



**CITY OF KIRKLAND**  
Department of Public Works  
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800  
www.kirklandwa.gov

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## MEMORANDUM

**To:** Kurt Triplett, City Manager

**From:** Stacey Rush, P.E., Senior Surface Water Engineer  
Ray Steiger, P.E., Public Works Director

**Date:** January 5, 2012

**Subject:** REVISED 2013 WESTERN WA PHASE II MUNICIPAL STORMWATER PERMIT

### **RECOMMENDATION:**

It is recommended that City Council authorize the Mayor to sign a cover letter and allow staff to submit comments to the Washington State Department of Ecology regarding proposed changes to the City's municipal stormwater permit. The letter first asks that Ecology delay implementation of the new permit regulations until the economy recovers but continues with additional comments in the event the new regulations are imposed.

### **BACKGROUND DISCUSSION:**

The State Department of Ecology (Ecology) will issue a revised 5-year Western WA Phase II Municipal Stormwater Permit for the National Pollutant Discharge Elimination System (NPDES permit) that will become effective in 2013. Ecology has provided the draft 2013 NPDES permit which increases regulations of stormwater and has asked jurisdictions and the public for comments prior to the permit being finalized and issued.

#### *What is the NPDES Permit?*

Ecology, under authority delegated to it by the U.S. Environmental Protection Agency, pursuant to the Federal Clean Water Act (CWA) issued the current NPDES permit in 2007. Local agencies must seek coverage under the NPDES Permit or be subject to possible third-party lawsuits, fines, or other penalties under the CWA. The NPDES permit regulations are designed to create better water quality in our streams, lakes, and wetlands by compelling jurisdictions to take steps to reduce the discharge of pollutants into stormwater. Stormwater has been identified as a major contributor of toxic pollutants entering our local waterways and Puget Sound.

The City of Kirkland is covered by and in compliance with the current NPDES permit (<http://www.ecy.wa.gov/programs/wq/stormwater/municipal/PermitsPermittees.html>) which went through a similar public comment period prior to its 2007 issuance, and Kirkland comments on the draft 2013 NPDES permit will be addressed and incorporated through this process (Attachment 1).

*How are other jurisdictions responding to the proposed revisions?*

There are over 100 jurisdictions in Washington State (including Kirkland) that will be subject to the same revised NPDES permit. The Association of Washington Cities (AWC) has been following the proposed permit changes closely, and similar to Ecology, has requested comments but only from its members. AWC will compile comments from Kirkland and other cities into one general letter and send them to Ecology at the end of January (prior to the Ecology deadline). Attachment 2 is AWC's request letter to its members, and they anticipate completing the collection of agency comments on January 9th. Kirkland's letter joins the call for a delay in implementing the new permit regulations, but our comments go beyond those being submitted by AWC. What follows is that discussion.

*How will the proposed revisions effect permit regulations?*

The proposed revised 5-year NPDES permit for 2013 through 2018 contains increased stormwater regulations, which will likely lead to increased development costs. The increased regulations are proposed due to the continued decline in salmon populations over the last decade and a continued push by the environmental community to better mitigate the impacts of new development on the environment. Ecology and the recent Legislature did recognize that increased regulations can be a hardship to public jurisdictions and private development, and in deference to that, mutually authorized the extension of the existing NPDES permit for one additional year (interim NPDES permit 2012-2013).

The current proposal however is to implement the revised NPDES permit with its new requirements in August 2013; an allowance for certain permit requirements will be delayed until 2015 and 2016. A full copy of the revisions is included on the Ecology website at:

<http://www.ecy.wa.gov/programs/wq/stormwater/municipal/2012draftMUN1com.html>

Staff has now had the opportunity to review all of the proposed revisions for the NPDES permit and assembled comments for the applicable changes. In developing comments, a number of current City policies, objectives and community goals were considered. Comments were developed by surface water staff considering the following in no priority order:

- The City has a limited amount of staff and budget available to implement increase regulations.
- Are the new regulations necessary and realistic?
- Will the regulations be effective ?
- Are the regulations clear, specific, and enforceable?
- Protection of surface water and the environment in our community is a high priority.
- The realization that stormwater is a large contributor of pollutants to the environment.
- Will the regulation increase capital and private development costs?

