Section 6
Regulatory Compliance

6.1 Introduction

This section presents the stormwater requirements for the City of Sedro-Woolley. It includes requirements at the State, federal, and local/regional levels of government. Background information on the various requirements is presented and discussed. The most important stormwater regulations that the City is presently facing are those at the State level, as defined in the Puget Sound Water Quality Management (PSWQM) Plan. The City needs to immediately respond to the requirements of the State's PSWQM Plan. It may also be required to have a federal Phase II Stormwater National Pollution Discharge Elimination System (NPDES) Permit within the next three to five years.

6.2 Background Information

The City of Sedro-Woolley is affected by State and federal stormwater management requirements. At the present time, the City is required to comply with the elements of the State's Basic Stormwater Program, as delineated in the 1994 Puget Sound Water Quality Management Plan. The Basic Stormwater Program emphasizes the establishment of appropriate legal authority, standards for new development and redevelopment, and maintenance of the City's existing drainage system. Compliance with the State's Basic Stormwater Program was to be achieved by January 1, 1995. The City is not required to comply with the State's Comprehensive Stormwater Program at this time due to its relatively small urban population.

In the future, the City could be issued a Phase II Stormwater NPDES by Ecology. A Phase I NPDES permit has currently been issued to about eight of the larger urban areas within the State with populations of 100,000 or more. Phase II NPDES Stormwater Permits, for moderate and even small cities, are being considered by the federal Environmental Protection Agency (EPA) and the Washington State Department of Ecology (Ecology). Although the City is smaller than 50,000, Ecology may elect to issue future Phase II NPDES Stormwater Permits based on either a watershed or "urban center" approach. If the later approach is used, the City and adjacent urban areas within Skagit County (County), including the cities of Mt. Vernon and Burlington, could be issued a joint permit. Discussions to-date with Ecology indicate that if a Phase II NPDES Stormwater Permit is issued to the City in the future, the terms and conditions of the permit may be similar to the conditions of compliance required in the State's present Comprehensive Stormwater Management Program. The State's Comprehensive Stormwater Program requires

monitoring, source controls and the elimination of water quality problems. Because Ecology does not currently have adequate authority under State law to enforce the PSWQM Plan, they will likely be using the enforcement powers granted to them under the federal NPDES permitting program to ensure compliance.

6.3 Federal, State, Regional, and Local Stormwater Requirements

The regulation of stormwater within the City is governed by seven federal laws, 12 State laws, and 11 different local and regional regulations, ordinances, basin plans and guidance documents, as shown in Table 6-1. There are many more water regulations related to water rights, groundwater, water supplies, disinfection, and drinking water quality.

While all these regulations are important to the City, the intent of this management analysis is to review the most pressing stormwater regulations, assess the City's present stormwater management program in terms of compliance, and recommend program changes and improvements to the City's existing stormwater program to achieve compliance.

Table 6-1
Water Resource Related Regulatory Requirements, Policies, and Technical Guidance for Stormwater and Land Use

Stormwater	Land Use
❑ Federal ■ National Flood Insurance Act (1968) ■ Flood Disaster Protection Act (1973) ■ Clean Water Act (1972, amended 1987) ■ National Pollution Discharge Elimination System Permits (1987)	❑ Federal ■ Clean Water Act - 404(b)(1) (discharge of dredge or fill materials) ■ Rivers and Harbor Act - Section 10 ■ Clean Water Act - 401 (water quality permit)
❑ State ■ Flood Control Assistance Program (86.26 RCW) ■ State Floodplain Management Act (86.16 RCW) ■ Puget Sound Water Quality Authority (90.70 RCW) ■ State Planning Enabling Act (36.70 RCW) ■ Forest Practices Act (76.09 RCW) ■ Growth Management Act (ES HB 2929) and as amended in SB HB 1025) ■ Washington State Shoreline Management Act (90.58 RCW) ■ State Environmental Policy Act (43.21c RCW) ■ Washington State Hydraulic Code (75.20 RCW)	❑ State ■ State Environmental Policy Act ■ Shoreline Permits under the State Shoreline Management Act ■ Hydraulic Project Approval Permits (for fisheries) ❑ County/Regional ■ Comprehensive Plan ■ Land Use Zoning Plan ❑ Local ■ City Environmental Ordinances ■ City Zoning Ordinances ■ City Land Use Plan ■ City Comprehensive Plan

Table 6-1 (continued)
Water Resource Related Regulatory Requirements, Policies, and Technical Guidance for Stormwater and Land Use

Stormwater	Land Use
❑ Local and Regional ■ County Flood Emergency Operations Plan ■ Skagit County Comprehensive Plan ■ County Watershed Action Plans ■ City Comprehensive Plan ■ City's Stormwater and Erosion Control Ordinances ■ City's Building Codes and Drainage Design Standards ■ City's Wetlands and Sensitive Areas Ordinances	

The two most important stormwater regulations the City is presently facing are: 1) those of the State's Puget Sound Stormwater Management Program, as defined by the State Puget Sound Water Quality Authority, and 2) those associated with the pending federal/State NPDES Stormwater Permit, as administered by the Washington State Department of Ecology (as delegated to them by the United States Environmental Protection Agency). At the local level, the City also needs to comply with the policies and recommendations of Skagit County as part of their comprehensive watershed planning efforts.

