**S4.D.2.**            *For sites with recycled concrete, the Permittee must begin the weekly pH monitoring period when the recycled concrete is first exposed to precipitation and must continue until the recycled concrete is fully stabilized and stormwater pH is in the range of 6.5 to 8.5 (su).*

**Comment # 18:**

Define “fully stabilized” for recycled concrete. Recycled concrete is often in rubble form and is used as a stabilizer for soft ground, etc. Recycled concrete should be considered fully stabilized when stormwater discharge is within range. Concrete from a demolition should not be considered to be “recycled concrete”.

**Recommended Language:**

*...the Permittee must begin the weekly pH monitoring period when the recycled concrete is first exposed to precipitation and continue until stormwater pH is in the range of 6.5 to 8.5 (su).*

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**S4.D.1 & 2. ...pH is in the range of 6.5 to 8.5 (su)**

**Comment # 19:**

Make consistent with the ISGP pH range of 6.0 to 9.0 (su). The ISGP is a longer term permit; it does not make sense to have a temporary, short term permit be more restrictive.

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**S4.D.5. *The Permittee must sample pH in the sediment trap/pond(s) or other locations that receive stormwater runoff from the area of significant concrete work or engineered soils before the stormwater discharges to surface waters.***

**Comment # 20:**

This condition states that pH sampling locations are supposed to be different than stormwater discharge locations where turbidity is measured. However, this is not specified in "sampling locations" listed in S4.C.3. Please clarify. If sampling locations for pH are supposed to be different than turbidity sampling points, add pH sampling location-specific criteria in S4.C.3., otherwise modify language in S4.D.5. to have discharge points be the sampling locations for both parameters.

---

**S5.A. *...(or submit an electronic report through Ecology's Water Quality Permitting Portal (WQWebPortal) - Permit. The website is: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/permit.html>.***

**Comment # 21:**

The website provided is not the WQWebPortal. It is the Construction Stormwater main page.

---

**S5.F. *...and the resulting noncompliance may cause a threat to human health or the environment, or exceed numeric effluent limitations, the Permittee must...***

**Comment # 22:**

The CSWGP does not include effluent limitations. Effluent limitations would typically be associated with additional restrictions such as an Administrative Order. Noncompliance notifications associated with effluent limits should be specified in the Administrative Order, not the CSWGP. If effluent limits are referring to 303(d)-listed waters, then the intent should be specified clearly.

**Recommendation:**

Remove "exceed numeric effluent limitations" from S5.F.

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**S5.F.3.            *Submit a detailed written report to Ecology within five (5) days of the time the Permittee becomes aware of the circumstances, unless requested earlier by Ecology. The report must be submitted using Ecology's Water Quality Permitting Portal (WQWebPortal) - Permit Submittals...***

**Comment # 23:**

The Port agrees that using the electronic submittal system will streamline and simplify the reporting process.

---

**S5.G.1.e.        *Erosivity Waiver***

**Comment #24:**

While the Port agrees that it is a good idea to keep an Erosivity Waiver onsite to prevent any confusion, it should not be a permit requirement since the waiver is not covered under the permit.

---

**S8.A.2.            *...on January 1, 2011, or the date when...***

**Recommendation:**

Update the date to reflect the upcoming permit cycle.

---

**S8.E.2.            *...before January 1, 2011, or before the date the operator's complete permit application...  
...if they are imposed through an administrative order...***

**Recommendations:**

Update the date to reflect the upcoming permit cycle.  
Capitalize "administrative order".

---

**S9.                *...properly implement an adequate Stormwater Pollution Prevention Plan (SWPPP)...***

**Recommendation:**

The SWPPP acronym has already been defined earlier in the Permit. Ecology does not need to define it again here.

---

**S9.A.1.            *To implement best management practices (BMPs) to prevent erosion...***

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**Recommendation:**

The BMP acronym has already been defined earlier in the Permit. Ecology does not need to define it again here.

---

**S9.D.1.        ...and the exemption from that element is clearly justified in the SWPPP.  
                  Preserve Vegetation/Mark Clearing Limits**

**Recommendation:**

Formatting: "Preserve Vegetation/Mark Clearing Limits" should have its own heading.

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**S9.D.6.c.i.     West of the Cascade Mountain Crest: Temporary pipe slope drains must  
                  handle the peak 10-minute ~~velocity~~ of flow rate from a Type 1A, 10-year, 24-  
                  hour frequency storm for the developed condition.**

**Comment # 25:**

The Port agrees with the change in terminology.

---

**S9.D.9.g.       Adjust the pH of stormwater or authorized non-stormwater if necessary to  
                  prevent an exceedance of groundwater and/or surface water quality  
                  standards.**

**Comment # 26:**

Stormwater that does not leave the site (i.e., infiltrated) does not require sampling; therefore a Permittee will only adjust pH if their stormwater or authorized non-stormwater is discharged to surface waters of the state or a storm conveyance system.

**Recommended Language:**

*S9.D.9.g.       Adjust the pH of stormwater or authorized non-stormwater if discharged and  
                  necessary to prevent an exceedance of groundwater and/or surface water quality  
                  standards.*

---

**S9.D.13.       The primary purpose of Low Impact Development (LID) BMPs...**

**Recommendation:**

The LID acronym is already defined in the heading. Do not need to define it again here.

**S10.B.** *When the site is eligible for termination, the Permittee must submit a complete and accurate Notice of Termination (NOT) form...*

*The termination is effective on the thirty-first day following the date Ecology receives a complete NOT form, unless Ecology notifies the Permittee ~~within 30 days~~ that the termination request is denied...*

**Comment # 27:**

Ecology should specify how a Permittee will be notified that the NOT is considered complete and accurate. If Permittee submits a NOT and does not hear from Ecology for 31 days, the CSWGP should be considered terminated.

---

**S10.B.** *When an electronic termination form is available, the Permittee may choose to submit a complete and accurate Notice of Termination (NOT) form through the Water Quality Permitting Portal rather than mailing a hardcopy as noted above.*

**Comment # 28:**

The Port agrees that having an electronic version of the NOT is a good idea. It will streamline the termination process and eliminate the risk of NOTs getting lost in the mail, etc.

---

**G6.** *The Permittee must submit a new application... (including the discovery of contaminated soils and/or groundwater that may impact the discharge). This application must be submitted at least sixty (60) days prior to any proposed changes.*

**Comment # 29:**

Define "contaminated". Presence of "contaminated" material does not necessarily mean stormwater discharge for construction activities will be impacted. Who makes the determination that discovered contamination may impact discharge? The Permittee? Ecology?

If an application needs to be submitted 60 days prior to proposed changes, it is not practical to do so if contaminated material is discovered. Is the Permittee supposed to stop work for 60 days while Ecology reviews a modified permit application? The potential economic impacts associated with delays; work that was originally scheduled for the dry season could get pushed into the wet season, etc.

---

**G11.** *The Permittee must submit to Ecology, within a reasonable amount of time, all information that Ecology may request...*

**Comment # 30:**

Please quantify "reasonable amount of time".

**G13. Ecology may establish specific monitoring requirements in addition to those contained in this permit by administrative order (sic) or permit modification.**

**Comment # 31:**

Administrative Orders are becoming increasingly more common. Specifics about Administrative Orders—and what triggers them—is needed. Issuing Administrative Orders to projects where controlling turbidity will control pollutants defeats the purpose of having a general permit. Having contaminants onsite does not automatically qualify a site to be considered a "significant contributor of pollutants", nor will discharging stormwater from a site with contaminants automatically create a violation of water quality standards. Having contaminants onsite should not be the determining factor in issuing an Administrative Order. The Permittee should also have demonstrated that they are not complying with the intent of the permit through the improper/inadequate implementation of BMPs.

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**Appendix A Benchmark...and are not numeric effluent limitations; they are indicator values.**

**Comment # 32:**

Please define the term "indicator value" and its intended use.

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**Appendix A**

**Comment # 33:**

Please define the term "contaminated".

---

**Appendix A – Contaminant**

**Comment # 34:**

WAC 173-340-200 is not helpful in defining what contaminant means. It is a regurgitation of what is written here. More thought – and stakeholder input – is needed before this definition can be incorporated into the CSWGP.

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**Appendix A – Hazardous Substance**

**Comment # 35:**

This term is defined by reference and not helpful. Please see comment regarding "contaminant".