Below are some of the proposed regulatory changes, followed by Public Works staff comments:

- *Additional requirements for the development of smaller sites.* The current 2007 NPDES permit requirements focus on the development of sites that are one acre or larger. The revised NPDES permit threshold for requirements is reduced to projects with 5,000 square feet of new or replaced hard surfaces.

Staff comment: Most development projects in Kirkland involve sites less than one acre. The lower threshold will likely translate to higher development costs for smaller projects and increased staff time for reviewing and inspecting smaller projects; review and inspection fees will need to be adjusted to account for the increase in staff time.

- *Low Impact Development (LID) requirements.* The revised NPDES permit will require installation of stormwater LID techniques. All projects will be required to install LID for as much runoff as feasible.

Staff comment: Requiring LID on all projects requires additional soil and geotechnical information that is not currently required for all projects. This will be an increased development expense.

- *LID code-related requirements.* Under the revised NPDES permit, the City must review and revise our development-related codes and rules to require LID principles and to make LID the preferred and commonly used approach to site development.

Staff comment: The City's Green Building Team has already taken steps to change zoning and municipal codes to encourage sustainable development through the current Green Codes project, but there is a concern that under the revised permit the stormwater codes are controlling land use instead of the Growth Management Act or other land use regulations.

- *New Stormwater Design Manual.* The revised NPDES Permit requires the City to adopt a new stormwater manual for development by December 31, 2015. Ecology recently released the draft 2012 Stormwater Manual, and the City will need to adopt this manual or an equivalent. It is anticipated King County will issue an equivalent manual before the 2015 adoption date, and we may choose to adopt their manual instead.

Staff comment: The City currently uses the 2009 King County Surface Water Design Manual, which does not meet the revised 2013 permit requirements. Adopting a new manual requires a significant amount of staff time preparing for new regulations and educating the development community (we went through this in 2009, creating template documents and holding public workshops).

- *Monitoring requirements.* The revised permit will require the City to perform water quality monitoring to assess the impacts and effectiveness of stormwater management practices.

Staff comment: New monitoring requirements will mean an increased cost to the City and an increase in staff time, but will also provide us more information about our surface water systems. The revised permit does give the City the option to pay into a collective fund for monitoring at the regional level. The collective fund option would cost significantly less than City staff performing the monitoring and analysis, but Kirkland may not directly benefit from regional monitoring as much as monitoring our surface water systems. Either option is still an increased cost.

A full copy of comments regarding the proposed permit requirements are listed in Attachment 3.

#### *Next Steps*

Staff requests input from Council regarding the NPDES permit process and the permit comments and will incorporate them in with the submittal to Ecology by the February 3, 2012 deadline.

Attachment 1: NPDES Timeline

Attachment 2: Draft comments from AWC (12/21/11)

