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June 30, 2016

Via Certified Mail - Return Receipt Requested

Dave Somers, County Executive
Snohomish County
3000 Rockefeller Avenue, M/S 407
Everett, WA 98201

Re: **NOTICE OF INTENT TO FILE SUIT UNDER THE CLEAN WATER ACT**

Dear Executive Somers:

We represent Puget Soundkeeper Alliance (Soundkeeper), 130 Nickerson St., #107, Seattle, WA 98109, (206) 297-7002. Any response or correspondence related to this matter should be directed to us at the letterhead address. This letter is to provide you with sixty days notice of Soundkeeper's intent to file a citizen suit against Snohomish County under section 505 of the Clean Water Act (CWA), 33 USC § 1365, for the violations described below. The CWA prohibits discharge of any pollutant from a point source into waters of the U.S. except in compliance with a permit. 33 USC § 1311 and § 1342. The Washington Department of Ecology (Ecology) administers National Pollutant Discharge Elimination System (NPDES) permits in Washington pursuant to the CWA. Ecology issues municipal stormwater permits that authorize discharge of stormwater to surface waters and to ground waters of the state from municipal separate storm sewer systems (MS4s) owned or operated by permittees. As the owner and operator of a large MS4 that discharges stormwater to surface waters and to ground waters of the State, Snohomish County is required to comply with the conditions of the Phase I Municipal Stormwater Permit under which its MS4 discharges are authorized per NPDES permit no. WAR044502, effective August 1, 2013 (Permit). Failure to comply with the conditions of an NPDES permit constitutes violation of the CWA actionable under 33 USC § 1365(a)(1). *See* 33 USC § 1365(f)(6). Soundkeeper alleges that Snohomish County has failed to comply with the Permit and has violated the CWA, as described below.

I. Snohomish County has not produced a Stormwater Management Program Plan that complies with the requirements of Special Conditions S5.A of the Permit.

Condition S5.A requires Snohomish County to implement a Stormwater Management Program (SWMP) that is a set of actions and activities comprising the components listed in Condition S5, additional actions necessary to meet the requirements of total maximum daily loads (TMDLs) pursuant to Condition S7, and additional actions necessary to meet Condition S8 monitoring and assessment requirements. Under Condition S5.A.1, the County must annually prepare written documentation of its SWMP, called the "SWMP Plan," to inform the

public of the planned SWMP activities for the upcoming calendar year. The SWMP Plan must include a description of planned activities for each of the program components included in Condition S5.C, planned actions to meet TMDL requirements per Condition S7, and any planned actions to meet the requirements of Special Condition S8. Snohomish County's SWMP Plans for 2014, 2015 and 2016 do not describe planned activities or programs that will be implemented to comply with permit requirements and fail to inform the public of the planned SWMP activities, as described below.

a. Snohomish County's SWMP Plan does not describe planned activities for each of the program components included in Special Condition S5.C, in violation of Special Condition S5.A of the Permit.

Condition S5.A.1.a requires the County to include descriptions of planned activities for each of the program components included in Condition S5.C in its SWMP Plan. Snohomish County's SWMP Plans for 2014, 2015, and 2016 violate Condition S5.A because they do not include descriptions of planned activities for each of the program components included in Condition S5.C, as described below.

Condition S5.C.1 requires the County to demonstrate that it has legal authority to control discharges to and from MS4s it operates and to perform the minimum functions listed in section S5.C.1.b. The SWMP Plans for 2014, 2015, or 2016 do not demonstrate that the County has legal authority to control discharges to and from the MS4s it operates or to perform the minimum functions required.

Condition S5.C.2 requires the County to implement an ongoing program for mapping and documenting listed features of the MS4. The SWMP Plans for 2014, 2015, and 2016 do not describe an ongoing program for mapping and documenting listed features of the MS4. Condition S5.C.4 requires the County to provide ongoing opportunities for public involvement and participation in the permittee's SWMP and implementation priorities. Minimum performance measures include creating opportunities for the public to participate in the decision-making process involving the development, implementation and update of the SWMP. The SWMP Plans for 2014, 2015, and 2016 do not describe a program for creating opportunities for public involvement.

Condition S5.C.5.a.iii requires the County to adopt a local program for controlling runoff from new development, redevelopment, and construction. The process to adopt the program is lengthy and included a draft manual that had to be submitted to Ecology by July 1, 2014 for approval. In May 2015, Ecology extended the deadline for final adoption of the program to January 22, 2016. The 2014, 2015, and 2016 SWMP Plans do not describe any planned activities to adopt a program for controlling runoff from new development, redevelopment, and construction.

Condition S5.C.5.a.iv requires that the program to control runoff from new development, redevelopment, and construction include the legal authority to inspect private stormwater facilities and enforce maintenance standards for all new development and

redevelopment approved under the provisions of the Permit. The program was to be implemented by January 22, 2016, but the 2016 SWMP Plan does not describe the legal authority to comply with Condition S5.C.5.a.iv.

Condition S5.C.5.a.v requires a process of permits, site plan review, inspections, and enforcement to control runoff from new development, redevelopment, and construction sites. The program was to be implemented by January 22, 2016 but the 2016 SWMP Plan does not describe a process of permits, site plan review, inspections, and enforcement to control runoff from new development, redevelopment, and construction sites.

Condition S5.C.5.a.vi requires the County to make notice of intent documents available to representatives of proposed new development and redevelopment. The SWMP Plans for 2014, 2015, and 2016 do not describe a program to make documents available to representatives of proposed development.

Condition S5.C.5.a.vii requires training for staff whose primary job duties are implementing the program to control stormwater runoff from new development, redevelopment, and construction sites. The SWMP Plans for 2014, 2015, and 2016 do not describe a staff training program that complies with Condition S5.C.5.a.vii.

Condition S5.C.5.b requires review, revision, and implementation of development-related codes, rules, standards, or other enforceable documents to incorporate and require low impact development (LID) principles and LID Best Management Practices (BMPs). The review and revision process occurred in 2014 and 2015, yet the 2014 and 2015 SWMP Plans do not describe planned activities to comply with S5.C.5.b. The revised codes and documents are required to be effective by January 22, 2016, yet the 2016 SWMP Plan does not describe planned activities to implement the revised codes and documents.

Condition S5.C.5.c.iv requires the County to develop a watershed planning process, to submit the scope of work and schedule for the process to Ecology by March 31, 2015, and to implement the planning process upon approval from Ecology. The SWMP Plans for 2014, 2015, and 2016 do not describe a program to comply with the watershed-scale stormwater planning requirements.

