

COMPLIANCE MEMORANDUM OF AGREEMENT

among  
The Department of Ecology,  
The Kitsap County Conservation District  
and  
The Washington State Conservation Commission  
relative to

Agricultural Water Quality Management

The Conservation Commission is an agency of state government organized under Chapter 89.08 RCW and is responsible for administering the legal and program activities of conservation districts. Conservation districts are entities of state government, under Chapter 89.08 RCW, and are responsible for the conservation and development of natural, renewable resources within district boundaries.

The Department of Ecology is an agency of state government organized under Chapter 43.21A RCW. Ecology is responsible for protecting and managing the state's air, land, and water resources.

The purpose of this Memorandum of Agreement is to recognize the working relationship between conservation districts (district), the Conservation Commission (Commission) and the Department of Ecology (Ecology) in protecting water quality of the state, and to coordinate the functions of the Commission, Ecology, and the Kitsap County Conservation District to carry out a program of agricultural water quality protection and management. Therefore, this agreement outlines a process by which complaints on water quality violations will be handled at the district level.

- I. The Department of Ecology will, in exchange for these covenants:
  - A. Identify existing or potential water quality problems resulting from agricultural practices.
  - B. Receive, process, and verify complaints concerning discharge of pollutants from all farms regardless of size.
  - C. Determine if an agricultural water quality problem requires immediate corrective action under the Washington State Water Pollution Control Laws (Chapter 90.48 RCW), the Washington State Water Quality Standards (Chapter 173-201 WAC), or other authorities. Ecology shall maintain the lead enforcement responsibility.

If such determination is made, notify the operator and appropriate conservation district.

If immediate action is not necessary by Ecology, the handling of complaints will differ depending on the amount of information available and the compliance option selected by the conservation district involved.

1. When the name and address of the party against whom the complaint was registered are known:
    - a. Districts operating at levels 1 and 2 will receive a copy of complaint information, and compliance letter if one was sent out.
    - b. Districts operating at levels 3 and 4 will receive a copy of complaint information and the letter sent by Ecology to the operator informing the operator of the complaint and providing the operator with the opportunity to work with the conservation district on a voluntary basis.
  2. Ecology and the conservation district will work together at the local level to resolve complaints when the name and address of the party against whom the complaint was registered are unknown.
- D. Administer and enforce NPDES discharge permits for operators of concentrated animal feeding operations where required, and administer state codes.
  - E. Appoint representatives to participate in the Compliance Review Committee which will annually review and update policy and disseminate information as needed.
  - F. Encourage communication between local Ecology personnel and the appropriate conservation district personnel.
  - G. Encourage the use of Soil Conservation Service standards and specifications in designing Best Management Practices for agricultural water quality management plans.
  - H. Provide to the Conservation Commission an annual report of agricultural pollution enforcement activities.

Ecology cannot delegate its responsibilities in enforcement and reserves the right to take appropriate enforcement action. Ecology will initiate an investigation within 30 days with noncooperative operators.

Ecology's capability is dependent upon the level of funding provided to Ecology for agricultural water quality problem source control.

II. The Conservation District will, in exchange for these covenants:

- A. Adopt and annually update the water quality section in the conservation district annual plan.
- B. As part of the district annual report, include a water quality progress report on activities conducted that are related to this compliance agreement.
- C. Encourage communication between the conservation district personnel and local Ecology personnel.
- D. Adopt and carry out a compliance option from Level 1, Level 2, Level 3, or Level 4.

The conservation district's capability to carry out its responsibilities in the four levels of compliance is contingent upon the availability of funding and resources to implement a water quality program.

