
Coordination Plan for NPDES Phase I & II Bear Creek Watershed-Scale Stormwater Plan

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King County

Department of Natural Resources and Parks
Water and Land Resources Division

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Coordination Plan for NPDES Phase I & II Bear Creek Watershed-Scale Stormwater Plan

Prepared for:

Washington State Department of Ecology, NPDES Phase I Permit compliance (S5.C.5.c.iii) and Phase II Permit Compliance (S5.C.4.g.i)

Submitted by:

King County, Water and Land Resources Division,
Department of Natural Resources and Parks

Snohomish County, Department of Public Works

City of Redmond, Department of Public Works

City of Woodinville, Department of Public Works

Washington State, Department of Transportation



King County

Department of
Natural Resources and Parks
Water and Land Resources Division

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EXECUTIVE SUMMARY

King County is permitted under the National Pollutant Discharge Elimination System (NPDES) and State Waste Discharge General Permit for discharges from its Municipal Separate Storm Sewer Systems (MS4s) which may include road ditches, storm drains, man-made conveyances, etc. King County is classified as a medium to large municipality and is designated as a Phase I Permittee under this permit. Municipalities that are owners and/or operators of small MS4s and located within King and Snohomish counties (among other western counties) are defined as Phase II Permittees and regulated under the Western Washington Phase II Municipal Stormwater Permit.

The current permit (effective August 1, 2013 through July 31, 2018 and modified January 16, 2015) required King County to select a watershed to conduct a watershed-scale stormwater planning effort with an objective to develop a stormwater management strategy that will fully support existing and designated uses as defined in Washington State Administrative Code 172-201. King County notified Washington State Department of Ecology (Ecology) on October 31, 2013 that it selected a sub-area of the Bear Creek watershed to develop a Watershed-Scale Stormwater Plan.

Any Phase I or Phase II Permittees with jurisdictional boundaries within the selected Bear Creek watershed study area are required to conduct and/or participate in this Watershed-Scale Stormwater Planning effort (also referred to as the watershed plan) to satisfy permit obligations under:

- NPDES Phase I S5.C.5.c, effective August 1, 2013 through July 31, 2018, and modified January 16, 2015
- NPDES Phase II S5.C.4.g, effective August 1, 2013 through July 31, 2018, and modified January 16, 2015
- Washington State Department of Transportation NPDES Municipal Permit S5.A.4, effective date April 5, 2014

Phase I and Phase II Permittees within the selected study area include King and Snohomish counties, cities of Redmond and Woodinville, and Washington State Department of Transportation (WSDOT); these entities have agreed to collaborate on a joint Watershed-Scale Stormwater Plan. This document describes the coordination and dispute resolution procedures regarding this group's roles, responsibilities, discussions and decisions needed to produce the, permit required, Watershed-Scale Stormwater Plan.

Additionally, this coordination document was prepared to satisfy NPDES permit requirements (S5.C.5.c.iii) for Phase I counties of King and Snohomish and for the permit requirements (S5.C.4.g.i) for the Phase II Permittee cities of Redmond and Woodinville. This coordination document is required to be submitted to Ecology no later than August 13, 2015. While WSDOT is not required to submit a collaboration and dispute resolution

document, a Scope of Work, or a Watershed Plan (S5.A.4), WSDOT is fully participating in this watershed planning process.

This document does not amend or supersede any Intergovernmental Agreements between King County and other parties involved in this project. In the event of any conflict or dispute that cannot be resolved following the procedures contained in this document, the provisions within the Intergovernmental Agreements (i.e., Snohomish County—March 23, 2015 and Cities of Redmond and Woodinville—in progress) shall prevail.

1.0 OVERVIEW

King County is permitted under the National Pollutant Discharge Elimination System (NPDES) and State Waste Discharge General Permit for discharges from its Municipal Separate Storm Sewer Systems (MS4s) which may include road ditches, storm drains, man-made conveyances, etc. King County is classified as a medium to large municipality and is designated as a Phase I Permittee under this permit. Municipalities that are owners and/or operators of small MS4s and located within King and Snohomish counties (among other western counties) are defined as Phase II Permittees and regulated under the Western Washington Phase II Municipal Stormwater Permit.