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### **Appendix A – Significant Concrete Work**

#### **Recommended Language:**

*Significant Concrete Work means greater than 1000 cubic yards of poured concrete, recycled concrete, or engineered soils used over the life of a project.*

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### **Appendix A – Uncontaminated**

#### **Comment # 36:**

This definition is not helpful, nor consistent with previous experience with Ecology on projects containing “contaminants”. MTCA is not necessarily used to determine whether a site is “contaminated” or “uncontaminated”. If Ecology intends to use MTCA standards for the definition of uncontaminated, they need to also use the appropriate MTCA cleanup action levels according to land use (i.e., industrial, unrestricted, etc.) and clearly state in the permit this is the standard Ecology is using.

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## **FACT SHEET COMMENTS**

**Fact Sheet** *This fact sheet (sic) explains the nature of authorized discharges, the decisions on limiting pollutants in those discharges, and the regulatory and technical bases for those decisions.*

#### **Comment # 37:**

It should be noted that the following language was modified from the 2010 Fact Sheet:

2010: "This Fact Sheet explains the nature of discharges from construction activities, Ecology's decisions on limiting pollutants in stormwater and non-stormwater from construction activities, and the regulatory and technical basis (sic) for those decisions."

2015: "This fact sheet (sic) explains the nature of **authorized discharges** (emphasis added), the decisions on limiting pollutants in **those discharges** (emphasis added), and the regulatory and technical bases for those decisions."

"Authorized discharges" is a broad term and implies that Ecology could attempt to regulate discharges outside the intent of this permit. It is important to note that the previous version specifically states that discharges are associated with construction activities. This language should remain in the current Fact Sheet as well, so as to not tempt Ecology to regulate outside parameters set by the CSWGP.

The 2015 Fact Sheet does NOT explain the changes to the permit, nor the regulatory or technical bases for those decisions. The Fact Sheet does not explain why the new language surrounding “contaminated sites” is included.

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**Fact Sheet**    *The draft CSWGP includes minor changes overall.*

**Comment # 38:**

This is not a true statement. While not many words were changed/added to the CSWGP, the implications and the potential impacts of those words to the construction and development industries will be significant.

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**Fact Sheet**    *Economic Impact Analysis*

**Comment # 39:**

The Fact Sheet states that the cost of compliance with the draft general permit is disproportionate to business size. This is now even more accurate with the inclusion of the "contaminated sites" language into the permit. Many projects may become cost prohibitive because of the restrictions Ecology will put on a Permittee, when controlling the turbidity should be sufficient to control the pollutants. The mitigation features provided in the Fact Sheet do not address the additional costs for retention, testing, treatment and disposal that would be required for "contaminated sites". If Ecology wants to include contaminated sites, the Economic Impact Analysis should include additional costs incurred by Permittees on these sites. These costs have not been properly captured by Ecology.

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**Fact Sheet**    *Numeric effluent limits are not always feasible for construction stormwater discharges as such discharges pose challenges not presented by the vast majority of NPDES-regulated discharges...*

*The variability of effluent and effectiveness of appropriate control measures make setting uniform effluent limits for stormwater extremely difficult...*

*In accordance with 40 CFR 122.44(k) and 40 CFR 122.44(s), this draft general permit includes requirements for the development and implementation of a...SWPPP along with 13 categories of BMPs...to minimize or prevent the discharge of pollutants to waters of the state. These BMPs constitute Best Conventional Pollutant Control Technology (BCT) and Best Available Technology Economically Achievable (BAT) for stormwater discharges.*

**Comment # 40:**

By issuing Administrative Orders on top of the CSWGP, Ecology has demonstrated that it is not following its own rationale for non-numeric technology-based effluent limits. If a Permittee is implementing the requirements in the permit (SWPPP, 13 Elements, BMPs, etc.), establishing numerical effluent limits are not necessary unless the Permittee demonstrates otherwise. Issuing Administrative Orders before a Permittee has the opportunity to execute BCT and BAT through BMPs is not consistent with the intent of the permit.

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## NOTICE OF INTENT COMMENTS

**NOI**            ***I. Site Information***

**Comment # 41:**

Please clarify the necessity to differentiate the types of soil disturbance? The type of construction activity is already specified. Ecology should not need this information to review the NOI.

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**NOI**            ***VI. Existing Site Conditions***  
***"Contaminated" and "contamination" here mean containing any hazardous substance (as defined in WAC 173-340-200) that does not occur naturally or occurs at greater than natural background levels.***

**Comment # 42:**

"Contaminated" and "contamination" are not well defined. Definition by reference to the WAC does not provide enough information. The inclusion of "occurs at greater than natural background" is too vague and inclusive and could lead to multiple issues. See comments regarding S2.A.1.f.

---

**NOI**            ***VI. Existing Site Conditions***  
***This information should include related portions of the Stormwater Pollution Prevention Plan (SWPPP) that describe how contaminated and potentially contaminated construction stormwater and dewatering water will be managed.***

**Comment # 43:**

The SWPPP is not required to be developed until after the permit is issued, as long as it is prior to starting construction (See NOI VII.). This language implies that a SWPPP must be written prior to the NOI being submitted. See comments regarding S2.A.1.f.iii, iv, and v.

**Recommendation:**

Remove this language from the NOI.

---

**NOI**            ***IX. Discharge/Receiving Water Information***  
***Location of Outfall into Surface Waterbody***  
***Include the names and locations of both direct and indirect discharges to surface waterbodies, even if the risk of discharge is low or limited to periods of extreme weather.***

**Comment # 44:**

The language added to this sentence (...even if the risk of discharge is low or limited to periods of extreme weather) is not needed. All known discharge points should be included in the NOI already. If extreme weather creates a new discharge point, the WQWebDMR system allows for new discharge points to be added if need be. This should be sufficient in the event of extreme weather.

---

**NOI**            ***IX. Discharge/Receiving Water Information  
Location of Outfall into Surface Waterbody  
If the site discharges to a stormwater conveyance system that in turn flows to a surface waterbody, include the surface waterbody name and location.***

**Comment # 45:**

This could be misinterpreted if not familiar with what Ecology is requesting. The language indicates Ecology requests both the conveyance system and the waterbody.

**Recommended Language:**

*If the site discharges to a stormwater conveyance system that in turn flows to a surface waterbody, use the surface waterbody name and location, not the conveyance system.*

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**NOI**            ***XI. Other Ecology National Pollutant Discharge Elimination System (NPDES) and/or State Waste Discharge Permits***

**Comment # 46:**

This is not necessary to issue a CSWGP. Additionally, Ecology should use their own database (PARIS) if they want to know whether a site has coverage under another Ecology-issued permit.

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## **GENERAL COMMENTS**

**Comment # 47:**

Section 6.3 (Public Process) of the Permit Writer's Manual lists several options to engage the public during the permit writing stage. The third bullet reads as follows:

- *Stakeholder advisory group – Consider the need for stakeholder involvement (e.g. technical, implementation issues). Discuss these with your supervisor and PIO.*

Ecology should clarify why there was no stakeholder group formed during the permit update process. The Fact Sheet should specify why Ecology did not think a stakeholder group was necessary. This permit update was made in a vacuum. There were no stakeholder groups, or review panel discussions or meetings available to interested parties prior to the draft permit being issued for public comment.



It was brought to the Port's attention during one of the workshops that only one person would review all the comments submitted to Ecology for the draft CSWGP. The only reviewer is also the permit writer. This appears to be a conflict of interest. Comment review should have an objective perspective for a permit that has statewide implications. Section 6.3 of the Permit Writer's Manual indicates that a team of people should review comments:

- *Schedule time for review of the RTC by any internal team who contributed to the permit, your supervisor, and legal review if necessary.*
- 

**Comment # 48:**

The majority of pollutants that are encountered during construction projects are tied to sediment. By controlling the turbidity, a Permittee is effectively controlling the pollutants. Additional Administrative Orders and other restrictions should not be issued simply by the presence of a pollutant. Ecology's approach to controlling contaminants in surface water runoff in the Industrial Stormwater General Permit is to control the solids – which is monitored through benchmarks of turbidity and total suspended solids. The CSW group should use the same approach so Permittees that have multiple permits on one site can rely on one standard in which to plan and implement their BMPs.

Potential water quality violations cannot be determined simply by what is present in the soil. Ecology cannot reasonably make a correlation between pollutant(s) in the soil with what will actually mobilize when coming into contact with stormwater. At the very minimum, it can be determined that only a fraction of what is in the soil may mobilize during a storm event. This means that even if pollutant concentration levels are above a cleanup standard in the soil, a water quality violation is unlikely if a Permittee is implementing the proper BMPs.

