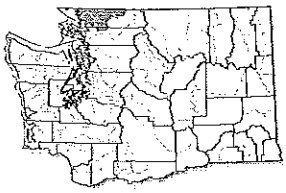
STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
Bellingham Field Office • 1440 10th Street, Ste 102 • Bellingham, WA 98225
(360) 715-5200 • FAX (360) 715-5225

April 7, 2014



Your address is in the **Nooksack** watershed

Jim and Victoria Snydar
6512 Vista Drive
Ferndale, WA 98248

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

Dear Mr. and Ms. Snydar:

The purpose of this letter is to notify you of ongoing violations of the Washington Pollution Control Act (RCW 90.48) caused by your livestock facility at 6512 Vista Drive, Ferndale WA 98248. This letter describes the conditions that violate state law, and includes recommendations and resources available to help you correct these violations. If you do not take appropriate actions to cease pollution from discharging from your farm, then Ecology may be forced to initiate additional enforcement actions.

On March 3, 2014, I responded to a referral that identified conditions on your farm related to manure management as potentially contributing to high fecal coliform concentrations found in water samples collected downstream of your farm (ERTS #646268). Conditions on your farm were observed from outside of your property and documented with photos and water quality samples. During this initial investigation, I observed the below conditions that are causing or contributing to manure contaminated water discharging from your farm to state waters:

1) Significant portions of your pastures are denuded of vegetation and contain accumulations of manure. These pastures slope to surface waters. I observed surface water actively discharging through these manure accumulations and polluting state waters.

2) Manure contaminated surface water was observed flowing from an area near your confinement area into the ditch along Aldergrove Road. This ditch flows east into an unnamed creek.

3) Manure solids have been spread on to sections of your pasture that slope to surface water.

4) A livestock path leads to the creek. The path is bare of vegetation indicating that livestock have direct access to surface water.

These conditions and the resulting discharges constitute a violation of Washington State's Water Pollution Control Law under RCW 90.48 (see Attachment A). These provisions of law and regulation may be found on the Washington State Legislature web site at http://apps.leg.wa.gov/rcw for the statute (RCW) and http//apps.leg.wa.gov/wac for the regulations (WAC).

Records show that since 2008, Ecology staff has made several previous attempts to help you bring similar conditions on this property into compliance with state law. During a site visit preformed on January 15, 2008, you agreed to exclude cows from the creek. On January 20, 2010, Ecology sent you a Warning Letter citing violations of state law similar to what I have identified in this letter. That letter recommended that you seek assistance from a technical provider, such as Whatcom Conservation District, to develop a farm plan that is protective of state waters. Unfortunately, my recent observations indicate that you have not taken sufficient steps to improve or maintain conditions on your farm in a manner that prevents pollutions from discharging from your farm.

Following my initial observations of your property I made several attempts to contact you in person and by email in effort to work with you to resolve these issues. On April 3, 2014, I was able to reach you by phone to discuss the situation. We spoke briefly, but before I was able to discuss options to bring your property into compliance you denied a request to meet with me and hung up the phone.

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. Please realize that there are technical and generous financial assistance programs available to help you make improvements needed to halt these discharges.

Due to the complexity of the issues on your farm, I strongly recommend that you contact a technical assistance provider to help you address the issues raised in this letter. You may hire qualified private consultant, or contact Whatcom Conservation District (WCD) at no charge. You can contact WCD at (360) 354-2035 or wcd@whatcomcd.org. I would be happy to discuss the technical and financial resources available to help bring your farm into compliance.

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. Such action may include prescriptive orders and/or penalties of up to $10,000 per day 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.

Because you have refused to meet with me, a site inspection has not been completed and there may be additional conditions on your property that cause discharges or have the potential to pollute state water waters.

Please contact me to discuss any progress you have made to address these issues. Please also contact me immediately if you have any questions about this letter. Thank you in advance for your immediate attention to this matter.

Sincerely,

Chris Luerkens
Water Quality Inspector
Bellingham Field Office
Department of Ecology

Enclosure: Attachment A

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.
Your livestock operation do not apply the use of all known, available, and reasonable methods to prevent and control the pollution of waters of the state.

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.
Your livestock operation has caused the discharge of manure contaminated water into waters of the state. Pollutants in manure include fecal coliform bacteria, nutrients, and organic matter.

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.
Samples were collected on March 3, 2014 from two locations of water discharging from your farm. One sample result was 17,000 fecal coliform/100mL, and the other was 38,000 fecal coliform/100mL. These results greatly exceed the water quality standards for fecal coliform listed above.

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.
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> (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.
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> (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.

The livestock keeping activities on your property contribute nonpoint source water pollution. The appropriate combination of Best Management Practices (BMPs) have not been applied to prevent the discharge of manure related contaminates into state waters.