Condition S5.C.7 requires the County to develop an inventory of businesses that have the potential to generate polluted discharges to the County's storm sewer and to annually conduct a number of inspections equal to 20% of the number of businesses in the inventory as part of the source control program. Additionally, the County must inspect 100% of sites identified through legitimate complaints, implement an enforcement policy to bring sites into compliance, and train staff in implementing the source control program. The 2014, 2015 and 2016 SWMP Plans do not describe a source control program, maintenance of a source control inventory, an inspection program, a progressive enforcement policy, or measures to ensure that staff are trained to implement the source control program.

Condition S5.C.8 requires the County to implement an ongoing program designed to prevent, detect, characterize, trace, and eliminate illicit connections and illicit discharges into the MS4. Among other minimum performance measures, Condition S5.C.8.a requires that the program include procedures for reporting and correcting or removing illicit connections, spills and other illicit discharges and procedures for addressing pollutants entering the MS4 from an interconnected, adjoining MS4. The 2014, 2015, and 2016 SWMP Plans do not describe a program for illicit discharge detection and elimination that complies with Condition S5.C.8.

Condition S5.C.9.b requires the County to annually inspect all stormwater treatment and flow control BMPs/facilities it regulates to enforce compliance with adopted maintenance standards as needed based on inspection, to manage maintenance activities to inspect all permanent stormwater treatment and flow control BMPs/facilities and catch basins in new residential developments every six months until 90% of the lots are constructed and enforce compliance with maintenance standards, and to require cleaning of catch basins if they are found to be out of compliance with established maintenance standards. The 2014, 2015, and 2016 SWMP Plans include no maintenance standards, do not describe an inspection program that complies with Condition S5.C.9.b, and do not describe a program for operation or maintenance of stormwater treatment and flow control BMPs/facilities regulated by the County.

Condition S5.C.9.c details the requirements for maintenance of stormwater treatment and flow control BMPs/facilities owned or operated by the County. The 2014, 2015, and 2016 SWMP Plans do not describe a program for inspection or maintenance of stormwater treatment and flow control BMPs/facilities owned or operated by the County.

Condition S5.C.9.d details the requirements for maintenance of catch basins owned or operated by the County. The 2014, 2015, and 2016 SWMP Plans do not describe a program for inspection or maintenance of catch basins owned or operated by the County.
Condition S5.C.9.e requires the County to implement practices, policies, and procedures to reduce stormwater impacts associated with runoff from all lands it owns or maintains and road maintenance activities under its functional control. The 2014, 2015, and 2016 SWMP Plans do not describe any practices, policies, or procedures for reducing stormwater runoff impacts associated with runoff from lands owned or maintained by the County. Neither do they contain any description of road maintenance activities to reduce runoff.

Condition S5.C.9.f requires the County to maintain an employee training program. The 2014, 2015, and 2016 SWMP Plans contain no descriptions of planned activities to comply with Condition S5.C.9.f.

Condition S5.C.9.g requires the County to implement stormwater pollution prevention plans for listed facilities. The 2014, 2015, and 2016 SWMP Plans contain no descriptions of planned activities to comply with Condition S5.C.9.g.

Condition S5.C.9.h requires the County to maintain records of inspections and maintenance or repair activities. The 2014, 2015, and 2016 SWMP Plans contain no descriptions of planned activities to comply with Condition S5.C.9.h.

To summarize, in violation of Condition S5.A, Snohomish County has failed to include descriptions of planned actions for each of the program components included in Condition S5.C in its SWMP Plans for 2014, 2015, and 2016.

b. Snohomish County's SWMP Plan does not describe additional planned actions to meet the requirements of applicable TMDLs, in violation of Special Condition S5.A of the Permit.

Condition S5.A.1.b requires the SWMP Plan to describe the "planned actions to meet the requirements of applicable TMDLs." Additional actions are necessary to meet the requirements of TMDLs for Little Bear Creek, North Creek, Swamp Creek, Snohomish River Tributaries, and the Stillaguamish River. The five applicable TMDLs, listed in Appendix 2 of the Permit, include requirements for business inspections, public education and outreach, operation and maintenance of animal waste collection and/or education stations, screening for bacteria sources as part of the illicit discharge detection and elimination program, targeted source identification and elimination, and surface water monitoring. The SWMP Plan for 2014 does not describe planned actions to meet the requirements of applicable TMDLs. The SWMP Plan for 2015 describes only surface water monitoring and not planned actions to meet the other requirements of applicable TMDLs. The SWMP Plan for 2016 does not describe a program to comply with TMDL requirements. In violation of Condition S5.A, Snohomish County has failed to describe planned actions to meet the requirements of applicable TMDLs in its SWMP Plans for 2014, 2015, and 2016.

II. Snohomish County has not designed or implemented a Stormwater Management Program that complies with the requirements of Special Condition S5.B of the Permit.

Condition S5.B requires that the County's SWMP be designed to reduce the discharge of pollutants from MS4s to the maximum extent possible (MEP); meet state requirements to use all known, available, and reasonable methods of prevention, control, and treatment (AKART); and protect water quality. Snohomish County has not designed or implemented a SWMP to reduce the discharge of pollutants from MS4s to the MEP, meet state AKART requirements, and protect water quality, as required by Condition S5.B.

III. In violation of Special Condition S5.A and Special Condition S5.C of the Permit, Snohomish County has not included all mandatory components in its Stormwater Management Program and has not implemented a Stormwater Management Program comprising the necessary components.

Condition S5.A requires the County to implement a SWMP comprising the components listed in section S5 of the Permit. Condition S5.C requires the County's SWMP

to include listed components. Snohomish County's SWMP does not include all of the mandatory components, in violation of Condition S5.C. Snohomish County also is not implementing a SWMP comprising the required components, which violates Condition S5.A. The missing components of Snohomish County's SWMP are described below.

a. **Snohomish County's SWMP does not include an ongoing program for mapping and documenting the MS4 and the County has not implemented such a program as part of its SWMP in violation of Special Conditions S5.A and S5.C of the Permit.**