---

**Comment # 49:**

Ecology must create consistent criteria for establishing constituents of concern. If there is not a previously known source of a contaminant (i.e., historical land uses, etc.) on a site, there should be no reason to arbitrarily create restrictions. Natural fluctuations of pollutants occur throughout the region. Pollutants naturally occur in elevated "hot spot" concentrations and should not necessarily be regulated simply because they are present.

The permit writer(s) have been unresponsive when asked direct questions surrounding the definition of contaminated sites, and the new language in the permit is vague and highly subjective. Consistent, quantifiable (where appropriate) definitions and justifications should be mandatory as part of a permit update.

---

**Comment # 50:**

Ecology's CSW Group is interjecting influence into an arena already regulated by MTCA and TCP. If there are concerns regarding stormwater quality on "contaminated" sites, the two groups should work together during the planning process and incorporate stormwater conditions into the DCAP. Applicants and Permittees should not be forced to duplicate efforts for the same agency because of a lack of internal communication between groups.

## Conclusion

The Port of Tacoma appreciates the opportunity to provide comments to Department of Ecology on the Draft Construction Stormwater General Permit. The Port and Ecology have worked together over the years on many permits. We believe that has been a very productive collaboration and we look forward to future collaborative efforts associated with the CSWGP.

Ports are unique and challenging in that the facilities are generally large, paved, and flat; have large tidal changes; and are very near the receiving water. The Port of Tacoma understands the difficult balance of managing stormwater, improving water quality and maintaining the economic viability of our port. Empty terminals will be good for neither the local communities, the state, nor water quality.

Respectfully,



Anita Fichthorn  
Water Quality Project Manager

CC: Dakota Chamberlin, Port of Tacoma  
Jason Jordan, Port of Tacoma  
Tony Warfield, Port of Tacoma  
Rob Healy, Port of Tacoma  
Gerry O'Keefe, WPPA  
Deborah Cornett, Department of Ecology  
Rich Doenges, Department of Ecology

CSWGP – Hearing Comments – August 5, 2015

My name is Jen Stebbings. I'm with the Port of Tacoma. I guess my testimony is just a series of questions.

So, question number one – What is Ecology's definition of contaminated soil and/or contaminated groundwater? Question number two is – Who will be reviewing and responding to comments submitted? And question number three is – In the 2014 Industrial Stormwater Permit update, Ecology added TSS as a benchmark, essentially saying "control the solids, control the pollutants." Since the construction stormwater general permit is considered a temporary, short term permit, why is the construction stormwater group, not using the same approach on sites that are considered contaminated?



July 27, 2015

Amy Moon  
Water Quality Program  
Department of Ecology  
PO Box 47696  
Olympia, WA 98504-7696

RE: Port of Vancouver USA Comments on the Draft National Pollutant Discharge Elimination System Construction Stormwater General Permit

Dear Ms. Moon:

The Port of Vancouver USA (port) would like to provide comment on the draft National Pollutant Discharge Elimination System (NDPES) 2016 -2021 Construction Stormwater General Permit (CSWGP, draft permit) released for comment July 1st, 2015. The port takes environmental stewardship seriously, and it is our commitment to strive for programs and policies that allow nature and industry to successfully coexist. Thank you for the opportunity to review and comment on the draft permit and we look forward to the response to comments for further clarification.

- Fact Sheet - Fact sheets accompany draft permits to record how the permit writer derived requirements. Federal and state laws require fact sheets to describe the proposed discharge, Ecology's decisions on limiting pollutants, and the regulatory and technical basis for decisions. The Fact Sheet does not explain why the new language surrounding "contaminated sites" is included. The new language is vague and requires further explanation and clarification in both the fact sheet and corresponding draft permit.
- S1.B.2.c – The port suggests including geotechnical and archaeological investigations with activities that are not required to seek coverage under the draft permit. These types of investigations need to happen early in the design phase before construction begins and typically have minimal impacts and therefore should be exempt.

- S2.A.1.c – Currently, applicants are not notified that their application is complete. If an applicant does not hear from Ecology within 31 days of the 2nd public notice, they assume they are covered under the permit and start work. The port recommends Ecology establish a response time to inform the applicant whether the NOI is complete or not. PARIS is not a reliable source to determine if Ecology deems the application complete. The draft permit should be revised to include the following language: Ecology shall respond to the applicant within seven (7) business days following the date of the second Public Notice to notify whether the application is considered complete. Unless Ecology responds to the complete application in writing, based on public comments, or any other relevant factors, coverage under the general permit will automatically commence on the thirty-first day; unless Ecology specifies a later date in writing within the 30-day comment period.
- S2.A.1.f – The port requests Ecology define “contaminated soils and/or groundwater”. Without a quantifiable definition of what Ecology considers to be “contaminated”, any site with above natural background levels could be considered contaminated. Furthermore, the presence of a contaminant does not necessarily mean a site as a whole is contaminated. Some areas have naturally occurring concentrations of contaminants that are above “natural background”.
- S2.A.1.f – The draft permit does not include an Ecology timeframe for the new review process of applications of construction sites with known contamination. This failure to establish a proper review time for Ecology could result in major unnecessary delays (i.e. it recently took Ecology over 5 months to review a construction application for a rain garden). The port also suggests an expedited review process for sites that have already gone through an Ecology-approved clean-up process or have approved Restrictive Covenant Master Plans.
- S2.A.1.f.i - Listing all known contaminants is excessive and reinforces the ideology that presence of a contaminant equates to site wide contamination. Presence of contaminants does not mean the soil and/or groundwater is “contaminated”. Having a consistent definition of what “contaminated” means allows applicants to prepare a NOI that is accurate and complete prior to submittal.
- S4.B.2 – The port requests clarification for reduced inspection frequency. Does the reduced frequency begin upon the day of stabilization or does the permittee need to wait until the Permit Fee Activity Status Change form has been processed by the fees department?

S9.D.5 – The port recommends Ecology consider alternative stabilization requirements for fill sites. Fill projects that are phased over several years due to coordination of favorable weather conditions and availability of local fill make scheduling and stabilization much more dynamic than planned construction projects. For example, a recent port fill project received fill from different local projects at various times so even though the project may have appeared inactive at times additional fill was scheduled to be delivered shortly thereafter; therefore, continuously spending time and money to stabilize when additional fill is scheduled to be received is neither applicable nor practical especially where there aren’t any discharges leaving the site. The port

suggests fill sites have a stabilization schedule of completion of fill or if discharge above benchmarks.

- G.3.C – The port requests clarification of Ecology’s “Right of Entry” and Ecology’s proper regulatory inspection notification procedures. From a safety point of view, the port is a heavy industrial area with large equipment, rail traffic, and other industrial activities along with complex national security requirements. An unescorted visitor, no matter his/her level of experience, may not be aware of the danger inherent in some areas of the port. The port requests that Ecology inspectors notify port staff or port tenants upon entry to ensure safe working conditions.
- G.6 – The port requests additional clarification as to who makes the determination that discovered contamination may impact discharge? The 60 day timeframe for reporting a modification prior to proposed changes is not practical. Due to potential economic impacts associated with delays; work that was initially intended for dry season getting pushed into wet season, the port requests additional contamination clarification and suggests reducing the time frame to 30 days.
- Appendix A – Definitions:
  - The definition for benchmark includes the term indicator value. Please define indicator value.
  - Please include a definition for “contaminated”.
  - WAC 173-340-200 is not helpful in defining what contaminant means. Port recommends Ecology develop a guidance document that includes most commonly encountered “contaminants” and concentrations that would trigger “contaminated” soil/groundwater.
  - Hazardous substance is mostly defined by reference. It would be very helpful for Ecology to also include definitions.
  - The definition for uncontaminated is not helpful. If Ecology intends to use MTCA standards for the definition of uncontaminated, they need to also use the appropriate MTCA cleanup action levels according to land use (i.e., industrial, unrestricted, etc.).

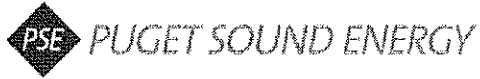
Sincerely,



Phillip Martello  
Environmental Specialist  
Port of Vancouver, USA

Cc: Matt Graves, Monty Edberg, Patty Boyden – Port of Vancouver





August 7, 2015

Amy Moon  
Water Quality Program  
Washington State Department of Ecology  
P O Box 47696  
Olympia, WA 98504-7696

RE: PSE Comments on 2016 Construction Stormwater General Permit

Dear Amy:

Thank you for a final opportunity to comment on the new draft of the Construction Stormwater General Permit (CSWGP). I have reviewed the new permit and noted a few positive changes, including the updated signatory requirements. This update is a significant improvement over the current process and much appreciated.