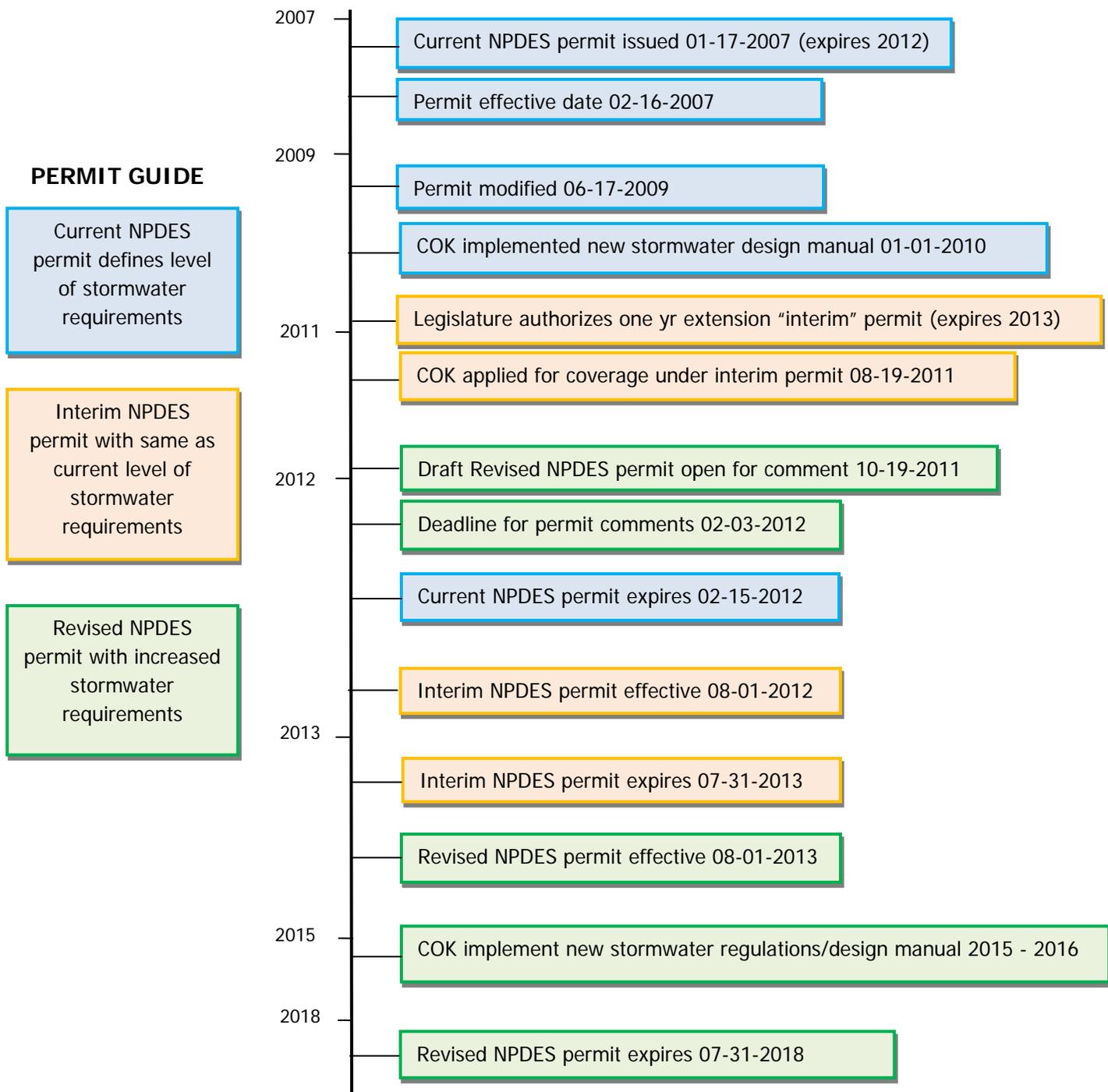
Attachment 3: Staff Comments on Draft NPDES WW Phase II Municipal Stormwater Permit

Attachment 4: Letter to Ecology

## Timeline for the Western WA Phase II Municipal Stormwater Permit

National Pollutant Discharge Elimination System (NPDES)

Issued by the State of WA Department of Ecology





**Draft Comment Letter: Draft 2013 – 2018 Western WA Phase II Municipal Stormwater Permit**

On behalf of Washington’s cities and towns, we appreciate the opportunity to provide comments on the draft Western Washington Phase II municipal stormwater permit. We fully support the need to provide for clean water across the state, and recognize the role that city stormwater management plays in reaching that goal. Cities have been leading the way in investing in fighting stormwater pollution, and we will continue to do so. We raise and spend more money on stormwater management than the state and counties combined. Our serious concerns about this draft permit do not mean that we do not support strong and effective stormwater management.

Washington’s cities have borne the full weight of the Great Recession for several years now. Our staffs are shrinking at the same time that service needs are rising across city government. We are asking for recognition of our financial and technical capacities at this time.

Although we raise many distinct issues below, our concerns primarily come down to resources and timing. In many instances we are struggling to meet existing permit requirements, and the additional cost drivers proposed in this draft permit may make that challenge impossible. In addition to a lack of financial resources, we do not currently have the informational and technical resources necessary to implement this permit as written. For instance, we do not have sufficient information from our leading jurisdictions on exactly when low impact development is feasible, and when it isn’t. We do not have successful long-term examples of legal structures that would provide for perpetual maintenance of private stormwater facilities and access for local government inspectors on private property. We do not have the maintenance tools to manage permeable pavement deployment to the degree that this permit requires.

We believe that these resources can be brought to bear, but not on the timeline proposed by this draft permit.