Condition S5.C.2 requires the County to maintain mapping data showing the location of its stormwater infrastructure as part of its SWMP. At a minimum, the mapping data must include known MS4 outfalls and discharge points; receiving waters, other than ground water; stormwater treatment and flow control BMPs/facilities owned or operated by the County; geographic areas served by the County's MS4 that do not discharge stormwater to surface water; tributary conveyances to all known outfalls and discharge points with a 24-inch nominal diameter or larger, or an equivalent cross-sectional area for non-pipe systems; connections between the MS4 owned or operated by the County and other municipalities or other public entities; all connections to the MS4 authorized or allowed by the County after February 16, 2007; and existing known connections over 8 inches in nominal diameter to mapped tributary conveyances. Snohomish County does not maintain mapping data for each and every of the features required by Condition S5.C.2 as part of its SWMP, which violates Conditions S5.A and S5.C.

b. **Snohomish County's SWMP does not include creation of opportunities for public involvement and the County has not implemented such a program as part of its SWMP in violation of Special Conditions S5.A and S5.C of the Permit.**

Condition S5.C.4 requires the County to create opportunities for public involvement in the decision-making process involving implementation and updates of the SWMP. Each year, the County must update the SWMP and identify actions necessary for implementation in the annual SWMP Plan. Snohomish County does not create opportunities for public involvement in decision-making as part of its SWMP, which violates Conditions S5.A and S5.C.

c. **Snohomish County's SWMP does not include a program to comply with Special Condition S5.C.5.b and the County does not implement the procedural or substantive low impact development requirements of Special Condition S5.C.5.b as part of its SWMP in violation of Special Conditions S5.A and S5.C of the Permit.**

Condition S5.C.5.b requires Snohomish County to review, revise, and make effective local development-related codes, rules, standards, or other enforceable documents to incorporate and require LID principles and LID BMPs by January 22, 2016. Condition S5.C.5.b includes procedural and substantive components. Procedurally, the review and

revision process was to be similar to the process presented in *Integrating LID into Local Codes: A Guidebook for Local Goverments* (Puget Sound Partnership, 2012) and was required to consider the range of issues outlined in the *Guidebook*. Condition S5.C.5.b.ii requires the County to document the review process. The County was required to make revisions to enforceable documents with the substantive outcome of making LID the "preferred and commonly-used approach to site development" and "minimizing impervious surfaces, native vegetation loss, and stormwater runoff in all types of development situations." Snohomish County has not included or implemented the requirements of Condition S5.C.5.b in its SWMP in violation of Conditions S5.A and S5.C: the County has not conducted an adequate review of its development-related codes, rules, standards or other documents as part of its SWMP; the County has not summarized its review or revised its enforceable documents as required to comply with Conditions S5.C and S5.A; the County's SWMP does not control runoff from new development, redevelopment, and construction sites by making LID the preferred and commonly-used approach to site development; and the County does not minimize impervious surfaces, native vegetation loss, and stormwater runoff in all types of development situations.

d. Snohomish County's SWMP does not include a watershed-scale stormwater planning process that complies with the requirements of Condition S5.C.5.c and the County has not implemented such a process as part of its SWMP in violation of Special Conditions S5.A and S5.C of the Permit.

Condition S5.C.5.c requires the County to convene and lead a watershed-scale stormwater planning process. The County is required to submit a scope of work and schedule for the planning process by April 1, 2014 that contains the minimum requirements listed in Condition S5.C.5.c.iv. Snohomish County produced a scope of work, but no schedule, and the scope of work does not contain the minimum requirements of Condition S5.C.5.c.iv. Snohomish County has not included or implemented an adequate watershed-scale stormwater planning process as part of its SWMP, which violates Conditions S5.A and S5.C.

e. Snohomish County's SWMP does not include a source control program for existing development and has not implemented such a program as part of its SWMP in violation of Special Conditions S5.A and S5.C of the Permit.

Condition S5.C.7 requires Snohomish County to implement a program to reduce pollutants in runoff from areas that discharge to MS4s owned or operated by the County. To comply with Condition S5.C.7.b.ii, the County must implement a program to identify commercial and industrial properties which have the potential to generate pollutants to the MS4s and maintain a source control inventory that lists these properties. Snohomish County must annually inspect 20% of the businesses and properties listed in the source control inventory and all of the sites identified through legitimate complaints. Snohomish County must also implement a progressive enforcement policy to require sites to come into compliance with stormwater requirements within a reasonable time period. Snohomish County does not include or implement maintenance of a source control inventory or inspection program that complies with Condition S5.C.7, or a progressive enforcement policy

to bring sites into compliance with stormwater requirements as part of its SWMP, which violates Conditions S5.A and S5.C.

f. Snohomish County's SWMP does not include an illicit discharge detection and elimination program and the County has not implemented such a program as part of its SWMP in violation of Special Conditions S5.A and S5.C of the Permit.

Condition S5.C.8 requires the County to implement a screening program to detect illicit discharges to the MS4 and an ongoing program designed to eliminate illicit discharges. The program must include investigation, enforcement, emergency response procedures, and the other elements listed in Condition S5.C.8. Condition S5.C.8.g requires the County to maintain records of the activities conducted to detect and eliminate illicit discharges. Snohomish County has not included or implemented programs to detect and eliminate illicit discharges as part of its SWMP and does not maintain records of illicit discharge detection and elimination activities in violation of Conditions S5.A and S5.C.

g. Snohomish County's SWMP does not include an adequate operation and maintenance program and the County has not implemented an adequate program as part of its SWMP in violation of Special Conditions S5.A and S5.C of the Permit.

Condition S5.C.9 requires the County to implement a program to conduct and regulate maintenance activities to prevent or reduce stormwater impacts. To comply with Condition S5.C.9.a the County is required to update its maintenance standards to include the listed elements by June 30, 2015. Conditions S5.C.9.b-c require the County to conduct inspections and to implement necessary maintenance actions for facilities it owns or operates and to enforce compliance with maintenance standards for facilities that it regulates. Condition S5.C.9.b.iii requires the County to inspect all permanent stormwater treatment and flow control BMPs/facilities and catch basins in new residential developments every six months, until 90% of the lots are constructed. Compliance with Condition S5.C.9.b is determined by the existence of a program designed to inspect all sites and actual inspection of 80% of sites. Compliance with Condition S5.C.9.c is determined by the presence of an established inspection program designed to inspect all sites and achieving at least 95% of required inspections. The County also has obligations to inspect and maintain catch basins pursuant to Condition S5.C.9.d, to reduce stormwater impacts associated with runoff from lands owned or maintained by the County pursuant to Condition S5.C.9.e, and to train employees to prevent or minimize impacts to water quality and to report water quality concerns pursuant to Condition S5.C.9.f. In violation of Conditions S5.A and S5.C, Snohomish County has not included or implemented the following operation and maintenance activities as part of its SWMP: the County has not implemented an inspection program that complies with Condition S5.C.9.b-c; the County has not implemented a program designed to inspect all catch basins that it owns or operates as required by Condition S5.C.9.d; the County has not implemented practices, policies, and procedures to comply with Condition S5.C.9.e; and the County has not implemented an ongoing training program as required by Condition S5.C.9.f.

