



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Northwest Region Office

PO Box 330316, Shoreline, WA 98133-9716 • 206-594-0000

May 19, 2025

The Honorable Kim Lund
Mayor
City of Bellingham
210 Lottie St
Bellingham, WA 98225-4009

Re: Notice of Violation

Notice of Violation (NOV) Docket #	#23719
Site Name	Electric Avenue Bridge over Whatcom Creek Located in Whatcom County
Site Location	Bloedel Donovan Park Adjacent to 2214 Electric Ave Bellingham, WA 98229

Mayor Kim Lund:

The Department of Ecology (Ecology) is issuing the enclosed Notice of Violation (NOV) to the City of Bellingham for a sanitary sewer overflow to Whatcom Creek on September 11, 2024, and a subsequent failure to follow required notification practices. This Notice of Violation is issued under the authority of Revised Code of Washington (RCW) 90.48.120(1).

If you have questions about responding to this NOV, please contact Greg Lipnickey at Greg.Lipnickey@ecy.wa.gov or (425) 449-6560.

Sincerely,

Rachel McCrea
Water Quality Section Manager
Northwest Region Office

Enclosure: Notice of Violation Docket #23719

By Certified Mail# 9171 9690 0935 0233 1453 84

cc: David Matthews, Permit Manager, Ecology, David.Matthews@ecy.wa.gov
Shawn McKone, Unit Manager, Ecology, Shawn.McKone@ecy.wa.gov
Greg Lipnickey, Compliance Specialist, Ecology, Greg.Lipnickey@ecy.wa.gov
Mike Olinger, Interim Co-Director Operations, City of Bellingham,
molinger@cob.org
Steve Bradshaw, Superintendent of Plants, City of Bellingham, srbradshaw@cob.org
PARIS: Permit No. WA0023744

State of Washington
Department of Ecology

In the Matter of Compliance By
The Honorable Kim Lund
Mayor of the City of Bellingham
With Chapter 90.48 RCW and the Rules and Regulations
Of the Department of Ecology
Notice of Violation Docket #23719

To: The Honorable Kim Lund
Mayor
City of Bellingham
210 Lottie St
Bellingham, WA 98225-4009

Notice of Violation (NOV) Docket #	#23719
Site Name	Electric Avenue Bridge over Whatcom Creek Located in Whatcom County
Site Location	Bloedel Donovan Park Adjacent to 2214 Electric Ave Bellingham, WA 98229

The Department of Ecology (Ecology) is issuing this Notice of Violation (NOV) to you for violating provisions of Chapter 90.48 Revised Code of Washington (RCW) Water Pollution Control. This notice contains Ecology's determination that a violation has or will occur.

Ecology has the authority to issue this Notice of Violation under RCW 90.48.120(1) which reads in part:

"Whenever in the opinion of Ecology, any person shall violate or create a substantial potential to violate the provisions of the chapter, or fails to control the polluting content of waste discharged, or to be discharged into any waters of the state, the department shall notify such persons of its determination by registered mail...."

1. Site Location

Electric Avenue Bridge over Whatcom Creek
Bloedel Donovan Park
Adjacent to 2214 Electric Ave
Bellingham, WA 98229

2. Determination of Violations

Notice is hereby given in accordance with RCW 90.48.120(1), as follows:

Ecology is issuing this NOV to the City of Bellingham (City) for violations set forth in the Revised Code of Washington (RCW) 90.48.080, and in their NPDES Permit #WA0023744, Special Conditions S3.F.a and S.3.F.c. This NOV involves the violations related to the sanitary sewer overflow (SSO) that occurred in Whatcom Creek under the Electric Avenue Bridge on September 11, 2024.

RCW 90.48.080

RCW 90.48.080 states that “It shall be unlawful for any person to throw, drain, run, or otherwise discharge into any of the water of this state, or to cause, permit or suffer to be thrown, run, drained, allowed to seep or otherwise discharge into such waters any organic or inorganic matter that shall cause or tend to cause pollution of such waters...”

