



The Oregonian

Riverkeepers sue over storm-water permits

Clean water - Three nonprofits say state-issued licenses are a "free pass" for cities to pollute rivers

Tuesday, January 31, 2006

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The Oregonian

State-issued storm-water pollution permits violate Oregon and federal clean water laws and statewide planning goals, according to a suit filed in Multnomah County Circuit Court by three nonprofit environmental groups.

Permits issued by the Oregon Department of Environmental Quality to municipalities in the Portland area don't set enforceable pollution limits for storm water, which may result in discharges that harm the Columbia and Willamette rivers, the Tualatin, Willamette and Columbia Riverkeeper groups claimed in the suit. They were joined as petitioners in the suit, filed Jan. 20, by Portland activist Liz Callison.

Storm-water runoff is a big source of pollution in the Willamette River and the primary source in smaller urban tributaries. Runoff can carry oil, pesticides, sediment and animal waste.

But it would be unreasonable to force municipalities into strict limits because they have little control over pollutants in runoff and no control over rainfall amounts, said Kevin Masterson, storm-water coordinator for the state DEQ.

It's so varied and unpredictable, he said.

The cost of managing storm-water runoff has escalated in recent years for Portland and other municipalities, and may become more expensive if litigation imposes more stringent rules.

The average \$4 monthly bill for customers of Clean Water Services, which manages resources for the Tualatin River watershed, could at least double or triple "easily," if the Washington County utility is forced to spend hundreds of millions of dollars to replumb its system to meet specific storm-water pollution limits, Mark Jockers, a spokesman for the utility said.

"We need to make sure we're investing smartly," he said.

The Riverkeeper groups argue in the suit that storm-water permits issued in 2004 should be remanded because they do not ensure that discharges meet Oregon water quality standards.

The federal Clean Water Act does not set pollution limits for storm water the way it does for sewage and industrial wastewater, but it does call for limiting contamination "to the maximum extent practicable."

The state DEQ, overseen by the Oregon Environmental Quality Commission, failed to show that storm-water pollution permits will control discharges to such an extent, the suit claims.

In 2004, Oregon boosted requirements for monitoring pollutants in storm water and required studies of the effectiveness of storm-water management plans. The changes, however, set no fixed limits on storm water pollution levels, which is typical of such permits nationwide.

State land-use laws require that waste discharges -- including storm water -- cannot exceed or violate water-quality standards set for each river, according to the suit. DEQ-issued storm-water permits leave it to cities and counties to set nonbinding goals for reducing contaminants, the suit said.

The permits amount to a "free pass" for municipalities, said Chris Winter, a Portland attorney representing the environmental groups. "The DEQ is more concerned about providing municipalities with flexibility than public health and environmental quality," Winter said.

Permit holders have argued that it would be unreasonable to force them into strict limits because they have little control over pollutants in runoff and no control over rainfall amounts, which are highly variable.

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