Puget Sound Energy has been a frequent applicant under the current CSWGP, and we have worked closely with you and other Ecology staff to ensure compliance with permit conditions. We have also voiced concern over shortcomings in the way the current permit is applied to public right-of-way and highway projects that are considered "common plan of development". It does not appear that the new permit addresses two of our key concerns, which include:

- Duplicative public noticing requirements that increase the cost and can delay the completion of publicly funded road improvements
- Application of the full CSWGP process to minor utility adjustments that generate very little additional stormwater runoff and have very low potential for contaminant discharge, yet are considered part of a common plan of development on road improvement projects

**Public Notice**

In most instances state and local road improvement projects will go through environmental review under the State Environmental Policy Act, which includes a public comment period. In addition, public notice is required under WAC 173-226-130 (5) to cover the road construction activities under the CSWGP. There is little value added in providing further public notice by multiple utility companies – each requiring separate coverage under the CSWGP – when they adjust their facilities to accommodate the road construction. We encourage the Department of Ecology to review the number of instances that public comments have been submitted utility relocation that is part of a common plan of development, and reconsider the requirements accordingly.

**Recommendation:** Provide guidance on how noticing requirements apply to common plan of development work, with an emphasis on eliminating the need for additional notice on projects that have overlapping disturbance limits and where the potential for additional stormwater runoff is low.



**Minor Utility Adjustments**

As the current permit is written and enforced, utilities must apply for coverage for any construction activities needed to correct utility conflicts. This one-size-fits-all approach binds utilities to a permit process that takes a minimum of 65 days to complete; which is typically longer than the total time necessary for utilities to complete their work. In the case of projects that require minimal utility adjustments or short notice to complete the relocation, a more flexible approach is needed. PSE requests that further consideration be given to this issue and that Ecology develop a streamlined approach for "de minimis" utility work performed as part of a common plan of development.

**Recommendation:** Please refer to the attached document for recommendations and more background information.

Thank you for your continued involvement in the update process and for your consistent support when questions arise. We look forward to finalizing the update process and any responses you have to our comments. If you need further information or wish to discuss this further, please contact me at (425) 462-3805, or [elaine.babby@pse.com](mailto:elaine.babby@pse.com)

Regards,



Elaine Babby  
Senior Land Planner

Attachment

## PSE Comments

### 2015 Construction Stormwater General Permit Update

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- The Construction Stormwater General Permit (CSWGP) should be streamline for ‘Common Plan of Development’ work that requires utility relocation work (e.g., street widening, sidewalks, bridges, etc.)
  - The current permit process does not support the timely response of utilities to address conflicts during road improvements. Conflicts often develop suddenly and can require quick response; otherwise safety issues and delay of publicly funded projects can result. The 65+ day process to obtain CSWGP coverage does not allow utilities to meet this obligation.
  - Generally, utility relocation work disturbs small areas compared to the road improvements
- Consider add a definition in the CSWGP for Public Improvement project, which can be the basis for a more streamlined process for coverage. The public agency responsible for the road improvement may choose to grant a partial transfer to utilities. Otherwise,
- Consider developing a programmatic or blanket permit for utility work, similar to the Georgia approach which identifies primary, secondary and tertiary permittees.
- Publish an FAQ for utility relocation work on public improvement projects

### Background information

#### Disturbance for setting utility poles

Disturbance Area	3' (hole)	6' (hole + shoulder)	15 Poles (19.6 each)
Sq. Ft. Disturbance	7.1	19.6	294
<b>Percentage of 1 acre</b>	<b>0.00016</b>	<b>0.0005</b>	<b>0.0067</b>

#### Trenching (assumes spoils are removed from site)

Trench Width (feet)	1.5	2	2.5	3
Sq. Ft. Disturbance / 100' Trench	150	200	250	300
<b>Percentage of 1 acre</b>	<b>0.0034</b>	<b>0.0046</b>	<b>0.0057</b>	<b>0.0069</b>

#### Excavation for placing a vault

Placement of Utility Vault (size)	6' x 6'	6' x 10'	8' x 12'
Excavation Area	36	60	96
Sq. Ft. Disturbance (1' larger all sides)	64	88	140
<b>Percentage of 1 acre</b>	<b>0.0015</b>	<b>0.0020</b>	<b>0.0032</b>

Denis Law  
Mayor

City of  
**Renton**



August 10, 2015

Public Works Department - Gregg Zimmerman, P.E., Administrator

Ms. Amy Moon  
Water Quality Program  
Department of Ecology  
PO Box 47696  
Olympia, WA 98504-7696

**RE: Comment on Proposed Amendments to the Existing Construction Stormwater General Permit (CSWGP)**

Dear Ms. Moon:

Recently, the Washington State Department of Ecology (Ecology) has issued its draft Construction Stormwater General Permit (CSWGP) that will replace the existing CSWGP set to expire on December 31, 2015. As Ecology is currently accepting public comments on this draft permit through August 10, 2015, we would like to formally comment on one of the proposed amendments to the existing permit.

In Section S2 (Application Requirements) of the special conditions, part 1(f) has been added to the draft CSWGP. This new part requires that "applicants must notify Ecology if they are aware of contaminated soils and/or groundwater associated with the construction activity." The word "aware" is vague in this instance. As it is unclear what constitutes awareness of contamination, we suggest modifying part 1(f) of Section S2 to require notifying Ecology of any sites currently listed on any of Ecology's searchable databases. This would provide a more concrete requirement for what potential sources of contamination should be included with the Notice of Intent (NOI).

In addition, the term "contaminated" is also vague. While "contaminant" is defined as "any hazardous substance that does not occur naturally or occurs at greater than background levels" on page 55 of the draft CSWGP, this definition is dependent on the fact that background levels of any potential hazardous substances are readily available information. We suggest that the use of "contaminated" in part 1(f) of Section S2 be amended to include only those hazardous substances that are above Model Toxics Control Act (MTCA) cleanup levels. As Ecology's searchable databases provide data on whether or not known contaminated sites are above MTCA cleanup levels, this would provide a more concrete benchmark for what sites of known contamination should be reported with the NOI.

Sincerely,

A handwritten signature in black ink, appearing to read 'Douglas Jacobson', written over a printed name.

**Douglas Jacobson, P.E.**

*Deputy Public Works Administrator*

Department of Public Works – Transportation Systems Division  
(425) 430-7242 | [DJacobson@Rentonwa.gov](mailto:DJacobson@Rentonwa.gov)

**From:** [Pete](#)  
**To:** [ECY\\_RE\\_CSWGPComments](#)  
**Subject:** Draft 2016 Construction Stormwater General Permit (NPDES) comments  
**Date:** Thursday, August 6, 2015 12:13:46 PM

---

Hello, I have some comments to share below on the Draft 2016 Construction NPDES permit.

Reference section S8.A.1 - An NPDES NOI received an inquiry from a Ecology Permit Administrator on the plan to control construction stormwater discharge to a waterbody impaired by temperature? It was explained to the Ecology representative, temperature is not listed as a parameter we need to be concerned with per section S8.A.1. To satisfy Ecology request, the applicant was able to plug the outfall location for the project duration to ensure no discharge from the site. With this improvement, the applicant requested their NPDES NOI be rescinded since the project would not discharge construction stormwater to surface waters. The rescinded request was granted by Ecology. Recommend that even though the current NPDES permit identifies additional monitoring requirements for construction stormwater discharges to impaired waterbody listed for fine sediment, high pH, turbidity or phosphorous that temperature be added to that list. Plus, more guidance should be added to help the applicant be aware that other water quality impairments may be applicable to a project.

Reference section S9.B.1.f - Recommend further information be added in the permit to what is expected to be included for the engineering calculations? Do the calculations need to be stamped by a Professional Engineer and included in the SWPPP or TESC plan?