During the SSO event in Whatcom Creek under the Electric Avenue Bridge the City discharged approximately 27,000 gallons of untreated sewage. In addition to containing pollutants that can deplete surface waters of dissolved oxygen, untreated sewage is known to contain high levels of suspended solids, harmful bacteria, and viruses. Low oxygen levels and suspended solids disrupt the plants and animals in the affected waters. Bacteria and viruses are pollutants that can cause illness to humans and wildlife as well as interfere with designated uses of primary contact recreation.

NPDES Permit #WA0023744 – Special Condition S3.F.a – Immediate Reporting

NPDES Permit #WA0023744, Special Condition S3.F.a states that “the Permittee must **immediately** report to Ecology and the Department of Health, Shellfish Program, and the Local Health Jurisdiction (at the numbers listed below) all:

- Failures of the disinfection system.
- Collection system overflows.
- Undisinfected plant bypass discharging to marine surface waters.
- Any other failures of the sewage system (pipe breaks, etc.)

Northwest Regional Office	206-594-0000
Department of Health,	360-236-3330 (business hours)
Shellfish Program	360-789-8962 (after business hours)
Whatcom County Health	360-788-6000 (business hours)
Department	360-715-2588 (after hours)

The SSO started at approximately 4:50 pm on September 11, 2024, and City staff responded to the site at 5:30 pm. However, the City notified Ecology of the SSO event via Ecology’s website and a webform at 8:14 pm on September 11, 2024, approximately three hours after they learned of the incident. As the website notification systems are

not monitored outside of normal business hours, and the permit states to notify “at the numbers listed” this is a violation of the City’s NPDES permit that requires the City to perform immediate notifications via a phone call.

NPDES Permit #WA0023744 – Special Condition S3.F.c – Report within five days

NPDES Permit #WA0023744, Special Condition S3.F.c states that “the Permittee must also submit a written report through the Water Quality Permitting Portal, within five days of the time that the Permittee becomes aware of any reportable event under S3.F.a or S3.F.b.”

On September 13, 2024, Mr. Jason Porter of the City’s Public Works Department sent via Email to Ecology’s Kelli Price (ERTS Coordinator), City staff, and Whatcom County staff a follow-up report to ERTS #733720. This email, and the information contained in it was not submitted through the Water Quality Permitting Portal as required by permit condition S3.F.c and therefore did not reach anyone in the Northwest Region Office Water Quality Program municipal permitting unit until September 24, 2024, after Mr. Lipnickey emailed Mr. Olinger asking about a follow-up report. The report was not uploaded to the WQ Portal prior to this date and was not sent to the correct Ecology personnel.

This determination does not constitute an Order or directive under RCW 43.21B.310.

3. File a Report with Ecology

Pursuant to RCW 90.48.120(1), within thirty (30) days from receipt of this Notice of Violation, the City of Bellingham must file a full report with Ecology stating:

1. What steps **HAVE BEEN** taken to control such waste or pollution to otherwise comply with this determination of Ecology.
2. What steps **ARE BEING** taken to control such waste or pollution to otherwise comply with this determination of Ecology.

Send the report to:

Greg Lipnickey
Municipal Enforcement Specialist
Water Quality Program
Dept. of Ecology
PO Box 330316
Shoreline, WA 98133-9716

Greg.Lipnickey@ecy.wa.gov

4. Contact Information

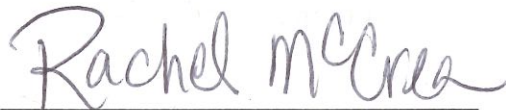
Please direct all questions about this Notice of Violation to:

Greg Lipnickey
Department of Ecology
Northwest Region Office
PO Box 330316
Shoreline, WA 98133-9716
Phone: (425) 449-6560
Email: Greg.Lipnickey@ecy.wa.gov

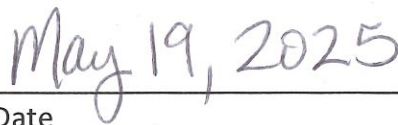
5. More Information

- **Chapter 90.48 RCW – Water Pollution Control**
<https://apps.leg.wa.gov/rcw/default.aspx?cite=90.48>

6. Signature



Rachel McCrea
Section Manager
Water Quality Program
Northwest Region Office



Date