



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

*Bellingham Field Office • 1440 10th Street, Ste 102 • Bellingham, WA 98225*

*(360) 715-5200 • FAX (360) 715-5225*

August 13, 2014

Lee Wiebe  
6689 Malloy Road  
Ferndale, WA 98248

**Re: Warning Notice and Opportunity to Correct Violation of State Law or Agency Rule**

Dear Mr. Wiebe,

Thank you for meeting with me on August 6<sup>th</sup>, 2014. The purpose of this letter is to notify you of violations of the Washington Water Pollution Control Act (RCW 90.48) caused by your livestock-rearing operation at 6689 Malloy Road in Ferndale, and to get them quickly corrected.

This is the second warning letter you have received regarding substantially similar conditions that were likely causing discharges of manure contaminated water from your farm. The first letter was issued on January 26<sup>th</sup>, 2010. I appreciate that after the first warning letter, you made several improvements to your farm management. Except for the issues I identified during our recent visit, your farm appears to be well managed. I am confident we can work in a cooperative manner to implement solutions and resolve this issue.

Your livestock rearing operation, while certainly not the only source, likely contributes pollutants associated with manure to the local watershed. Manure carries high concentrations of fecal coliform bacteria, other pathogens, nutrients, and other pollutants into waters that it discharges into. Recent water quality monitoring immediately downstream of your property shows that this stream is frequently contaminated with fecal coliform bacteria at levels far in excess of standards set to protect human health. During my recent visit with you at your farm, I observed manure contaminated areas near the stream that have direct discharge pathways to the stream. These discharges of manure-contaminated water are violations of the Washington Water Pollution Control Act.

Your responsibility, under the Washington State Water Pollution Control Act, is to implement best management practices that prevent pollutants generated by your operation from discharging into this stream. The enclosed inspection report identifies the areas where manure likely discharges into the stream during rain events. It also recommends best management practices you should implement before the start of the rainy season (mid-September) to prevent those discharges in the future.

Any future violations that are substantially similar to the violations in this Warning Notice may result in enforcement action, without a prior warning notice or opportunity to correct the

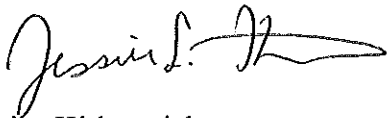
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problems. Ecology reserves the right to initiate further enforcement actions, that may include prescriptive orders and/or penalties of up to \$10,000 per day per violation as needed to achieve compliance.

I look forward to working cooperatively with you to address these issues. I am available to answer your questions and will follow up to ensure that these issues are addressed before the next rainy season. Please contact me at (360) 715-5217 if you would like to take advantage of technical and financial assistance that is available to you to make necessary changes to your operation in order to prevent future discharges.

A copy of the regulations pertaining to your property and livestock operation is attached for your reference.

Sincerely,

A handwritten signature in black ink, appearing to read "Jessica L. Kirkpatrick", with a stylized flourish at the end.

Jessica Kirkpatrick  
Water Quality Inspector

## **Attachment A**

Ecology is required by law (RCW 34.05.110(1) to give you a copy of the state law or agency rule that you are violating, and to give you a minimum of 7 calendar days to correct the violations before the agency may impose a penalty or other administrative sanctions. (Ecology has made no determination as to whether you meet the definition of a "small business" under this section.)

The specific provisions of state law, Revised Code of Washington (RCW), and regulation, Washington Administrative Code (WAC), which your activities violate, are listed below:

- **RCW 90.48.010 Policy enunciated**

It is declared to be the public policy of the state of Washington to maintain the highest possible standards to insure the purity of all waters of the state consistent with public health and public enjoyment thereof, the propagation and protection of wildlife, birds, game, fish and other aquatic life, and the industrial development of the state, and to that end require the use of all known available and reasonable methods by industries and others to prevent and control the pollution of the waters of the state of Washington.

- **RCW 90.48.080 Discharge of polluting matter in waters prohibited**

It shall be unlawful for any person to throw, drain, run, or otherwise discharge into any of the waters of this state, or to cause, permit or suffer to be thrown, run, drained, allowed to seep or otherwise discharged into such waters any organic or inorganic matter that shall cause or tend to cause pollution of such waters according to the determination of the department, as provided for in this chapter.

- **WAC 173.201A.200(2)(b) Bacteria criteria to protect water for primary contact recreation in fresh waters.**

Fecal coliform organism levels must not exceed a geometric mean value of 100 colonies /100 mL, with not more than 10 percent of all samples (or any single sample when less than ten sample points exist) obtained for calculating the geometric mean value exceeding 200 colonies /100 mL.

- **WAC 173.201A.510 (3) Means of Implementation  
Nonpoint source and storm water pollution.**

(a) Activities which generate nonpoint source pollution shall be conducted so as to comply with the water quality standards. The primary means to be used for requiring compliance with the standards shall be through best management practices required in

waste discharge permits, rules, orders, and directives issued by the department for activities which generate nonpoint source pollution.

(b) Best management practices shall be applied so that when all appropriate combinations of individual best management practices are utilized, violation of water quality criteria shall be prevented. If a discharger is applying all best management practices appropriate or required by the department and a violation of water quality criteria occurs, the discharger shall modify existing practices or apply further water pollution control measures, selected or approved by the department, to achieve compliance with water quality criteria. Best management practices established in permits, orders, rules, or directives of the department shall be reviewed and modified, as appropriate, so as to achieve compliance with water quality criteria.

(c) Activities which contribute to nonpoint source pollution shall be conducted utilizing best management practices to prevent violation of water quality criteria. When applicable best management practices are not being implemented, the department may conclude individual activities are causing pollution in violation of RCW 90.48.080. In these situations, the department may pursue orders, directives, permits, or civil or criminal sanctions to gain compliance with the standards.

(d) Activities which cause pollution of storm water shall be conducted so as to comply with the water quality standards. The primary means to be used for requiring compliance with the standards shall be through best management practices required in waste discharge permits, rules, orders, and directives issued by the department for activities which generate storm water pollution. The consideration and control procedures in (b) and (c) of this subsection apply to the control of pollutants in storm water.