Reference section S9.D.5 - I have seen many construction sites where construction stormwater ponds up onsite and remains there with nowhere to go but infiltrate without a means of entering surface waters of the State. With these sites, plastic cover is the typical temporary BMP of choice to cover disturbed soils to satisfy either the 2 or 7 day coverage rule. The use of plastic cover can be helpful, but at the same time it is harmful to the environment especially in large quantities in our landfills where it ends up not decomposing for a very long time. Instead of covering exposed soils with plastic cover, I recommend Ecology inspect only the outfalls to where construction stormwater discharges to. If compliant with the permit, but a mud bath or eroding within its construction perimeter (for example), that condition should not be regulated under the permit. The construction stormwater discharge points where construction stormwater enters surface waters of the state should be the inspected regulated points of compliance. If this sustainable recommendation is considered, at a minimum a temporary perimeter BMP should be in place unless treatment through native vegetation is selected as the bests BMP strategy of choice.

Thank you,

Peter Rinaldo Jr.  
13110 SE 95th Way  
Newcastle, Wa 98056-2404

**From:** [Yoshida, Megan](#)  
**To:** [ECY RE CSWGPComments](#)  
**Cc:** [Moon, Amy \(ECY\)](#)  
**Subject:** CSWGP public comments  
**Date:** Friday, August 7, 2015 2:49:06 PM

---

Good afternoon,

I have one comment on the proposed changes to the draft CSWGP:

1. In S2, there are additional requirements for sites with potentially contaminated soil and/or groundwater. For contract work, the environmental lead on the project acquires the CSWGP and it is transferred to a contractor once a contractor is selected. Therefore, the SWPPP and other plans are not yet developed during the NOI; the contractor submits them much later. Can you please elaborate on the detail of information you're requiring for additional information? What is the extent of your requirements for the NOI if a SWPPP, TESC plan, and/or Dewatering plan aren't developed during the NOI application?

Thank you!

**MEGAN YOSHIDA**  
**SEATTLE CITY LIGHT**  
**ENVIRONMENTAL AFFAIRS & REAL ESTATE**

[megan.yoshida@seattle.gov](mailto:megan.yoshida@seattle.gov)

TEL (206) 733-9978 CELL (585) 303-6858

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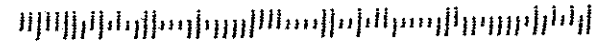
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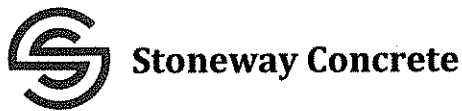


ZIP 98108  
011D11639793

Washington State Department of Ecology  
Attn: Amy Moon, Water Quality Program  
P.O. Box 47696  
Olympia, Washington 98504-7600

98504-7600





WATER QUALITY PROGRAM  
DEPARTMENT OF ECOLOGY

AUG 13 2015

August 10, 2015

Washington State Department of Ecology  
Attn: Amy Moon, Water Quality Program  
P.O. Box 47696  
Olympia, Washington 98504-7600

**Subject:** Stoneway Concrete's comments on the draft of the proposed changes for the Construction Stormwater General Permit to be reissued January 1, 2016.

Dear Ms. Moon,

Stoneway Concrete greatly appreciates the opportunity to provide comments on the Department of Ecology's newest draft of the Construction Stormwater General Permit to be reissued January 1, 2016. Stoneway Concrete would like to respectfully submit the following comments:

**Comment #1:**

**Stormwater Associated with Construction Support Activity (S1.C.2)** – It appears that on-site portable rock crushers have been redlined within the examples of authorized stormwater discharges from support activities related to permitted construction sites. Stoneway Concrete questions why an onsite portable rock crusher has been removed from this example list? Are stormwater discharges associated with onsite portable rock crushers still authorized under this permit? If not, what is Ecology's justification for this change?

**Comment #2:**

**Authorized Discharges – Non-Stormwater Discharges (S1.C.3.i)** – This permit authorizes "Uncontaminated water used to control dust. Permittees must minimize the amount of dust control water used." However, the supporting paragraph at the bottom of S1.C.3 states, " ...At a minimum, discharges from potable water...must undergo the following: dechlorination to a concentration of 0.1 parts per million (ppm) or less, and pH adjustment to within 6.5-8.5 standard units (su), if necessary. It is Stoneway Concrete's opinion that this dechlorination requirement should not be required for dust control water. If dust control is necessary, conditions are certainly hot and dry enough to a point where there is not a significant threat for the release of large amounts of chlorine to waterbodies from dust control water. Moreover, potable water from municipal sources contains a residual level of chlorine to control bacterial growth. The residual level is extremely low and not a concern to water quality.

Potable water is most often the only source of water available at jobsites and it is unrealistic to impose significant restrictions on this use of this water.

Additionally, S9.C.1 Stormwater Best Management Practices (BMP) states that “BMP’s must be consistent with: Stormwater Management Manual for Western Washington (most current approved edition at the time this permit was issued,) for sites west of the crest of the Cascade Mountains.” In the 2012 version of Stormwater Management Manual for Western Washington there is no requirement and/or mention of dechlorinating the water used for application of this BMP. The language related to chlorinated potable water should be removed from the permit.

**Comment 3:**

**Application Requirements (S2.A.1.f)** - Stoneway Concrete is concerned about the logistical feasibility as well as the actual intent behind of the new S2.A.1.f requirement. S2.A.1.f obligates applicants to notify Ecology as a part of the NOI if they are aware of contaminated soils and/or groundwater associated with the construction activity. Ecology also requires that applicants include detailed documentation such as a TESC Plan, SWPPPs, dewatering plans and/or sampling results. However, contractors/owners generally do not have this type of detailed information available at the time of application. Contractors generally receive sampling results and devise a plan and move forward with excavations within a matter of days if not hours. As such, Ecology’s timelines for reviewing and processing the information regarding contaminated materials is unreasonable. Thus, if the S2.A.1.f requirement remains as a part of the application process; it has the potential to create significant problems in the form of further complicating and delaying an already long and over burdensome process.

Additionally, Ecology has not defined a threshold as to what is/isn’t considered contaminated soils. Will MTCA Method A be the trigger? Contamination is present on 80+ percent of all urban jobs. Contractors are well versed in handling these materials in a manner that is efficient and protective of waters of the state. Why is Ecology now emphasizing its regulation of these materials? Is there any scientific basis or justification indicating that the remediation of contamination is a significant source of pollutants to waters of the state? Stoneway Concrete respectfully requests that this section of the regulation should be removed.

**Comment #4:**

**Recycled Concrete Sampling (S4.D.2)** - The new requirement that the permittee must begin weekly pH monitoring when the recycled concrete is first exposed to precipitation and must continue until the recycled concrete is fully stabilized and stormwater pH is in the range of 6.5 to 8.5 (SU) is ambiguous and poorly written. What does Ecology mean by recycled concrete being fully stabilized? Ecology should re-consider language in this section.

**Comment #5:**

**“Prevent contamination of stormwater runoff by pH-modifying sources” (S9.D.9.f)** this requirement is overly burdensome on permittees and unnecessary. Permittees should not be required to prevent contamination of stormwater runoff by pH-modifying sources. There are many common best



management practices (BMPs) currently implemented in the field such as containment by berms, grade/elevation changes, portable storage tanks, treatment devices as well as sewer discharge permits, which are used to manage and contain stormwater that has come in contact with such materials to prevent a discharge that does not meet benchmark values set forth by this permit. As long as stormwater is managed in such a way that it successfully meets these benchmarks, permittee should not be subjected to a requirement to prevent stormwater runoff water from coming into contact with sources of pH.

**Comment #6:**

**Adjust the pH of stormwater or authorized non-stormwater if necessary to prevent an exceedance of groundwater and/or surface water quality standards. (S9.D.9.g)** Why did ecology insert "groundwater" into this requirement? This is the only place in the entire permit where groundwater quality standards are discussed. The permit has historically discussed surface waters or waters of the state; it does not specifically regulate nor discuss ground water. It is inappropriate and unprofessional for Ecology's permit writer to insert the reference to groundwater solely "because she wanted to" (Ms. Moon's comment during South Seattle Community College Information Session). This language should be removed and the existing permit should be retained.

**Comment #6**

**Washout Areas. S9.D9.h** states that "assure that wash out of concrete trucks is performed off-site or in designated concrete wash out areas only. Do not wash out concrete trucks or concrete handling equipment onto ground, or in storm drains, open ditches streets, or streams." However, this requirement is not consistent with what is stated in the most current 2012 version of the Stormwater Management Manual for Western Washington for BMP C154: Concrete Washout Area. Under the conditions of use, it states that "if less than 10 concrete trucks or pumpers need to be washed out on-site, the wash water may be disposed in a formed area awaiting concrete..." The ability to washout concrete truck chutes is a critical function of jobsites. There are limited options for washing out concrete truck chutes and the option of washing into formed areas is critical to ensure smooth jobsite operation. Areas which are formed and set to be paved, receive very little washout water. The small amount of washout water (which has an elevated pH) has no proven impact on groundwater. Stoneway Concrete requests that this provision be re-written to maintain the established protocols for jobsite washout.