6.4 State of Washington Stormwater Management Plan for the Puget Sound Basin

The Washington State Legislature Formed the Puget Sound Water Quality Authority (PSWQA) in 1985 to "restore and protect the biological health and diversity of Puget Sound; by:

- Preserving and restoring wetlands and aquatic habitats,
- Preventing increases in the introduction of pollutants to the Sound, and
- Reducing and ultimately eliminating harm from the entry of pollutants to the water, sediments, and shorelines of Puget Sound."

The first Management Plan for Puget Sound was established in 1987, which has subsequently been updated in 1991, 1992, and 1994. The Plan has undergone three updates, with the latest being completed and released in May 1994. This

management analysis is consistent with the 1991 Plan and the adopted 1991, 1992, and 1994 amendments.

The proposed 1994 amendments to the 1991 PSWQA Management Plan were made public February 14, 1994, and do not propose major changes to the stormwater program presented and approved in the 1991 Plan. As a result, this management analysis is based primarily on the 1994 Plan, and the Technical and Program Guidance Documents (Volumes I and II) issued by Ecology in February and July of 1992, respectively, for the implementation of the PSWQM Plan. The 1994 PSWQAM Plan for stormwater and CSO controls is presented in Appendix I-L.

The Puget Sound Stormwater Management Program is divided into the Basic Stormwater Program which applies to all cities and counties in the Puget Sound Basin, and the Comprehensive Stormwater Program which applies to designated urban areas based on population. The City needs to comply with the Basic Program, but not the Comprehensive Stormwater Program which was developed for larger urban cities. (See page 13-1 of Volume I of the Program Implementation Guidance of the Stormwater Program Guidance Manual for the Puget Sound Basin, July 1992, Ecology Publication Number 92-32.)

All cities and counties in the Puget Sound Basin, including the City of Sedro-Woolley, were to comply with the State's Basic Stormwater Program by January 1, 1995, as required by the 1994 PSWQA Plan approved on May 26, 1994. Large urban areas within Puget Sound are also to be in compliance with the Comprehensive Stormwater Program by the year 2000. For some agencies, the 2000 date may be moved up to 1997 or 1998, because Ecology has chosen to implement the Comprehensive Plan requirements as part of the Phase I NPDES Stormwater Permit process. A Phase II NPDES permit could be implemented as soon as 2000-2002 for the larger urban areas around the Puget Sound Basin. If Sedro-Woolley is included in the Mt. Vernon/Burlington urban area, the City may be included in a regional Phase II Stormwater NPDES Permit by as early as 1998.

6.4.1 The State's Basic Stormwater Program

The City of Sedro-Woolley was required to comply with the terms of the State's Basic Stormwater Program by January 1, 1995. The goals and conditions for compliance with the State's Basic Stormwater Program are discussed below.

Conditions of Compliance

The goal of the State's Basic Stormwater Program is to prevent increases in stormwater pollution. This goal is to be met by:

- Controlling stormwater quality from all new development and redevelopment, and

- Developing and operating maintenance programs for all new and existing public and private stormwater facilities.

The State's Basic Stormwater Program requires the City to:

- B1—Develop and adopt local ordinances for all new development and redevelopment which address:
  - The control of off-site water quality,
  - The use of source control Best Management Practices (BMPs),
  - The effective treatment of the water quality design storm,
  - The use of infiltration (where appropriate),
  - The protection of stream channels and wetlands, and
  - The prevention of erosion and sedimentation control.

- B2—Develop and enforce the proper operation and maintenance program for all new and existing public and private stormwater systems (minimum standards are defined in Ecology's Stormwater Management Manual).

- B3—Develop and maintain a record keeping program for all new public and private drainage systems and facilities.

- B4—Adopt Ecology's Technical Manual or develop a manual with substantially equivalent technical standards (manuals other than the Ecology manual were to be pre-approved by Ecology by January 1, 1995).

- B5—Develop and implement education programs to educate citizens about stormwater and its effects on water quality, flooding, and fish/wildlife habitat, and to discourage illicit dumping into storm drains.

- B6—Coordinate the City's Stormwater Program with the provisions of the Growth Management Act (GMA), where appropriate.

The Ecology Stormwater Program Guidance Manual Volumes I and II (July 1992) contains additional explanation and clarification of the above six requirements. A seventh enforcement element was added in the 1994 amendments to the 1991 Puget Sound Stormwater Management Plan that the City will also need to comply with.

- B7—Local enforcement of these (the above six) stormwater controls.

The main elements of the State's Basic Stormwater Program include the stormwater ordinance, technical manual, the maintenance ordinance, and the maintenance program. Each of these elements are summarized below.

