



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

March 17, 2009

REGISTERED MAIL RE 130 215 847 US

Commissioner Marc Boldt, Chairman
Board of Clark County Commissioners
1300 Franklin Street
Vancouver, WA 98666-5000



Your address
is in the
**Salmon-
Washougal
watershed**

Re: Notice of Violation—Clark County Stormwater Ordinances and Manual

Dear Commissioner Boldt:

The Department of Ecology (Ecology) has completed its review of Clark County's adopted stormwater ordinances and manual. These documents were provided to Ecology for review on January 26, 2009, pursuant to the requirements of Clark County's coverage under the National Pollutant Discharge Elimination System (NPDES) Phase I Municipal Stormwater Permit.

Ecology would like to recognize Clark County's effort to update its stormwater management program. In many ways, the County's adopted ordinances and manual represent significant improvements over the previous program. The County's staff is to be commended for assembling a stormwater program that is well-coordinated and easy to understand.

However, upon review Ecology has determined that the County's adopted stormwater program falls short of the requirements of the Permit in two (2) important areas. Enclosed is a Notice of Violation (NOV) issued under the authority of Chapter 90.48.120(1) of the Revised Code of Washington identifying the areas of the County's stormwater program which do not comply with the terms of its coverage under the NPDES Permit. The NOV requires the County to respond within thirty (30) days describing the steps that have been and will be taken to come into compliance with the terms of the Permit.

All correspondence relating to this document should be directed to Greg Winters at Ecology's Vancouver Field Office, 2108 Grand Boulevard, Vancouver, Washington 98661-4622. If you have any questions concerning the content of the document please call Greg at 360-690-7120.

Sincerely,

Garin Schrieve, P.E.
Southwest Region Manager
Water Quality Program

GS:cc(6514)
Enclosure

cc: Kevin Gray, Clark County Department of Public Works

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

IN THE MATTER OF THE COMPLIANCE BY)
Clark County) NOTICE OF VIOLATION
with Chapter 90.48 RCW and the) NO. 6514
Rules and Regulations of the)
Department of Ecology)

To: Commissioner Marc Boldt, Chairman
Board of Clark County Commissioners
1300 Franklin Street
Vancouver, WA 98666-5000

Chapter 90.48.120 of the Revised Code of Washington (RCW) reads in part: "Whenever, in the opinion of the Department, any person shall violate or create a substantial potential to violate the provisions of this 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 person of its determination by registered mail . . ." Notice is hereby given in accordance with chapter 90.48.120(1) RCW, as follows for the location known as Clark County, Washington:

Clark County was issued coverage under the National Pollutant Discharge Elimination System (NPDES) Phase I Municipal Stormwater Permit on January 17, 2007. This Permit requires Clark County and other Phase I designated municipalities to initiate and implement a stormwater management program with specific milestones over the five (5)-year permit period.

Among these milestones is the requirement in permit condition S5.C.5.b to adopt the Appendix I Minimum Requirements, Technical Thresholds, Definitions and Adjustment and Variance Criteria for runoff controls from new development, redevelopment and construction sites. The purpose of this requirement is to reduce harmful impacts on fish, other aquatic life and streams caused by runoff from development.

On January 13, 2009, the Clark County Board of County Commissioners passed and adopted Ordinance No. 2009-01-01 repealing Clark County Code Chapter 40.380; adopting a new Chapter 40.385; amending Clark County Code section 40.450.040; and amending section 40.100.070. On January 26, 2009, Clark County submitted their adopted ordinances and manuals to the Department of Ecology (Ecology).

Upon review, Ecology has determined that these documents do not meet the criteria contained in the Permit. Specifically, Clark County has violated the terms of the Permit by:

1. Adopting a flow control policy that Ecology has determined does not provide equal or similar protection of receiving waters and equal or similar levels of pollutant control as compared to Appendix I (CCC Section 40.385.020.C.2.a); and
2. Adopting an exemption for infill and re-development projects from the one tenth (0.1) cubic feet per second flow increase threshold identified in Minimum Requirement #7 of Appendix 1 (CCC Section 40.385.020.C.2.a).

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

Notice of Violation

No. 6514

Page 2

RCW 90.48.120(1) requires that within thirty (30) days from the receipt of this Notice of Violation Clark County shall file with Ecology a full report 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; and
3. Send the report to:

Greg Winters
Department of Ecology
Vancouver Field Office
2108 Grand Boulevard
Vancouver, Washington 98661-4622

Upon receipt of this report, Ecology shall issue such order or directive as it deems appropriate under the circumstances, and shall notify Clark County by certified mail.

DATED this 17th day of March 2009, at Olympia, Washington.



Garin Schrieve, P.E.
Southwest Region Manager
Water Quality Program