Compliance Levels:

Level 1 - Information/Education/Technical Assistance

The conservation district will serve as a local source of information on statewide applicable water quality implementation programs (e.g. Puget Sound Water Quality Management Plan; State Dairy Waste Management Plan; State Dryland and Irrigated Agriculture Water Quality Management plans; or other plans that may be developed). The conservation district will promote plans and efforts to improve water quality and explain the benefits of participating in available implementation plans through news releases and other media for the general public; programs for schools; presentations to groups and civic organizations; workshops; training sessions; or other appropriate means. The conservation district will provide technical assistance upon request.

Ecology will respond to complaints which involve water quality problems caused by agricultural activities or facilities. Ecology will work with the operator to bring the operation into compliance with all environmental statutes and regulations. If immediate action is deemed necessary, Ecology will pursue the appropriate actions which may include enforcement against the responsible parties. Ecology will advise the operator of the information/technical assistance available through the conservation district. Ecology will notify the conservation district of the operator's need for information/technical assistance.

Level 2 - Information/Education, Problem Assessment, and Handling Complaints

The conservation district will carry out programs described in Level 1. In addition, the conservation district will inventory water quality problems defined in the water quality section of its annual plan. The conservation district will prioritize problems and work to apply voluntary solutions to the highest priority problems within available resources utilizing information/education, technical assistance, and incentives. Response to Complaint - The conservation district will make an appointment for an on-site contact with the alleged violator within ten (10) working days and determine if the operator desires to work with the conservation district. If the operator wishes conservation district assistance, within six months the conservation district will develop a plan with the individual operator which includes a schedule for application of Best Management Practices (BMP). The operator will have 18 months, or by agreement, an approved schedule with alternative time period to implement the plan. If hardships occur, the operator may request an extension of the implementation schedule subject to concurrence of Ecology.

The conservation district in responding to complaints will report progress, or the need for further Ecology technical expertise, to the individual involved and Ecology. A copy of the plan will be made available to Ecology. If the district offers assistance and the individual involved refuses to cooperate or ceases to work with the conservation district, the district will notify Ecology.

The conservation district will refer all alleged water quality violations, or individuals who wish to make a complaint to Ecology.

Ecology will investigate and seek resolution of all complaints that appear to need immediate action and refer all other complaints concerning agricultural activities or facilities to the appropriate conservation district. Ecology will keep a record of those complaints. When a referral is made by a conservation district, due to a continuing unresolved water quality problem, Ecology will take appropriate action and advise the conservation district of the action taken.

Level 3 - Information/Education, Problem Assessment, Handling Complaints, and Assisting in Compliance

(This level is the original 208 process.)

The conservation district will carry out programs described in Level 1 and Level 2. In addition, the conservation district will actively follow-up those problems and complaints deemed highest priority by the conservation district within 60 days after the initial contact. The complaint referral follow-up will include:

1. Meet with the owner/operator.
2. Make an on-site assessment of the nature and extent of the problem, if so desired by the owner/operator.
3. Notify Ecology that the owner/operator has (has not) requested assistance from the conservation district.
4. Assist the owner/operator in the development of a water quality management plan within six months. Implementation is to be completed within 18 months, or by agreement and approved schedule, with alternative time period to implement the plan. If hardships occur, the operator may request an extension of the planning and/or implementation schedule with concurrence of Ecology.
5. Provide such technical assistance as is necessary and available during plan implementation.
6. Monitor plan implementation.

7. Notify Ecology in the event that the owner/operator either refuses to cooperate in the development of a water quality plan that will correct the problems identified during the on-site assessment, or fails to implement the plan within the designated time period.
8. By June 30 of each year, submit a formal summary of progress on alleged water quality violations referred to the conservation district by Ecology.

Ecology will investigate and seek resolution of all complaints that appear to need immediate action.

Ecology will pursue all activities addressed under level 2. Except that on those sites where the conservation district is making progress on water quality problems caused by agricultural practices and is reporting the same to Ecology, Ecology will hold any related enforcement actions in abeyance until the problem is solved, or the operator refuses to cooperate further. Ecology shall continue to pursue any immediate action where required. (See Section I-C.)

