

To: Jeff Tate, Island County Planning
From: FoHH

At the BICC meeting on April 3rd we submitted comments and also heard the presentation on the Surface Water Quality Monitoring Program for Non-tidal Waters (the Adamus Study).

We would add these comments to the public record and ask that they be addressed as the public hearings continue on April 24th:

1. Bill Byrd and Mac McDowell made a point of saying that the County would not include past studies or past data because of a lack of protocol and reliability of the data. It was a blanket statement that in effect nullifies some very valid studies such as the Freeland Water Quality Improvement Project study prepared by the IC Public Works Department and also brings into question whether or not the County will respect and use the findings in the DOH March 2006 Shoreline Survey of the Holmes Harbor Shellfish Growing Area. The Freeland Drainage Basin Study (Fakkema-Kingma) completed in May of 2005 also includes recommendations for treating surface water in the West Basin that could be nullified by Commissioner Byrd's statement. Such a broad statement should be accompanied by a list of studies that will or will not be respected. The Adamus Study refers to previous studies but has no cross reference list to those studies.

a) Can such a list be provided by the April 24th meeting, including the three referenced studies, along with a County statement as to whether or not the study data will be respected? And if not, specifically why not?

b) Can a description of the protocols for a scientifically acceptable study and scientifically acceptable data be defined in order to evaluate accumulated studies and data?

2. Your comments to me, at our brief sidebar discussion during the short meeting break, that the Holmes Harbor pollution is a "marine issue" or a "marine situation" may not have been meant to imply that the fecal coliform in Holmes Harbor is not a Freeland surface water issue, but perhaps you can clarify or expand on that for the record. The fecal coliform is clearly coming into Holmes Harbor from the East Basin at the Freeland Park outfall and at least two of the outfalls in the West Basin (one in front of Woodard Road and the other in front of Nichols Brothers). You also referred to the flowchart in the Adamus Study when I asked how the data are to be transmitted to the DOE. The flowchart in Figure 3 of the Adamus Study shows no flow of data to the DOE. There is no reference to any involvement to date of the DOE.

a) Please clarify or expand on the County perspective of Surface Water quality as it pertains to fecal coliform levels in Holmes Harbor.

b) Please clarify the data flow to the DOE.

c) What steps have been taken to involve the DOE with the Monitoring Program?

d) Does the DOE concur with this approach to water quality monitoring as it relates to their role in enforcement?

3. Map 11, which shows areas to be part of the Surface Water Monitoring Program, does not include the Freeland West Basin, yet the DOH Shoreline Survey clearly identifies pollution at the West Basin outfalls. There are four drainage basins in Freeland but the map indicates only the one at Freeland Park (the East Basin) will be monitored. This is a significant shortcoming in the monitoring program as the DOH Shoreline Study identified 17 outfalls into Holmes Harbor along the shoreline. Monitoring only the East Basin outfall at Freeland Park will be ineffective in resolving the water quality problem in Holmes Harbor without also identifying and cleaning up ALL of the pollution sources that contribute Surface Water to Holmes Harbor.

a) How will the County address current pollution from Surface Water in Holmes Harbor?

b) Is the County in the process of establishing a Shellfish Protection District in Holmes Harbor?

c) How will the County mitigate the current pollution from Surface Water in Holmes Harbor so that it ceases to occur year after year, especially during the rainy season when runoff is at its highest?

4. Enforcement by the County is not an element of the Surface Water Monitoring Program, as stated clearly by Keith Dearborn. He explicitly stated that the County is not going to enforce violations of Surface Water Standards as that is the responsibility of the State Department of Ecology. Aside from giving the State data from the monitoring program there is no enforcement of Surface Water Standards at the County. Again, there is no data flow described in the Adamus Study from the monitoring program to the State. In the Adamus Study Section 3.1.3 Improvement of Enforcement or Education, it clearly states that the County will institute legal action against a landowner if the landowner does not comply with County regulations. Keith Dearborn was explicit, as were the BICC, that the Ordinance authorizes only a Monitoring Program and the County is not going to enforce Surface Water quality violations as that is a responsibility of the State DOE. The Adamus Study clearly has an enforcement component described in Section 3.1.3. and the Ordinance is lacking an enforcement component.

a) What will happen if there is a clear violation, recognizable by the County?

b) Will the County not recognize violations? If not, then the County is aiding and abetting the violator.

c) Can you describe how data that indicates a violation will be transmitted to the State and how the County will work with the State from that point forward?

d) Can you give an example of when, or under what conditions, the County would request a Court Order to gain access to private property in order to deal with a surface water quality issue?

e) Can you provide an example where the County has taken legal action against a landowner for a Surface Water quality issue?

f) How will the County coordinate enforcement with State agencies?

