



## Motion No. M2019-111

### Memorandum of Understanding with Washington State Department of Ecology

Meeting:	Date:	Type of action:	Staff contact:
Board	11/21/2019	Final action	Don Billen, Executive Director of PEPD <b>Perry Weinberg, Deputy Executive Director- Environmental Affairs &amp; Sustainability</b>

### Proposed action

Authorizes the chief executive officer to execute a Memorandum of Understanding with the Washington State Department of Ecology regarding stormwater runoff from light rail guideway.

### Key features summary

- The Memorandum of Understanding (MOU) with the Department of Ecology outlines a path forward to resolve questions around stormwater runoff from Link guideways and will help local jurisdictions issue permits for Link projects. The agreement entails the following:
  - For light rail projects scheduled to be completed by 2024, the Department of Ecology provides assurance that it will rely on local jurisdictions' concurrences/local programs and permits to support the current design regarding stormwater treatment or detention and will not direct any changes to the design of those projects.
  - For ST3 projects not yet in design and which are scheduled to be completed between 2030 and 2041, Sound Transit will work cooperatively with the Department of Ecology to conduct a study to characterize the quality of stormwater discharged from light rail guideway to inform the design of those projects.
- The study required by the MOU will inform the design of future light rail projects, including the Everett, South Kirkland-Issaquah, Tacoma Dome, West Seattle and Ballard Link Extensions.
- Sound Transit will consider obtaining a municipal stormwater permit from the Department of Ecology, similar to local jurisdictions, but tailored to Sound Transit's operations.

### Background

Stormwater discharges in Washington are regulated by the Washington State Department of Ecology. Guidance from the Department of Ecology's stormwater manual considers surfaces like roads with motor vehicular use to be pollution generating impervious surfaces (PGIS), along with industrial sites and other surfaces that are significant sources of pollution. For these surfaces, stormwater needs to be treated (cleaned) before discharge. For other impervious surfaces that are non-pollution-generating (NPGIS), stormwater can be discharged without first being treated.

Light rail guideway is not specifically addressed in the manual. For Central Link and the ST2 light rail extensions, based on available studies and industry practice, Sound Transit understood that stormwater

runoff from the light rail guideway would be considered NPGIS. Those projects, therefore, were not designed to include stormwater treatment.

In 2014, the Department of Ecology sent a comment letter to Sound Transit in response to environmental review for Sound Transit's Long Range Plan and ST3. In the letter, Department of Ecology said it considered any rail track to be PGIS. After follow-up discussions, the Department of Ecology issued a clarification in 2015 saying its statement about PGIS reflected its default position based on a general consideration of how railways are constructed and operated, but that it was not based on any specific studies. The Department of Ecology's clarification also stated that it would defer to local jurisdictions to determine appropriate stormwater controls for light rail during project-level environmental review.

At the time of the Department of Ecology's 2015 letter, Sound Transit had completed environmental review for, or was well-underway with ST2 light rail extensions including East Link (including Downtown Redmond), Lynnwood Link, and Federal Way Link. Sound Transit coordinated closely with local jurisdictions at that time and during permitting, and most jurisdictions concurred with the current design for the guideway. Some jurisdictions, however, were concerned that they could potentially face enforcement action under their municipal stormwater (municipal separate storm sewer systems, or MS4) permits issued by the Department of Ecology. They were also concerned that taking a position different from that of the Department of Ecology could impact their relationship with it.

In 2019, Sound Transit and the Department of Ecology engaged in a series of partnering sessions, which resulted in the proposed MOU. The MOU acknowledges both agencies' commitment to protecting the environment, including water quality. It clarifies the Department of Ecology's previous letters and other statements discussing stormwater discharges from Sound Transit's light rail projects. Additionally, this MOU charts a path forward that provides more clarity and regulatory certainty for local jurisdictions, Sound Transit, and the Department of Ecology.

As outlined in the MOU, for light rail projects scheduled to be completed by 2024 the Department of Ecology will rely on local jurisdictions' concurrences/local programs and permits to support the current design regarding stormwater treatment or detention, and will not direct any changes to the design of those projects. This MOU is intended to communicate to jurisdictions that approval of the current design will not affect their MS4 permits with the Department of Ecology and that no changes to the current design are required.

The MOU recognizes that characterization of stormwater runoff from light rail in the Puget Sound Region has not been completed. Accordingly, Sound Transit has agreed to work cooperatively with the Department of Ecology to conduct a study to characterize the quality of stormwater discharged from light rail guideways. This study will be used to inform the design of ST3 projects not yet in design and which are scheduled to be completed between 2030 and 2041.

Sound Transit also agreed to evaluate obtaining a municipal stormwater permit from the Department of Ecology, similar to local jurisdictions, but tailored to Sound Transit's operations. Additionally, the MOU allows for developing a stormwater management manual. The manual would outline best management practices specific to Sound Transit's projects, which would provide additional assurance and certainty to Sound Transit, local jurisdictions, and the public with regard to stormwater regulatory requirements.

## **Fiscal information**

Although there is no direct fiscal action associated with the proposed action, the agreement commits Sound Transit to funding the characterization study identified within the agreement.

The characterization study will be funded from the ST3 Planning project and is anticipated to be within the budget for environmental analysis of \$4.9 million.

## **Public involvement**

Not applicable to this action.

## **Time constraints**

A one-month delay would not create a significant impact to the project schedule. However, The MOU will help local jurisdictions to complete permitting for the Lynnwood Link Extension, Federal Way Link Extension, and Downtown Redmond Link extensions.

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**Environmental review** – KH 11/15/19

**Legal review** – JW 11/18/19



## Motion No. M2019-111

A motion of the Board of the Central Puget Sound Regional Transit Authority authorizing the chief executive officer to execute a Memorandum of Understanding with the Washington State Department of Ecology regarding stormwater runoff from light rail guideway.

### Background

Stormwater discharges in Washington are regulated by the Washington State Department of Ecology. Guidance from the Department of Ecology's stormwater manual considers surfaces like roads with motor vehicular use to be pollution generating impervious surfaces (PGIS), along with industrial sites and other surfaces that are significant sources of pollution. For these surfaces, stormwater needs to be treated (cleaned) before discharge. For other impervious surfaces that are non-pollution-generating (NPGIS), stormwater can be discharged without first being treated.

Light rail guideway is not specifically addressed in the manual. For Central Link and the ST2 light rail extensions, based on available studies and industry practice, Sound Transit understood that stormwater runoff from the light rail guideway would be considered NPGIS. Those projects, therefore, were not designed to include stormwater treatment.

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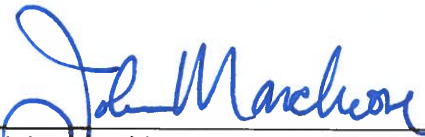
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### **Motion**

It is hereby moved by the Board of the Central Puget Sound Regional Transit Authority that the chief executive officer is authorized to execute a Memorandum of Understanding with the Washington State Department of Ecology regarding stormwater runoff from light rail guideway.

APPROVED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on November 21, 2019.

  
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John Marchione  
Board Chair

**Attest:**

  
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Kathryn Flores  
Board Administrator