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NO. 87703-3

**SUPREME COURT OF THE STATE OF WASHINGTON**

JOSEPH LEMIRE,

Respondent,

v.

STATE OF WASHINGTON,  
DEPARTMENT OF ECOLOGY,

Appellant,

THE POLLUTION CONTROL  
HEARINGS BOARD,

Respondent Below.

STATEMENT OF  
ADDITIONAL  
AUTHORITIES

The Appellant, Department of Ecology, submits the following additional authorities to the Court pursuant to RAP 10.8. The authorities listed below address the issue of whether the Department of Ecology has used its authority to address nonpoint source pollution since the enactment of the Water Pollution Control Act, Chapter 90.48 RCW. *See, e.g.*, Resp't Lemire's Answer to Amicus Curiae Briefs of Pacific Coast Shellfish Growers Association and Lummi Nation, et al. at 1, 2, 10, 22, 23, 26.

- *Jensen's Kent Prairie Dairy v. Dep't of Ecology*, Pollution Control Hearings Bd. (PCHB) No. 84-240, 1984 WL 19602 (Final Findings of Fact, Conclusions of Law, and Order, Nov. 6, 1984) (involves Ecology's issuance of penalty to dairy for violations of RCW 90.48.080 based on nonpoint source discharge resulting from manure entering a creek through stormwater run-off).

- *Lewis v. San Juan Cy.*, PCHB No. 91-183, 1992 WL 43379 (Findings of Fact, Conclusions of Law, and Order, Jan. 27, 1992) (involves Ecology's issuance of a penalty and order to a calving operation under Chapter 90.48 RCW based on nonpoint source discharge of manure; order required implementation of best management practices, including fencing cattle away from stream and wetland).
- *Klein Dairy Farm v. Dep't of Ecology*, PCHB No. 92-85, 1993 WL 376213 (Stipulation and Agreed Order of Dismissal, Aug. 8, 1993) (settlement of penalty issued by Ecology to dairy for violation of RCW 90.48.080 based on nonpoint source discharge caused by overflow of manure lagoon and liquid runoff from silage [cattle feed] piles).
- *DeFrees Dairy v. Dep't of Ecology*, PCHB No. 94-259, 1995 WL 879298 (Final Findings of Fact, Conclusions of Law, and Order, Aug. 8, 1995) (involves Ecology's issuance of penalty and order to dairy for violation of RCW 90.48.080 based in part on nonpoint source discharge caused by excessive application of manure to fields and subsequent discharge to state waters through seepage and runoff).
- *Henry Bosma Dairy v. Dep't of Ecology*, PCHB No. 94-121, 1995 WL 879291 (Final Findings of Fact, Conclusions of Law, and Order, Oct. 13, 1995) (involves Ecology's issuance of penalty to dairy for violation of RCW 90.48.080 based on nonpoint source discharge caused by excessive application of manure contaminated waste water to fields and subsequent discharge to state waters through runoff).
- *Luscher v. Dep't of Ecology*, PCHB No. 96-162, 1996 WL 514124 (Final Findings of Fact, Conclusions of Law, and Order, Aug. 6, 1996) (involves Ecology's issuance of penalty to dairy under Chapter 90.48 RCW based on nonpoint source discharge caused by excessive application of manure to fields resulting in discharge to state waters).
- *Amberson Egg Farm v. Dep't of Ecology*, PCHB No. 99-029, 1999 WL 825747 (Final Findings of Fact, Conclusions of Law, and

Order, July 16, 1999) (involves Ecology's issuance of penalty to egg farm for violation of RCW 90.48.080 based on nonpoint source discharge caused by excessive accumulations of chicken manure resulting in discharge to state waters).

- *Tevelde v. Dep't of Ecology*, PCHB No. 99-197, 2000 WL 1838382 (Final Findings of Fact, Conclusions of Law, and Order, Nov. 20, 2000) (involves Ecology's issuance of penalty to dairy, in part based on violation of RCW 90.48.080 because of nonpoint source discharge caused by application of manure to field resulting in runoff to state waters).
- *Bouma Farms v. Dep't of Ecology*, PCHB No. 00-023, 2000 WL 1460709 (Final Findings of Fact, Conclusions of Law, and Order, Sept. 11, 2000) (involves Ecology's issuance of penalty to dairy, in part based on violation of RCW 90.48.080 because of nonpoint source discharge caused by manure runoff during rainstorm).

RESPECTFULLY SUBMITTED this 20 day of September

2012.

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CERTIFICATE OF  
SERVICE

Pursuant to RCW 9A.72.085, I certify that on the 20th day of September 2012, I caused to be served a true and correct copy of Appellant's Statement of Additional Authorities in the above-captioned matter upon the parties herein as indicated below:

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the foregoing being the last known addresses.

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED this 20th day of September 2012, at Olympia, Washington.

  
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TERESA L. TRIPPEL, Legal Assistant

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Dear Clerk,

Please find attached for filing in Case No. 87703-3, *Lemire v. The Pollution Control Hearings Board, et al.*, the Appellant's Statement of Additional Authorities filed by Laura J. Watson, phone 360-586-4614, WSBA #28452, email [LauraW2@atg.wa.gov](mailto:LauraW2@atg.wa.gov). Thank you,

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