



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

MEMORANDUM

To: City Council

From: Julie Underwood, Public Works Director
Josh Pantzke, Utility Manager
Chris Lynch, Senior Financial Analyst

Date: July 28, 2021

Subject: DEPARTMENT OF ECOLOGY PUGET SOUND NUTRIENT GENERAL PERMIT
COMMENT LETTER

RECOMMENDATION:

It is recommended the City Council authorize the signature of Mayor Penny Sweet on the City's comment letter to the Department of Ecology Puget Sound Nutrient General Permit.

BACKGROUND DISCUSSION:

Washington State Department of Ecology is proposing new regulations that would limit the amount of nutrients – including nitrogen – discharged at wastewater treatment plants at dozens of municipal wastewater treatment plants through Puget Sound, with the intent that this will increase the amount of dissolved oxygen in shallow bays. The basic theory is that increases in nitrogen will increase algal blooms and when those algal blooms die off it will deplete dissolved oxygen in the water and harm wildlife.

The City of Kirkland does not operate a wastewater treatment facility and is reliant on King County's Wastewater Treatment Division for wastewater treatment and disposal. However, any costs borne by King County will be passed along to all wholesale customers, and subsequently, those costs would need to be passed along to Kirkland's residential and commercial utility customers.

The City shares Ecology's goal of protecting Puget Sound, though we are concerned that the proposed regulations are based on narrowly focused science. Even if all wastewater treatment facilities discharging to Puget Sound removed nitrogen from wastewater treatments, it would only remove an estimated 10 percent of the total nitrogen load in Puget Sound since about 88 percent comes from the Pacific Ocean. Puget Sound naturally has low dissolved oxygen levels and large nitrogen inputs from the Pacific Ocean, which are expected to increase over time.

Upgrading each of King County's three treatment plants and possibly building a fourth wastewater treatment plant in Seattle is one option for managing nitrogen. This is at a potential cost of more than \$6 billion dollars paid for by wastewater rates. Kirkland relies on the King County WTD for wastewater treatment and disposal. For the average single-family ratepayer, the rate is currently \$540 per year. Initial estimates show profound rate increases ranging from \$1,020 to \$5,148 per year to the average single-family ratepayer by

2035. Funding such investments would limit the region's ability to invest in other action such as removing barriers to salmon habitat, permanently protecting natural lands that filter pollutants, and reducing stormwater pollution.

The official rule making comment period is open until August 16, 2021. Prior to this comment period, City staff provided comments in March 2021 as part of Ecology's preliminary draft comment period. Staff has continued to track this process along with partners, King County Department of Natural Resources and Parks and Wastewater Treatment Division. We have worked with King County to better understand the effects the new rules will have on budgets and operations in near and long terms. Initial reports from County staff are alarming, especially regarding the amount of funding required to meet these new requirements and the added concern that these regulations may not result in the desired outcome.

The attached letter is a draft. Staff is seeking Council questions and feedback. Staff will also be requesting a motion to approve the Mayor be authorized to a final comment letter "substantially similar" to the draft so that the final letter will incorporate any edits. By approving this letter, the City will be playing an active part in helping to keep regional utility rates affordable while restoring the overall health of the Puget Sound.

Attachments: Draft Comment Letter to the Department of Ecology Puget Sound Nutrient General Permit



DRAFT

Comments are accepted through August 16th by mail or via the following online comment form (Ecology's preferred method): <http://wq.ecology.commentinput.com/?id=aiK7u>

August 16, 2021

Ms. Eleanor Ott, P.E.
Washington State Department of
Ecology PO Box 47696
Olympia, WA 98504-7696

RE: Department of Ecology's Puget Sound Nutrient General Permit

Dear Ms. Ott:

I am writing to share the City of Kirkland's concerns about the Washington State Department of Ecology's (Ecology) proposed draft Puget Sound Nutrient General Permit (PSNGP) for municipal wastewater treatment facilities that discharge into Puget Sound.

The City of Kirkland has been briefed by King County Department of Natural Resources and Parks (DNRP) and Wastewater Treatment Division (WTD), our partner and service provider, about these proposed regulations for nutrients. We are very concerned these proposed regulations are not receiving sufficient review and study by all impacted stakeholders.

Kirkland urges Ecology to extend its nutrients general permit schedule to allow sufficient time to implement the following approach for improving water quality in the Sound:

- Establish an independent panel of scientists and engineers to make recommendations on the effectiveness of alternatives and identifying solutions that would achieve the greatest water quality benefit for the investment,
- Extend the nutrients general permit schedule to enable other alternatives (e.g., water quality trading and bubble permits), and
- Collaborate with interested parties to develop a regional plan that includes feasibility, affordability, and equity.