IV. Snohomish County has not included actions necessary to comply with applicable total maximum daily load requirements in its SWMP and has not implemented such requirements as part of its SWMP in violation of Special Conditions S5.A and S7 of the Permit.

Condition S5.A requires the County to implement a SWMP that includes actions necessary to meet the requirements of applicable TMDLs pursuant to Condition S7. Condition S7 requires the County to comply with TMDL requirements to achieve water quality standards for impaired waters, to keep records of all required actions that are relevant to applicable TMDLs, and include in its annual reports the status of TMDL implementation, including a summary of relevant SWMP and Appendix 2 activities conducted in each TMDL area to address the applicable TMDL parameter(s). For applicable TMDLs listed in Appendix 2 of the Permit, the County must comply with the specific requirements identified in Appendix 2, Failure to comply with the specific requirements identified in Appendix 2 violates Condition S7.A. Five waters in Snohomish County are listed in Appendix 2: North Creek (Fecal Coliform TMDL), Swamp Creek (Fecal Coliform TMDL), Little Bear Creek (Fecal Coliform TMDL), Snohomish River Tributaries (Fecal Coliform TMDL), and the Stillaguamish River (TMDLs for Fecal Coliform and dissolved oxygen). Other applicable TMDLs (not identified in Appendix 2) include Stillaguamish River TMDLs for arsenic, mercury, pH, and temperature; Ballinger Lake TMDL for total phosphorus; Bear-Evans Watershed TMDLs for temperature and dissolved oxygen; French Creek/Pilchuck River TMDLs for temperature and dissolved oxygen; Loma Lake TMDL for total phosphorus; Snohomish River TMDL for dioxin; Snohomish estuary TMDLs for ammonia and BOD; and Snoqualmie River TMDLs for ammonia-N, BOD, and temperature. To comply with the applicable TMDLs that are not listed in Appendix 2, the County must comply with the Permit. Failure to comply with TMDLs not listed in Appendix 2 violates Condition S7.B. Snohomish County has failed to include and implement the following TMDL requirements as part of its SWMP, keep records of relevant required actions, and include in annual reports the status of TMDL implementation in violation of Conditions S5.A and S7:

a. North Creek Fecal Coliform TMDL

1. Snohomish County does not include or implement a business inspection program for North Creek as part of its SWMP in violation of Special Conditions S5.A and S7.A of the Permit.

As specified in Appendix 2, the North Creek Fecal Coliform TMDL requires Snohomish County to inspect all commercial animal handling areas and commercial composting facilities by August 1, 2016. Facilities with bacteria source control problems must be re-inspected every three years. Condition S7.A requires the County to comply with the North Creek Fecal Coliform TMDL, to keep records of relevant required actions, and to include in its annual report the status of TMDL implementation. Condition S5.A requires the County to include actions necessary to meet the requirements of Condition S7 in its SWMP. Snohomish County has not included actions necessary to meet the requirements of Condition S7 in its SWMP, is not conducting business inspections as required by the North Creek Fecal

Coliform TMDL, is not going to meet the August 1, 2016 deadline, and is not keeping records of relevant required actions or including in annual reports the status of TMDL implementation. By failing to include and implement TMDL requirements as part of its SWMP, the County is violating Conditions S5.A and S7.A.

2. **Snohomish County does not include or implement targeted source identification and elimination for North Creek as part of its SWMP in violation of Special Conditions S5.A and S7.A of the Permit.**

As specified in Appendix 2, the North Creek Fecal Coliform TMDL requires Snohomish County to identify at least one high priority area that will be the focus of source identification and elimination efforts during the permit cycle. The TMDL requires the County to review data collected previously, select the high priority area by February 2, 2014, and submit written documentation of the review with the 2014 Annual Report. Implementation of source identification and elimination efforts must begin no later than August 1, 2014. The focused source identification and elimination effort must include stormwater quality sampling for bacteria sources and must address illicit discharges by implementing the schedule and activities identified in Condition S5.C.8. Condition S7.A requires the County to comply with the North Creek Fecal Coliform TMDL, to keep records of relevant required actions, and to include in its annual report the status of TMDL implementation. Condition S5.A requires the County to include actions necessary to meet the requirements of Condition S7 in its SWMP. The County failed to select a high priority area in North Creek by February 2, 2014, failed to prepare written documentation of the required data review, did not begin source identification and elimination activities in North Creek by August 1, 2014, has not conducted stormwater quality sampling for bacteria sources in North Creek, and is not implementing the required response to illicit discharges in North Creek. By failing to implement a SWMP that complies with TMDL requirements, the County is violating Conditions S7.A and S5.A. The County is also violating Conditions S5.A and S7.A by failing to include or implement recordkeeping and reporting actions as part of its SWMP.

3. **Snohomish County does not include or implement surface water monitoring in North Creek as part of its SWMP in violation of Special Conditions S5.A and S7.A of the Permit.**

As specified in Appendix 2, the North Creek Fecal Coliform TMDL requires Snohomish County to collect twelve water samples per year in at least one location in North Creek starting by August 1, 2015 pursuant to a Quality Assurance Project Plan (QAPP). The data collected must be summarized and evaluated in each annual report. Condition S7.A requires the County to comply with the North Creek Fecal Coliform TMDL, to keep records of relevant required actions, and to include in its annual report the status of TMDL implementation. Condition S5.A requires the County to include actions necessary to meet the requirements of Condition S7 in its SWMP. Snohomish County has not conducted surface water monitoring in North Creek. The County is also not keeping records of relevant required actions or including in annual reports the status of TMDL implementation. By failing to

include or implement TMDL requirements as part of its SWMP, the County is violating Conditions S5.A and S7.A.

b. Swamp Creek Fecal Coliform TMDL

1. Snohomish County does not include or implement a business inspection program for Swamp Creek as part of its SWMP in violation of Special Conditions S5.A and S7.A of the Permit.

