

James R. Tomlinson

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October 9, 2019

Sent via email to mine461@ecy.wa.gov and regular mail

Mindi English
Construction Stormwater General Permit Writer
Department of Ecology/Water Quality
PO Box 47600
Olympia, Washington 98504

Re: Public Comment regarding Lennar Northwest, Inc.;
Comment on Lennar Northwest's Application #25144 for CSWGP;
Request for Conditions on issuance of Permit

Dear Ms. English:

We are the attorneys for Bruce Titus and BLT Investments, LLC, the owner of the Chrysler Jeep Dealership property directly south of and adjacent to the proposed Wellington Heights subdivision. For the reasons set forth below, Mr. Titus is very concerned that unless adequate conditions are imposed, this project will result in surface water overflow onto his dealership property. This letter is to request that adequate conditions be imposed prior to DOE's issuance of the Construction Stormwater General Permit (CSWGP) to Lennar Northwest, Inc. (Lennar) for the Wellington Heights subdivision to insure that does not occur.

1. Background:

On or about August 12, 2019 DOE issued a CSWGP to Lennar without first obtaining the required public comment. That permit has now been revoked by DOE; however, in the interim, Lennar has cleared 9.4 acres in the Wellington Heights subdivision. Now, after the fact, Lennar seeks the required CSWGP.

2. Harm will occur if adequate conditions are not imposed:

The development site is substantially higher in elevation than the Bruce Titus dealership property it adjoins. Surface waters from the development property and the existing housing subdivisions to the north naturally drain to the dealership property. Historically this surface water has infiltrated uniformly across the development property. Now, however, the developer intends to collect, concentrate, and direct that surface water either into drywells or into a storm water pond where it will, allegedly, infiltrate into the ground in a concentrated area.

Initially, in its sworn application for the original CSWGP issued on August 12, 2019, Lennar asserted that the surface water collected in the stormwater system will have “100% infiltration, with no potential to reach surface waters, directly and/or indirectly.” In its current permit application, however, Lennar acknowledges that 100% infiltration will not be achieved and that surface water will be discharged, directly or indirectly, into one or more surface waterbodies, including the existing inadequate and unmaintained drainage ditch easements in favor of the City of Olympia that run east-west across the north end of the dealership property then north-south across the west end of the dealership property. Inadequate investigation has been done to determine the actual increased volume of water that will now flow from this project into the drainage easements, and no conditions have been imposed to insure the long term maintenance and integrity of the drainage easements by the City of Olympia.

BLT Investments’ engineer, Thomas Skillings, PE, of Skillings Connolly, Inc. reviewed the initial developer’s surface water drainage report prepared by Olympic Engineering, as amended, and the soils report prepared by Bill Parnell, PE, and MTC and concluded that unless the conditions set forth below are imposed, the dealership property is at risk of being inundated with excess surface water runoff from the development property. A copy of the Drainage Evaluation prepared by Skillings Connolly is attached hereto and incorporated by this reference as if fully set forth.

Specific requested conditions:

The following conditions should be imposed for the issuance of the requested CSWGP:

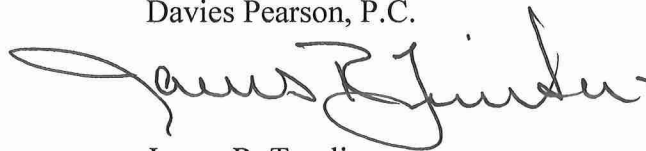
A. The developer is proposing to divert 44 CSF of flow-through drainage into a 36” pipe then into the existing drainage ditch easements that run east-west across the north end of the dealership property then north-south across the west end of the dealership property. This 44 CSF of water, however, does not include the anticipated “emergency overflow” from the infiltration pond. The existing drainage ditches do not have the capacity to carry the 44 CSF of water plus the anticipated emergency overflow without modification. A downstream analysis extending from the development site to Percival Creek must be completed prior to issuing the CSWGP to determine the full downstream requirements and impacts of the project. Additionally, once the actual surface water volume is determined, design requirements must be imposed to prevent scour and surface water intrusion into the dealership property.

B. The developer’s design for the infiltration of the storm water generated from the site is based solely on a single groundwater measurement taken during one summer period. This period of groundwater measurement is inadequate. A mounding analysis using at minimum a full one-year’s data regarding the water table below the proposed drainage facility must be required prior to the issuance of the CSWGP. After that analysis is completed, the stormwater infiltration system and emergency overflow should be redesigned to insure the winter water table conditions will not have an adverse effect on the dealership property.

C. Once the true overflow volume is understood, improvements must be made to the ditches within the drainage easements on the dealership property to accept the increased flow that will occur. To date, however, neither the City of Olympia nor Lennar have contacted Bruce Titus regarding the improvements to be made to the drainage ditches on his property or to obtain permission to enter his property to make the required improvements. Additionally, nothing has been done to require the City of Olympia to adequately monitor and maintain the drainage ditches in perpetuity after they are initially improved. Adequate conditions must be imposed insuring the long term maintenance of the drainage easements by the City of Olympia across the dealership property.

Thank you for your consideration. Please let me know if any additional comments are requested or required.

Sincerely,
Davies Pearson, P.C.

A handwritten signature in black ink, appearing to read "James R. Tomlinson", with a stylized flourish at the end.

James R. Tomlinson

JRT/jrt
CC: Bruce Titus

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