

**WHATCOM COUNTY
EXECUTIVE'S OFFICE**

County Courthouse
311 Grand Avenue, Suite #108
Bellingham, WA 98225-4082



Pete Kremen
County Executive

March 10, 2011

Ted Sturdevant, Director
Washington Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

Dear Director Sturdevant:

The purpose of this letter is to communicate my willingness to shorten the timeline for meeting Total Maximum Daily Load (TMDL) objectives for new development in the Lake Whatcom watershed. Reviewing City and County watershed development codes has been a focus of the Lake Whatcom Management Program for some time now. In fact, the proposed work is identified in Task 3.3 of the 2010-2014 Lake Whatcom Management Program Work Plan (Encl. 1). The Work Plan, which guides intergovernmental efforts to reduce pollution in Lake Whatcom, was adopted with my strong endorsement last August by the County Council, City Council, and Lake Whatcom Water and Sewer District Commissioners. Be assured that I remain committed to advancing all responsible protections for the lake.

Based on our January 10, 2011 meeting about the petition to close the Lake Whatcom watershed to new wells, I directed my staff to work with your Bellingham office on a program that could hasten the County's code review work (Encl. 2). I asked my staff to pay close attention to three goals:

- (1) Prevent additions of phosphorus to Lake Whatcom from new development projects;
- (2) Achieve a consistent and predictable set of development regulations; and
- (3) Meet TMDL objectives contained in Ecology's pending Water Quality Clean-up Plan.

I am encouraged that Ecology and my administration are close to agreement regarding residential development and stormwater management practices that will satisfy requirements of the TMDL. I understand Ecology's position that changes to the County's code should ensure that new development will result in no additional contributions of phosphorus to the lake. That said, my staff remains concerned about how Ecology has defined the standard for those changes. They will continue to work with your staff during the next two weeks to further refine and clarify that standard. Please know that I am also heartened by your willingness to invest financially in the proposed work.

I will initiate the work and adhere to the agreed timeline upon Ecology's acknowledgment that the approach described in Enclosure 2 is adequate to protect Lake Whatcom. I will advise Ecology of events beyond County control that may alter or delay the schedule. I understand

Ted Sturdevant
March 10, 2011
Page 2

that Ecology will assist the County in devising appropriate remedies in the event of a delay. I am also happy to communicate the number of new building permit applications received for the Lake Whatcom watershed each week to Ecology and to consult with Ecology should either of us perceive unusual activity.

Thank you very much for your consideration in this matter.

Respectfully,

A handwritten signature in black ink, appearing to read "Pete Kremen", with a long, sweeping underline.

Pete Kremen
County Executive

Enclosures

Program Area: 3. Urbanization & Land Development
Task: 3.3 Continue to assess the effectiveness of regulations

Period	Responsible Party	Cost Estimate	Status	P Reduction
2010 - 2014	City/County/SVCA	\$45,000	Active/Hold*	Indirect

Task Objective: Continue to assess the effectiveness of regulations

Actions:

- County will expand its Low Impact Development Program through code amendments, permit process modifications, a technical assistance manual, and public education and outreach to accomplish TMDL and Phase II requirements (2010)
- City will revisit the 2009 code changes to the Lake Whatcom Reservoir Regulatory Chapter before Council and modify accordingly (2010)
- City will review the Silver Beach Neighborhood Plan (SBNP) (2010)
- Each jurisdiction will be updated on any proposed changes to regulations and BMPs
- Sudden Valley will modify portions of its existing guidelines to address problematic regulations and find areas where consistent regulations with other agencies can be adopted

Intended Lake Benefits: Phosphorus Reduction Fecal Coliform Reduction Sediment Reduction Other

If other, please describe:

Performance Measures: Annual report to include:

- 1) Number of acres in Native Vegetation Protection Area (NVPA - forested) in City
- 2) Number of properties with engineered stormwater facilities in City and County
- 3) Summary of effectiveness of regulations at minimizing phosphorus runoff LID Program
- 4) Actions taken to accomplish TMDL and Phase II requirements (2010)
- 5) Modifications to Lake Whatcom Reservoir Regulatory Chapter 2009 code changes
- 6) SBNP recommendations presented to the Neighborhood Association and City Council
- 7) Interjurisdictional updates on proposed changes to regulations

Cost Estimates:

Year	Party	FTEs (\$)	Capital Costs	Other	Total
2010	City	0.05 (\$5,000)			\$5,000
	County	0.05 (\$5,000)			\$5,000
	District/Other	0.05 (SVCA) (\$5,000)			\$5,000
2011	City	0.05 (\$5,000)			\$5,000
	County	0.05 (\$5,000)			\$5,000
	District/Other	0.05 (SVCA) (\$5,000)			\$5,000
2012	City	undetermined*			
	County	undetermined*			
	District/Other	0.05 (SVCA) (\$5,000)			\$5,000
2013	City	undetermined*			
	County	undetermined*			
	District/Other	0.05 (SVCA) (\$5,000)			\$5,000
2014	City	undetermined*			
	County	undetermined*			
	District/Other	0.05 (SVCA) (\$5,000)			\$5,000
Total		0.45 (\$45,000)			\$45,000

Enclosure 2. An accelerated program for achieving consistent and predictable phosphorus protections for Lake Whatcom in County development regulations

Goals

- (1) Prevent additions of phosphorus to Lake Whatcom from activities related to future residential development in the watershed.
- (2) Achieve a consistent and predictable set of development regulations.
- (3) Meet Total Maximum Daily Load (TMDL) objectives described in the pending Lake Whatcom Water Quality Cleanup Plan.

Desired Outcomes

- (1) An accelerated review of existing Whatcom County Code to identify changes to ensure that new development does not contribute additional phosphorus to the lake and for conformance with provisions of Ecology's most recent Stormwater Manual and pending Lake Whatcom Water Quality Cleanup Plan.
- (2) Recommendations for code improvements supported by Ecology, in consultation with Lake Whatcom Management Program members.
- (3) Adoption of code changes that result in regulations designed to ensure that new development does not contribute additional phosphorus to the lake and will, therefore, meet TMDL program goals.
- (4) Apprise Ecology of permit activity in the watershed until the code improvements are adopted.

Tasks and Timeline

- (1) Analyze applicable code sections for consistency with agreed development standards and pending Water Quality Cleanup Plan (April 15)
 - a. vegetation retention and re-vegetation options
 - b. sequencing and prioritizing stormwater treatment and flow control options
 - c. BMP effectiveness pertaining to lot sizes and existing conditions
- (2) Ecology review of County recommendations (April 29)
 - a. written demonstration of Ecology support for recommendations
 - b. clear connection to future Water Quality Cleanup Plan
- (3) Whatcom County review of and response (if necessary) to Ecology comments (May 13)
- (4) Conduct outreach workshops and accept public comment (June 17)
- (5) Staff report on proposed code (July 22)
- (6) Expedited Notice of Review to Department of Commerce and legal notice to Planning Commission (July 25)