Kirkland relies on the King County WTD for wastewater treatment and disposal. For the average single-family ratepayer the rate is currently \$540 per year. Initial estimates show profound rate increases ranging from \$1,020 to \$5,148 per year to the average single-family ratepayer by 2035. This is in addition to the baseline 5-7% per year increase scheduled for improvements, operations, and maintenance to meet current regulatory standards.

These increases do not account for Kirkland's own operational and inflationary needs, and only apply to the sewer utility. In a region already stricken by societal issues such as affordability, equity, and homelessness it is imperative that we step back to ensure the solutions exceed the investments. We cannot stress enough our concerns about the

financial impact this regulation will have on Puget Sound Region residents and businesses.

Given the significant cost of imposing additional regulatory requirements, our region must be assured these investments will result in significant water quality improvements. Natural oceanic circulation into the Puget Sound accounts for 88 percent of the nitrogen inputs. Of the remaining 12 percent, wastewater treatment plants account for approximately 70 percent. Ecology's proposed draft nutrients general permit could require investing billions of dollars to reduce nutrient discharges from wastewater treatment facilities by even 30 percent.

There may be other, more cost-effective solutions to meet the low dissolved oxygen levels. Our residents are living in an economy already experiencing severe impacts from COVID-19. Adding additional cost burdens without fully exploring the most cost-effective solutions is problematic. We implore Ecology to recognize the affordability challenges near and long term for many residents in the Puget Sound region that will accompany the proposed regulations. We owe it to the region's residents, businesses, and Puget Sound to find the most cost-effective actions to provide the greatest water quality benefits. **Is this the most cost-effective solution that will achieve our shared goal of making significant strides in improving Puget Sound water quality? Has Ecology fully explored, evaluated, and studied the range of solutions that exist, including a cost-benefit analysis of each? What assurances can Ecology provide that this will achieve the region's goal of Puget Sound restoration?**

Please respond to the following list of questions and comments:

- We understand that Ecology based these regulations using a single model, the Salish Sea Model. Why did Ecology decide to use this model over others? Did this model have extensive internal and external peer review. Please share the information and data that was part of their review process. Does the model conclusively show that reducing nitrogen from wastewater treatment plants will directly dissolve oxygen levels?
- Has Ecology explored other nutrient reduction alternatives? Please describe the analysis performed and the outcomes, as well as Ecology's reasoning for focusing on wastewater treatment facilities at this time.
- Ecology claims that there will be no large capital investments are required; however, King County as expressed that billions of dollars will be needed to invest in capital infrastructure. Why is there this discrepancy or difference of opinion?
- Describe the actions Ecology is taking to mitigate non-point nutrient sources and compare the level of mitigation effort between wastewater treatment facilities and non-point sources.
- We understand that all permittees would be required to conduct an Environmental Justice Review, which would include a demographic analysis to identify communities of color, Tribes and indigenous populations and an affordability assessment to identify whether wastewater utility rate increases would disproportionately impact populations with environmental justice considerations. We do not understand why Ecology would not perform this analysis, including an in-depth economic analysis of the impacts the PSNGP will have on all Puget Sound residents and businesses, short term and long term? Are fiscal considerations not considered at all?

- It is our understanding approximately 20-25 wastewater treatment facilities who discharge to the Puget Sound will not be required to comply with the requirements of the PSNGP, please describe why. Also describe the analysis performed leading Ecology to not include these facilities in the requirement.

We respectfully request that Department of Ecology reconsider the timeline for implementation until all alternatives and economic impacts may be fully considered and a selection of the most beneficial and economic pathways can be made.

On behalf of the entire Kirkland City Council, thank you for your consideration of our comments. If you have any questions, please feel free to contact me at psweet@kirklandwa.gov or at (425) 587-3524.

Sincerely,

Penny Sweet
Mayor

cc: Members of the House Environment and Energy Committee
The Honorable Senator Derek Stanford
The Honorable Representative Davina Duerr
The Honorable Representative Shelley Kloba
The Honorable Senator Manka Dhingra
The Honorable Representative Roger Goodman
The Honorable Representative Larry Springer
The Honorable Senator Patty Kuderer
The Honorable Representative Vandana Slatter
The Honorable Representative Amy Walen
City of Kirkland City Council
Kurt Triplett, City Manager, City of Kirkland
Julie Underwood, Public Works Director, City of Kirkland
Ray Steiger, Superintendent, Department of Public Works, City of Kirkland
Josh Pantzke, Utility Manager, Department of Public Works, City of Kirkland
Chris Lynch, Senior Financial Analyst, Department of Public Works, City of Kirkland
Christie True, Director, King County Department of Natural Resources and Parks
Kamuron Gurol, Director, King County Wastewater Treatment Division