

## Media Advisory for July 2, 2012

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## State Appeals Court Hears Arguments by County to Circumvent Clean Water Act Protections of Fish and Water Quality

**Community and Clean Water Advocates ask court to ensure federal clean water laws are followed to protect rivers and salmon.**

**WHAT:** Hearing before Washington State Court of Appeals in Tacoma

**WHEN:** July 2, 2012, 9 a.m.

**WHERE:** Washington State Court of Appeals, Division II 950 Broadway, Suite 300, Tacoma, WA 98402  
(Allow time to go through courthouse security.)

**WHY:** Clark County deserves strong, uniform laws that protect clean water, sensitive aquatic environments and endangered species-- the same requirements that over 100 other cities and counties in Washington have been complying with since 2008. Stronger stormwater controls are needed now. According to a recent U.S. Geological Survey (USGS) study on stormwater, Vancouver, WA showed a wide suite of contaminants, including some of the highest levels of pesticides, suspended solids, and trace elements including mercury. A copy of the USGS stormwater study is [attached](#).

### BACKGROUND:

Federal law required Clark County and nearly 100 other cities and counties in Western Washington to adopt new rules governing runoff from development by August of 2008. In 2009, Clark County decided that it would not comply with the terms of a stormwater permit required by the Clean Water Act. The Department of Ecology confronted Clark County for its permit violation but later backed down and agreed to allow Clark County to retain inadequate stormwater standards for new developments in exchange for a promise to implement taxpayer-funded mitigation projects that were much less protective. This didn't protect streams polluted by development runoff and shifted the burden of protecting clean water to local taxpayers instead of developers. In 2010, community and clean water groups represented by Earthjustice, challenged Clark County's weak stormwater runoff rules to the state Pollution Control Hearings Board. In January 2011, the pollution board ruled in the community and clean water groups' favor. The pollution board found Clark County's weaker program to be illegal in several respects:

- It is not based on any science and fails to protect water quality and salmon.
- It unlawfully exempts development projects that "vested" (applied for a permit) prior to April of 2010.
- It unlawfully allows Clark County to shift resources from its existing retrofit program to mitigate for new development.
- It unlawfully fails to require "low impact development" at new development and mitigation sites.

Clark County's Commissioners appealed the Pollution Board's ruling to the state Court of Appeals. The Builders' Association joined in the appeal seeking weaker water pollution standards and the appeal will be heard July 2. Last December in a related matter, a federal judge issued a preliminary ruling that Clark County's controversial development standards appear to violate federal laws to protect clean water. The decision by U.S. District Court Judge Ronald B. Leighton means Clark County must comply with federal clean water laws while the state court challenge is pending. The community and clean water groups include Rosemere Neighborhood Association, Columbia Riverkeeper, and the Northwest Environmental Defense Center. They are represented by attorneys Jan Hasselman and Janette Brimmer of the non-profit public interest law firm Earthjustice.