



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Bellingham Field Office • 1440 10th Street, Ste 102 • Bellingham, WA 98225
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April 8, 2015

Jim and Victoria Snyder
6512 Vista Drive
Ferndale, WA 98248

Order Docket #	11079
Notice of Violation Docket #	10810
Site Location	6512 Vista Drive, Ferndale, WA 98248

Re: Immediate Action Order

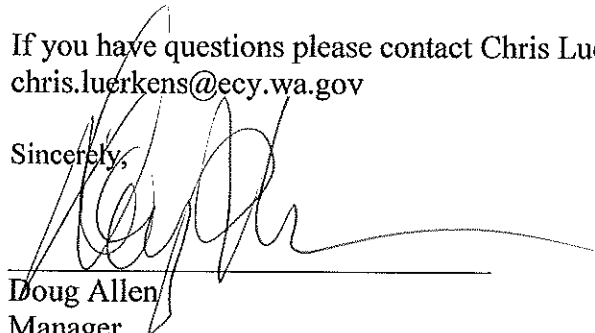
Dear Mr. and Mrs. Snyder:

The Department of Ecology (Ecology) has issued the enclosed Immediate Action Order (Order). Through this Order Ecology is taking an enforcement action and requiring Jim and Victoria Snyder to comply with:

- Chapter 90.48 Revised Code of Washington (RCW) – Water Pollution Control

If you have questions please contact Chris Luerkens at (360) 715-5220 or chris.luerkens@ecy.wa.gov

Sincerely,


Doug Allen
Manager
Bellingham Field Office

Enclosures: Immediate Action Order Docket #11079

cc: Heather Bartlett, Water Quality Program Manager, Department of Ecology
Kelly Susewind, Special Assistant to the Director, Department of Ecology
Josh Baldi, Northwest Regional Office Director, Department of Ecology

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

IN THE MATTER OF AN)	IMMEDIATE ACTION ORDER
IMMEDIATE ACTION ORDER)	DOCKET #11079
AGAINST)	
Jim and Victoria Snyder)	
)	

To: Jim and Victoria Snyder
6512 Vista Drive
Ferndale, WA 98248

Order Docket #	11079
Site Location	6512 Vista Drive, Ferndale, WA 98248

The Department of Ecology (Ecology) has issued this Immediate Action Order (Order) requiring Mr. and Mrs. Snyder to comply with:

- Chapter 90.48 Revised Code of Washington (RCW) – Water Pollution Control

Ecology has the authority to issue this Order under RCW 90.48.120(2).

This Order follows a Notice of Violation Docket #10810 that Ecology issued to you on July 23, 2014.

Ecology did not receive a response to the Notice of Violation and considered that when issuing this Order.

FACTS

Ecology has determined, based on evidence including visual observations and water quality samples, that the livestock operation on property owned by the Mr. Jim Snyder and Mrs. Victoria Snyder (Snyder) is a source of pollution discharging into tributaries of California Creek in violation of RCW 90.48.080. Water quality samples have repeatedly shown that water flowing off the Snyder's property is contaminated with fecal coliform at levels that exceed the state water quality standards. The Snyder's have not implemented all appropriate best management practices to prevent future discharges of pollution into state waters.

Facility Description

The Snyder's farm is located at 6512 Vista Drive, north of Ferndale, Washington. Several horses and up to approximately 40 cows are kept on this property. See the map (Attachment B) for overview of site.

A tributary to California Creek (Trib E on Attachment B) flows through the eastern portion of the property before flowing off the property to the north. Ecology has documented that cattle have unfettered access to portions of the stream and cross the stream channel to reach pastures located to the east. The area where cattle cross the stream is largely bare soil. The adjacent fields slope to the stream. Additionally, portions of pasture and the confinement area slope to a ditch (Ditch NW) that runs along Aldergrove Road before draining to this stream.

Additionally, surface water seasonally flows off the Snyder's farm to the north, at Sample Site B. Surface water occasionally flows onto the Snyder property via a culvert (at Sample Site A) under Vista Drive into Pasture A. The drainage generally does not have a well defined channel and flows as sheet flow over portions of the Snyder property. Most of the water that flows off of the Snyder property at Sample Site B is from surface water that originates as seepage and overland sheet flow on the Snyder's farm. Ecology has documented events in which surface water that is flowing through these pastures has been contaminated by pollutants from the Snyder livestock operation.