#### Level 4 - Compliance

(This level is the original 208 process plus additional involvement by the conservation district.)

The conservation district will carry out programs described in Levels 1-3. In addition, the conservation district will provide information and direct support for resolving water quality actions which may be filed by Ecology pursuant to its statutory authority.

Information and support include the following:

1. A field site tour to provide information and attempt to resolve the issues.
2. Provision for access to public information in conservation district's files, and if appropriate, in-house documents such as field notes, photographs, and in-house memoranda. Access is subject to applicable laws and regulations.
3. Ecology interviews with appropriate conservation district personnel regarding a site under enforcement.

4. Assistance and attendance, if appropriate, at negotiation sessions with responsible parties.
5. Affidavits or testimony necessary to document the case.

Ecology will pursue all activities as addressed in Level 3, except where the conservation district has been involved, Ecology will utilize the information and support offered by the conservation district to resolve the matter.

III. The Conservation Commission will, in exchange for these covenants:

- A. Forward to Ecology the annual water quality progress reports.
- B. Provide such assistance as may be appropriate to the conservation districts in the discharge of their responsibilities as management agencies in agricultural implementation.
- C. Provide coordination for conservation district water quality programs at the state level through special arrangements with appropriate federal and state agencies.
- D. Coordinate the programs of the respective conservation districts as related to plan implementation and resolve any conflicts in such programs.
- E. Inform conservation districts of activities and experiences of other conservation districts relative to agricultural water quality protection, and facilitate an interchange of advice, experience, and cooperation between such districts.
- F. Encourage communication between the conservation district personnel and local Ecology personnel.
- G. Appoint conservation district representatives to serve on the Compliance Review Committee with advice of the Washington Association of Conservation Districts.
- H. Appoint a Commission representative to participate on the Compliance Review Committee which will annually review and update policy and disseminate information as needed.

- I. Work with Ecology to provide communication outreach to representatives of agricultural and environmental organizations to receive feedback on implementation of the Compliance Memorandum of Agreement.

The Commission's capability to carry out its responsibilities within this agreement is contingent upon the availability of funding and resources to implement a water quality program.

This agreement does not imply an offer of funds for the purposes of this agreement. None of the parties of this agreement are liable for each other's actions.

This agreement may be terminated by any party hereto upon providing 30 days' written notice to the other two parties. Such notice shall be mailed to the principal executive officer of the other two parties by certified mail, postage fully prepaid, and shall be deemed served the day after depositing such notice in a United States Post Office. Termination of this agreement by one conservation district will not affect the other conservation districts.


This agreement may be amended only upon the written agreement of all parties hereto. The Compliance Review Committee will consider proposed amendments annually.

This agreement contains all the terms and conditions agreed upon by the parties. No other understanding, oral or otherwise, regarding the subject matter of this agreement shall be deemed to exist or to bind any of the parties. All parties have read and understand the above contract and now state that no representations, promises, or agreements not expressed in this agreement have been made to induce the other to execute the same.



IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed on this 7th day of September, 19 89.

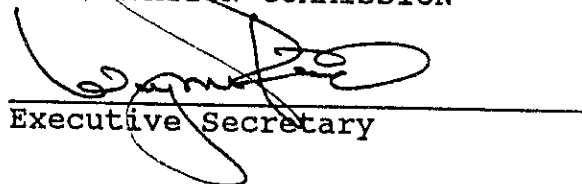
APPROVED AS TO FORM:

  
Assistant Attorney General

DEPARTMENT OF ECOLOGY

  
Director

CONSERVATION COMMISSION

  
Executive Secretary

The Kitsap County Conservation District will participate in this agreement at:

Compliance Level 1 \_\_\_\_\_  
Level 2 \_\_\_\_\_  
Level 3  \_\_\_\_\_  
Level 4 \_\_\_\_\_

KITSAP COUNTY

CONSERVATION DISTRICT

  
Chairman