



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 21, 2014



Your address
is in the
Nooksack
watershed

Richard Devries
626 H Street
Lynden, WA 98264

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

Dear Mr. Devries,

Because you have not responded to multiple attempts that I have made to confirm that conditions on your farm likely causing discharges of manure-contaminated water into state waters have been corrected, I must issue you this warning letter. The purpose of this letter is to notify you that discharges of manure-contaminated water, caused by conditions I identified to you during a visit to your farm on April 23, 2014, are violations of the Washington Water Pollution Control Act (RCW 90.48).

Ecology prefers to work cooperatively with landowners who voluntarily implement practices that prevent discharges of pollution into our waterways. I hope you will choose to take advantage of the technical and financial assistance that I explained is available to you to address this issue.

Ecology reserves the right to initiate further enforcement actions that may include prescriptive orders and/or penalties as needed to ensure your property complies with state law. 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 problems. A copy of the regulations pertaining to your property and livestock operation is attached for your reference.

If you choose to work cooperatively, and demonstrate that you are making a good-faith effort to address these issues, Ecology will not likely escalate enforcement should an accidental discharge occur. I strongly urge you to contact me as soon as possible at (360) 715-5217 to schedule a meeting at your property so we can discuss this issue and how to resolve it.

Richard Devries
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Sincerely,

A handwritten signature in cursive script that reads "Jessica Kirkpatrick". The signature is written in black ink and is positioned above the printed name.

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.