



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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December 20, 2019

Mr. Michael Sauerwein
City Manager, City of Medina
501 Evergreen Point Road
Medina, WA 98039

Re: WARNING LETTER
Western Washington Phase II Municipal Stormwater Permit #WAR04-5527
Non-Compliance with 2013 – 2019 Permit Conditions S5.C.4.b.i-vi and S5.C.4.c.iii-vii

Dear Mr. Sauerwein,

This letter transmits the Department of Ecology's (Ecology) concerns about the City of Medina's (City) compliance with conditions S5.C.4.b.i-vi and S5.C.4.c.iii-vii of the 2013-2019 Western Washington Phase II Municipal Stormwater NPDES Permit (2013 Permit).

The 2013 Permit includes section S5.C.4 - Controlling Runoff from New Development, Redevelopment, and Construction Sites. Special Condition S5.C.4.b required Permittees stormwater programs to include a permitting process with site plan review, inspection and enforcement capability. The relevant requirements are S5.C.b.i – vi.

The 2013 Permit Special Condition S5.C.4.c pertains to the Permittees long-term operations and maintenance requirements for private stormwater flow control and treatment BMPs/facilities designed and approved subsequent to the required 2010 stormwater code updates. The relevant citations are S5.C.4.c.iii – vi.

On October 14, 2019 Ecology Municipal Stormwater Permit Implementation Planner, Colleen Griffith, and City Public Works Director, Ryan Osada, met to discuss the City's recent Annual Report submittal for the reporting year of 2018. It was noted that the City had reported 18 for the total number of site plans reviewed, pre-clearing inspections conducted, active-construction inspections conducted. They reported "Yes" for completion of post-construction inspections, and that four (4) enforcement actions were taken in relation to these construction site inspections. When asked if the City was sure all 18 site plans they approved per S5.C.4.b.i had received their pre-clearing inspection (S5.C.4.b.ii), broken ground, and received an active-site inspection



(S5.C.4.biii), it became apparent that the City had no records in house to verify this. The City also answered "Yes" to Annual Report Question #35 which stated that the City inspected stormwater treatment and flow control BMPs/facilities per S5.C.4.c.iii. When asked how many of these facilities is on the City's inspection list, and how the City followed up with private property owners when maintenance was needed, no in-house staff could answer. The City stated all of this work was conducted by a past consultant, Stantec, who retained all inspection records after the City terminated their contract. Mrs. Griffith informed Mr. Osada that Permittees are ultimately responsible for ensuring their own compliance with Permit requirements, regardless if they are relying on another entity to assist. As such, Mrs. Griffith requested the City get records from Stantec and verify the numbers they had provided in the Annual Report. The proposed due date was one month from the meeting, November 14, 2019.

On November 14, 2019, Mrs. Griffith received a letter from City of Medina requesting an extension until December 31, 2019 to collect their records and confirm or correct their reported numbers. The original document had mistakenly noted "December 31, 2020" as the due date, and Mrs. Griffith emailed Mr. Osada to confirm this was an error and that 2019 was the actual due date. Mr. Osada responded on December 2, 2019 with a note from the City Attorney confirming that the date had intended to say December 31, 2019, however, they already anticipating sending in a supplemental G20 regarding acquiring the records from the former consulting firm. On December 12, 2019, Mrs. Griffith received an email from Mr. Steve Wilcox, Development Services Director for the City. He requested an additional extension to submit S5.C.4.b related numbers until February 1, 2020, and an extension through July 31, 2020 for all S5.C.4.c.iii related information. This July deadline is not reasonable or acceptable. The City has another Annual Report for the year of 2019 due on March 31, 2020. The City will not be able to completely fill out their next Annual Report without knowing this same information, and therefore it is not appropriate to extend a deadline for determining how many private stormwater flow control and treatment BMPs/facilities the City should be inspecting until three months past the Annual Report submittal.

The City's failure to meet City-identified timelines raises concerns about the City's commitment to coming into compliance. Therefore, no later than February 1, 2019, please submit the following information to Ecology:

- The number of site plans reviewed during the reporting period of 2018
- The number of pre-clearing inspections that occurred where staff verified erosion and sediment control BMPs were in place before earthwork began.
- The number of active site inspections were conducted to ensure proper erosion and sediment control BMPs are properly installed and being maintained.
- The number of inspections at completed construction sites prior to final approval where staff verified proper installation of permanent stormwater facilities and ensured a maintenance plan for those facilities is in place.
- The number of enforcement actions taken in relation to the above site plan reviews and construction site inspections.

- The number of permanent stormwater flow control and treatment BMPs/facilities that discharge to the MS4 and were permitted in accordance with S5.C.4.b, including those pursuant with requirements adopted in the 2007-2012 Ecology municipal stormwater permit.
 - The number of these facilities that were inspected in 2018;
 - The number of these facilities that triggered maintenance requirements in 2018;
 - And the number of facilities where maintenance did not occur within the timeline prescribed in S5.C.4.c.vi.

Please be aware that formal enforcement actions are being considered due to the City's continued non-compliance. Ecology has the authority to issue formal enforcement actions including administrative orders and/or civil penalties of up to \$10,000 per day per violation for violations of your NPDES Permit.

If you have any questions about this letter please contact your Municipal Stormwater Permit Manager, Colleen Griffith, at 425-649-7041 or colleen.griffith@ecy.wa.gov, or myself at 425-649-7195 or amy.jankowiak@ecy.wa.gov.

Sincerely,



Amy Jankowiak
Compliance and Technical Assistance Unit Supervisor
Water Quality Program
Northwest Regional Office

cc: Ryan Osada, Public Works Director, City of Medina
Colleen Griffith, Municipal Stormwater Permit Implementation Planner, Ecology
Permit File