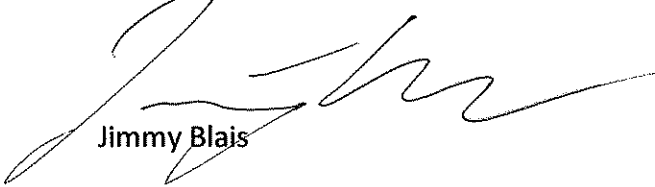
**Comment #7:**

**Reporting a cause for modification (G6) Contractors** should not have to report to Ecology every time there is a discovery of contaminated soils and/or groundwater that may impact the discharge. This is an overly burdensome requirement and opens the contractor to untold liability. Contamination on jobsites is encountered on a daily basis. Contractors are well versed in identifying and dealing with contamination and should not have to report every time they hit an unforeseen pocket of contaminated materials. Also the reporting trigger is unclear. What does Ecology define as contamination? Method A levels? Anything above background

levels? Any staining or odor? This requirement would cause undue harm to contractors due to the amount of time necessary to constantly report contaminated materials to Ecology.

Thank you for your consideration of these comments. Please feel free to contact me directly should you have any questions.

Thank you,

A handwritten signature in black ink, appearing to read 'Jimmy Blais', written in a cursive style.

Jimmy Blais

**Stoneway Concrete**

9125 10th Avenue South

Seattle, WA 98108

Ofc 206-762-9125/ Fax 206-763-4178/ Cell 206-255-5153

[JBlais@gmccinc.com](mailto:JBlais@gmccinc.com)



1104 Maple Street, Sumner WA 98390

**PUBLIC WORKS DEPARTMENT**

Suite 260

253-299-5700 Fax: 253-299-5539

August 10, 2015

Water Quality Program  
Department of Ecology  
PO Box 47696  
Olympia, WA 98504-7696

To whom it may concern:

Recently the Washington State Department of Ecology (Ecology) has issued its draft Construction Stormwater General Permit (CSWGP) that will replace the existing CSWGP set to expire on December 31, 2015. As Ecology is currently accepting public comments on this draft permit through August 10, 2015, we would like to formally comment on one of the proposed amendments to the existing permit.

In Section S2 (Application Requirements) of the special conditions, part 1(f) has been added to the draft CSWGP. This new part requires that “applicants must notify Ecology if they are aware of contaminated soils and/or groundwater associated with the construction activity.” The word “aware” is vague in this instance. As it is unclear what constitutes awareness of contamination, we suggest modifying part 1(f) of Section S2 to require notifying Ecology of any sites currently listed on any of Ecology’s searchable databases. This would provide a more concrete requirement for what potential sources of contamination should be included with the Notice of Intent (NOI).

In addition, the term “contaminated” is also vague. While “contaminant” is defined as “any hazardous substance that does not occur naturally or occurs at greater than background levels” on page 55 of the draft CSWGP, this definition is dependent on the fact that background levels of any potential hazardous substances are readily available information. We suggest that the use of “contaminated” in part 1(f) of Section S2 be amended to include only those hazardous substances that are above Model Toxics Control Act (MTCA) cleanup levels. As Ecology’s searchable databases provide data on whether or not known contaminated sites are above MTCA cleanup levels, this would provide a more concrete benchmark for what sites of known contamination should be reported with the NOI.

Sincerely,

Donnelle Dayao  
Associate Engineer

August 10, 2015

Amy Moon  
Department of Ecology  
P.O. Box 47696  
Olympia WA 98504-7696

Sent electronically to [cswgpccomments@ecy.wa.gov](mailto:cswgpccomments@ecy.wa.gov)

Dear Ms. Moon,

Thank you for the opportunity to review and comment on the Draft Construction Stormwater General Permit (CSWGP or permit). Regulatory efficiency and outcomes are strengthened through the public review of draft rules, including the updated CSWGP. Our comments are intended to be constructive and to result in an improved permit prior to its issuance by the Department of Ecology.

The Washington Public Ports Association (WPPA) represents port districts throughout the State of Washington. The mission of our members, established by the legislature, is to provide jobs, move cargo and take other actions to enhance the economic competitiveness of our state. In pursuit of this mission, our members are regularly engaged in construction and infrastructure improvements on their properties.

WPPA offers the following comments for your consideration which show the current draft permit language, Notice of Intent (NOI), and Fact Sheet as bold and italicized; WPPA comments and recommendations are provided immediately following the current draft permit language.

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## DRAFT CONSTRUCTION STORMWATER GENERAL PERMIT COMMENTS

***S1.B.1.a. Clearing, grading, and/or excavation that results in the disturbance of one or more acres (including off-site disturbance acreage authorized in S1.C.2.)...***

### **Comment # 1:**

Clearing is removing vegetation to ground level; it should not be considered ground disturbance. Often vegetation (e.g., bushes, forbs, etc.) has to be removed to create staging areas but the ground itself isn't disturbed.

The addition of "including off-site disturbance acreage" is superfluous since it is already covered in S1.C.2. Staging areas, material storage areas, etc. are already considered part of the project site, regardless of location. The creation of a new term, "Off-site disturbance acreage," could have implications for Permittees who use property not associated with the project but may stockpile soil or other materials for other projects.

**Recommendation:**

- Change the permit language from “clearing” to “grubbing” because grubbing indicates ground disturbance, or define "clearing" in "Appendix B - Definitions" to specify that "clearing" must include soil disturbance to qualify as disturbance acreage.
- Remove “(including off-site disturbance acreage authorized in S1.C.2.)” from the Permit.

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**S1.B.1.b.i. *Determines to be a significant contributor of pollutants to waters of the State of Washington.***

**S1.B.1.b.ii. *Reasonably expects to cause a violation of any water quality standards.***

**Comment # 2:**

Ecology should clearly identify what criteria the Department will use to determine a "significant contributor of pollutants" and define the individuals or agency contact who is responsible making the determination.

Ecology is also obligated to make notifications to a property owner that their site is considered a "significant contributor of pollutants" prior to an applicant submitting a NOI.

Define what a reasonable expectation is, that a project may cause a violation of **any** water quality standard. Recommend to replace "any" with "appropriate". The lack of a definition is especially troubling.

If the project is less than an acre and/or stormwater will not be discharged to surface waters or a storm system, a NOI typically will not be submitted. Ecology must clarify how the Department declares a "significant contributor of pollutants" if no NOI is submitted.

Overall, WPPA is concerned that the current draft permit language creates significant uncertainty for developers that can be avoided through more careful, specific written language.

**Recommended Language:**

**S1.B.1.b.i. *Has previously declared the site to be a known significant contributor of pollutants to waters of the State of Washington.***

**S1.B.1.b.ii. *Expects to cause a violation of a previously established site-specific water quality standard.***

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**S1.D.7. *Wheel wash wastewater, unless discharged according to Special Condition S9.D.9.***

**Recommendation:**

Replace “*discharged*” with “*managed*” to remain consistent with language in S1.D.4.

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**S2.A.1.b. *Permittees unable to submit electronically (for example, those who do not have an internet connection) must contact Ecology to request a waiver and obtain instructions on how to obtain a paper NOI.***  
<http://www.ecy.wa.gov/programs/wq/stormwater/construction/index/html>.

**Comment # 3:**

WPPA recommends moving the link to earlier in the paragraph. As written, it is confusing and could easily be interpreted by those applicants who can't submit electronically that they must go to the Ecology website to obtain a waiver.

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**S2.A.1.c. *Unless Ecology responds to the complete application in writing, based on public comments, or any other relevant factors, coverage under the general permit will automatically commence on the thirty-first day...***

**Comment # 4:**

Currently, applicants are not notified if the application is complete. If an applicant does not hear from Ecology within 31 days of the second public notice, they assume they are covered under the permit and start work. The ambiguity this creates can result in an applicant being out of compliance without knowing it.

In order to establish a fully functioning permit system that is reasonably accepted by the regulated community, Ecology must close this regulatory sinkhole. This can be accomplished by establishing a response time that requires Ecology staff to inform each applicant regarding the status of the NOI in a timely manner. At present, PARIS is simply not a reliable source to determine if Ecology deems the application complete.