As specified in Appendix 2, the Swamp Creek Fecal Coliform TMDL requires Snohomish County to inspect all commercial animal handling areas and commercial composting facilities by August 1, 2016. Facilities with bacteria source control problems must be re-inspected every three years. Condition S7.A requires the County to comply with the Swamp Creek Fecal Coliform TMDL, to keep records of relevant required actions, and to include in its annual report the status of TMDL implementation. Condition S5.A requires the County to include actions necessary to meet the requirements of Condition S7 in its SWMP. Snohomish County has not included actions necessary to meet the requirements of Condition S7 in its SWMP, is not conducting business inspections as required by the Swamp Creek Fecal Coliform TMDL, is not going to meet the August 1, 2016 deadline, and is not keeping records of relevant required actions or including in annual reports the status of TMDL implementation. By failing to include and implement TMDL requirements as part of its SWMP, the County is violating Conditions S7.A and S5.A.

2. Snohomish County does not include or implement targeted source identification and elimination for Swamp Creek as part of its SWMP in violation of Special Conditions S5.A and S7.A of the Permit.

As specified in Appendix 2, the Swamp Creek Fecal Coliform TMDL requires Snohomish County to identify at least one high priority area that will be the focus of source identification and elimination efforts during the permit cycle. The TMDL requires the County to review data collected previously, select the high priority area by February 2, 2014, and submit written documentation of the review with the 2014 Annual Report. Implementation of source identification and elimination efforts must begin no later than August 1, 2014. The focused source identification and elimination effort must include stormwater quality sampling for bacteria sources and must address illicit discharges by implementing the schedule and activities identified in Condition S5.C.8. Condition S7.A requires the County to comply with the Swamp Creek Fecal Coliform TMDL, to keep records of relevant required actions, and to include in its annual report the status of TMDL implementation. Condition S5.A requires the County to include actions necessary to meet the requirements of Condition S7 in its SWMP. In violation of Condition S5.A, Snohomish County's SWMP does not include actions necessary to meet TMDL requirements. The County failed to select a high priority area in Swamp Creek by February 2, 2014, failed to prepare written documentation of the required data review, did not begin source identification and elimination activities in Swamp Creek by August 1, 2014, has not conducted stormwater quality sampling for bacteria sources in Swamp Creek, and is not implementing the required response to illicit discharges in Swamp

Creek. By failing to comply with TMDL requirements, the County is violating Conditions S7.A and S5.A. The County is also violating Conditions S5.A and S7.A by failing to keep records of relevant required actions and failing to include in annual reports the status of TMDL implementation.

3. Snohomish County does not include or implement surface water monitoring in Swamp Creek as part of its SWMP in violation of Special Conditions S5.A and S7.A of the Permit.

As specified in Appendix 2, the Swamp Creek Fecal Coliform TMDL requires Snohomish County to collect twelve water samples per year in at least one location in Swamp Creek starting by August 1, 2015 pursuant to a QAPP. The data collected must be summarized and evaluated in each annual report. Condition S7.A requires the County to comply with the Swamp Creek Fecal Coliform TMDL, to keep records of relevant required actions, and to include in its annual report the status of TMDL implementation. Condition S5.A requires the County to include actions necessary to meet the requirements of Condition S7 in its SWMP. Snohomish County has not conducted surface water monitoring in Swamp Creek. The County is also not keeping records of relevant required actions or including in annual reports the status of TMDL implementation. By failing to comply with TMDL requirements, the County is violating Conditions S5.A and S7.A.

c. Little Bear Creek Fecal Coliform TMDL

1. Snohomish County does not include or implement a business inspection program for Little Bear Creek as part of its SWMP in violation of Special Conditions S5.A and S7.A of the Permit.

As specified in Appendix 2, the Little Bear Creek Fecal Coliform TMDL requires Snohomish County to inspect all commercial animal handling areas and commercial composting facilities by August 1, 2016. Facilities with bacteria source control problems must be re-inspected every three years. Condition S7.A requires the County to comply with the Little Bear Creek Fecal Coliform TMDL, to keep records of relevant required actions, and to include in its annual report the status of TMDL implementation. Condition S5.A requires the County to include actions necessary to meet the requirements of Condition S7 in its SWMP. Snohomish County has not included actions necessary to meet the requirements of Condition S7 in its SWMP, is not conducting business inspections as required by the Little Bear Creek Fecal Coliform TMDL, is not going to meet the August 1, 2016 deadline, and is not keeping records of relevant required actions or including in annual reports the status of TMDL implementation. By failing to comply with TMDL requirements, the County is violating Conditions S7.A and S5.A.

2. Snohomish County does not include or implement source identification and elimination for Little Bear Creek as part of its SWMP in violation of Special Conditions S5.A and S7.A of the Permit.

As specified in Appendix 2, the Little Bear Creek Fecal Coliform TMDL requires Snohomish County to conduct bacteria source identification and elimination in high priority MS4 subbasins that discharge in the Little Bear Creek TMDL area. To prioritize source identification and elimination activities in high priority subbasins that discharge to Little Bear Creek, the County is required to implement a monitoring program by August 1, 2015. Condition S7.A requires the County to comply with the Little Bear Creek Fecal Coliform TMDL, to keep records of relevant required actions, and to include in its annual report the status of TMDL implementation. Condition S5.A requires the County to include actions necessary to meet the requirements of Condition S7 in its SWMP. In violation of Condition S5.A, Snohomish County's SWMP does not include actions necessary to meet TMDL requirements. Snohomish County has not implemented a source identification and elimination program that meets the requirements of the Little Bear Creek TMDL. By failing to comply with TMDL requirements, the County is violating Conditions S7.A and S5.A. The County is also violating Conditions S5.A and S7.A by failing to keep records of relevant required actions and failing to include in annual reports the status of TMDL implementation.

d. Snohomish River Tributaries Fecal Coliform TMDL

1. Snohomish County does not include or implement a business inspection program for Snohomish River Tributaries as part of its SWMP in violation of Special Conditions S5.A and S7.A of the Permit.

As specified in Appendix 2, the Snohomish River Tributaries Fecal Coliform TMDL requires Snohomish County to inspect all commercial animal handling areas and commercial composting facilities by August 1, 2016. Facilities with bacteria source control problems must be re-inspected every three years. Condition S7.A requires the County to comply with the Snohomish River Tributaries Fecal Coliform TMDL, to keep records of relevant required actions, and to include in its annual report the status of TMDL implementation. Condition S5.A requires the County to include actions necessary to meet the requirements of Condition S7 in its SWMP. Snohomish County has not included actions necessary to meet the requirements of Condition S7 in its SWMP, is not conducting business inspections as required by the Snohomish River Tributaries Fecal Coliform TMDL, is not going to meet the August 1, 2016 deadline, and is not keeping records of relevant required actions or including in annual reports the status of TMDL implementation. By failing to comply with TMDL requirements, the County is violating Conditions S7.A and S5.A.