- Both the stormwater ordinance and stormwater management manual that are to be adopted by the City as part of the State's Basic Stormwater Program must:
  - Control off-site water quality and water quantity,
  - Use both source controls and treatment controls,
  - Provide effective treatment using BMPs for the storm size and frequency as defined in the manual for the proposed development,
  - Use infiltration wherever possible, and
  - Control erosion and sedimentation for both new developments and redevelopment.
- The maintenance ordinance that needs to be adopted by the City to comply with the required maintenance program must:
  - Provide for inspection (including right of entry) for all public and private stormwater facilities,
  - Define inspection procedures (and criteria),
  - Identify the parties responsible for maintenance,
  - Include enforcement provisions, and
  - Provide for the proper disposal of maintenance wastes.
- The City's maintenance program, as defined in the Ecology Program Manual, requires:
  - Annual inspections and the removal of debris from within the collection system,
  - Regular inspection, cleaning, and mowing of all grassy swales and biofilters,
  - The immediate correction of water quality criteria violations,

- The creation and use of an annual Master Maintenance Program and schedule (the maintenance program standards, frequencies, and technologies should ultimately be tailored to each type of stormwater facility, their location, the nature of discharge/runoff and its water quality), and

- Adequate record keeping, which should include as-built drawings, location maps, Operation and Maintenance (O/M) requirements/standards, records of inspections, any citizen complaints, O/M activities and their frequency as well as any engineering reports.

The State's Comprehensive Stormwater Program

The City of Sedro-Woolley does not need to comply with the conditions of the State's Comprehensive Stormwater Program at this time. Because the Washington State Department of Ecology is only requiring the most highly urbanized areas around Puget Sound to comply with these requirements, the City may never be expected by state regulators to control stormwater beyond the Basic Stormwater Program, which was described above. The only exception to this guidance would be if the State were ever to issue the City an NPDES permit for stormwater. Then, the City would be required to enhance their stormwater program, beyond the Basic Stormwater Program, and the City would likely need to comply with conditions similar to those defined in the State's Comprehensive Stormwater Program. Because the City may be issued an Phase II NPDES stormwater permit in the future, a discussion of the requirements of the State's Comprehensive Stormwater Program are presented below. The goal of the Comprehensive Stormwater Program is to identify and correct the sources of stormwater pollution. The Comprehensive Stormwater Program includes the elements of the Basic Stormwater Program in addition to the nine additional requirements listed below.

Conditions of Compliance

The goal of identifying and eliminating the sources of stormwater pollution is to be met by:

- C1—The identification and ranking of significant pollutant sources and their relationship to the drainage system and water bodies through an ongoing assessment program (i.e., identify water quality problems associated with urban stormwater runoff by mapping the drainage system using existing data and performing visual inspections).

- C2—Investigations and corrective actions of problem storm drains, including sampling and identifying illicit connections.

- C3—A water quality response program, to investigate sources of pollutants, spills, fish kills, illegal hook-ups, dumping, and other water quality problems. These investigations should be used to support compliance and enforcement efforts.

- C4—Assurance of adequate local funding for the stormwater program through the formation of surface water utilities, sewer charges, fees, or other revenue generating sources.

- C5—Local coordination arrangements, such as interlocal agreements, joint programs, consistent standards, and/or regional boards or committees.

- C6—An ongoing stormwater public education program aimed at residents, businesses, and industries in the urban area.

- C7—Inspection, compliance, and enforcement measures for stormwater facility inspections, elimination of illicit connections and investigation/ verification of corrective actions.

- C8—An implementation schedule delineating the phasing in of required Comprehensive Stormwater Program elements over a 5-year period from the starting date assigned by Ecology. (Note: This schedule may change if Ecology chooses to write the compliance schedule for the Comprehensive Stormwater Plan into the City's future Phase II NPDES Stormwater Permit. Full implementation is expected by year 2000 (June 30, 1999).

- C9—If after implementing the eight Comprehensive Stormwater Program elements listed above, there are still discharges that cause significant environmental problems, retrofitting of existing developments and/or treatment of discharges from new and existing development may be required.

6.4.2 Federal NPDES Stormwater Permits

Municipal Phase I NPDES Stormwater Permits are usually issued by Ecology as a two part permitting process. In Part I of the application process for a Phase I NPDES permit, an agency describes their current stormwater program, its authorities, and sources of funding, along with any existing water quality data or planning documents that have been developed to date.

Ecology reviews this information and writes the agency a Part II permit which usually requires monitoring and the identification and/or correction of water quality problems. Additional program enhancements, required ordinances, public education, maintenance, interlocal coordination, inspection/enforcement may also be required as part of the Phase I Part II NPDES Stormwater Permit.

The first round of NPDES permitting has already been completed by Ecology. Large agencies with a population of 100,000 or greater have already been issued Part I permits and are well into the Part II process. There are about eight of these agencies within the State of Washington. The smaller municipalities, of less than 100,000, are to be issued their NPDES permits based on size, location, and known water quality problems. How or when this Phase II NPDES Stormwater permit process may work for small municipalities is not known at this time. A date of 2000 to 2002 has been suggested by Ecology. Ecology may elect to combine the smaller urban areas and issue one single permit to each of the participating agencies collectively. Alternatively, Ecology is also considering a watershed approach where all agencies, including both big and small jurisdictions, would be issued a permit on the basis of watershed boundaries. In the latter approach, all agencies within a common watershed would be issued a single collective permit. Either approach could include the City of Sedro-Woolley. A Phase II Stormwater NPDES permit could be issued to the City as early as the year 2000-2002.

Fortunately, whichever process Ecology chooses, will likely not affect the technical requirements of compliance. The technical requirements of the Phase II NPDES permit for smaller cities will be similar to the technical requirements of the State's Comprehensive Stormwater Program, as described by Ecology in the PSWQAM Plan. This should give the City adequate time to plan for, anticipate, and fund the needed elements of the State's Comprehensive Stormwater Water Resource Management Program, should it ever be required in the future.