Below are our specific areas of concern with the proposed draft permit:

**Low Impact Development:**

We welcome the opportunity to continue to learn from the jurisdictions that have been able to implement LID requirements at the local level. Some Phase IIs have the geography to easily adapt to LID requirements, and others don’t. We believe it is premature to extend these requirements to every Phase II city. Without more time to gather experience from our innovators, it is difficult for cities to comment on whether the feasibility criteria are appropriate or not. As an example, we are hearing concerns about whether the “competing needs” criteria is sufficient to cover conflicts with other regulatory responsibilities. Cities continue to feel that permit requirements around Low Impact

Development are best phased in slowly and gradually. We would again request that Ecology consider other opportunities to move the ball forward on LID without jumping to require it of all jurisdictions at this point.

The LID requirements in the new permit around permeable pavement are of particular concern. Cities are worried that requiring permeable pavement on city roads will drive costs in two specific ways: costs of cleanup, and increased repair costs. Cleaning and maintaining the permeability of this pavement will require expensive equipment that cities do not currently have access to. And perhaps more concerning is the potential loss of maintenance tools like chip seals and refinishing that currently extend the useful life of our traditional roads by many years. Without these tools we may see an increased replacement schedule for our neighborhood streets – without the revenue to pay for it.

#### **Inspections of stormwater treatment and flow-control facilities:**

Many cities have expressed concerns about the new responsibility to provide for annual and twice-annual inspections of all stormwater treatment and flow-control facilities. Many jurisdictions expect that these new responsibilities will require the hiring of dedicated staff in a time of declining resources. In addition to the financial and staffing resources needed to meet these proposed inspection requirements, there are also concerns about legal and technical resources.

Jurisdictions will need to develop sophisticated and legally sound mechanisms to meet this responsibility. We need to ensure access to facilities on private property. We also need to develop mechanisms to ensure that property owners or groups of property owners have the resources to operate and maintain these facilities. Although the responsibility is on the property owner to maintain these facilities, ensuring that they are organized in such a way as to have permanent capacity to pay is the local government's responsibility.

We only have a handful of years of experience with the Phase I requirement to develop legal mechanisms to enforce inspection and maintenance responsibilities on new development and redevelopment. Ideas are being considered, such as potentially requiring new development of the size to trigger these requirements to have homeowners associations with sufficient annual assessments. This is new ground with serious property rights and community development ramifications. Substantial work must be done to understand how this will work on the ground.

We need more time to ensure that there are workable mechanisms for smaller Phase II jurisdictions to follow. Smaller cities have neither the legal expertise to develop these mechanisms from whole cloth, nor the financial capacity to gamble with tools that haven't been proven over time.

#### **Watershed-scale planning:**

Our cities that are potentially covered by the watershed-scale planning requirements of Phase I permittees want more information about their role. Affected cities are unclear about the potential impact of this requirement and need to know what "participate and cooperate" means before they can assess the potential impacts.

**Vesting:**

The vesting language in the permit is problematic – we believe that permit requirements cannot create or change vesting laws in the state. Should we be asked to enforce these requirements, we are concerned about legal liabilities.

**Permit Timelines:**

The timelines contemplated in the permit are viewed by many cities as too aggressive. Timelines are both too short for cities to change all of the necessary codes and, with concerns about what's required, believe that it is too soon to require all of this within the 5-year permit horizon. In many instances, the same staff will be overseeing both the necessary code changes to implement the LID requirements and the broader-scale code review to incorporate LID principles in the broader regulatory environment. This is on top of other mandated code reviews and updates – all at a time when staff resources are reduced. The one-year gap between these requirements does not provide the necessary staging to ensure that limited staff can adequately address both requirements and their other mandated workload.

**One-Acre Threshold:**

For several cities, the expansion of permit responsibilities to below one acre is a problem – they are still struggling to staff the existing permit. Although many cities extend at least a portion of their stormwater regulations to projects below a one-acre size, on the whole this is a large expansion of responsibilities for cities.

**Monitoring:**

Cities support some level of monitoring to ensure that permit requirements are effective in managing stormwater flows and pollution. We are concerned that the opt-out option that has been provided is not likely to be workable for many jurisdictions that have made investments in their own monitoring programs. Given the economic situation facing cities, the assumption that cities can pay for enhanced monitoring absent state financial assistance is not one we're willing to support, especially considering the scale of new financial responsibilities that are embedded in other areas of the permit.