**Recommended Language:**

*Ecology shall respond to the applicant within seven (7) days providing notice of application status (complete or incomplete). Unless Ecology responds to the complete application in writing that includes an effective date for completed applications, based on public comments, or any other relevant factors, coverage under the general permit will automatically commence on the thirty-first day.*

WPPA wishes to emphasize the importance of the integrity of the regulatory system Ecology administers. Ambiguity and uncertainty, intentional or otherwise, undermines public support for the system as a whole.

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**S2.A.1.f. *Applicants must notify Ecology if they are aware of contaminated soils and/or groundwater associated with the construction activity. Provide detailed information with the NOI (as known and readily available) on the nature and extent of the contamination (concentrations, locations, and depth), as well as pollution prevention and/or treatment BMPs proposed to control the discharge of soil and/or groundwater contaminants in stormwater.***

**Comment # 5:**

Define “*contaminated soils and/or groundwater*”. Without a quantifiable definition of what Ecology considers contaminated, **any** site with above natural background levels of a contaminant could be considered contaminated (i.e., any urban area within Puget Sound and many other regions). Presence of a contaminant does not necessarily mean a site is contaminated. Some areas have naturally occurring concentrations of contaminants that are above “natural background”. Ecology must determine what sites should be deemed “contaminated” prior to submitting a NOI. It should not be left up to the applicant to make the determination as to whether a site should be considered contaminated.

Define “*readily available*”. What if data exist but are not “readily available”? What if contamination is suspected but there are no data? This goes back to the point that an applicant should not be making the “contaminated site” determination.

Contamination may be present within the project area but located outside the ground disturbance area (e.g. an already stabilized staging area, etc.); Ecology should only need to be informed of contamination that is within the soil disturbance area.

WPPA is deeply concerned that the proposed draft permit language in this section goes beyond the intent of Ecology’s construction stormwater mandate. In addition, the proposed language only adds to existing confusion, potential legal liabilities, and project delays. We read the draft language to mean that Ecology could issue Administrative Orders prior to any proof that water quality standards have been violated—or an immediate concern that they could be violated due to a Permittee’s neglect. If this is the correct reading, the language should be deleted from the permit.

**Recommendation:**

Remove S2.A.1.f. from the Permit.

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**S2.A.1.f.i.     *List or table of all known contaminants with laboratory test results showing concentrations and depth,***

**Comment # 6:**

Requiring applicants to list **all** known contaminants, regardless of concentration is excessive and unnecessary. This reinforces the ideology that presence equates contamination. “Contaminant” has not been properly defined. Having a consistent definition of what “contaminated” means will allow applicants to prepare a NOI that is accurate and complete prior to submittal.

Sites that have contaminants at concentrations higher than the appropriate cleanup level should already be on Ecology’s radar (i.e. MTCA cleanup sites, etc.). Ecology programs should coordinate with one another during DCAP development so stormwater considerations can be addressed during the implementation of the plan and the CSWGP can remain a “general permit”.

WPPA questions the purpose of this section. Why is comprehensive information necessary to protect water quality? While it may be needed in the case of high levels of contamination that are known in advance of Permittees, it is hard to imagine the public benefit of the costs associated with testing for "all known contaminants."

In our view, Ecology decision-makers would be wise to separate water quality objectives and regulatory prescriptions from those more properly related to the Model Toxics Control Act (MTCA). Even the perception of MTCA liability can have a profound effect on the viability of development projects that otherwise make good environmental and economic sense. The extent to which the agency has permitted these issues to become conflated in internal discussions and policy proposals is detrimental to the interests of the state.

**Recommendation:**

Remove S2.A.1.f.i. from the Permit.

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**S2.C.4.**        ***The waiver is not available for facilities declared significant contributors of pollutants as defined in Special Condition S2.B.1.b. or for any size construction activity that could reasonably expect to cause a violation of any water quality standard as defined in Special Condition S1.B.1.b.ii.***

**Comment # 10:**

The terms (significant contributor of pollutants, and construction activity that could reasonably expect to cause a violation) are not defined in S1.B.1.b. or S1.B.1.b.ii. They are referenced but a definition of what these terms mean is not provided. See comments for S1.B.1.b.i and ii. Please define these terms.

WPPA believes an appropriate definition is needed.

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**G13.**        ***Ecology may establish specific monitoring requirements in addition to those contained in this permit by administrative order (sic) or permit modification.***

**Comment # 11:**

WPPA's members have observed that Administrative Orders are becoming increasingly common. As a result, providing more specifics about Administrative Orders, e.g. what triggers them, would be useful to the regulated community. Again, we observe that having contaminants onsite does not automatically qualify a site to be considered a "significant contributor of pollutants", nor will discharging stormwater from a site with contaminants automatically create a violation of water quality standards. As a result we would not support a system under which the mere presence of contaminants is the determining factor in issuing an Administrative Order.

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**Appendix A – Uncontaminated**

**Comment # 12:**

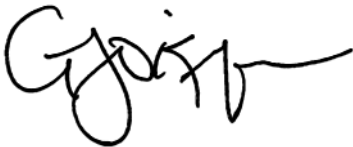
This definition is not helpful, nor consistent with previous experience with Ecology on projects containing “contaminants”. MTCA is not necessarily used to determine whether a site is “contaminated” or “uncontaminated”.

Again, WPPA emphasizes in the strongest possible language our belief that the conflation of water quality and MTCA goals are not in the long-term interest of the State of Washington.

**Conclusion**

On behalf of our members, I appreciate the opportunity to provide comments to Department of Ecology on the Draft Construction Stormwater General Permit. WPPA and Ecology have a long history of constructive and collaborative approaches to environmental regulation. I am hopeful that our comments are used to improve the Permit that is issued in Washington.

Best Regards,

A handwritten signature in black ink, appearing to read "Gerry O'Keefe". The signature is stylized and cursive, with a long horizontal flourish extending to the right.

Gerry O'Keefe  
Senior Director of Environmental Affairs



**Washington State  
Department of Transportation**

Lynn Peterson  
Secretary of Transportation

Transportation Building  
310 Maple Park Avenue S.E.  
P.O. Box 47300  
Olympia, WA 98504-7300  
360-705-7000  
TTY: 1-800-833-6388  
[www.wsdot.wa.gov](http://www.wsdot.wa.gov)

August 10, 2015

Ms. Amy Moon  
Water Quality Program  
Washington State Department of Ecology  
PO Box 47600  
Olympia, WA 98504-7600

**RE: Comments on the Draft Construction Stormwater General Permit and Notice of Intent**

Dear Ms. Moon:

The Washington State Department of Transportation (WSDOT) appreciates the opportunity to provide comments on the draft Construction Stormwater General Permit (draft permit) and Notice of Intent (NOI). WSDOT has a strong interest in working with the Washington State Department of Ecology (Ecology) because the Construction Stormwater General Permit (permit) substantially impacts WSDOT policy and construction operations.

WSDOT would like to provide the following general comments on the draft permit:

1. WSDOT recommends Ecology outline their process and expectations for emergency projects to ensure consistency statewide. WSDOT understands that Ecology is following the federal requirements for emergency related projects. However, the federal requirements do not provide a lot of detail. As a result, it has been WSDOT's experience that Ecology's regional permit administrators may have different expectations and procedures for emergency projects.
2. WSDOT recommends that the Water Quality Permitting Portal accommodate our internal signature delegations for signing NOIs and Notice of Terminations (NOTs). It is WSDOT's understanding that Ecology considers NOIs and NOTs to meet the signatory requirements of G2.A, however WSDOT disagrees and believes that NOI and NOT signature authority can be delegated in accordance with G2.B. After a review of 40 C.F.R. section 122.2 and section 128, it is clear to WSDOT that the NOI is not an "application" for a "permit" under the federal rules; there is a difference between applying for a permit (such as WSDOT's Municipal Stormwater Permit) versus requesting coverage under a general permit for a project. It makes sense that the original application for a permit must be signed by the principal executive officer, since the application likely reflects some policy choices by the agency applicant. However, the NOI and NOT process is simply implementation of the general permit and must be able

to be delegated to the individuals having personal knowledge who are competent to sign the certificate. The certificate states that the application was prepared under the signer's direction or supervision; that is never going to be true of either the Secretary of Transportation or a regional administrator. Our principal executive officers do not have the detailed knowledge of or involvement in, a project to the degree necessary to be able to attest to the requirements listed in the signature block certification in the NOI and NOT forms.