The current Phase I permit (i.e., effective August 1, 2013 through July 31, 2018 and modified January 16, 2015) required King County to select a watershed to conduct a watershed-scale stormwater planning effort with an objective to develop a stormwater management strategy that will fully support *existing*¹ and *designated*² uses. King County notified Washington State Department of Ecology (Ecology) on October 31, 2013 that it had selected a sub-area of the Bear Creek watershed to develop a Watershed-Scale Stormwater Plan.

Any Phase I or Phase II Permittees with jurisdictional boundaries within the selected Bear Creek watershed study area are required under their respective permits to conduct or participate in a Watershed-Scale Stormwater Planning effort (also referred to as the watershed plan) to satisfy permit obligations under:

- NPDES Phase I S5.C.5.c, effective August 1, 2013 through July 31, 2018, and modified January 16, 2015
- NPDES Phase II S5.C.4.g, effective August 1, 2013 through July 31, 2018, and modified January 16, 2015
- Washington State Department of Transportation NPDES Municipal Permit S5.A.4, effective April 5, 2014 through April 5, 2019

Phase I and Phase II Permittees within the selected study area include King and Snohomish counties, cities of Redmond and Woodinville, and Washington State Department of Transportation (WSDOT); these entities have agreed to collaborate on a joint Watershed-Scale Stormwater Plan. This document describes the coordination and dispute resolution procedures regarding this group's roles, responsibilities, discussions and decisions needed to produce the, permit required, Watershed-Scale Stormwater Plan.

¹ "Existing uses" means those uses actually attained in fresh or marine waters on or after November 28, 1975, whether or not they are designated uses. Introduced species that are not native to Washington, and put-and-take fisheries comprised of nonself-replicating introduced native species, do not need to receive full support as an existing use.

² "Designated uses" are those uses specified in WAC 173-201A-020 for each water body or segment, regardless of whether or not the uses are currently attained.

Additionally, this collaboration document was prepared to satisfy NPDES permit requirements (S5.C.5.c.iii) for Phase I counties of King and Snohomish and for the permit requirements (S5.C.4.g.i) for the Phase II Permittee cities of Redmond and Woodinville. This coordination document is required to be submitted to Ecology no later than August 13, 2015. While WSDOT is not required to submit a collaboration and dispute resolution document, a Scope of Work, or a Watershed Plan (S5.A.4), WSDOT is fully participating in this watershed planning process.

All permittees within the established Bear Creek watershed planning area either have agreed or are in the process of pursuing an agreement to participate in a joint effort as demonstrated by the approval (Snohomish County March 23, 2015) or anticipated approval (Cities of Redmond and Woodinville in progress) of the Intergovernmental Agreements.

This document does not amend or supersede any conditions within the agreements between King County and the other non-lead permittees pertaining to this watershed planning process.

1.1 NPDES Phase I Municipal Stormwater Permit Requirement (S5.C.5.c.iii)

iii. No later than August 13, 2015, each Permittee within the basin selected by King County must submit to Ecology documentation of their proposed approach to coordinate their efforts with other Permittees within the watershed, including:

- (1) A list of the municipal stormwater permittees with whom the Permittee will undertake watershed-scale planning under a common scope of work; and description of the coordination and dispute resolution procedures agreed to by all of the Permittees operating under the common scope of work;

1.2 NPDES Western Washington Phase II Municipal Stormwater Permit Requirement (S5.C.4.g.i)

i. No later than August 13, 2015, each Permittee within a selected watershed must submit to Ecology documentation of its approach to coordinate with other Permittees within the watershed, including:

- (a) A list of the municipal stormwater Permittees with whom the Permittee will undertake watershed-scale planning under a common scope of work; and a description of the coordination and dispute resolution procedures agreed to by all of the Permittees operating under the common scope of work;