6.4.3 Ecology Review(s), Non-Compliance, Enforcement, and Penalties

The City's responses to the elements of the State's Basic Stormwater Program are to be submitted to Ecology for review and a determination of compliance. This review is to include the City's stormwater and maintenance ordinances and a description of the City's overall Stormwater Program.

Many local governments around the Puget Sound have asked how Ecology plans to enforce these stormwater requirements and what the penalties would be for non-compliance. An opinion issued by the State Attorney General stated that Ecology has little enforcement authority for stormwater

and must rely on the PSWQA's powers of enforcement, granted directly to the agency by the State legislature when the Authority was formed. It is for this reason that Ecology has combined the requirements for compliance of the State's Comprehensive Plan with that of the federal NPDES Stormwater Permits, and may do the same to ensure compliance with the State's Basic and Comprehensive Stormwater Programs as well.

The effects of non-compliance with the State's Basic and Comprehensive Stormwater Programs of the PSWQA Management Plan are unclear at this time. A formal public accounting to Ecology would be the first result of non-compliance. Other penalties could include denial of future grant funds, daily fines of up to $10,000 per day, and potential legal action brought against the City by the State. Non-compliance also may make the City vulnerable to third party lawsuits. These penalties are similar to those to be put in effect if an agency chooses not to be in compliance with the State's Growth Management Act.

6.4.4 Preliminary Assessment of the City's Stormwater Program in Regard to Regulatory Compliance

Assessment of Compliance with the State's Basic Stormwater Program

According to the 1994 PSWQA Management Plan, all cities and counties within the Puget Sound Basin were to be in compliance with the requirements of the State's Basic Stormwater Program by January 1, 1995. The City of Sedro-Woolley has met some, but not all, of the requirements of the Basic Stormwater Program.

To be in compliance with the State's Basic Stormwater Program, the City will need to undertake additional stormwater related activities. Each of the seven elements (No. B1-B7) of the State's Basic Stormwater Program are presented below along with an assessment of the City's present status of compliance and recommended enhancements needed to achieve full compliance.

Element #B1 (SW1.1, as referenced in the Puget Sound Water Quality Management Plan, 1994)

Adopt local drainage ordinances for all new development and re-development that address the seven technical requirements listed in the Ecology Manual, Volume I, p. 18 and on p. 126 of the 1994 Draft Amendments to the Puget Sound Stormwater Management Plan published on February 14, 1994.

Assessment

The City has a set of stormwater design criteria described in Ordinance No. 1198 and adopted by the City Council. The City also has a series of existing clearing, grading, filling and drainage related ordinances that addresses the control of construction site drainage and contains requirements for the control of sedimentation and erosion (Ordinance Nos. 1104, 1130, and 1198). These existing ordinances meet the intent and the scope of this first requirement of the State's Basic Stormwater Program.

Recommendations

The City should:

- Send a copy of the City's Stormwater and water quality related ordinances to demonstrate compliance with State law and the Puget Sound Water Quality Management Plan.

- A separate water quality ordinance (as drafted by Ecology) would be helpful to the City as it implements its enhanced stormwater program.

Element #B2

Develop and enforce a proper operation and maintenance program for all new and existing public and private stormwater systems.

Assessment

The City operates an annual maintenance program for its public stormwater facilities which is funded through the Street Fund.

- Each year maintenance of some of the City's catch basins, pipes, ditches, and other drainage facilities is performed by the City's Street Maintenance Crew.

- For new facilities, either commercial or residential, the owner and/or developer (e.g., homeowners' association) is required to enter into a long-term maintenance agreement with the City, which is officially recorded with the City's approval of the new development. If maintenance of private facilities is not performed in a timely manner, the City may assume maintenance of these facilities and bill the owners for maintenance services.

- All major public and private drainage facilities within the City have been mapped with operational and design information stored in the City Engineer's office. New facilities will be added to this record keeping system and to the City's annual maintenance program as the new drainage facilities are approved and accepted by the City.

Generally, the City is in compliance with the intent but not all of the conditions of Requirement #2. To be in full compliance, the frequency of the various O/M activities needs to be increased in order to keep the City's drainage system at an optimum level of performance. The existing O/M program, priorities, and activities should also be documented and sent to Ecology to demonstrate regulatory compliance.

Recommendation

The City should:

- Do a more detailed comparison of the City's maintenance program with the maintenance criteria proposed by Ecology. Ensure consistency with the model Ecology maintenance program and the recommended types and level of maintenance suggested in the Ecology Stormwater Program Guidance Manual (Volumes I and II).

- Develop an enhanced annual stormwater maintenance program so that every private and public drainage facility is maintained at least once per year.

- Increase the level of funding to the City's annual maintenance program to increase the level and frequency of service, as recommended by City's maintenance crew and required by the State's Basic Stormwater Program.

Element #B3 (SW1.2B)

Develop and maintain a record keeping program for all new public and private drainage systems and facilities.

Assessment

The City has an existing map of major stormwater facilities and a record keeping system, as well as an established process to add new drainage facilities to the system. This process appears to meet the Ecology requirements of Element #B3. It should be documented in writing in order to

respond to Ecology's requirements and to demonstrate regulatory compliance. The City's maintenance management system needs to be updated and computerized on a city-wide database. A digitized inventory and GIS database of the City's existing drainage facilities should also be developed.