**Increased Liability:**

Requiring changes to local land use codes and regulations in and of itself increases liability exposure. Doing so to include LID requirements that by their very nature have a range of applications, increases the risk of potential litigation. Litigation has been widespread on NPDES stormwater issues. It's costly and time-consuming. These new requirements add a layer of litigation exposure to cities beyond those already present when they review and update local land use regulations under GMA. For instance, the broad-scale regulatory review of non-development codes that may present an opportunity to promote LID could open a wide swath of city codes to third-party challenge under the Clean Water Act. That is a major concern. We would request that the Department take specific and proactive steps to limit litigation exposure in this permit.

**City of Kirkland Comments on the Western WA Phase II Municipal Stormwater Permit, 01/2012**

**General Comments**

1	The Stormwater Manual for Western Washington has not gone through a formal rulemaking process. As a result, it has not had the review of a science panel. Appendix 1 essentially requires city to adopt this manual, so it should go through the rulemaking process.
2	This permit includes surface water requirements for new and re-development, but does not require retro-fitting of existing development. New development cannot be expected to repair an entire watershed.

**Section-Specific Comments**

Section Citation	Title	Page Number	Comment
S2B.2	Authorized Discharges	12	"The discharge <u>occurred during</u> emergency fire fighting activities..." In a large MS4, discharge <u>from</u> the MS4 may occur some time after emergency fire fighting activities have ceased. Having the previous language made it clear that discharges caused by emergency fire-fighting are in compliance. This altered language implies that there is some time limit or other type of limit on when firefighting discharges are in compliance and when they are not. The fact sheet states that the intent is to require control and cleanup of materials discharged during cleanup activities associated with a fire, but there is no definition of what is cleanup and what constitutes the actual fire. Seems like this brings greater liability without clear instruction as to what is the desired outcome. We agree with the goal of preventing discharge from fire-fighting activities from the MS4 as much as possible, but this language does not clarify expectations.
S5.A.1	Stormwater Management Program for Cities, Towns and Counties	16	Include the acronym "SWMP" in the section title or define it in this section (Stormwater Management Program).
S5.A.3.a	Stormwater Management Program for Cities, Towns and Counties	17	Further guidance is needed on cost-tracking. This is a potentially time-consuming process, and it is unclear how Ecology is using the information that was gathered during the first permit cycle. Knowing how the information is used would help jurisdictions gather and share the information more efficiently.
S5A.5.b	Stormwater Management Program for Cities, Towns and Counties	18	Clarify whether the organizational chart should include names of individuals or position titles.

**City of Kirkland Comments on the Western WA Phase II Municipal Stormwater Permit, 01/2012**

S5.C.1.a.iii	Public Education and Outreach	19	Add LID facility maintenance
S5.C.1.c	Public Education and Outreach	20	Requiring evaluation of a "NEW targeted audience in at least one NEW subject area", could pose a problem in established cities that are covering most of the targeted audiences. Support the allowance for regional evaluation.
S5.C.1.c	Public Education and Outreach	20	Recommend changing language to "understanding and/or adoption of targeted behaviors."
S5.C.2.a	Public Involvement	20	What are applicable State public noticing requirements with regards to this permit?
S5.C.3	Illicit Discharge Detection and Elimination	21	Consider adding the phrase "designed to" so the first sentence reads "The SWMP shall include an ongoing program <b>designed to</b> identify, detect, and prevent...." The MS4 jurisdiction can't be held accountable for preventing all illicit discharges - it can only be held accountable for putting together a program that has the intent of doing this.
S5.C.3.a.iii	Illicit Discharge Detection and Elimination	21	The fact sheet states the intent is for Permittees to map in greater detail areas where the risk of harm is greater, but this is not reflected in the Permit requirements.
S5.C.3.a.v	Illicit Discharge Detection and Elimination	22	It does not seem appropriate to include suggestions (i.e. items that are not required) in the permit language. Although the goal of pro-active business visits is laudable, these should either be required, or should not be discussed in the Permit. The same applies to private maintenance inspections.
S5.C.3.c.i	Illicit Discharge Detection and	25	Strongly support the increased flexibility for pro-active screening for detection of illicit
S5.C.3.c.i	Illicit Discharge Detection and Elimination	25	Clarify "conveyance" to prioritize (for example, conveyance 12" diameter or greater, or other criteria.
S5.C.3.c.i	Illicit Discharge Detection and Elimination	25	What does it mean to "... field screening for at least 40% of the MS4 within the Permittee's coverage area..."? Does 40% of the MS4 apply to conveyances? If so, how?
S5.C.3.c.iii	Illicit Discharge Detection and Elimination	26	The training requirements are vague. It is hard to document when the expectation is not stated. Perhaps change this to some sort of certification on the part of the jurisdiction that staff are properly trained and educated based on standards of care for the profession?
S5.C.3.c.iv	Illicit Discharge Detection and Elimination	26	the fact sheet states this section is retained in the IDDE portion because the intent is to require education regarding the dangers and importance of preventing illicit discharges. This seems inconsistent with flexibility provided regarding other education topics.

