

Date: 1/9/2017

To: SWNI Board

From: Al Iverson

Subject: MS4 stormwater permit

Inadequate stormwater management practices affects our neighborhoods in many ways. Our streets are particularly affected. Stormwater runoff degrades our streets, and existing stormwater policies making it difficult and expensive to make pedestrian improvements. Many private properties suffer damage from stormwater runoff as well. One tool that can help us improve stormwater management in the SWNI neighborhoods is the MS4 permit issued to Portland by DEQ.

This report will focus on Portland's MS4 permit. MS4 stands for Municipal Storm Sewer Separation System and it is supposed to be reissued every five years by Oregon's DEQ for the EPA. The MS4 permit is a requirement of the NPDES (National Pollutant Discharge Elimination System) permit program which is part of the Federal Clean Water Act of 1972. The City of Portland and the Port of Portland are co-permittees to the same MS4 permit.

The MS4 permit specifically applies to stormwater that flows into waters of the state. For SWNI neighborhoods, this means ditches and pipes that go to creeks and streams. The MS4 permit is not concerned with stormwater that goes to the combination sewer system, infiltration facilities, or industrial sites. These are covered by other permits. *Most of Portland's MS4 areas are within the SWNI neighborhoods.* Maps submitted by Portland to DEQ in its November 2014 Hydromodification Assessment Report (an MS4 requirement) show that in the SWNI neighborhoods there are between 500 and 600 MS4 stormwater outfalls covered by the permit.

Portland's MS4 permit expired in January 2016 and as required, in July 2015 Portland submitted its permit application documents. Because of their workload DEQ has not been able to review Portland's application so the previous permit has been administratively extended until a review can be completed. This could be quite some time, months or years, but when the review happens there will be an opportunity to comment on it. When the MS4 permit was last issued to Portland, in 2011, DEQ responded to 94 public comments.

Last year I attended (as an observer) two MS4 permit meetings conducted by DEQ for public comments on MS4 permits for other communities. One of the comments was that the permit review process is not rigorous enough and is influenced more by the permittee than by DEQ or the affected community. This is understandable. There is only one person at DEQ working on MS4 permits for the entire state and the documents are not small. Portland's existing MS4 permit is thirty-six pages long and their new MS4 permit application is over a hundred pages.

To properly handle stormwater in the SWNI neighborhoods there has to be more emphasis on the following two requirements from the existing MS4 permit (and presumably the next one).

This one from Schedule A, Section 4, Stormwater Management Plan Requirements,

- g. **Pollution Prevention for Municipal Operations:** The co-permittee must continue to implement a program to reduce the discharge of pollutants to the MS4 from properties owned or operated by the co-permittee for which the permittee has authority, including, but not limited to, parks and open spaces, fleet and building maintenance facilities, transportation systems and fire-fighting training facilities. The co-permittee must conduct, at a minimum, the following program activities:
 - i. Operate and maintain public streets, roads and highways in a manner designed to minimize the discharge of stormwater pollutants to the MS4, including pollutants discharged as a result of deicing activities;

and this one from Schedule A, Section 6, of the MS4 permit.

- 6. **Stormwater Retrofit Strategy Development:** The co-permittee must develop a stormwater quality retrofit strategy identified in a plan that applies to developed areas identified by the co-permittee as impacting water quality and that are underserved or lacking stormwater quality controls.
 - a. The stormwater retrofit strategy must be based on a co-permittee-defined set of stormwater quality retrofit objectives and a comprehensive evaluation of a range of stormwater quality retrofit control measures and their appropriate use. The co-permittee-defined objectives must incorporate progress towards applicable TMDL wasteload allocations. Development of the stormwater retrofit strategy must allow for public comment and consider public input.

The City's response, and DEQ's evaluation of that response to these, and the other requirements are available at the City's or DEQ's website. One thing I did notice is that the permit does not give an exemption for "unimproved" streets; a responsibility the City had denied. This point and others need to be brought up during the comment period for Portland's MS4 permit.