Recommendation

The City should:

- Document its existing drainage record keeping program and send it to Ecology to demonstrate compliance.

- Develop an annual maintenance management plan and enhance its drainage system, through regular facility maintenance in order to achieve optimum performance.

- Enhance the existing map and inventory of City stormwater facilities by developing a digitized CAD map and GIS database of the City's drainage system.

Element #B4 (SW1.3)

Adopt Ecology's Technical Manual or develop a manual with substantially equivalent technical standards.

Assessment

The City has, by Ordinance No. 1198, been actively using the drainage design standards recommended by Ecology. The adoption of all of the required Ecology standards is not expected to change the City's drainage policies or substantially increase the cost of new construction within the City.

Recommendations

The City should:

- Continue to use and enforce the drainage design standards as described in the Ecology Technical Manual (Volumes III and IV).

- The City's standard handouts to developers should be revised to be consistent with the Ecology design standards.

- The City should consider addition drainage restrictions for those basins with known flooding and water quality problems.

Element #B5 (SW1.4)

Develop and implement education programs to educate the citizens about stormwater and its effects on water quality, flooding, and fish/wildlife habitat, and to discourage dumping into storm drains.

Assessment

The City has historically complied with the intent of this requirement, but has not established an ongoing dedicated stormwater public education program, funded on an annual basis and implemented over a longer period of time toward stated goals. The City has recently developed its first permanent citizen advisory committee to advise the City Council on stormwater as part of this stormwater planning study.

Recommendations

The City should:

- Continue to support and maintain a permanent citizen committee on stormwater to routinely advise the City Council.

- Develop a long-term public education/awareness program with the input from the City's stormwater advisory committee.

- Annually fund and implement public awareness activities related to stormwater and water quality.

Element #B6 (SW1.5)

Coordinate the City's stormwater program with the provisions of the Growth Management Act, where appropriate.

Assessment

Generally, the City has complied with the planning aspects of this requirement, as described in the Ecology's Guidance Manual. Sedro-Woolley has coordinated regionally on stormwater management issues and has drafted a proposed Growth Management (GMA) Plan. Effective

implementation of the GMA Plan will require annual funding and the continued dedication of staff resources.

Recommendation

The City should:

- Appropriately fund, staff and implement the elements of the City's Comprehensive Plan that relate to stormwater management and water quality enhancement, as described in Section 10 if this Plan.

- Continue regional coordination with the County to implement its Growth Management Plan and this Stormwater Management Plan. The use of common drainage design standards for new development would be particularly beneficial to both the City and the County.

Element #B7 (SW 1.6)

Ecology will monitor the status of the City's stormwater program every two years. The City should internally monitor the effectiveness of its stormwater program and the schedule needed to achieve and complete regulatory compliance.

Assessment

The City has considerable local flexibility to identify, prioritize and resolve site-specific stormwater problems in accordance with City land uses and polices. Ecology's role is to be only one of "oversight" to insure consistent and adequate local funding and implementation. Historically, the City has never needed to review its stormwater program from the perspective of regulatory compliance. This should be done internally on an annual basis as part of the budget development process for the following year.

Recommendations

The City should:

- Establish an internal monitoring process to assess and report on the status of regulatory compliance and the overall effectiveness of the City's stormwater program.

- Report to Ecology on a regular annual basis to document progress and to update the schedule for achieving complete regulatory compliance.

- Adopt and fund a comprehensive, city-wide stormwater management program that includes the elements needed to achieve regulatory compliance.

Element #B8 (SW 1.7)

The City should provide local enforcement of its stormwater controls.

Assessment

The City has the legal authority needed for inspection and enforcement of its various drainage related ordinances, but it has not historically been very active in this area of stormwater management due to resource and funding limitations. The City should review its staffing levels for inspections and enforcement and enhance its existing enforcement activities.

Recommendations

The City should:

- Enhance the City's existing inspection/enforcement procedures by increasing site inspections and emphasizing drainage during final inspections and approval of new construction.

- Elevate the priority of enforcement in order to insure adequate annual funding and staffing.

6.4.5 Summary and Conclusions Regarding the City's Compliance with the State's Basic Stormwater Program

Because the January 1, 1995, due date passed before the City had an opportunity to comply with all of the required elements of the State's Basic Stormwater Program, the City of Sedro-Woolley should write a "Letter of Compliance" to Ecology, describing the City's existing Stormwater Program and presenting a proposed schedule for full compliance. This letter demonstrates the City's intent of making a "good faith" effort to comply with the State's Basic Stormwater Program. The letter should also help reduce or eliminate any future penalties, enforcement actions, or legal challenges. A copy of an example letter to Ecology is presented in Exhibit 6-1.

A number of activities will need to be undertaken by the staff of Public Works to ensure future compliance by the City with the State's Basic Stormwater Program including:

March 19, 1997

Mr. Michael T. Llewelyn
WQFA Program Manager
Department of Ecology
City of Sedro-Woolley
P.O. Box 47600
Olympia, Washington 98504-7600

SUBJECT: Letter of Compliance with the Puget Sound Water Quality Authority Management Plan

Mr. Llewelyn:

The purpose of this letter is to acknowledge the need for the City of Sedro-Woolley to be in compliance with the Basic Stormwater Program of the 1994 Puget Sound Water Quality Management Plan (PSWQMP).