1.3 Washington State DOT NPDES Municipal Stormwater Permit (S5.A.4)

4. Watershed-scale stormwater planning

a. When WSDOT has all or part of its coverage area under this Permit in a watershed selected by a Phase I county for watershed-scale stormwater planning under condition S5.C.4.c of the Phase I Municipal Stormwater General Permit WSDOT shall participate with the watershed-scale stormwater planning process led by the Phase I county. As needed and as appropriate, WSDOT shall:

- i. Provide existing water quality and flow records.*
- ii. Provide monitoring locations.*

2.0 COLLABORATION PROCESS

In accordance with the NPDES Phase I Permit NPDES Phase II Permit, and WSDOT's NPDES Permit, the City of Woodinville, the City of Redmond, Snohomish County, and the Washington State Department of Transportation (all non-lead permittees) have agreed to fully participate in King County's Watershed-Scale Stormwater Plan project for a portion of the Bear Creek watershed, to be prepared in accordance with the anticipated Scope of Work submitted by King County and approved by Ecology.

2.1 Definitions

Definitions are provided to ensure a common understanding among the participating Permittees for some key words that may have permit implications.

- Designated representative—the person designated by a Permittee as its primary representative and point of contact on the project.
- Permittees—King and Snohomish Counties, Cities of Redmond and Woodinville, and Washington State Department of Transportation.
- Full Participation—means compliance with individual permit participation requirements specified in Phase I—S5.C.5.c.ii, Phase II—S5.C.4.g, and WSDOT S5.A.4) by partnering to provide, for example, staffing resources with appropriate knowledge and expertise, data sharing, and cost sharing needed to develop the Bear Creek Watershed Plan.
- Consensus—all Permittees (i.e., King and Snohomish Counties, Cities of Redmond and Woodinville, and Washington State Department of Transportation) are in agreement with a decision, outcome, reported condition, etc.
- Permittee review—during the watershed planning process, Permittees will be asked to provide review of multiple interim and final products. Providing comments and edits during a review process does not necessarily establish that the Permittee(s) agree(s) with the product but is an indication that the Permittee is fully participating as required by the Permits.

2.2 Designated Representatives

Except in special circumstances made clear by a designated representative, a designated representative acts and speaks for the Permittee, and King County shall rely on information, decisions, and statements made by the designated representative. It is the responsibility of the designated representative to confer with his or her management, and/or elected officials as needed and accurately reports their agency's position as necessary during the watershed planning process.

Maintaining continuity by keeping the same designated representative will increase the likelihood that efficiencies will be maximized during the Bear Creek watershed process. However, any participating Permittee can at any time replace its designated representative

during the Bear Creek watershed planning process. Each designated representative will be part of the Core team that participates on a routine basis throughout the life of the project. As of August 13, 2015, the established designated representatives are:

- Jeff Burkey, King County—Water and Land Resources Division, Department of Natural Resources and Parks
- Bill Leif, Snohomish County—Department of Public Works
- Andy Rheame, City of Redmond—Department of Public Works
- Tom Hansen, City of Woodinville—Department of Public Works
- Dick Gersib, Washington State—Department of Transportation

2.3 Roles and Responsibilities

King County will lead the implementation of the Scope of Work for the Bear Creek Watershed-Scale Stormwater Plan. As part of this responsibility, King County will:

- facilitate regularly scheduled meetings, plus additional meetings as needed, at which project decisions will be discussed;
- provide the necessary information and seek input from the non-lead Permittees for decisions to be made;
- provide adequate advance notice to allow the non-lead Permittees time to prepare relevant information for discussions about decisions to be made; and,
- submit the necessary required permit documents (see Section 2.5 for more detail).

The non-lead Permittees agree to:

- make reasonable and diligent efforts to attend and participate in meetings and discussions about project decisions and implementation of the Scope of Work;
- prepare and provide relevant information to King County when requested;
- conduct internal discussions at appropriate levels of agency authority necessary to implement the Scope of Work;
- assign staff with appropriate knowledge and expertise to attend meetings and/or provide relevant material supporting the discussions of project decisions as needed; and,
- submit to King County with adequate lead time any additional information, dissenting opinions, conclusions, and/or alternative approaches that a non-lead Permittee wants included in the draft and final watershed plan.

