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November 20, 2006

Puget Sound Partnership  
C/o Puget Sound Action Team  
P.O. Box 40900  
Olympia, WA 98504-0900

Dear Puget Sound Partnership Co-chairs and Partners:

Given the high level of interest in stormwater at the last Puget Sound Partnership retreat, I wanted to take this opportunity to provide some feedback on the issue. Due to a previous out-of-town business commitment, I was unable to attend the retreat and participate in the discussion face to face with other Partners.

I read the letter signed by a group of 14 scientists, criticizing and second-guessing the Partnership's draft plan as not doing enough to address impacts caused by stormwater, which I understand was not discussed at the retreat or commented on by our Science Working Group. I also read Congressman Jay Inslee's 11/8/06 memo to the Partnership, outlining a stormwater management proposal, and the Partnership's proposed amendment to establish a stormwater task force.

While I appreciate learning the scientists' perspective and academic credentials, we should all think twice before jumping to conclusions about the policies advocated in the letter. The signatories appear to urge a policy agenda, rather than present a scientific analysis. I believe their policy recommendations are wholly unrealistic and naive from a scientific research, stormwater management and political reality standpoint. For example, this region will never replace two-lane roads with one-lane roads, as they urge.

Also, I strongly object to the Partnership report recommending the formation of a stormwater task force. Our plan already calls for a source characterization study to determine the levels of toxics, nutrients and pathogens entering Puget Sound. To designate a task force on stormwater before we even have the results of this study would be counterproductive, especially considering our limited resources for cleaning up Puget Sound. I believe the decision to form a task force on stormwater, or any other issue related to the health of Puget Sound identified in our plan, should be made by the new governance group, which must prioritize the allocation of limited resources to address identified causes of Puget Sound's demise.

## Scientists' letter

One of my biggest concerns with the scientists' letter is that it does not acknowledge the Growth Management Act (GMA), which directs growth to urban areas, in order to protect and preserve rural area environments. Although directing development within urban areas will cause some environmental impacts, those impacts will be far less than permitting population increases over a broader rural area served by more roads. Many of the science letter suggestions – for example, regulating development to limit the loss of forest cover – would prevent us from achieving GMA's goals. The best management practice cited in the letter (BMP T5.30) was never intended to apply to urban areas, and referencing it to urban development is completely inappropriate.

Furthermore, the letter assumes the 2005 *Ecology Stormwater Management Manual for Western Washington* is grossly inadequate to mitigate stormwater impacts from new development. However, none of the letter's co-signers or any science team member has reported to us any data supporting such a position. How could they? There are no whole Puget Sound basins developed to modern stormwater management standards, or even to the standards of the predecessor stormwater manuals published in 2001 (Ecology) and 1998 (King County), which would provide data to determine how much protection current standards really provide. As the letter signers well know, the studies referenced in their letter have largely been on watersheds lacking any stormwater controls. Moreover, there are no built environment studies analyzing the positive or negative effects of recently adopted stormwater management practices.

Additionally, the scientists' letter appears to say the Partnership's highest priority for a healthy Puget Sound by 2020 ought to be new controls on new development beyond those in the just-issued 2005 Ecology stormwater manual. These new '05 stormwater manual requirements, which represent some of the toughest in the nation, have barely begun to be implemented. And, the new NPDES Phase I and Phase II stormwater control permits' requirements have yet to be adopted region wide; although, the Partnership plan has recommended expeditious adoption.

Commercial, residential and industrial development constructed under current 2005 standards for flow duration controls and water quality treatment have not caused Puget Sound's current water quality condition, and surely the new stormwater manuals presently mitigate much of the flow and toxicity impacts in water quality. As the Partnership has agreed over the past ten months, the major cause of stormwater's adverse impacts to the Sound's water quality is construction projects built before 1990 and highway construction.

As you know, our draft plan recommends reducing toxics, nutrients and pathogens entering Puget Sound, retrofitting areas where existing stormwater controls are absent or not up to current stormwater manual standards and are causing harm, protecting physical habitat in Puget Sound and restoring instream flows in priority river basins, among others. How could further restrictions for questionable gains be a better use of limited resources than other Partnership priorities for achieving a healthy Puget Sound by 2020, especially when the science team cannot quantify the impacts of stormwater or benefits gained from further regulations?

