



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

Northwest Regional Office, 3190 - 160th Ave S.E. • Bellevue, Washington 98008-5452 • (425) 649-7000

OCT 08 1999

**CERTIFIED MAIL**

P 125 952 265

Mr. Dale Marr  
Marr Mink Farm  
Cornell Creek Road  
9741 Mt. Baker Hwy  
Deming, WA 98244

Dear Mr. Marr:

Enclosed is a Notice of Penalty Incurred and Due No. DE 99WQ-N443. If you have any questions concerning the content of the document, please call Andrew Craig at (360) 676-2217. If you wish to formally contest the penalty, you must follow the procedures described in the Notice of Penalty. The Notice of Appeal should contain a copy of the Notice of Penalty.

Sincerely,

Tricia Miller  
Enforcement Coordinator  
Water Quality Program  
Northwest Regional Office

TM:ll  
Enclosure

cc: George Boggs, Whatcom Conservation District  
Leann Ryser, Fiscal Office  
✓ Andrew Craig, Bellingham Field Office  
Joan Pelley, PIO, Bellingham Field Office  
Richard Grout, Bellingham Field Office  
John Glynn, NWRO  
Kevin Fitzpatrick, NWRO  
Ron Langley, NWRO



DEPARTMENT OF ECOLOGY

DEPARTMENT OF ECOLOGY  
IN THE MATTER OF PENALTY  
ASSESSMENT AGAINST  
Mr. Dale Marr

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NOTICE OF PENALTY  
INCURRED AND DUE  
No. DE 99WQ-N443

To: Mr. Dale Marr  
Marr Mink Farm  
Cornell Creek Road  
9741 Mt Baker Hwy  
Deming, WA. 98244

Notice is given that the Department has assessed a penalty against you in the amount \$24,000 under the provisions of RCW 90.48.144, RCW 90.48.080, RCW 90.48.160, WAC 173-201A and the rules and regulations of the Department of Ecology.

The penalty is based on the following Department findings:

1. The properties in question are located on Cornell Creek Road and the Mt. Baker Highway, West of Glacier, WA.
2. Both properties are used as Mink Farming facilities and are owned and managed by Mr. Dale Marr. Approximately 25,000 total animals are raised at these facilities.
3. On April 27, 1999, Ecology conducted a complaint driven inspection of the Marr Mink Farm. Mr. Marr was issued a Notice of Correction (NOC) to correct evidence of past mink manure discharges to surface waters and was instructed to begin development of a farm plan with the Whatcom Conservation District. Only one of two Marr Mink Farm facilities were inspected.
4. On August 18, 1999, Ecology completed another complaint driven inspection of the Marr Mink Farm. Both Marr Mink Farm facilities (Cornell Creek Road and Mt. Baker Highway) were completed. Observations indicated that Mr. Marr took partial action at the Cornell Creek Road facility to comply with the NOC, but discharges of mink manure to surface waters continued. In addition, a discharge of septic tank wastewater to surface waters was observed and documented.
5. A follow up inspection of the Marr Mink Farm was completed by Ecology on August 20, 1999, to collect water samples from the Cornell Creek Road facility.
6. Water sampling results from the August 20, 1999, inspection documented discharges from Mr. Marr's Mink Farm Cornell Creek Road facility to surface waters that violated Washington state's Water Pollution Control Act (RCW 90.48) and WAC 173-201 A, the Water Quality Standards for Surface Waters of the State of Washington.

7. The sampling results were:

Sample #1, 1,200 fecal coliform colonies/100 ml of water. Water entering Marr Property from East.

Sample #2, 110,000 fecal coliform colonies/100 ml of water. Pipe A (Water trough).

Sample #3, 14,000 fecal coliform colonies/100 ml of water. Pipe B (Water trough).

Sample #4, 570,000 fecal coliform colonies/100 ml of water. Pipe C (Water trough and Septic wastewater).

Sample #5, 44,000 fecal coliform colonies/100 ml of water. Downstream pipes A,B,C (road culvert outlet).