2. **Snohomish County does not include or implement targeted source identification and elimination for Snohomish River Tributaries as part of its SWMP in violation of Special Conditions S5.A and S7.A of the Permit.**

As specified in Appendix 2, the Snohomish River Tributaries Fecal Coliform TMDL requires Snohomish County to identify and eliminate sources of bacterial pollution. In each annual report, the County must include qualitative and quantitative information about the source identification and elimination activities, including procedures followed and sampling results, implemented in the selected areas. Condition S7.A requires the County to comply with the Snohomish River Tributaries Fecal Coliform TMDL, to keep records of relevant required actions, and to include in its annual report the status of TMDL implementation. Condition S5.A requires the County to include actions necessary to meet the requirements of Condition S7 in its SWMP. In violation of Condition S5.A, Snohomish County's SWMP does not include actions necessary to meet TMDL requirements. Snohomish County has not eliminated any sources of bacterial pollution in the Snohomish River Tributaries TMDL during the permit term. Snohomish County has not implemented a source identification and elimination program and has not included any qualitative or quantitative information about source identification and elimination efforts in its annual reports for 2014 and 2015. By failing to comply with TMDL requirements, the County is violating Conditions S7.A and S5.A. The County is also violating Conditions S5.A and S7.A by failing to keep records of relevant required actions and failing to include in annual reports the status of TMDL implementation.

3. **Snohomish County does not include or implement surface water monitoring in Snohomish River Tributaries as part of its SWMP in violation of Special Conditions S5.A and S7.A of the Permit.**

As specified in Appendix 2, the Snohomish River Tributaries Fecal Coliform TMDL requires Snohomish County to collect twelve water samples per year in at least one location on a Snohomish River Tributary starting by August 1, 2015 pursuant to a QAPP. The data collected must be summarized and evaluated in each annual report. Condition S7.A requires the County to comply with the Snohomish River Tributaries Fecal Coliform TMDL, to keep records of relevant required actions, and to include in its annual report the status of TMDL implementation. Condition S5.A requires the County to include actions necessary to meet the requirements of Condition S7 in its SWMP. Snohomish County has conducted surface water monitoring in Snohomish River Tributaries. The County is also not keeping records of relevant required actions or including in annual reports the status of TMDL implementation. By failing to comply with TMDL requirements, the County is violating Conditions S5.A and S7.A.

e. Stillaguamish River Fecal Coliform and Dissolved Oxygen TMDLs

1. Snohomish County does not include or implement a business inspection program for the Stillaguamish River as part of its SWMP in violation of Special Conditions S5.A and S7.A of the Permit.

As specified in Appendix 2, the Stillaguamish River Fecal Coliform and Dissolved Oxygen TMDLs require Snohomish County to inspect all commercial animal handling areas and commercial composting facilities by August 1, 2016. Facilities with bacteria source control problems must be re-inspected every three years. Condition S7.A requires the County to comply with the Stillaguamish River Fecal Coliform and Dissolved Oxygen TMDLs, to keep records of relevant required actions, and to include in its annual report the status of TMDL implementation. Condition S5.A requires the County to include actions necessary to meet the requirements of Condition S7 in its SWMP. Snohomish County has not included actions necessary to meet the requirements of Condition S7 in its SWMP, is not conducting business inspections as required by the Stillaguamish River Fecal Coliform and Dissolved Oxygen TMDLs, is not going to meet the August 1, 2016 deadline, and is not keeping records of relevant required actions or including in annual reports the status of TMDL implementation. By failing to comply with TMDL requirements, the County is violating Conditions S7.A and S5.A.

2. Snohomish County does not include or implement surface water monitoring in Stillaguamish River as part of its SWMP in violation of Special Conditions S5.A and S7.A of the Permit.

As specified in Appendix 2, the Stillaguamish River Fecal Coliform and Dissolved Oxygen TMDLs require Snohomish County to collect twelve water samples per year in at least one location in the Stillaguamish River starting by August 1, 2015. The data collected must be summarized and evaluated in each annual report. Condition S7.A requires the County to comply with the Stillaguamish River Fecal Coliform and Dissolved Oxygen TMDLs, to keep records of relevant required actions, and to include in its annual report the status of TMDL implementation. Condition S5.A requires the County to include actions necessary to meet the requirements of Condition S7 in its SWMP. Snohomish County has not conducted surface water monitoring in the Stillaguamish River. The County is also not keeping records of relevant required actions or including in annual reports the status of TMDL implementation. By failing to comply with TMDL requirements, the County is violating Conditions S5.A and S7.A.

f. Other Applicable TMDL Parameters

Snohomish County has other applicable TMDL areas and parameters that are not listed in Appendix 2. Applicable TMDL parameters that are not listed in Appendix 2 include: Stillaguamish River TMDLs for arsenic, mercury, pH, and temperature; Ballinger Lake total phosphorus TMDL; Bear-Evans Watershed TMDLs for temperature and dissolved oxygen; French Creek/Pilchuk River TMDLs for dissolved oxygen and temperature; Loma Lake total

phosphorus TMDL; Snohomish River dioxin TMDL; Snohomish Estuary TMDLs for ammonia and BOD; and Snoqualmie River TMDLs for ammonia-N, BOD (5-day), and temperature. To comply with these TMDLs, the County must comply with the conditions of the Permit; violation of Permit conditions violates the TMDL. Condition S7.B requires the County to comply with applicable TMDLs. Condition S7.A requires the County to keep records of all actions required by the Permit that are relevant to applicable TMDLs within their jurisdiction and to include the status of TMDL implementation as part of each annual report submitted to Ecology. Condition S5.A requires the County to include actions necessary to meet the requirements of Condition S7 in its SWMP. Snohomish County has failed to meet the requirements of applicable TMDLs by failing to produce a SWMP Plan that includes actions to meet these TMDL parameters, in violation of Condition S5.A.1.b; failing to map its municipal separate storm sewer in TMDL areas in violation of Condition S5.C.2; failing to involve the public in decisions regarding SWMP implementation in TMDL areas in violation of Condition S5.C.4; failing to implement codes making LID the preferred and commonly used approach to development in TMDL areas in violation of Condition S5.C.5.b; failing to implement a source control program in TMDL areas in violation of Condition S5.C.7; failing to implement an illicit discharge detection and elimination program in TMDL areas in violation of Condition S5.C.8; failing to implement a program designed to inspect all catch basins that it owns or operates in TMDL areas in violation of Condition S5.C.9.d; failing to implement practices, policies, and procedures to comply with Condition S5.C.9.e; and failing to implement an ongoing training program in violation of Condition S5.C.9.f. By failing to comply with TMDL requirements, the County is violating Conditions S5.A and S7.B. In violation of Conditions S5.A and S7.A, the County is also failing to keep records of relevant required actions and failing to include the status of TMDL implementation in its annual reports for 2014 and 2015. Each of these violations is described in detail in this notice of intent to sue.