These tributaries eventually flow to California Creek and finally into Drayton Harbor. Fecal coliform bacteria levels in tributaries downstream of this property and in California Creek do not meet Washington State water quality standards. Additionally, elevated levels of fecal coliform levels have resulted in a seasonal closure of commercial shellfish harvest in Drayton Harbor.

Observations

Ecology has observed the following conditions on the Snyder's property:

- a) Manure-contaminated muddy areas that slope towards state waters.
- b) Polluted surface water discharging from fields that have been heavily grazed and contain manure accumulations.
- c) An uncovered manure storage pile that drains toward state waters.
- d) Surface water flowing through areas where solid manure had been spread.
- e) Livestock with direct access to surface water.

The conditions observed above demonstrate that this property is a source of pollution to state waters, and if left uncorrected have a substantial potential of causing pollution in the future. Best Management Practices (BMPs), if properly designed and implemented, will correct these conditions that currently represent a substantial potential to violate RCW 90.48.080.

Since 2008, Ecology has made multiple attempts to gain the Snyder's cooperation to correct the conditions that are causing discharges from their property. Sufficient corrections have not been

made, and the property continues to pose the substantial risk of discharging pollutants into state waters during rain events.

Ecology issued Mr. Snyder a Notice of Violation (NOV) on July 23, 2014. The NOV provided an opportunity to communicate to Ecology what steps had taken or were planned to correct the conditions causing polluted discharges from this property. A written response was required within 30 days of receiving the NOV, but none was received by Ecology. Since issuance of the NOV, Ecology has not received any response from the Snyders and there is no evidence that effective progress has been made to correct the issues.

Results of water quality analysis of samples taken from the receiving waters downstream from Snyder property

The table below summarizes the results of water quality samples collected of water flowing from the Snyder's property. (See Attachment B for a map). The laboratory analysis reports for these samples are shown in Attachment C. According to the water quality standards, no samples may exceed 200 fecal coliform colonies (FC)/100 ml of water when less than 10 samples are collected, and the geometric mean of all samples, when 5 or more samples are collected must not exceed 100 FC/100 ml of water, with no more than 10% of the samples exceeding 200 FC/100 ml.

Table 1. Results of fecal coliform bacteria (FC) sampling at the Snyder's Property (2010-2014) Results in FC/100mL			
	Site location		
Date	Sample Site A	Sample Site B	Sample Site C - Aldergrove
	Upstream of the Snyder property. Water occasionally flows onto Snyder property via a culvert under Vista Drive. Water originates from a roadside ditch along Vista Drive ditch. Often there is no flow at this site.	This is down-gradient of Sample Site A. This site documents the fecal coliform bacteria (FC) concentration of water as it discharges from the north side of the Snyder's farm. Samples were taken immediately down gradient as water flows from the Snyder property.	Surface water flowing from areas on the Snyder farm into Ditch NW along Aldergrove Road. Sample collected immediately prior to discharging to water in Ditch NW.
2/2/2010	20	470,000	
2/12/2010	<3	2,800	
1/21/2011	no flow	170,000	
1/4/2012	no flow	17,000	

3/3/2014	680	17,000	38,000
4/17/2014	no flow	9,200	no flow

To correct the conditions that led to the violations of RCW 90.48.080, and to prevent future violations of RCW 90.48.080, the Department of Ecology is issuing this Immediate Action Order to Mr. and Mrs. Snyder.

ORDER TO COMPLY

In accordance with RCW 90.48.120(2) it is ordered that Mr. and Mrs. Snyder take the following actions.

Corrective Action #1: Develop a plan to prevent discharges of pollutants to state waters.

On or before **June 8, 2015**, a plan must be submitted to Ecology which describes how the property and livestock operation will be managed. The plan must include all necessary management and structural best management practices (BMPs) that will be implemented to prevent future discharges of pollutants to state waters. The plan must describe the maximum number of animals that will be kept at the site, and demonstrate how the implementation of BMPs described in the plan will be sufficient to prevent pollutant discharges to state waters. The plan must include a map clearly depicting where such structural and management BMPs will be located, and a description of how each BMP will be operated and maintained.