The City of Sedro-Woolley is concerned about stormwater and water quality planning in our region. We appreciate the direction provided by Ecology and the former Puget Sound Water Quality Authority to protect and enhance the natural resources of Puget Sound. In response to our concern, the City of Sedro-Woolley is currently participating in Ecology's Centennial Clean Water Act grant program to develop a city-side Stormwater Management Plan and is cooperating with Skagit County in the development of regional watershed plans for the Lower Skagit River. As part of this effort, the City is addressing the regulatory compliance requirements of the PSWQMP through this Ecology Centennial grant. By doing this, we are ensuring that the issues of adequate stormwater facilities and management are addressed in a local and comprehensive city-wide manner.

In recognition of the past January 1, 1995 deadline, the City is preparing a detailed review of the PSWQMP's requirements, what the City has accomplished to date, and what yet needs to be completed along with an anticipated schedule for consideration as part of our Stormwater Management Plan and Program. This review is currently scheduled for City Council consideration late this year and will be forward to you after Council approval.

Please call Ms. Jan Keiser, City Engineer, at (360) 855-2662 if you have any questions about the City's stormwater program.

Sincerely,

Eric Stendal
City Supervisor/Clerk Treasurer
City of Sedro-Woolley

Exhibit 6-1

City of Sedro-Woolley "Letter of Compliance" to the Washington State Puget Sound Water Quality Management Plan

- Enhancement of the maintenance program, including increased annual staffing and funding; the development of an annual maintenance management plan, biannual inventory of public and private drainage facilities, improved maintenance field data and record keeping, and the enforcement of the annual maintenance of private facilities.

- Development and implementation of a public long-term awareness/ education program.

- Continued regional GMA coordination with the County and other agencies.

- Enhancement of appropriate inspection and enforcement procedures for stormwater facilities.

- Continued efforts to secure adequate staffing and funding for the program and regularly monitoring the program's effectiveness and status in achieving all aspects of regulatory compliance.

- Regular communication with Ecology to verify the completion of compliance related activities.

Because these activities were to have been completed by January 1, 1995, the City should make every effort to complete as many of these as practicable within the next 1 to 2 years. The cost for the City to be in compliance with the State's Basic Stormwater Program has been included in the short-term enhancements of the City's Stormwater Program presented in Section 7.

If the short-term recommendations to enhance the City's Stormwater Program are adopted, as presented in Section 7, no additional staff and few additional costs will be needed in order for the City to comply with the various requirements of the State's Basic Stormwater Management Plan.

6.4.6 Preliminary Assessment of Compliance with the State's Comprehensive Stormwater Program

Compliance with the State's Comprehensive Stormwater Plan is not required at this time. If it were required the City would need to become much more knowledgeable about the sources of pollution within the City and take corrective actions to reduce and/or eliminate these sources. Generally, the City would have a lot of future activities to perform, data to collect, and knowledge of their land use and drainage system to acquire before it would be in compliance with these regulations.

The City can expect the requirements of the Comprehensive Stormwater Program, or similar requirements, to be written into any NPDES stormwater permit which could be initiated by Ecology at some time in the future.

Each of the nine future requirements (#C1-#C9) of the Comprehensive Plan are listed below. The City is well on the way to complying with a number of these regulations. Typical activities, that may be expected or required to be undertaken as part of a future compliance process, are listed below under each of the nine requirements. Progress that the City has made on each requirement has been indicated and possible future needed activities are listed.

Element #C1

Identification and ranking of pollutant sources and their relationship to the drainage system.

Assessment

The City has very little information about the quality of its stormwater runoff or the sources of the pollutants within the City's runoff.

Recommendations

The City should:

- Fund and conduct Drainage Basin Assessments within each of its four major drainage management areas.

- Use the results from the Drainage Basin Assessments to develop effective source control programs for each basin.

- Conduct limited monitoring to correlate pollutants with their respective sources, estimate loadings and develop effective control programs.

Element #C2

Investigations and corrective actions of problem storm drains.

Assessment

The City has begun to comply with this requirement. Major problem areas are known; however, little effort to date has been made to take corrective actions. Additional data and efforts are needed on identifying and reducing illicit connections.

Recommendations

The City should:

- Update prior smoke testing in older commercial areas that where not previously tested to identify illicit connections, where practicable, and

- Begin to take corrective action by identifying major sources of urban pollution within problem drainages and developing pollution control plans, as needed.

Element #C3

Water Quality Response Program to investigate sources of pollutants and spills.

Assessment

The City presently has little emergency response capabilities or training. Maintenance staff currently respond to incidences, as time allows. The fire department is the primary response unit for the City at this time. Major industries within the City should also have effective spill and emergency response programs.

Recommendation

The City should:

- Review its need for a response program, evaluate its alternatives, and develop a short- and long-term plan to provide emergency response services. Coordinate as needed with the County, State Department of transportation, railroad, city fire department and major local businesses.

- In the short-term, the City may wish to assign the maintenance crew some of the responsibility and authority for water quality response and provide them the appropriate funding, equipment, supplies, and training.

