



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

Bellingham Field Office • 1440 10th Street, Ste 102 • Bellingham, WA 98225  
(360) 715-5200 • FAX (360) 715-5225

April 7, 2015



Your address  
is in the  
**Nooksack**  
watershed

Courtney Imhof  
2242 Timon Road  
Everson, WA 98247

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

Dear Ms. Imhof:

On May 28, 2014, I met with you at your property located at 2242 Timon Road. During that meeting we discussed conditions caused by your livestock keeping that cause pollution to discharge from your property to state waters in violation of the Washington Pollution Control Act (RCW 90.48). In recent months I have made several attempts to contact you to discuss high concentrations of fecal coliform pollution that continue to discharge from this property, and attempt to work with you to identify solutions. To date, you have been unresponsive to my request and samples show that polluted water continues to discharge from your property in exceedance of state standards. If you do not respond by within 14 days, then the Department of Ecology may escalate enforcement.

During spring of 2014, I met with you twice and discussed several actions that could be taken to prevent pollution from discharging from your property. We also exchanged several emails and you informed me that you working with the Whatcom Conservation District. You have informed me that several meaningful improvements have been made including addressing solid manure storage and a reduction in the number of animals kept on the property.

In response to the changes you described, I have collected samples of water discharging from your farm on several occasions. Analysis of these samples show that fecal coliform bacteria concentrations continue to exceed state water quality standards.

The table below summarizes the results of water quality samples collected of water flowing from your property. 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.



Results of samples for fecal coliform bacteria from water discharging from 2242 Timon Road to roadside ditch.	
Sample date	Results in fecal coliform/100ml
March 5, 2014	> 6,000
May 6, 2014	240
May 9, 2014	130,000
December 9, 2014	3,200
January 27, 2015	3,600
March 20, 2015	2,100

During past inspections, several conditions were identified that may cause manure contaminated water to discharge from your property. These include:

- 1) Livestock with direct access to seasonal drainages.
- 2) Livestock on pastures that slope to surface waters.
- 3) Animal confinement areas that slope to surface water.
- 4) Improper solid manure storage. Solid manure stored in areas that slope to seasonal drainages. Since our last visit you have explained that this issue has been addressed.
- 5) Your liquid manure storage has not been assessed but also must be properly managed.

There may be additional conditions on your property that cause discharges or have the potential to pollute state waters.

#### **Compliance with state law or rule**

This **warning notice** recommends that you initiate immediate actions to prevent future discharges manure-contaminated water into state waters. If, within 14 calendar days, you do not demonstrate effective progress in halting these discharges, Ecology reserves the right to initiate further enforcement actions, that may include prescriptive orders and/or penalties of up to \$10,000 per day. 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.

Ecology prefers to work cooperatively with landowners to voluntarily implement practices that prevent discharges of pollution into our waterways. This warning notice provides you an opportunity to correct the conditions on your property causing discharges. There are technical and financial assistance programs available to help you make improvements on your farm. The Whatcom Conservation District (WCD) is one such provider that is available to help you find and implement solutions for your livestock operation. You can contact WCD at (360) 526-2381.

I strongly urge you to contact me as soon as possible at (360) 715-5220 or by email at [chris.luerkens@ecy.wa.gov](mailto:chris.luerkens@ecy.wa.gov) to discuss this situation and ensure that you take advantage of the resources available to help address this issue. A copy of the regulations pertaining to your property and livestock operation is attached for your reference.

Sincerely,



Chris Luerkens  
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 wild life, 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.