Sample #6, 10 fecal coliform colonies/100 ml of water. Incoming water, upstream of Marr Mink Farm.

Sample #7, 2,500 fecal coliform colonies/100 ml of water. ¼ mile downstream (road culvert outlet).

Septic tank wastewater samples: Biological Oxygen Demand (BOD) = 2,200 mg/L  
Total Suspended Solids (TSS) = 1600 mg/L  
Oil and Grease (O&G) = 550 mg/L

8. Samples #2, #3, and #4 were violations of RCW 90.48.080, RCW 90.48.160 and WAC 173-201A. The septic tank wastewater samples met the definition of an industrial wastewater discharge.
9. A follow up inspection of both Marr Mink Farm facilities (Cornell Creek Road and Mt. Baker Highway) were completed by Ecology on September 3, 1999. Observations indicated that discharges of mink manure and septic tank wastewater to surface waters continued at the Cornell Creek Road facility, and another discharge to surface waters was identified at the Mt. Baker Highway facility.
10. Water sampling results from the September 3, 1999, inspection documented discharges from both Marr Mink Farm facilities (Cornell Creek Road and Mt. Baker Highway) to surface waters that violated Washington State's Water Pollution Control Act (RCW 90.48) and WAC 173-201 A, the Water Quality Standards for Surface Waters of the State of Washington.

The sampling results were:  
Cornell Creek Road facility:

Sample #1, 5 fecal coliform colonies/100 ml of water. Incoming water, upstream of Marr Mink Farm.

Sample #2, 2 fecal coliform colonies/100 ml of water. Incoming water, upstream of Marr Mink Farm.

Sample #3, 8 fecal coliform colonies/100 ml of water. Incoming water start water trough water pipes.

Sample #5, 1,100 fecal coliform colonies/100 ml of water. Pipe D (Water trough).

Sample #6, 60 fecal coliform colonies/100 ml of water. Pond water, upstream pipe D.

Sample #7, 650 fecal coliform colonies/100 ml of water. Incoming water, upstream of Marr Mink Farm.

Sample #8, 80 fecal coliform colonies/100 ml of water. Incoming water, East/upstream Marr Mink Farm.  
Sample #9, 1,600 fecal coliform colonies/100 ml of water. Downstream #8. Same as #1 Aug. 20 sample.  
Sample #10, 5,000 fecal coliform colonies/100 ml of water. Pipe A (Water trough).  
Sample #11, 2,100 fecal coliform colonies/100 ml of water. Downstream pipe A (Water trough).  
Sample #12, 230 fecal coliform colonies/100 ml of water. Pipe B (Water trough).  
Sample #13, 5,700 fecal coliform colonies/100 ml of water. Pipe C (Water trough and septic wastewater).

**Sample Date: September 3, 1999 continued**

**Mt. Baker Facility:**

Sample #1MBR 40 fecal coliform colonies/100 ml of water. 5 yards upstream pipe E.  
Sample #2MBR 600 fecal coliform colonies/100 ml of water. Pipe E (Water trough).  
Sample #3MBR 25 fecal coliform colonies/100 ml of water. 10 yards upstream pipe E.  
Sample #4MBR 1000 fecal coliform colonies/100 ml of water. Pipe F (Water trough).  
Sample #5MBR 300 fecal coliform colonies/100 ml of water. 10 yards downstream pipe F.

11. Samples #10, #12, #13, #2MBR and #4MBR were violations of RCW 90.48.080, RCW 90.48.160 and WAC 173-201A.
12. WAC 173-201A of the Washington Administrative Code establishes water quality standards for all surface waters of the state including seasonal streams that discharge to Cornell or Hedrick Creeks, which are designated as Class *AA* waters. WAC 173-201A-030(1)(c)(i) states that for Class *AA* waters **“freshwater fecal coliform organism shall not exceed a geometric mean value of 50 colonies/100mL, and not have more than 10 percent of all samples obtained for calculating the geometric mean value exceeding 100 colonies/100mL”**.
13. RCW 90.48 (Water Pollution Control Act) defines violations upon the following facts:

RCW 90.48.010 requires the use of all known, available and reasonable methods to prevent and control the pollution of waters of the state.