- In the long-term, the development of a cooperative plan with other agencies and businesses is recommended.

Element #C4

Assurance of adequate local funding for the stormwater program through the formation of surface water utilities, sewer charges, fees, and other revenue generating sources.

Assessment

The City does not have assured, adequate local funding for its stormwater program. On the expenditure side, the City currently (1997) spends $11,000 for staff and operations, $12,000 for maintenance and $30,000 for small local fixes. There is no funding available for larger capital improvements. All revenues are annually allocated primarily from the Street Fund. The City does not have a stormwater utility.

In general, even though some local annual revenue sources have been established, such as permit fees, the program is underfunded. Future efforts need to be focused on increasing existing sources of revenue and acquiring new revenue sources. It would be of considerable help to the program if a stormwater utility fee could be established from $4 to $6 a month in the future, and outside bonding could be secured for capital projects. Additional revenues from developer fees, impact fees and inspection fees could be established to pay for the true cost of services and a maintenance inspection fee established for private facilities. Each of these types of stormwater program funding will likely be needed in the future.

Recommendations

The City should:

- Explore and evaluate revenue options and alternatives on an annual basis.

- Implement new or increase existing funding options within the next 1-2 years.

Element #C5

Local coordination arrangements, such as interlocal agreements, joint programs, consistent standards, and/or regional boards or committees.

Assessment

The City has begun to comply with the intent of this future requirement. The close working relationship the City has begun to be established with Skagit County will help the City's stormwater program in the future. Many

opportunities will present themselves in the region if local governments are issued NPDES stormwater permit(s) and local agencies begin to work together to implement the County's various Watershed Plans.

Recommendations

The City should:

- Continue to work cooperatively with other agencies in protecting and managing the region's water resources, building upon established cooperative working relationships.
- Identify and secure additional funding for the stormwater program, so the City can continue to be an active regional player and not "lose out" on future cooperative, cost-effective opportunities for jointly funded stormwater management initiatives.

Element #C6

An ongoing stormwater public education program aimed at residents, businesses, and industries in the urban area.

Assessment

The City will need to develop an ongoing public awareness program for the citizens of Sedro-Woolley. Elements of this program should be specifically tailored, as required above, to residents, businesses, and industries. The City has done a good job to date in informing and involving the public; however, similar to the technical aspects of the program, the public education effort needs to be much more focused to address and eliminate specific sources and classes of pollutants.

Recommendations

The City should:

- Develop an ongoing, dedicated public awareness effort, as discussed in the Basic Stormwater requirements.
- Annually support and fund elements of this long-term public education program.

Element #C7

Inspection, compliance, and enforcement measures for stormwater facility inspections, elimination of illicit connections and investigation verification of corrective actions.

Assessment

Of all the stormwater activities currently provided by the City, placed on inspection, compliance, and enforcement. Will need to be enhanced to have an effective program. Fortunately for the City, many of these activities can be fee supported.

Although, perhaps initially challenging to develop, a good inspection/ enforcement program will almost immediately pay for itself in terms of reduced maintenance and public complaints, and overall improved drainage system performance. In the long-term, inspection/enforcement programs will more than pay for their initial start-up and annual operating costs.

Recommendations

The City should:

- Enhance the inspection of public and private drainage facilities and of the inspection and enforcement related to the construction of new drainage facilities. (Recently the City has entered into maintenance agreements with homeowners and/or local developers.)

- Establish a self-supporting fee system for the maintenance/inspection of private stormwater facilities and for the inspection/enforcement of the construction of new drainage facilities.

- Support and annually fund stormwater inspection/enforcement activities and initiatives.

Note: A system of inspection/enforcement should be initially established for the maintenance of drainage facilities on private property, as required in the State's Basic Stormwater Program.

Element #C8

An implementation schedule delineating the phasing-in of required Comprehensive Stormwater Program elements over a 10-year period from the starting date assigned by Ecology. (Note: According to the Phase II NPDES stormwater permit schedule, compliance some of the elements of the Comprehensive Stormwater Plan may expected by the year 2001 for smaller urban areas around the state.)

Assessment

The City is beginning to establish a long-term master plan for capital stormwater projects. The development of an overall stormwater program schedule should be performed as part of the annual budget process. The 10-year management plan developed for the program could be annually updated along with the creation of the annual budget. (Note: This management analysis/report could be modified by staff to become the City's first 10-year Stormwater Master Plan.)

Recommendations

The City should:

- Establish a long-term Stormwater/Management Plan beginning in 1998 along with the creation of the 1998 budget.

- Update and fund the elements and activities of the Stormwater Management Plan annually, as needed to comply with regulatory requirements and address local drainage problems/issues.

Element #C9

If after implementing the eight Comprehensive Stormwater Program elements listed above, there are still discharges that cause significant environmental problems, retrofitting of existing development and/or treatment of discharges from new and existing development may be required.

Assessment

The Comprehensive Stormwater Plan states that retrofitting of existing facilities may be required if significant environmental problems persist. At this point in time, it is difficult to assess if this requirement will ever apply to the City, or even if an NPDES permit will ever be required. Drainage Basin Assessments and the development of source control programs have been recommended to reduce or possibly eliminate the need to retrofit any existing facilities in order to enhance water quality. Because of the expense, Ecology sees the retrofitting option as a last alternative. It is likely, that if the City is conscientious about implementing the other requirements of the Basic Plan and, when applicable, the NPDES permit and Comprehensive Plan, that retrofitting of existing facilities may never be required.