**City of Kirkland Comments on the Western WA Phase II Municipal Stormwater Permit, 01/2012**

S5.C.4	Controlling Runoff from New Development Redevelopment and Construction Sites	29	In proposing to eliminate the 1-acre threshold, Ecology needs to recognize the paperwork burden currently required of large sites is unreasonable for small sites. Specifically, the current requirements include development of a Stormwater Pollution Prevention Plan for sites over an acre. Erosion control plans are already required for most sites in Kirkland, but the SWPPP is a large document, much of which may not be practical for small sites.
S5.C.4.a	Controlling Runoff from New Development Redevelopment and Construction Sites	29	We are concerned that the provision that "...projects approved prior to January 1, 2016, which have not started construction by January 1, 2021" may conflict with State vesting laws.
S5.C.4.a	Controlling Runoff from New Development Redevelopment and Construction Sites	29	Definition of "started construction" is fuzzy - this is discussed in the fact sheet, but needs to be further clarified in the permit itself. Does, for example, placement of erosion control fencing count as starting construction?
S5.C.4.g	Controlling Runoff from New Development Redevelopment and Construction Sites	34	This section requires that LID principles be incorporated into local codes. This is essentially controlling land use via stormwater requirements.
S5.C.4.g	Controlling Runoff from New Development Redevelopment and Construction Sites	34	Timeline is tight for implementation of the findings of the LID code review, especially for larger jurisdictions. It often takes more time to alter land use codes that impact LID than it does to alter stormwater regulations.
S5.C.4.h	Controlling Runoff from New Development Redevelopment and Construction Sites	35	Watershed planning as required in the Phase I Permit will run into significant conflicts with the Growth Management Act, regardless of what jurisdiction performs the analysis. This puts jurisdictions in the position of having to decide whether to meet GMA goals or Permit requirements.
S5.C.5.c	Municipal Operations and Maintenance	36	spot checks should be eliminated from the Permit if no definition of the event size at which they are required is included. This is extremely vague, and cannot be checked.
S5.C.5.d.ii	Municipal Operations and Maintenance	37	Clarify conveyance systems to be cleaned, like pipe diameter 12" and greater or other criteria.
S5.C.5.d.ii	Municipal Operations and Maintenance	37	Instead of "clean all conveyance systems", change to "inspect all conveyance systems and clean as needed."

**City of Kirkland Comments on the Western WA Phase II Municipal Stormwater Permit, 01/2012**

Appendix 1	3.1 Thresholds - Figure 3.2	9	Clarify vegetation. You are removing "native" from vegetation, so does that mean any vegetation, including grass or invasive species converted to lawn / pasture / landscape would be considered PGPS?
Appendix 1	4.1 Minimum Req #1: Preparation of Stormwater Site Plans	13	"...site-appropriate development principles to retain native vegetation and minimize impervious surface". What criteria does a city use when reviewing if an applicant has done this? What enforcement does a city have to say the applicant did not do this?
Appendix 1	4.2.SWPP, 12.d.	21	Typo - Change "on" to "one" in the sentence "The CESCL ...(sites less than <b>on</b> acre) must...".
Appendix 1	4.5 Minimum Req #5: On-site Stormwater Management	25	Under Mandatory List #1, change "BMP's" in the first sentence to "BMPs".
Appendix 1	4.5 Minimum Req #5: On-site Stormwater Management	25	Are LID BMPs supposed to be used for 100% of runoff, or some other percent? A lower percent, like 50%, would be more realistically feasible than 100%.
Appendix 1	4.5 Minimum Req #5: On-site Stormwater Management	25	Requiring stormwater LID on all projects requires additional soil and geotechnical information that is not currently required for small projects. The required soil information will be an additional expense for developers, will require additional city staff review time, and will require cities to have staff with geotechnical knowledge.
Appendix 1	4.5 Minimum Req #5: On-site Stormwater Management	26	Under Mandatory List #2, change "BMP's" to "BMPs" in the following places: in the first sentence, and both items 3 "Bioretention BMPs" under "roofs" and "other hard surfaces".
Appendix 1	4.5 Minimum Req #5: On-site Stormwater Management	26	Clarify the "cost analysis" necessary to claim infeasibility of a vegetated roof. For example, if the cost analysis shows the vegetated roof will cost 50% or more than a traditional roof, then it is infeasible. The city needs criteria or a threshold to review a cost analysis.
Appendix 1	4.6 Minimum Req #6: Runoff Treatment	27	Typo in first bullet point, change acronym from "PGIS" to "PGHS" for pollution generating hard surface.
Appendix 1	8.1.A.	37	change "BMP's" in the first sentence to "BMPs".
Appendix 1	8.1.C.	40	Include and clarify the "cost analysis" for infeasibility of a vegetated roof referenced in section 4.5 (Min Req #5). For example, if the cost analysis shows the vegetated roof will cost 50% or more than a traditional roof, then it is infeasible. The city needs criteria or a threshold to review a cost analysis.