RCW 90.48.020 defines surface waters, including lakes, rivers, ponds, streams, inland waters, salt waters, and all other surface waters, as waters of the state.

RCW 90.48.030 provides that the Department of Ecology shall have the jurisdiction to control and prevent the pollution of streams, lakes, rivers, ponds, inland waters, salt waters, water courses, and other surface and underground waters of the state of Washington.

RCW 90.48.080 provides that 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 of Ecology.

RCW 90.48.160 requires that any commercial or industrial operation, which results in the discharge of waste material into waters of the state, shall obtain a permit from the Department of Ecology.

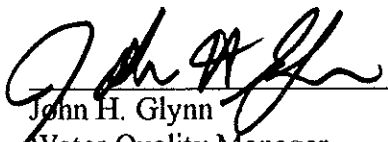
14. This notice of penalty is issued for two days of discharge to waters of the state, in violation of RCW 90.48.080, RCW 90.48.160 and WAC 173-201A.

The penalty is due and payable by you within thirty (30) days of your receipt of this Notice. Please send your penalty payment to: Department of Ecology c/o Fiscal Cashier, PO Box 5128, Lacey, Washington 98509-5128.

If you wish to contest this penalty, you have two options. You may file an Application for Relief from Penalty with the Department of Ecology (the Department) explaining why the Department should reduce or cancel the penalty. A form is enclosed for your convenience. It must be signed under oath before a notary public or other person authorized to take oaths. If you choose to submit an Application for Relief from Penalty, you must do so within fifteen (15) days of your receipt of the Notice. Send your Application for Relief to: Enforcement Coordinator, Northwest Regional Office, 3190 - 160th Avenue SE, Bellevue, Washington 98008-5452. At the same time send a copy to: Department of Ecology c/o Enforcement Officer, PO Box 47600, Olympia, Washington 98504-7600. After reviewing your Application for Relief, the Department will notify you of its decision.

If you choose not to submit an Application for Relief but still wish to contest the penalty, you may file an appeal with the Pollution Control Hearings Board. Your appeal must be filed within thirty (30) days of your receipt of this Notice. Send your appeal to: The Pollution Control Hearings Board, PO Box 40903, Olympia, Washington 98504-0903. At the same time, copies of your appeal must be sent to: Department of Ecology c/o Enforcement Officer, PO Box 47600, Olympia, Washington 98504-7600; and to the Enforcement Coordinator, Northwest Regional Office, 3190 - 160th Avenue SE, Bellevue, Washington 98008-5452. These procedures are consistent with Chapter 43.21B RCW and its implementing regulations.

DATED OCT 08 1999, at Bellevue, Washington.

  
John H. Glynn  
Water Quality Manager  
Northwest Regional Office

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

IN THE MATTER OF THE ASSESSMENT)	APPLICATION FOR RELIEF
OF PENALTY AGAINST )	FROM PENALTY
Mr. Dale Marr )	No. DE 99WQ-N443

To: State of Washington  
Department of Ecology  
Northwest Regional Office  
3190 - 160th Avenue SE  
Bellevue, WA 98008-5452

has received your "NOTICE OF PENALTY INCURRED AND DUE" No. DE 99WQ-N443 which states that Mr. Dale Marr has been penalized \$24,000.

I have read and understand RCW 9A.72.030, which prescribes penalties for making false statements. Included below are my reasons, made under oath and on behalf of Mr. Dale Marr for reduction or cancellation of Penalty No. DE 99WQ-N443:

(NOTE: If you need more space, please attach extra pages as necessary)

I swear that these statements are true, accurate and a complete description of the facts of this case.

By: \_\_\_\_\_

SUBSCRIBED AND SWORN to before this \_\_\_\_ day of \_\_\_\_\_, 199\_\_.

\_\_\_\_\_  
NOTARY PUBLIC in and for the State of Washington.

My commission expires: \_\_\_\_\_