

May 13, 2015

To: Mr. Patrick Lizon  
Department of Ecology

DEPARTMENT OF ECOLOGY

From:  
John DeMeyer  
Robert Holman  
David H. Milne

MAY 13 2015

WATER QUALITY PROGRAM

Regarding:

Removal of the "bacteria" category 5 designation from the 303(d) listing of Capitol Lake.

LISTING ID: 40588. ASSESSMENT UNIT ID: 17110016007666.

Dear Mr. Lizon:

We write regarding the Department of Ecology's request for public input inviting changes in the "303(d) category 5" classification of Capitol Lake. We request that this entire communication and your response be part of the public record of that discussion.

*We request that the Lake's "bacteria" category 5 listing be removed.*

Briefly, our grounds for this request are data collected by the Thurston County Department of Public Health and Social Services (TCHSS 2012) for 2010 showing that the Lake's E. coli concentrations were far below the threshold standards for water of "extraordinary primary contact" quality during that year.

The original designation of Capitol Lake as a 303(d) category 5 impaired water body dates to 1997, based upon four measurements showing high coliform levels taken in January-March. Prior to that time, the Lake was the recipient of discharges from perhaps 30 storm drains and sewers and bacteria concentrations were very high, justifying closure of the Lake to swimming in 1985. Since then, Olympia, Tumwater, and Thurston County have aggressively eliminated those sources of contamination, with the result that we see after 1999 – water clean enough for swimming. These actions were (and are) precisely what the "category 5 bacteria" designation is intended to prompt and encourage. They represent a success story that our communities and regulatory agencies can be proud of, and should receive credit for. Removal of the "bacteria" designation would acknowledge that sustained and ultimately successful effort.

We are concerned that the Department of Ecology may contrive not to recognize this great accomplishment. In a conversation with DOE personnel Patrick Lizon, Lydia Wagner, Susan Brailey and Mindy Roberts on April 21, 2015, we were told that the data collected by the Thurston County Health Department during the spring and summer seasons of the past 15 years (up to 2014) would not be considered because the measurements were not made during the "critical period" time of year. The "critical

period” during which County observers should have been making observations, we were told, was during the winter.<sup>1</sup> When asked whether DOE had ever informed Thurston County of that fact, the answer was “no.”

The language of the regulations that we believe pertains to this situation is this sentence:

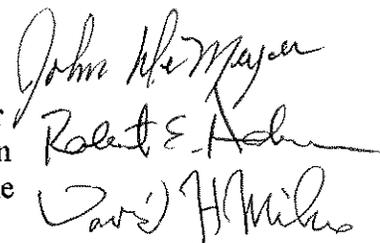
“Ecology will determine the assessment periods, case-specific, based on local circumstances such as climate, weather, and associated bacteria data; otherwise the assessment period will be consistent with the general water year for the State, October through September.”<sup>2</sup>

We interpret the word “otherwise” to be equivalent to “absent instructions from DOE ...” We do not interpret the words “determine the assessment periods” as license for DOE to declare observations invalid after field workers, absent instructions from DOE, have conducted observations during some reasonable “critical period” of their choosing.

It now seems likely that Thurston County’s funding for *E. coli* measurements will vanish (Martin, pers. comm. May 5 2015). If so, the County will never have another opportunity to remove the Lake’s “bacteria” listing from 303(d) category 5. Although a huge public benefit has resulted from the County’s demonstration that the Lake is suitable for swimming, with regard to delisting 15 years of effort will have been wasted. We urge you to accept the County’s definition of the “critical period” for sampling and remove the now-obsolete “bacteria” listing.

Sincerely yours,

John DeMeyer  
Robert Holman  
David H. Milne



Sources.

TCHSS 2012. Thurston County Public Health and Social Services Department. Water Resources Monitoring Report. 2009-2010 Water Year. August, 2012.

Martin, Carrie. Department of Enterprise Services. E-mail of May 5, 2015.

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<sup>1</sup> Thurston County usually conducted observations from May through October of each year, the part of the Water Year during which most people are likely to have primary contact with the Lake water.

<sup>2</sup> P. 26, Water Quality Program Policy. WQP Policy 1-11. Assessment of Water Quality for the Clean Water Act Section 303(d) and 305(b) Integrated Report. DOE.

**Capitol Lake Fecal Coliform Bacteria Sample Results (continued)**

<b>Date</b>	<b>North Basin</b>	<b>Middle Basin</b>	<b>Percival Cove</b>
5/21/08	50	25	--
6/16/08	5	5	--
7/15/08	<5	5	--
8/12/08	20	<5	--
9/17/08	<5	<5	--
10/15/08	5	10	--
5/26/09	10	20	--
6/24/09	<5	<5	--
8/19/09	<5	5	--
9/14/09	<5	10	--
10/14/09	<5	10	--
5/27/10	45	60	--
6/23/10	45	10	--
7/22/10	10	45	--
8/25/10	<5	80	--
9/22/10	--	10	--
10/21/10	<5	<5	--
6/22/11	20	30	--
7/20/11	--	15	--
8/30/11	<5	5	--
9/21/11	<5	5	--
10/12/11	60	163	--
Mean (GMV)	3	6	4
# of records	61	63	37

Source: Thurston County Water Resources Report. August 2012.

### Capitol Lake Fecal Coliform Bacteria Sample Results

Date	North Basin	Middle Basin	Percival Cove
6/21/00	5	5	10
7/19/00	5	3	10
8/23/00	<5	5	<5
9/21/00	25	20	5
10/25/00	40	35	5
5/16/01	35	45	10
6/20/01	<5	<5	5
7/17/01	5	<5	<5
8/15/01	<5	<5	<5
9/20/01	10	<5	5
10/19/01	<5	<5	10
5/20/02	<5	5	<5
6/17/02	<5	13	5
8/28/02	<5	<5	-
9/26/02	<5	7	-
6/19/03	-	--	5
7/17/03	<5	<5	5
8/19/03	<5	5	<5
9/24/03	5	<5	5
5/25/04	8	<5	<5
6/14/04	6	11.5	5
7/13/04	2	3	5
8/18/04	1	1	<5
9/29/04	4.5	9	10
10/13/04	<5	15	5
5/18/05	50	45	60
6/22/05	5	38	<5
7/20/05	<5	<5	<5
8/17/05	<5	5	<5
9/14/05	<5	<5	<5
10/18/05	<5	15	<5
5/24-25/06	10	105	40
6/21-22/06	5	<5	<5
7/26/06	<5	<5	<5
8/16/06	<5	<5	5
9/20/06	5	10	10
10/11/06	<5	5	<5
5/23/07	<5	<5	15
6/18/07	<5	20	10
9/12/07	<5	<5	-
9/26/07	5	<5	-
10/17/07	15	50	--