V. Snohomish County has not complied with reporting requirements in violation of Special Condition S9 and General Condition 19 of the Permit.

Condition S9.D.2 requires that the annual reports submitted by the County describe the status of implementation of the requirements of the Permit during the reporting period. Condition S9.D.3 requires the County to attach to each annual report documentation of activities including summaries, descriptions, reports, and other information as required, or as applicable, to meet the requirements of the Permit. Condition S9.D.5 requires certification and signature pursuant to Condition G19.D. Condition G19.D requires an executive officer to certify that he has supervised preparation of the report and that the information submitted is, to the best of his knowledge and belief, true, accurate, and complete. Snohomish County's 2014 and 2015 annual reports contain inaccurate information and incomplete documentation, as described below, in violation of Conditions S9.D.2 and S9.D.3. The Snohomish County executive certified the inaccurate and incomplete information in violation of Conditions S9.D.5 and G19.D.

a. **Annual Report Question 4 – "Maintained mapping data for the features listed in S5.C.2.a?"**

In annual reports for 2014 and 2015 Snohomish County incorrectly reported that it maintained mapping data for the features listed in S5.C.2.a. The County executive certified the incorrect report both years. Snohomish County's inaccurate reports violate Conditions S9 and G19.

b. **Annual Report Question 30 – "Attach a summary of the LID review and revision process that includes the requirements listed in S5.C.5.b.ii."**

Condition S5.C.5.b.ii requires that the County submit a summary that includes, at a minimum, a list of the participants (job title, brief job description, department represented), the codes, rules, standards, and other enforceable documents reviewed, and the revisions made to those documents which incorporate and require LID Principles and LID BMPs. The summary Snohomish County submitted with its 2015 annual report does not meet the requirements of S5.C.5.b.ii. The County executive certified that the summary is complete, however it does not include a list of participants or the revisions made to incorporate and require LID Principles and LID BMPs in the County's enforceable documents. Snohomish County's incomplete documentation violates Conditions S9 and G19.

c. **Annual Report Question 35 – "Implemented a program to identify commercial and industrial properties which have the potential to generate pollutants to the Permittee's MS4 per S5.C.7.b.ii?"**

Condition S5.C.7.b.ii requires permittees to implement a program that includes development and maintenance of a source control inventory. Snohomish County does not maintain a source control inventory as required by Condition S5.C.7.b.ii and incorrectly answered yes to question 35 on its 2014 and 2015 annual reports. The County executive certified the incorrect report both years. Snohomish County's inaccurate report violates Conditions S9 and G19.

d. **Annual Report Question 36 – "Attach a summary of actions taken to implement the source control program per S5.C.7.b.iii and S5.C.7.b.iv."**

Conditions S5.C.7.b.iii and S5.C.7.b.iv require the County to implement a source control program that includes an inspection program in which the County inspects 20% of the businesses on its source control inventory annually and 100% of the sites identified through legitimate complaints. The source control program must also include a progressive enforcement policy with follow-up inspections, warning letters, notices of violation, and enforcement. The document Snohomish County attached in response to Question 36 in its annual reports for 2014 and 2015 are incomplete and do not include a summary of actions taken to implement a source control program. The County executive certified that both reports are complete. Snohomish County's incomplete reports violate Conditions S9 and G19.

e. **Annual Report Question 44b – "Number of hotline calls received?"**

In its annual reports Snohomish County incorrectly reported that it received 26 hotline calls in both 2014 and 2015. The County executive certified the incorrect report both years. Snohomish County's inaccurate reports violate Conditions S9 and G19.

f. **Annual Report Question 48 – "Attach a summary of actions taken to characterize, trace and eliminate each illicit discharge found by or reported to the permittee. For each illicit discharge include a description of actions according to required timelines per S5.C.8.d.iv."**

The documents Snohomish County attached to its 2014 and 2015 annual report in response to Question 48 do not summarize the actions taken to characterize, trace and eliminate each illicit discharge found by or reported to the County. Neither do the documents include a description of actions according to the required timelines for each illicit discharge. Both years the County executive certified that the reports are complete. Snohomish County's incomplete reports violate Conditions S9 and G19.

g. **Annual Report Question 53 – "Evaluated and, if necessary, updated the existing ordinances or other enforceable documents requiring maintenance of all permanent stormwater treatment and flow control BMPs/facilities (including catch basins that are part of the facilities) regulated by the Permittee. (S5.C.9.b.i)"**

Condition S5.C.9.b.i requires the permittee to evaluate and, if necessary, update existing ordinances or other enforceable documents requiring maintenance of all permanent stormwater treatment and flow control BMPs/facilities regulated by the Permittee in accordance with maintenance standards established under S5.C.9.a. Condition S5.C.9.a requires the County to implement maintenance standards. To comply with S5.C.9.b.i the County must complete an evaluation. In the 2014 annual report, Snohomish County was asked whether it "evaluated and, if necessary, updated existing ordinances or other enforceable documents . . ." and the County responded that the permit requirement was not applicable. Snohomish County's answer is inaccurate and is not responsive to the question, however the County executive certified that the report is accurate and complete. Snohomish County's inaccurate and incomplete report violates Conditions S9 and G19.

h. **Annual Report Question 71 – "For TMDL listed in Appendix 2: Attach a summary of relevant SWMP and Appendix 2 activities to address the applicable TMDL parameter(s). (S7.A)"**

Condition S7.A requires permittees to include a summary of relevant SWMP and Appendix 2 activities conducted in the TMDL area to address the applicable TMDL parameter(s) in each annual report. Five TMDL areas in Snohomish County are listed in

Appendix 2 of the Permit: Stillaguamish River (Fecal Coliform and dissolved oxygen TMDLs), Snohomish River Tributaries (Fecal Coliform TMDL), North Creek (Fecal Coliform TMDL), Swamp Creek (Fecal Coliform TMDL), and Little Bear Creek (Fecal Coliform TMDL). For each listed TMDL, Appendix 2 requires the County to conduct business inspections, education and outreach, and to install and maintain animal waste collection and/or education stations. In the Snohomish River Tributaries TMDL area, North Creek, Swamp Creek, and Little Bear Creek the County must implement targeted source identification and elimination programs. In the Stillaguamish River, Snohomish River Tributaries, North Creek, and Swamp Creek TMDL areas, the County must conduct illicit discharge detection and elimination activities, and surface water monitoring. Snohomish County's annual reports for 2014 and 2015 do not summarize activities conducted pursuant to Appendix 2. The County executive certified that the reports are complete and accurate for both years. Snohomish County's incomplete reports violate Conditions S9 and G19.

i. Annual Report Question 72 – "Attach a description of any stormwater monitoring or stormwater-related studies per S8.A."

