

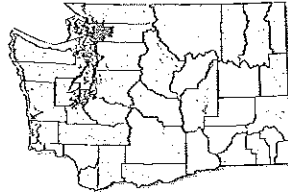


STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

(360) 715-5200 • FAX (360) 715-5225

January 23, 2012



Your address
is in the
**Lower Skagit-
Samish**
watershed

Gary Knaus
1190 Valley Highway
Acme, WA 98220

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

Dear Knaus:

The Department of Ecology (Ecology) has determined that violations of state law and state water quality regulations have occurred on your property as a result of discharges, or potential discharges, of manure-contaminated, muddy water flowing from your farm into state waters. Ecology has elected to provide you with this **warning notice** and give you 14 calendar days, from the date of this letter, to demonstrate that you have taken appropriate action to prevent contaminated discharges to state waters from your farming operations.

However, any solution you implement within 14 days may only result in a temporary correction to this ongoing problem. For a more permanent solution, you will need to develop a plan or strategy to prevent future discharges of pollution to state waters. After you develop this plan or strategy, you should implement permanent Best Management Practices (BMPs) that will solve your ongoing manure management problems and prevent future discharges to state waters. The Skagit Conservation District is a good source of technical and possible financial assistance to aid you in developing a plan and appropriate BMPs. We strongly recommend that you contact them at (360) 428-4313 or skagit@skagited.org.

Specific Site Conditions that Constitute the Violation(s)

On December 20, 2011 Tom Buroker of Ecology's Bellingham Field Office and I responded to a citizen's water pollution complaint (ERTS # 631018) concerning manure-contaminated muddy track out onto Saxon Road. We met with you on site and noted that you had been receiving chicken manure from National Foods Corporation. This manure was being placed on a field located south of Saxon Road and east of the railroad tracks that cross Saxon Road. During this inspection, I also noted that the driveway along Saxon Road into your main farm buildings had large puddles of manure-contaminated water that discharge into the Saxon Road ditch (state waters). I explained that you are required to prevent contamination of state waters. I strongly recommended that you:



- 1) stabilize the muddy entrance into the field where you were having manure delivered and hauled out of,
- 2) sweep up the muddy track out you had caused along Saxon Road and to
- 3) fill the manure-contaminated mud puddles on your main farm's driveway to prevent any contaminated discharges during upcoming rain events. You agreed to complete all of these corrections to bring your facility into compliance.

On January 4, 2012, I conducted a follow-up inspection during a rain event and observed and documented with photos that you had not filled in the manure contaminated muddy areas on your drive way. I collected a sample of the manure-contaminated water that was flowing from your farm into the Saxon Road ditch. This sample was analyzed for fecal coliform bacteria at a certified, third-party laboratory. The sample results from the laboratory indicated 29,000 fecal coliform bacterial Colony Forming Units (CFUs) per 100 ml water. The state standard is 200 CFUs per 100 ml water. The discharge flowing off your property during the rain event of January 4, 2012 was 145 times the state standard and constitutes violation of Washington State's Water Pollution Control Law (RCW 90.48).

Recommendations

Ecology strongly recommends that you halt all contaminated discharges to state waters immediately and contact either Whatcom Conservation District or Skagit Conservation District to correct this and all other potential problems on this farm and all of the other farms you have control over in Whatcom and Skagit Counties. Attached are copies of the laboratory bench sheets and if you desire copies of the photographs I took on December 20, 2011 or January 4, 2012, do not hesitate to contact me and I will provide them to you.

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).

Compliance with state law or rule

Correction of the violations listed above will require immediately halting all contaminated discharges and preventing all potential discharges to state waters. In your case, this can likely be accomplished by completely stabilizing all of the manure-contaminated muddy areas on your farm by reseeding them and creating buffer zones to exclude animals and manure. These buffer zones will need to be a minimum of 35 feet in width to be effective. Wider buffer zones may be needed on areas that slope toward state surface waters. In addition to buffer zones, you will likely need to implement better pasture management strategies to prevent the future generation of manure contaminated muddy areas. It is these appropriate combinations of BMPs that, when applied together, will permanently prevent discharges that exceed state water quality standards.

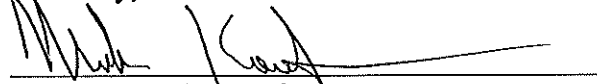
Demonstrating Compliance to Ecology and Escalating Enforcement

If within 14 calendar days you do not correct the conditions which caused or are causing the water quality violations, Ecology may take enforcement action against you in the form of administrative orders or penalties.

Any future violations that are substantially similar to the violations in this Warning Notice may result in enforcement action, without a prior warning notice and opportunity to correct the problems.

If you have questions about this notice or any of the corrective actions we've recommended, or to arrange verification of your corrective actions, please contact me at (360) 715-5221 or mak.kaufman@ecy.wa.gov.

Sincerely,



Mark A. "Mak" Kaufman
Water Quality Inspector
Bellingham Field Office

Enclosure: Appendix A

cc: Richard Grout, Ecology BFO Manager
Jeannie Summerhays, Ecology NW Regional Director
Rick Haley, Skagit Co. Planning and Development Services
Carolyn Kelly, Skagit Conservation District
John Schuh, Skagit Conservation District

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 does not apply methods that 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.

You have caused or permitted pollution in the form of manure to drain, run, seep or otherwise discharge into waters of the state during rain events. The water sample collected on January 4, 2012 indicated a value of 29,000 CFUs per 100 ml water which is 145 times the state standard for fecal coliform bacteria in this water body. Your farm continues to discharge manure-contaminated water into state waters during rain events. These discharges are caused by your failure to implement Best Management Practices (BMPs) to protect water quality.

- **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. Although no water samples were collected during the compliance inspection conducted on December 20, 2011 your farm is likely discharging water that exceeds the bacterial standard during rain events. Photographs taken and a water sample collected on January 4, 2012 document violations of the state standard by a factor of 145 times the state standard. In addition to exceeding the bacterial standard, your farm's discharges are also likely exceeding the state standards for sediment, turbidity, pH and biological oxygen demand (BOD) during rain events.

- **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.

Your farm generates nonpoint source water pollution, which we observed during two Ecology compliance inspections. That inspection also disclosed that you have not applied all appropriate Best Management Practices (BMPs) to prevent the discharge of manure related contaminants into state waters.

Avocet Environmental Testing
1500 North State Street, Suite 200
Bellingham, WA 98225
(360) 734-9033

RECEIVED

JAN 11 2012

DEPT OF ECOLOGY
BELLINGHAM FIELD OFFICE



Client Washington State Department of Ecology
Contact Name Mak Kaufman
Chain of Custody No. 5766
Date Sampled 01/04/12
Date Received 01/04/12
Date Reported 01/06/12
Test Performed Fecal Coliform Membrane Filter
Project Name Knauss
P.O. # F-1180

Sample Identification	Log Number	Method	Sample Result	Units	Date Analyzed	Analyst
Knauss	05708950	sm9222D	29,000	FC/100 mL	01/04/12	DH

FC = Fecal Coliform


Laboratory Supervisor

