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

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April 1, 2005

Via Certified Mail - Return Receipt Requested Honorable Royce Pollard, Mayor City of Vancouver P.O. Box 1995 Vancouver, WA 98668

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

Dear Mayor Pollard:

This sixty day notice of intent to file a citizen suit against the City of Vancouver Section 505 of the Clean Water Act ("CWA"), 33 USC § 1365, for the violations described below is provided on behalf of the Rosemere Neighborhood Association, P.O. Box 61471, Vancouver, WA 98666, (360) 906-8810, and the Clark County Natural Resources Council, PMB 231, 1701 Broadway, Vancouver, WA 98663, (360) 690-4500. The allegations in this notice of intent to sue supplement those included in our June 14, 2004, notice letter and those currently made in our lawsuit against the City, W.D. Wash. No. C04-5667RBL. RNA and CCNRC are represented by Richard Smith, available at the letterhead address and phone number, and John Karpinski, Attorney At Law, 2612 East 20th St., Vancouver, WA 98661, (360) 690-4500. Any response to this notice of intent to sue should be directed to counsel.

Vancouver has violated and continues to violate the CWA (see Sections 301 and 402 of the CWA, 33 USC §§ 1311 and 1342) with respect to discharges of pollutants from its storm sewer system. These discharges are non-stormwater, dry weather discharges of various pollutants, including but not limited to E. coli, fecal coliform, nitrate-nitrite, orthophosphate, phosphorus, dissolved solids, turbidity, copper, lead, and zinc from outfalls of the Vancouver municipal separate storm sewer system, including outfalls to Burnt Bridge Creek located at Linda Lane (N 45 38m 20s, W 122 37m 40.5s), St. Johns Blvd. (N 45 38m 873s, W 122 38m 474s), Andresen Blvd. (N 45 38m 100s, W 122 36m 02s), and two outfalls on the west side of 121st Avenue where it crosses the creek, one from the north side of the creek and one from the south side, and an outfall to the Columbia River located at Joe's Crab Shack (N 45 37m 277s, W 122 40m 346s). These non-stormwater discharges have occurred every day for the past five years, regardless of precipitation or the presence of stormwater, and continue to occur on a daily basis.

In addition, the discharges from these outfalls, as well as all the others that are part of the Vancouver municipal separate storm sewer system (including the additional outfalls specifically identified in the June 14, 2004, notice of intent to sue), to Burnt Bridge Creek and the Columbia River that occur during and after precipitation events are not composed entirely of stormwater as they include the above-identified pollutants and other pollutants, including oil and grease, that are not stormwater. These discharges of the identified pollutants, which

are not composed entirely of stormwater, have occurred during and after each and every precipitation event during the past five years and continue to occur.

Burnt Bridge Creek and the Columbia River are navigable waters of the United States as that term is used in the CWA.

Unpermitted Discharge

Under Section 301(a) of the CWA, discharges of pollutants from point sources to navigable waters must be authorized by a National Pollutant Discharge Elimination System (NPDES) permit. Because Vancouver has not obtained coverage for these non-stormwater discharges under any NPDES permit, these discharges are illegal under Section 301(a). Every pollutant discharge not composed entirely of stormwater during the past five years has been illegal and will be the subject of RNA's and CCNRC's lawsuit.

The above-described violations reflect only what information currently available to us indicates. These violations are ongoing. We intend 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.

Under Section 309(d) of the CWA, 33 USC § 1319(d), and 40 C.F.R. 19, each of the above-described violations subjects the violator to a penalty of up to \$32,500 per day. In addition to civil penalties, we will seek injunctive relief 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.

RNA and CCNRC believe 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 the City of Vancouver under Section 505(a) of the Clean Water Act for violations, or to amend our complaint to include these allegations in the pending litigation.

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, or the amendment of our current pleadings, if discussions are continuing when the notice period ends.

Very truly yours,

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

By:
Richard A. Smith

cc: Steve Johnson, Administrator, U.S. EPA
Ron Kreizenbeck, Acting Administrator, Region 10 U.S. EPA
Jay Manning, Director, Washington Department of Ecology
Lori Terry and Catherine Drews, Counsel for City of Vancouver