



City of Tacoma  
Environmental Services Department

April 16, 2021

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APR 22 2021

WA State Department  
of Ecology (SWRO)

Dainis Kleinbergs  
Department of Ecology  
Southwest Regional Office WQ  
P.O Box 47775  
Olympia, WA 98504-7774

**Subject: Application for Renewal of National Pollutant Discharge Elimination System (NPDES) Wastewater Discharge Permit Number WA0037087, Tacoma Central Wastewater Treatment Plant and Permit Number WA 0037214 Tacoma North Wastewater Treatment Plant**

Dear Mr. Kleinbergs,

The City of Tacoma received letters requesting permit renewal applications for the Central Treatment Plant and the North (end) Treatment Plant on April 2, 2021. We were invited to contact you with questions regarding the application process which we did on April 12<sup>th</sup>. At the conclusion of the call you invited the City to follow up with a letter detailing our questions and concerns. Accordingly, we provide the following observations, questions and concerns for Ecology's consideration and response.

1. Permit Renewal Application Requirement. Ecology has notified the City that it is required pursuant to WAC 173-220-180 (1) to file a permit renewal application every five years. The letter does not recite the language in the administrative code requiring permit holders to submit applications every 5 years nor can we find a provision anywhere in the administrative code supporting this requirement. In fact, the rule this letter refers to provides only that the permittee shall make application for replacement at least 180 days prior to its expiration. The City has complied with this requirement. I have attached a letter dated July 10, 2017 acknowledging receipt of the City's timely application for permit renewals on December 24, 2013.

2. Permit is Not Expired. Ecology has also stated in the letters that the City's NPDES permits have expired. This statement is alarming and inaccurate. In the above referenced letter acknowledging the City's timely application for renewal, Ecology correctly stated:

"The current permit and its terms and conditions are hereby administratively extended and will remain in effect and enforceable until Ecology issues a new permit for you(r) facility, in accordance with the Washington Administrative Code 173-220-180(5)."

WAC 173-220-180(5) provides:

When a permittee has made timely and sufficient application for the renewal of a permit, an expiring permit remains in effect and enforceable until the application has been denied or a replacement permit has been issued by the department.



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WAC 173-220-180(2) provides:

Any permittee shall make application for replacement to an existing permit or continuation of a discharge beyond the expiration date of his/her permit by filing with the department an application for replacement of the permit at least one hundred eighty days prior to its expiration.

As acknowledged by Ecology, the City made a timely application for replacement to an existing permit. Having done so, WAC 173-220-180(5) provides that the expiring permit shall remain in effect and enforceable. Accordingly, the Permits have not expired because timely applications were filed.

3. Effect of Timely Application. WAC 173-220-180(2) referenced above provides that upon timely application having been filed the expiring permit shall remain in effect until a replacement permit has been issued by Ecology. There is no requirement to file another application to continue the effect and enforceability of the Permits. Thus, as a matter of law the permit remains in effect until denied or a new permit is issued. Ecology has not denied or issued a new permit to the City. There is no expiration date on this administratively extended permit. The City filed permit applications in a timely fashion. Since the rule only requires an application 180 days prior to the expiration of the permit and doing so operates to maintain the permit in effect, we do not see any basis upon which Ecology can now require an additional permit application.

Based upon the foregoing, the City has a number of concerns:

- a. Authority for this Requirement. As outlined above, Ecology has not explained the legal basis for this new requirement or the consequences to the City of failing to file a new application.
- b. Effect of new Application. There are no provisions in the administrative code that address the legal status of a subsequent application. If the City files a new application, does that new application render the initial application inoperative? Does the new application supersede the prior application or does it simply supplement the prior application? If there is a conflict between the current application and new application, how will those conflicts be resolved? Will Ecology make its determination for issuance of a new Permit based upon the prior application, the new application, or a combination of both? Does the filing date of the new application relate back to the filing date of the original application, and if so, what is the authority for relating back? Does the new application date receive a new filing date, and if so, will it be considered an untimely application risking immediate termination of the permits and challenge by Ecology or third parties?
- c. Burden and Benefits of New Application. The production of a thorough permit application is a significant undertaking. The City needs assurance that if it expends the time, effort and money to produce a quality application that it is legally required to do so, and that it will result in a quality permit or at least provide a significant water quality benefit. If permit reissuance is not imminent, the City perceives little or no benefit to Ecology or the City in collecting the necessary data and updating documents that may very well be out of date by the time Ecology has the resources to process our permit application.

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While the City remains committed to the protection of water quality in Puget Sound and desires to continue to work collaboratively with Ecology toward that end, the City does not see value in producing a formal permit application in the absence of a compelling reason to do so. However, the City does see benefit in discussing with Ecology ways in which the regulated community might help streamline the permitting process and assist Ecology in working through the backlog of administratively extended permits.

We look forward to and await your response so the City can make a fully informed decision regard the requested applications for renewal.

Sincerely,

*Dan C. Thompson, Ph.D.*

Daniel C. Thompson PhD  
Business Operations Division Manager  
City of Tacoma Environmental Services

Cc: Carey Cholski, Permit Administrator, Southwest Regional Office

1. The first part of the paper is devoted to a study of the properties of the function  $f(x)$  defined by the equation

2. In the second part we shall consider the case when the function  $f(x)$  is continuous. It is well known that in this case the function  $f(x)$  is differentiable almost everywhere. We shall now prove that the derivative of  $f(x)$  is equal to zero almost everywhere.

3. Let us suppose that the function  $f(x)$  is continuous. Then the function  $f(x)$  is differentiable almost everywhere. We shall now prove that the derivative of  $f(x)$  is equal to zero almost everywhere.

4. Let us suppose that the function  $f(x)$  is continuous. Then the function  $f(x)$  is differentiable almost everywhere. We shall now prove that the derivative of  $f(x)$  is equal to zero almost everywhere.

5. Let us suppose that the function  $f(x)$  is continuous. Then the function  $f(x)$  is differentiable almost everywhere. We shall now prove that the derivative of  $f(x)$  is equal to zero almost everywhere.

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