We should expect that minimizing the impact of new development in combination with implementing GMA, cleaning up toxic problems, retrofitting areas lacking functional stormwater controls, and all other priorities established in our recommendations will lead to a healthier Puget Sound.

With due respect to the group of scientists who signed the letter, I take strong exception to the statement, “Encouraging infiltration (in the absence of Low Impact Development (LID) standards) is meaningless.” As you know, our draft report recommends maximizing infiltration through efforts to have more ordinances written to enable construction of various LID techniques, increase LID incentives and promote LID demonstration projects. LID techniques may also be suitable for some retrofits where stormwater controls are lacking. As evidenced by the steady growth in certifications through the Master Builders Association’s Built Green™ program, the developers and builders in my organization are strong advocates for environmental practices like LID where they make sense. These actions are hardly “meaningless.” But, it is meaningless to recommend requiring porous pavers over till, which would be a large expense with little change in runoff benefit, especially during storms capable of causing stream damage. As the scientists’ letter acknowledges, requiring infiltrative LID measures would not change the fact that most of the Puget Sound basin is composed of poorly infiltrated till soil. We simply cannot cram water into till, so requiring LID in these situations is largely meaningless.

Another concern I have with the letter is that it claims the Partnership’s draft report “leans on failed practices for protection” from stormwater. The authors appear either to know little or to care little about current required built environment stormwater management practices. Their statement is simply not true because the practices are new, have little history, and over 75 percent of Puget Sound development occurred prior to the initiation of new stormwater techniques. Before the early to mid 1990’s, there were ineffective stormwater requirements for flow control or for water quality mitigation. As I have said many times throughout this process, the majority of development in the Puget Sound basin had happened by then. We should not underestimate the importance of applying current regulations and practices to retrofit untreated stormwater runoff coming from public and private development predating current stormwater management requirements.

### **Congressman Inslee’s memo**

Congressman Inslee states in his memo that “the existing political infrastructure and authority regarding stormwater is inadequate to result in improvement regarding stormwater management.” I disagree because the scientific evidence we have is insufficient to judge the degree of the problem. How can we possibly conclude that the current regulatory structure for addressing stormwater is inadequate, until we retrofit the significant percentage of the existing built environment that pre-dates today’s stormwater and flow control standards? Until we retrofit the built environment, we will not make any progress.

I support market mechanisms to encourage environmental actions, but I don’t believe a “cap and trade system” would work, and I would not support further discussion of such a system until we have completed more work on the overall priorities of the Partnership

and understand how and where we must reduce excessive loadings of pollutants. Stormwater does not acknowledge political boundaries, so it would be extremely difficult, if not impossible, to analyze stormwater impacts within jurisdictions. Until the science community can determine the source and impact of toxic, nutrient and pathogen loadings from all sources (point, non-point, air, etc), stormwater cannot be singled out and jurisdictions penalized for contributing it to the Sound. The cost of solving a city's or county's past stormwater management deficiencies cannot and should not be born by new development, especially when new development is currently paying its way with expensive new stormwater treatment requirements.

### **Task force proposal**

As stated above, I strongly object to our final report recommending the formation of a stormwater task force. I believe the formation of any new task force should fall within the purview of the new governance structure's prioritization or resource allocation. If we were to recommend any task force at all, it must study all of the loading factors that impact Puget Sound – point source and non-point source pollution, air pollution, etc. – and not just be limited to stormwater.

Moreover, we have to look closely at how to retrofit existing development and continue to encourage growth in existing urban areas. We also need to develop a means to scientifically assess the results from current stormwater management requirements. Finally, the Partnership has recommended expediting the process leading to successful implementation of the NPDES permits that are about to be issued. It will be a waste of time, money and political capital to try and study stormwater without adequate scientific information and focusing on the issues I identified first.

Thank you for considering these points.

Sincerely,



Samuel L. Anderson  
Executive Officer