5. “Adaptive Management” in order to “loosen” (Keith Dearborn’s word) regulations when a Surface Water Monitoring Program exceedence is identified is logically inconsistent with protecting and preserving our waters and natural resources. It does not seem to be good public policy to apply adaptive management techniques Countywide

when the County is not a homogeneous land mass. Freeland area agricultural activities may have greater Surface Water impacts due to greater urban development. Increased livestock limits, as adaptive management may allow elsewhere on the Island, could be disastrous for Freeland, especially the urban area and certainly for Holmes Harbor.

a) How do you loosen regulations, i.e. surface water standards set by the State DOE, in order to allow higher levels of exceedence?

b) Please provide a few examples of this type of adaptive management of a critical area.

c) As it relates to Freeland, please provide examples of adaptive management applied to increased land use residential densities.

d) Please provide a range of adaptive management examples, including examples where regulations would be “tightened”.

6. It was quite surprising to hear Keith Dearborn say that heavy metals are not going to be monitored because of the “astronomical” cost to do so. Considering IC has paid Dearborn and Moss nearly \$2 million and yet has committed only one-tenth of that to the Surface Water Monitoring Program, a bit more County money assigned to identify pollution would be in order. At \$200,000/year, over the 5 year Monitoring Program, more money will have been paid for legal advice than for Surface Water monitoring. One of the potential heavy metals sources in Freeland is obviously Nichols Brothers Boat Builders. With their recent saltwater intrusion events and their 188,000+ gallons of surface water overflow pumped through their storm water system and into and over their infiltration basin, heavy metals have certainly found their way into Holmes Harbor. Nichols is in the planning stages of increasing the impervious surface at the facility and that will increase the likelihood of contaminants finding their way into Surface Water and then into Holmes Harbor. Just as Dr. Adamus has identified monitoring locations for surface water, he or the County can easily identify the limited industrial sites that would require heavy metal monitoring. The cost of doing so can hardly be astronomical if put into place at a handful of sites.

a) What is the definition of “astronomical” in this case in terms of cost as no number or estimate was given? What would be the cost of monitoring heavy metals at certain easily identifiable industrial sites?

7. Your comments about doing “windshield surveys” of agriculture activities in the Freeland area are not a scientific method of evaluating the effects of agricultural runoff into Holmes Harbor. A drive down Double Bluff Road will show goats, llamas, sheep, and horses. It is not possible to observe fowl while driving through the area. There are numerous open areas that support wildlife. There is at least one kennel in the area that allows free running of dogs on several acres of land. Although Freeland Park is an on-leash facility, many people allow dogs to run off-leash over the beach and into the wooded area. Horses are kept on more than one waterfront property. Horse farms often barn their animals and other farms rotate the fields used by cows or horses. Drive-by surveys are not effective or accurate in determining agricultural or domesticated animal contributions to pollution in Holmes Harbor or anywhere else in Island County.

a) How will the County identify all sources of pollution into Holmes Harbor given the Surface Water Monitoring Program limited scope in the four Freeland drainage basins?

b) How is the County addressing the DOH 2006 Shoreline Survey of the Holmes Harbor Shellfish Growing Area?

8) All of the authority and responsibility for these ordinances and for the Monitoring Program are with the Planning Department.

a) Given the Public Works Study of the Freeland Park Basin, what will Public Works role be in the Monitoring Program?

b) Given the fecal coliform public health threat already evident on Camano Island and Holmes Harbor, what will be the role of IC Health Department in the Monitoring Program?

We have asked numerous questions in this email and hope that you have enough time between now and the next public meeting to respond to each question. It will save time at the meeting and the answers can be circulated ahead of the meeting to interested parties.

Thank you,

Lou and Emyle Malzone
360-331-7664
5428 Pleasant View Lane
Freeland, WA
lmalzone@whidbey.com