



King County

Department of Natural Resources and Parks

Director's Office

King Street Center

201 South Jackson Street, Suite 700

Seattle, WA 98104-3855

September 16, 2015

Bill Moore
Program Development Services
Water Quality Program
Washington Department of Ecology
PO Box 47600
Olympia, WA 98504-7600

Re: Request for extension of King County Surface Water Design Manual adoption deadline

Dear Mr. Moore:

I am writing to request that the Washington Department of Ecology extend the deadline for adoption of the King County Surface Water Design Manual (SWDM) and associated county code changes as required under the Phase I Municipal Stormwater National Pollutant Discharge Elimination System (NPDES) Permit to a date that is nine months after Ecology determines the SWDM and associated code changes are approvable. As discussed below and outlined in the NPDES permit, the main reason for this request is circumstances beyond King County's control that are resulting in delays beyond King County's control, leading to potential noncompliance with the permit.

The NPDES permit says in S5.C.5.iii that "In the case of circumstances beyond the Permittee's control, such as litigation or administrative appeals that may result in noncompliance with the requirements of this section [Permittee manual submittal and adoption deadlines], the Permittee shall promptly notify Ecology and submit a written request for an extension." This letter is intended to serve as that request.

King County's manual was expected to be equivalent to a state manual that was not available at the time our draft manual was required by the permit to be submitted, due to an order from the Pollution Control Hearings Board to Ecology to revise the state manual. This has substantially increased the scale and scope of revisions King County has to make to our final manual and associated code requirements, increasing the likelihood that King County will miss Ecology's adoption deadline and be out of compliance with the permit. We believe this could qualify as circumstances beyond our control.

Here is a brief summary of what occurred. As required by the permit, King County submitted on June 30, 2014, a draft SWDM and associated code changes that were equivalent to

Ecology's 2012 Stormwater Management Manual for Western Washington. The equivalency requirement was complicated by the order from the Pollution Control Hearings Board for Ecology to update its manual, which was not reissued until December 2014 as Ecology's 2014 Stormwater Management Manual for Western Washington.

Rather than require permittees to revise their draft manuals to be equivalent to the state's updated 2014 manual, Ecology offered to work with King County (and other permittees) to address equivalency issues through Ecology's review process. King County staff met with Ecology staff on several occasions to address a limited number of topics, but the full extent and breadth of issues were not known until King County received a 15-page comment letter from Ecology dated May 4, 2015. This letter included language indicating it was the official written response referenced in the permit, and it set February 3, 2016 as the deadline for King County's final adoption of the SWDM and related code updates.

The process of working with Ecology to address the agency's comments has been under way since we received the above-mentioned letter and will likely not be completed until late September at the earliest. Then King County will finalize revisions and resubmit its edited manual and associated code changes to Ecology for review and, hopefully, final concurrence that they are approvable as equivalent as required by the permit.

Only when Ecology deems the revised manual and associated code changes as equivalent can King County conduct a required legislative and public rule adoption process that is expected to take about nine months. This means King County will not be able to meet the February 3, 2016 deadline, and unless an extension is granted, the County will be out of compliance with the NPDES permit until the SWDM and associated code changes are formally adopted by the County.

Although this process has been and continues to be lengthy, we are appreciative of the cooperative and productive discussions we are having with Ecology staff on how King County can best address Ecology's comments. We believe the extra time this is taking is time well spent, as it will result in a higher quality manual that is clear and protective of water quality. This is important not only for protection of water quality in unincorporated King County but also in the many Phase II jurisdictions that have historically adopted, and that will likely adopt again, King County's SWDM.

Because of the complexity of addressing equivalency to both the 2012 state manual that we had in hand when we developed the SWDM and the updated 2014 state manual that was issued after our submittal, we believe this could qualify as circumstances beyond our control, since the Pollution Control Hearings Board directed Ecology to revise the earlier manual. In light of these circumstances, we are requesting that Ecology extend the February 3, 2016 deadline to a date that is nine months after the date Ecology determines that the SWDM and associated code changes are in an approvable form. In effect, this would constitute the end of Ecology's written response period as described in the permit.

Bill Moore
September 16, 2015
Page 3

We believe this request is in keeping with the intent of the permit, is consistent with our shared commitment to protect water quality, and arises out of circumstances that are beyond King County's control. If you have questions or would like to discuss, please contact Mark Isaacson at 206-477-4601 or by email at mark.isaacson@kingcounty.gov. Thank you for your consideration.

Sincerely,



Christie True
Director

cc: Mark Isaacson, Water and Land Resources (WLR) Division Director, Department of
Natural Resources and Parks (DNRP)
Curt Crawford, Manager, Stormwater services Section, WLR Division, DNRP