2.4 Decision Making

King County shall have final and unilateral authority on decisions regarding implementation of the Scope of Work for the Bear Creek Watershed-Scale Stormwater Plan. During the implementation of the Scope of Work, King County will:

- give due consideration to information and opinions presented by the non-lead Permittees in the discussions leading to the decisions made;
- document the final decisions made and consequent actions taken by King County;
- provide an explanation of reasons for making decisions in the event that consensus among the non-lead Permittees was not reached during the discussions; and,
- include additional information, dissenting opinions, conclusions, and/or alternative approaches submitted to King County by non-lead Permittees as an appendix or appendices to the final watershed plan.

2.5 Submittals for Permit Compliance

The non-lead Permittees will be “relying on another entity” (i.e., NPDES Phase I, Section S3.B for Snohomish County and NPDES Phase II Section S1.D.3.c for Cities of Redmond and Woodinville) for submitting permit requirements associated with the Watershed-Scale Plan. King County is obligated to meet each non-lead Permittee’s permit requirements identified in this document, provided that each non-lead Permittee maintains an active role during this watershed planning process and does not terminate their agreements between King County and themselves. This includes but is not limited to submitting all permit-required deliverables on time as prescribed by the permits. Signed intergovernmental agreements between King County and the City of Redmond, between King County and City of Woodinville, and between King and Snohomish Counties have provided King County with the authority and responsibility of meeting the non-lead Permittee’s permit requirements as identified in this Coordination Plan.

King County will be submitting for its own permit requirements and the requirements of the non-lead Permittees (i.e., Snohomish County, City of Redmond, and City of Woodinville) the following items:

- this collaboration and dispute resolution document by August 13, 2015;
- a Scope of Work for approval by Ecology by November 4, 2015; and,
- a Watershed-Scale Stormwater Plan by April 4, 2018.

2.6 Budget

As part of the collaboration and full participation of Permittees in the Bear Creek watershed planning process, the cost for implementing the Scope of Work will be shared among the Permittees. The distribution of costs was based on estimates of each jurisdiction’s proportionate amount of impervious surface areas within the entire study

area. The estimated cost share distributions based on such proportionate amount of impervious surface are the following:

- King County, 75.6%;
- Snohomish County, 8.6%;
- City of Redmond, 10.0%;
- City of Woodinville, 5.8%; and
- Washington State—DOT, 0.0%.

The actual distribution of costs will be defined by the intergovernmental agreements executed by King County and the other non-lead Permittee agencies.

2.7 Deliverables

As listed in Section 2.5 (Submittals for Permit Compliance), the deliverables that will be produced during the collaboration are the deliverables required by the Phase I & II Municipal Stormwater permits.

2.8 Intergovernmental Agreements

Language in the agreements between King County and the non-lead Permittees will supersede any conflicts that may exist between them and this coordination document. Intergovernmental agreements have been signed between:

- King County and Snohomish County (March 23, 2015);
- King County and City of Redmond (TBD); and
- King County and City of Woodinville (TBD).

3.0 DISPUTE RESOLUTION

If a dispute arises during the implementation of the Scope of Work that cannot be resolved among the Permittees, the Permittees will refer to this document and follow procedures described herein, which have been agreed to by all Permittees.

3.1 Permit Compliance Resolution Process

As stated above in Section 2.4, King County has final and unilateral authority on decisions regarding carrying out the Scope of Work for the Bear Creek Stormwater Basin Plan. However, if requested by a non-lead Permittee, King County will include additional information, dissenting opinions, conclusions, and/or alternative approaches submitted to King County by non-lead Permittees as appendices to the draft and final Watershed-Scale Stormwater Plan. Furthermore, each of the non-lead Permittees has invoked the provision in its permit (not relevant for WSDOT) by which it is relying on King County to submit all required documents on this project. Therefore, the only remaining compliance issue about which a dispute can arise is if a non-lead Permittee believes that King County is proceeding in a manner that could result in a permit violation. In the event this occurs, the following steps will be taken:

1. The non-lead Permittee with the concern will contact King County and other participating Permittees and explain the concern.
2. King County will respond to all non-lead Permittees, and either change how it is proceeding to ensure compliance, explain to all participating Permittees why its course of action is compliant, or initiate further discussion among the participating Permittees in an attempt to resolve the concern.
3. If Steps 1 and 2 do not lead to resolution to the satisfaction of all participating Permittees, King County will contact Ecology to determine whether the concern is valid.
4. If Ecology determines the concern is not valid, King County will proceed as it was before the concern was raised.
5. If Ecology determines the concern is valid, King County will follow Ecology's direction about how to proceed in a compliant manner. If there are options for how King County can proceed, King County will hold discussions with the participating Permittees regarding which option to select.

3.2 Collaboration Dispute Resolution Process

A successful outcome for this watershed planning process would be that permit compliance was fully maintained, and the submittal of a Bear Creek Watershed-Scale Stormwater Plan was fully supported by all Permittees. However, it is anticipated that there may be disagreements during the development of the watershed plan and over its contents. The

Permittees will work to understand and resolve their differences to the greatest extent possible.

Listed below are the steps to be taken when a disagreement arises.

Step 1—Identify and interpret. All Permittees agree on a common definition of the problem.

Step 2—Identify potential impacts to schedule and budget. If a disagreement requires additional work, a scope of work will be developed to estimate the impacts to the schedule. If the scope of work can be done without adversely impacting the schedule or jeopardizing permit compliance, the Permittees will establish how the work will be funded if considered out of scope (e.g., amendment to formal agreements, non-lead Permittee performs the work, etc.).

Step 3—Acceptance of the resolution. If, after working through Steps 1 and 2, all Permittees agree on the solution of the disagreement, they will proceed in that manner. If a consensus on a resolution is not achieved for any reason (e.g., method is agreed upon but no funding source is identified), the non-lead Permittee(s) can submit documentation responding to the part(s) of the watershed plan over which there is disagreement. A Permittee's response may include alternative scientific analyses, or simply a statement of disagreement. Any substantive resources needed to produce that documentation will be the responsibility of the dissenting non-lead Permittee(s). The dissenting Permittee(s) documentation will be included in the watershed plan appendices.

3.3 Agency Representation

If a dispute arises, it may be necessary to raise the dispute to higher levels of authority within the Permittee's agencies. The first step in such a process is to determine whether the Permittee(s) can resolve the dispute among the collaborating designated representatives. If any one of the representatives decides they feel the need to raise the dispute to higher levels of management, those persons will notify all designated representatives of their intended action and whom they plan to notify.

When seeking resolution, the Permittees shall preliminarily identify what level of decision-making authority will be needed. Below is a hierarchical list of authority within a jurisdiction that may become part of the dispute resolution process.

- Designated representatives for each Permittee
- Upper Management
- Director level of department
- Executive and/or Legislative Office

If the dispute cannot be resolved following the above protocols listed in Section 3.1 or 3.2, then the dispute resolution procedures as prescribed in the executed intergovernmental agreements shall prevail.

3.4 Communication Protocols

When a disagreement cannot be resolved among the designated representatives as identified in Section 2.2, then all communication between any two (or more) Permittees (or their designated representatives) shall be in writing and is the responsibility of those Permittees involved in such dialogue to keep all Permittees and designated representatives informed during the dispute process.

With regard to any communication necessitating a response from another Permittee(s), the Permittee(s) whose response is needed shall respond in writing within fourteen (14) days of receipt of the initial communication. If a Permittee(s) fails to respond within the fourteen days, the entity initiating the original communication may directly contact a higher level of authority as described in Section 3.3.

If a Permittee decides to raise to a higher level of authority the communication between Permittees, that Permittee(s) shall notify the remaining Permittees of their action or intention.

Written communication can be in the form of emails, letters, or memos. The distribution list of all persons intended to receive the communication shall be included in the content of the communication.