Condition S8.A requires the County to provide a description of any stormwater monitoring or stormwater related-studies conducted during the reporting period by or on behalf of the permittee or that were reported to the permittee. At a minimum, Snohomish County is required to conduct monitoring or studies to comply with TMDLs listed in Appendix 2 and for watershed-scale planning pursuant to Condition S5.C.5.c. The attachments the County submitted in its 2014 and 2015 annual reports do not describe stormwater monitoring or studies conducted to comply with TMDL requirements or Condition S5.C.5.c. Additionally, the annual reports refer to sampling in the Lund's Gulch watershed in 2014, and in 2015 a study at a wet pond, calibration of a model, and studies conducted for a Pollution Identification and Correction Grant but there is no description of the studies conducted. The County executive certified that the reports are complete and accurate for both years. Snohomish County's incomplete reports violate Conditions S9 and G19.

j. Special Condition S5.A.3

Condition S9.D.3 requires the County to attach to each annual report information "as required, or as applicable" to meet permit requirements. Condition S5.A.3 requires permittees to track the number of inspections, official enforcement actions and types of public education activities as required by the respective program component and to submit this information with each annual report. The County is required to conduct inspections and enforcement actions to comply with TMDL requirements and Condition S5.C.7. Snohomish County does not track inspections or enforcement actions and did not submit information on inspections and enforcement with its annual reports for 2014 and 2015, which violates Conditions S5.A.3 and S9.D.3. The County executive certified that both annual reports are complete and accurate, in violation of Conditions S9 and G19.

VI. In violation of General Condition G20 of the Permit Snohomish County has not notified Ecology of its non-compliance with permit terms and has not taken appropriate action to come into compliance.

Condition G20.A requires the County to notify Ecology of its failure to comply with permit terms and conditions within 30 days of becoming aware that non-compliance has occurred. The County must also take appropriate action to stop or correct the condition of non-compliance, pursuant to Condition G20.B. Snohomish County has failed to notify Ecology of its non-compliance with permit terms and has failed to take appropriate action to come into compliance with permit terms in violation of Condition G20, as described below:

a. Snohomish County has not notified Ecology of the violations described in this letter.

This letter describes a multitude of ways that Snohomish County has violated the Permit. The County was aware of these violations in 2014 and 2015, however the County submitted G20 notifications for only three of the violations listed. (The County submitted G20 notifications for failing to conduct a staff training program in 2014 in violation of Condition S5.C.9.f, for conducting an insufficient number of business inspections in 2015 in violation of Condition S5.C.7, and for failing to implement a catch basin inspection program in 2015 in violation of Condition S5.C.8.) In violation of Condition G20, the County has failed to notify Ecology of its failure to comply with permit conditions in all but three of the instances described above, and has failed to take appropriate action to stop or correct the conditions of non-compliance.

b. Snohomish County has failed to take appropriate action to come into compliance with Special Condition S5.C.7 of the Permit.

The County submitted a G20 notification on January 19, 2016 for its failure to conduct an adequate number of business inspections in 2015 in violation of Condition S5.C.7. The County has not taken appropriate action to stop or correct the condition of non-compliance with Condition S5.C.7 in violation of Condition G20.B.

c. Snohomish County has failed to take appropriate action to come into compliance with Special Condition S5.C.8 of the Permit.

The County submitted a G20 notification on April 4, 2016 for its failure to conduct a catch basin inspection program in 2015 in violation of Condition S5.C.8. The County has not taken appropriate action to stop or correct the condition of non-compliance with Condition S5.C.8 in violation of Condition G20.B.

d. Snohomish County has failed to take appropriate action to come into compliance with Special Condition S5.C.9.f of the Permit.

The County submitted a G20 notification on March 17, 2015 for its failure to conduct a staff training program in 2014 in violation of Condition S5.C.9.f. The County has not taken appropriate action to stop or correct the condition of non-compliance with Condition S5.C.9.f in violation of Condition G20.B.

The above-described ongoing violations reflect information that is currently available to Soundkeeper. These violations are ongoing. Soundkeeper intends to sue for all violations, including those yet to be uncovered and those committed subsequent to the date of this notice of intent to sue.

Section 309(d) of the CWA, 33 USC § 1319(d) provides for penalties of up to $37,500 per violation per day. *See* 40 C.F.R. § 19.4; 73 Fed. Reg. 75340-75346 (Dec. 11, 2008). In addition to civil penalties, Soundkeeper will seek injunctive relief to prevent further violations under Sections 505(a) and (d) of the CWA, 33 USC § 1365(a) and (d), and such other relief as is permitted by law. Also, Section 505(d) of the CWA, 33 USC § 1365(d), permits prevailing parties to recover costs including attorney's fees, which Soundkeeper will seek.

Puget Soundkeeper Alliance believes that this NOTICE OF INTENT TO SUE sufficiently states grounds for filing suit. We intend, at the close of the 60-day notice period, or shortly thereafter, to file a citizen suit against Snohomish County under Section 505(a) of the Clean Water Act for violations.

During the 60-day notice period, we would be willing to discuss effective remedies for the violations in this letter and settlement terms. If you wish to pursue such discussions in the absence of litigation, we suggest that you initiate those discussions within 10 days of receiving this notice so that a meeting can be arranged and so that negotiations may be completed before the end of the 60-day notice period. We do not intend to delay the filing of a complaint if discussions are continuing when the notice period ends.

Very truly yours,

SMITH & LOWNEY, P.L.L.C.

By: _____
Richard A. Smith
Alyssa L. Englebrecht

c: Gina McCarthy, Administrator, U.S. EPA
Dennis McLerran, Administrator, Region 10 U.S. EPA
Maia Bellon, Director, Washington Department of Ecology