Recommendation

The City should:

- Continue to develop and annually fund its Stormwater Program, as needed, in order to reduce local drainage problems and property damage, protect and enhance the natural drainage system, achieve compliance with the requirements of the State's Basic Stormwater Program and prepare for possible future NPDES stormwater permits.

Conclusion Regarding Compliance with the State's Comprehensive Stormwater Plan

With the adoption of this Stormwater Management Plan, the City is beginning to establish a sound, well-run program. The City will, however, need to make an additional commitment to stormwater management over the next 1 to 2 years in order to continue to comply with the State's Basic Stormwater Plan. Adoption of additional initiatives, as would be required for compliance with the State's Comprehensive Stormwater Plan and a possible future stormwater NPDES permit, are not needed at this time and may never be needed by the City.

The City has already made a good start on completing many of the requirements of the Basic Stormwater Plan. Some new additional activities will need to be undertaken in the future to fully meet these requirements, as discussed in Section 6.4.5. Undertaking these new initiatives will not be difficult, but will require adequate staffing and funding on an annual basis. Costs for compliance with these requirements have been included in the staffing and funding estimates for the stormwater program presented in the next section.

6.4.7 Regional and Local Stormwater Requirements

At the regional and local level, the stormwater requirements that need to be addressed by the City are not well defined. Due to violations of State Water Quality Standards within the Skagit River Watershed, the State Department of Ecology is presently assessing the water quality conditions within the watershed. The result will likely be the establishment of Total Maximum Discharge Limits (TMDL's) for the two primary water quality parameters that presently violate state water quality standards in the lower reaches of the Skagit River (i.e. coliforms and dissolved oxygen). Under these TMDL limits, sources of fecal coliforms and organic materials that reduce dissolved oxygen levels in the water column (as measured by biological oxygen demand analyses) could be regulated. For the City, this will primarily affect the level of treatment required at the City's wastewater treatment plant. However, it

could also be applied to the City's major stormwater discharges into the River as well. If applied to stormwater, source control programs, additional water quality treatment and monitoring would likely be required. Ecology is in the fourth year of a 5-year assessment process. Implementation of the TMDL's limits could be expected as early as 1998/1999.

Also occurring on a regional level are the efforts of Skagit County to control fecal coliforms and re-establish the large shellfish beds that are presently decertified within Skagit Bay. Last year, the County Commissioners adopted an ordinance that established all unincorporated areas of the County to be within a Clean Water District. The requirements of this ordinance are similar to those of a Shellfish Protection District, which reduces the sources of non-point fecal coliform contamination. Most of this type of contamination is from failing septic tanks, livestock practices and occasionally wildlife, especially waterfowl. At the present time the rules of the County's Clean Water District do not apply to the City of Sedro-Woolley.

6.4.8 Recommended Approach to Achieve State, Federal, and Regional Regulatory Compliance

It is recommended that the City respond to the regulatory requirements for the stormwater in three phases. The first phase (Phase I) should occur over the next 1-2 years and address the requirements of the State's Basic Stormwater Program, as described in the 1994 Puget Sound Water Quality Management Plan. The second phase (Phase II) of compliance should occur over the next 3 to 5 years and address the substantial local drainage needs of the Sedro-Woolley area, including adopting this Stormwater Management Plan, adopting needed ordinances and design criteria, securing operating program funding and financing the capital improvement program. This second phase will allow the City to reduce many of its historical drainage problems and prepare the City to work with Ecology on a future Phase II federal stormwater NPDES permit, if it is issued.

Unless an NPDES permit is issued to the City or the greater Mt. Vernon/Burlington urban area, Phase III of the recommended regulatory compliance program may never be needed.

The City was to be in compliance with the State's Basic Stormwater Program by January 1, 1995. This schedule allows the City to achieve compliance by 1998, as shown in Table 6-2.

Table 6-2
Sedro-Woolley Stormwater Program: Schedule for Regulatory Compliance

Regulatory Compliance Activity	Schedule (years) 1	2	3	4	5	6	7	8	9	10
Phase I—Local Program Enhancement and Compliance with States' Basic Stormwater Program										
• Enhance Annual O/M program and recordkeeping		*Enhance O/M*	*Fund and Implement Annual O/M Program*							
• Implement long-term public involvement		*Setup*	*Fund and Implement Annual Public Involvement Plan*							
• Continue regional GMA coordination	*GMA Coordination*									
• Secure funding and monitor program	*Develop Funding*		*Conduct Annual Monitor Program*							
• Enhancement inspection and enforcement		*Setup*	*Fund and Implement Annual Inspection/Enforcement*							
Phase II—Enhance City's Stormwater Management Plan										
• Develop and implement stormwater funding	*Adopt CIP*									
• Adopt and fund annual stormwater CIP Plan	*Adopt CIP*	*Fund and Implement Annual CIP Program*								
Phase III—Compliance with NPDES Permit and/or State Comprehensive Stormwater Program										
■ To be implemented as negotiated with the State (if NPDES permit is ever issued)						*If NPDES Permit is Issued*				