At a minimum, the plan must:

- 1) Identify the steps that will be taken to eliminate and prevent the following site conditions:
 - i) Manure deposited in or near surface water.
 - ii) Disturbed soils creating manure contaminated muddy areas connected to surface waters.
 - iii) Stored manure that is in contact with or running into surface water.
- 2) Describe how pasture areas will be managed to prevent pollutants from reaching surface water and ground water.
- 3) Describe how setbacks and other BMPs will be used to prevent polluted runoff from entering drainage features or conveyances on the property and discharging to locations off the property.
- 4) Describe how the riparian area around Trib. E will be protected from livestock impacts. Livestock exclusion fencing, installed a minimum of 35 feet from the top of the

streambank measured horizontally will protect the riparian area. Any stream crossings that are utilized to move livestock across Trib. E should be designed and constructed to prevent discharges of pollutants, and minimize the amount of time livestock have access to the riparian area.

- 5) Describe how confinement and feeding area(s) will be properly sited, designed, constructed and maintained to prevent pollutants from reaching surface water and ground water.
- 6) Identify how manure will be collected, stored and utilized to prevent pollutants from reaching surface water and ground water.

Corrective Action #2: Fully implement all elements of the plan and manage the farm to prevent discharges of pollutants to state waters as follows:

- All BMPs that require management changes must be fully implemented by **Sept 7, 2015**.
- All structural BMPs must be constructed and/or installed and fully operational by **December 4, 2015**.
- By **December 4, 2015**, provide a report to Ecology that clearly describes the actions that have been completed. The report must include photos of structural improvements and an as-built site plan which indicates where structural practices were constructed and/or installed. The plan shall describe and indicate where management practices have been implemented.

Corrective Action #3: Changes to the plan must be submitted to Ecology.

Any changes to the plan required by Corrective Action #1 must be submitted to Ecology within 14 days of implementing the change. Changes to the plan must continue to prevent the discharge of pollutants to state waters and protect water quality.

* * *

If the BMPs prescribed in the plan required by Corrective Action #1 are implemented and maintained properly and Ecology continues to detect discharges or observes conditions that cause or will likely cause pollution, then Ecology may require the implementation of additional appropriate structural and/or management BMPs, and/or issue a civil penalty.

If Ecology continues to detect discharges or observes conditions that cause or will likely cause pollution, and if those conditions are the result of improper operation and maintenance of

structural or management BMPs or the failure to implement the plan required by Corrective Action #1, Ecology may issue a civil penalty.

ELIGIBILITY FOR PAPERWORK VIOLATION WAIVER AND OPPORTUNITY TO CORRECT

Under RCW 34.05.110, small businesses are eligible for a waiver of a first-time paperwork violation and an opportunity to correct other violations. We have made no determination as to whether you meet the definition of "small business" under this section. However Ecology has determined that the requirements of RCW 34.04.110 do not apply to the violations here because you have previously received a Notice of Violation (Docket # 10810) for these same violations, and these violations are not paperwork violations.

FAILURE TO COMPLY WITH THIS ORDER

Failure to comply with this Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the terms of this Order.

YOUR RIGHT TO APPEAL

You have a right to appeal this Order to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do both of the following within 30 days of the date of receipt of this Order:

- File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

Your appeal alone will not stay the effectiveness of this Order. Stay requests must be submitted in accordance with RCW 43.21B.320.

ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel Rd SW STE 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

CONTACT INFORMATION

Please direct all questions about this Order to:

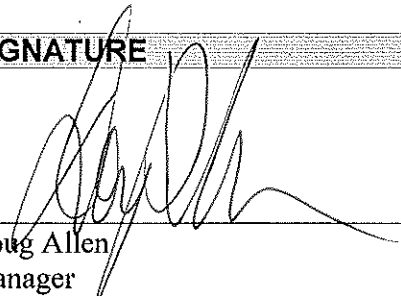
Chris Luerkens
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1440 10th St. Suite 102
Bellingham, WA 98229
Phone: (360) 715-5220
Email: chris.luerkens@ecy.wa.gov

MORE INFORMATION

- **Pollution Control Hearings Board Website**
www.eho.wa.gov/Boards_PCHB.aspx
- **Chapter 43.21B RCW - Environmental and Land Use Hearings Office – PCHB**
<http://app.leg.wa.gov/RCW/default.aspx?cite=43.21B>
- **Chapter 371-08 WAC – Practice And Procedure**
<http://app.leg.wa.gov/WAC/default.aspx?cite=371-08>
- **Chapter 34.05 RCW – Administrative Procedure Act**
<http://app.leg.wa.gov/RCW/default.aspx?cite=34.05>
- **Laws:** www.ecy.wa.gov/laws-rules/ecyrcw.html
- **Rules:** www.ecy.wa.gov/laws-rules/ecywac.html

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SIGNATURE


Doug Allen
Manager
Bellingham Field Office

4/8/2015
Date