3. WSDOT recommends the formation of an Ecology-led intergovernmental Process Wastewater Task Force to fully identify the issues and potential solutions regarding process wastewater management and disposal. WSDOT appreciates the improvements made to the draft permit for managing uncontaminated water-only based shaft drilling water, and encourages Ecology to pursue similar management options for other sources of uncontaminated process wastewater. Though House Bill 1695 relates to the reuse of aggregate and concrete, Section 1 (e) recognizes the environmental value in reducing truck trips. The ability to manage uncontaminated process wastewater on-site can certainly reduce truck trips, especially in rural areas where viable disposal locations can be many miles from the construction site.

WSDOT would like to provide the following specific comments on the redlined version of the draft permit:

4. Page 22, S4.D.1, 2, 3, and 4:

Comment: WSDOT recommends changing the word "monitoring" to "sampling" to be consistent with the other changes in S.4.D. If Ecology feels this recommendation is not appropriate because it changes the intent, WSDOT recommends defining the expectations for "pH monitoring" on page 22 or in the definitions section.

5. Page 25, S5.F:

Comment: WSDOT recommends referencing S8 after the new wording "or exceed numeric effluent limitations" to ensure the understanding that numeric effluent limits are used to evaluate discharges to outfalls in impaired receiving waters, while benchmark values are used to evaluate discharges to outfalls in non-impaired waters.

6. Page 25, S5.F:

Comment: WSDOT recommends adding examples of noncompliance that may cause a threat to human health or the environment, such as spills of fuels or other materials,

pond or slope failure which discharge significant amounts of sediment to fish bearing surface waters, and discharges that violate water quality standards.

7. Page 32, S8.E:

Comment: WSDOT suggests adding clarification that Ecology will inform permittees of the applicable TMDL requirements, rather than a permittee needing to determine applicable TMDL requirements using the link provided.

8. Page 37, S9.D.5:

Comment: WSDOT recommends clarifying that the soil covering timelines in S9.D.5.d. apply to exposed and unworked soils including stockpiles. It has been WSDOT's experience that some Ecology inspectors have expectations that all stockpiles be covered at the end of every day; even if the stockpiles are being worked, are located away from discharge points, are protected with sediment trapping measures, and there is no rain in the forecast (comply with S9.D.5.e, and f.). If covering stockpiles daily is the expectation, please clarify that expectation in S9.D.5.f.

9. Page 44, G2.B:

Comment: In conjunction with comment 2, WSDOT recommends editing the first sentence to, "All reports required by this permit and other information requested by Ecology (including Notices of Intent, Notices of Termination, and Transfer of Coverage forms) must be signed by a person described above or by a duly authorized representative of that person."

10. Page 46, G6:

Comment: WSDOT recommends clarifying the process for submitting a new application or supplemental information and the compliance expectations for a project that is in construction. Specifically, WSDOT is concerned about how this process will affect construction timelines. It is WSDOT's understanding that this condition does not require that work stop in the vicinity of the cause for modification until the existing permit is reissued or modified. However, if a stop work order is a possibility, WSDOT recommends clarifying under what conditions that might occur.

11. Page 57:

Comment: WSDOT recommends adding a definition for numeric effluent limit.

Ms. Amy Moon  
August 10, 2015  
Page 4 of 4

12. Page 58, Process Wastewater definition:

Comment: WSDOT recommends leaving the word “water” and not changing it to “non-stormwater.” Changing the word to “non-stormwater” creates a potential loophole in which stormwater or groundwater could be collected and then used as part of a construction process, but not be considered process wastewater. Disregard this recommendation if that was the intent of the change.

13. Page 58:

Comment: WSDOT recommends adding a definition for recycled concrete to prevent potentially hazardous cementitious waste from being incorporated on-site as recycled concrete. The definition should be consistent with the current draft of the NPDES Sand and Gravel General Permit and include examples of what can and cannot be incorporated as recycled concrete. WSDOT would like to propose the following definition for recycled concrete: Hardened structural concrete material such as, demolished structures, roads, sidewalks. Concrete waste such as, drilling slurries, concrete mix truck washout, and material from washout containers, cannot be incorporated on-site as recycled concrete.

WSDOT would like to provide the following specific comment of the draft NOI:

14. Section I. Site Information:

Comment: WSDOT recommends adding a check box to identify emergency projects.

Thank you for the opportunity to provide input regarding the draft permit and NOI. Please direct questions regarding these comments to Elsa Pond, WSDOT Total Maximum Daily Load Lead at 360-570-6654 or [ponde@wsdot.wa.gov](mailto:ponde@wsdot.wa.gov).

Sincerely,



Kenneth M. Stone  
Resource Programs Branch Manager  
Environmental Services Office

KMS:ep

August 5, 2015

Water Quality Program  
Department of Ecology  
PO Box 47696  
Olympia, WA 98504-7696

To whom it may concern:

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In addition, the term “contaminated” is also vague. While “contaminant” is defined as “any hazardous substance that does not occur naturally or occurs at greater than background levels” on page 55 of the draft CSWGP, this definition is dependent on the fact that background levels of any potential hazardous substances are readily available information. We suggest that the use of “contaminated” in part 1(f) of Section S2 be amended to include only those hazardous substances that are above Model Toxics Control Act (MTCA) cleanup levels. As Ecology’s searchable databases provide data on whether or not known contaminated sites are above MTCA cleanup levels, this would provide a more concrete benchmark for what sites of known contamination should be reported with the NOI.

Sincerely,



Ross L. Widener  
**Widener & Associates**

## Comments to Draft Construction Stormwater General Permit

Issuance Date – December 2, 2015

Effective Date – January 1, 2016

Expiration 31, 2021

**Comment No. 1 – New Addition paragraph S2.A.1.f below is a new requirement and adds a dewatering plan. This addition will add costs and will require complete submittal of a new stormwater pollution prevention plan.**

*S2.A.1.f. Applicants must notify Ecology if they are aware of contaminated soils and/or groundwater associated with the construction activity. Provide detailed information with the NOI (as known and readily available) on the nature and extent of the contamination (concentrations, locations, and depth), as well as pollution prevention and/or treatment BMPs proposed to control the discharge of soil and/or groundwater contaminants in stormwater.*

*Examples of such detail may include, but are not limited to,*

- i. List or table of all known contaminants with laboratory test results showing concentration and depth,*
- ii. Map with sample locations,*
- iii. Temporary Erosion and Sediment Control (TESC) plans,*
- iv. Stormwater Pollution Prevention Plan (SWPPP) modified to address contaminated soils and/or groundwater,*
- v. Dewatering plan and/or dewatering contingency plan.*

**Comment No. 2 – S6 below is not a change but I question why the fees are still high and increased in 2015 when more requirements are being passed on to permit holders of the Municipal Stormwater General Permit (MSGP). I question why the fees in 2016 and 2017 are also being increased when more requirements are being passed on to county and city governments. The new MSGP requires the permittee to review SWPPP, inspect construction site at least one time during construction, inspect at completion, recordkeeping, responding to calls within 24 hours, inspection of stormwater facility every 5 years, etc.**

***S6. PERMIT FEES***

*The Permittee must pay permit fees assessed by Ecology. Fees for stormwater discharges covered under this permit are established by Chapter 173-224 WAC. Ecology continues to assess permit fees until the permit is terminated in accordance with Special Condition S10 or revoked in accordance with General Condition G5.*

*The fees in Chapter 173-224 WAC are as follows:*

**C. Construction Activities Covered Under the Construction Storm Water General Permit(s)**

		2014	2015
1.	Less than 5 acres disturbed area	\$543.00	\$568.00
2.	5 -< 7 acres of disturbed area	883.00	924.00

3.	7 -< 10 acres of disturbed area	1,192.00	1,247.00
4.	10 -< 20 acres of disturbed area	1,627.00	1,702.00
5.	20 acres and greater of disturbed area	2,023.00	2,117.00

WAC 173-224-040 is being revised increasing annual permit fees for stormwater and wastewater in 2016 and 2017.

**Comment No. 3 – G8 below is not a change but I am requesting relief for projects that will not be completed by December 31, 2015. The relief is to grandfather the current pollution prevention plan to not include the dewatering plan until 2017 or later.**

***G8. DUTY TO REAPPLY***

*The Permittee must apply for permit renewal at least 180 days prior to the specified expiration date of this permit.*

**Comment No. 4 – In recent discussion with Ecology Headquarters staff, the Economic Impact Analysis is an update of the old report mainly updating amounts to present values. I don't think the study included all costs from new requirements especially those that are required by the Municipal Stormwater General Permit.**