January 17, 2012

**D R A F T**

Municipal Permit Comments  
WA Department of Ecology  
Water Quality Program  
P.O. Box 47696  
Olympia, WA 98504-7696

**RE: City of Kirkland Comments  
On Draft Western WA Phase II Municipal Stormwater Permit**

Dear Permit Coordinator:

Thank you for accepting comments on the draft revised NPDES Western WA Phase II Municipal Stormwater Permit. Kirkland agrees with many of the proposed changes and understands the need to protect our valuable surface water resources, but also does not want to over burden projects with excessive standards.

Our City's first and foremost concern is that the challenging economic conditions that we are in continue to hamper local agencies and the communities that they serve. Regulations and oversight that are perceived to be added barriers to economic recovery are not in Kirkland's interest at this time, and our request is that Ecology acknowledges this and, similar to the delays authorized in the 2011 legislative session, recommends delaying adoption of these new regulations. As the economy gains strength, regulations that serve to improve our environment will become more important to implement.

In the event that the regulations do proceed, a list of Kirkland's additional comments, citing permit section and page number, prepared by City of Kirkland staff is attached. Below are general comments relating to the proposed changes:

**Low Impact Development**

- Requiring LID on all sites requires additional soil and geotechnical information that is not currently required on smaller projects. The required soil information will be an additional expense for developers, will require additional city staff review time, and will require cities to have staff with geotechnical knowledge.
- Are LID BMPs intended to be used for 100% of runoff, or some other percent? A lower percent, like 50%, would be more realistically feasible than 100%. Kirkland has been requiring LID BMPs for 10-20% as required in the 2009 King County Surface Water Design Manual, and that has been achievable on most development projects in Kirkland.
- Clarification is needed for the "cost analysis" option for infeasibility of a vegetated roof referenced in the permit section 4.5. Jurisdictions need criteria or a threshold to review a cost analysis.

### **Inspections of Stormwater Treatment and Flow Control Facilities**

Clarification is needed regarding the requirement to inspect and clean all conveyance systems. Is there a minimum pipe diameter (like 12"), or minimum length, or only conveyance on a road with a specific ADT level, or some other threshold?

### **Vesting**

The vesting language in the permit is problematic, and may conflict with State vesting laws.

### **One-Acre Threshold**

Proposing to eliminate the 1-acre threshold requires a significant increase in paperwork that may not be reasonable for small sites. The lower threshold will likely translate to higher development costs for smaller projects and increased staff time for reviewing and inspecting smaller projects.

### **Increased Liability**

We are concerned the revised permit stormwater codes are controlling land use instead of the GMA or other land use regulation.

### **Cost Tracking**

Further guidance is needed on the cost-tracking requirement. This is a potentially time consuming process, and it is unclear how Ecology is using the information that was gathered during the first permit cycle. Knowing how the information is used would help jurisdictions gather and share the information more efficiently.

As stated above, the full list of comments from the City of Kirkland is attached. If you have any questions regarding our comments, please contact Jenny Gaus, Environmental Services Supervisor, at (425) 587-3850. Thank you again for accepting our comments.

Sincerely,  
Kirkland City Council

by Joan McBride, Mayor

Attachment: Kirkland Staff Comments on Draft WW Phase II Municipal Stormwater Permit