

Lake County Watershed Development Ordinance

WDO Amendment Process – Comments Received During Public Comment Period

Comment List	# of Comments	List of Commenters
1. A-C	3	Charland, Gloria
2. A-B	2	Troester, Linda and John
3. A-C	3	Pribyl, Susan
4. A	1	Benjamin, Grant

General Comment Response

General Comments	Comment #	Response
In reference to amendment 5a: Requiring minimum inspection documentation to include site observations, a minimum of one site photo, the inspector's name, the date and time of inspection, status of perimeter control, and site outlet observations. Remove "at the discretion of the EO" from the amendment.	1A, 2A, 3A, 4A	There was a consensus that adding minimum DECI requirements was preferred at the April TAC meeting. The photo requirement was discussed in detail and TAC decided that the EO should decide if and when photos were required. This TAC decision correlates with "Regulated Development" per Article 3.
Add language to Appendix E: Enforcement Officer Duties to require a minimum of monthly Enforcement Officer site visits to verify the accuracy of the DECI reports. The Enforcement Officer shall document these monthly visits with written notes and photos.	1B, 2B, 3B	Item I in Appendix E (WDO) states that the EO shall "inspect" projects before, during and upon completion of construction to ensure compliance with the provisions of the WDO. There are typically inspections requirements once a week associated with the DECI requirements that are aimed to provide frequent inspections of developments that have major environmental concerns.
Add language to Appendix E: Enforcement Officer Duties to require the Enforcement Officer coordinate, at a minimum, a quarterly onsite review with SMC staff to verify the operator's compliance with the WDO for any large ongoing fill/grade operation.	1C, 3C	Projects that involve continuous earth moving can be challenging and in most cases require a state permit(s) including a NPDES permit. The WDO has set forth specific development categories that require SMC's permit review and inspection, but private development is not typically included in SMC's EO duties for permitting within fully certified communities.

From: [Gloria Charland](#)
To: [Traynoff, Kelcey](#)
Subject: [EXTERNAL] Public Comments concerning WDO amendments
Date: Saturday, May 20, 2023 11:26:33 AM

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Hi Ms. Traynoff,

I live near the CHDS dump site in Round Lake on Wilson Road and Rt. 120 and can assure you that it is a real eyesore and a blight upon an otherwise beautiful area in our community.

But most importantly, living on Long Lake as I do, at the bottom of the Manitou Creek watershed, I am concerned about further sediment erosion entering our lake which is impaired for TSS - total suspended solids - and phosphorus and experiences toxic harmful algal blooms every summer as a result.

I am distressed at the lack of oversight this site has had and urge you to take measures to protect our watershed by amending the WDO - Watershed Development Ordinance.

- 1A** - The WDO should be amended so that DECI's need to include at least one photo with their required written weekly reports as this will provide documentation that they actually were physically at the inspection site. We ask to remove "at the discretion of the EO". Everyone carries a cell phone these days, and the phones can also easily mark the date and location on photos.

Amendment would then read as follows:

"Minimum inspection documentation shall include: site observations and a minimum of one site photo ~~(at the discretion of the EO)~~, inspector's name, date and time of inspection, status of perimeter control, and site outlet observations."

- 1B** - To ensure compliance with the WDO, it is essential to incorporate a written requirement for the Enforcement Officer (EO) to physically inspect the site at regular intervals as well as review the accuracy of the DECI reports. The WDO, as currently written, does not specify these responsibilities. Language should be added to Appendix E: Enforcement Officer Duties to require a minimum of monthly EO site visits to verify the accuracy of the DECI reports. Additionally, these monthly site visits by the EO need to be documented.

- 1C** - The WDO currently doesn't distinguish between a large ongoing fill/grade operation (like CHDS) versus a development/construction project with a defined end point. This is a huge shortcoming and the WDO needs to make this distinction. Large ongoing fill/grade operations that have perpetual earth-moving (with no construction plans for building anything) need an additional layer of monitoring directly by SMC staff. Suggested language: The EO for any large ongoing fill/grade operation located in a certified community shall coordinate, at a minimum, a quarterly onsite review with SMC staff to verify the operator's compliance with the WDO.

Thank you for this opportunity to be heard!
Gloria Charland



21May2023

Ms Kelcey Traynoff
ktraynoff@lakecountyil.gov
Lake County Stormwater Management Commission
500 W. Winchester Rd, Ste 201
Libertyville, IL 60048

Dear Ms Traynoff,

We have heard that the Lake County Stormwater Management Commission (SMC) is amending the Lake County Watershed Development Ordinance (WDO). It is also my understanding that the WDO is to ensure countywide standards for storm water management that the designated Certified Communities, such as Round Lake Village, are responsible to meet. My community of Round Lake Village has a designated Enforcement Officer (EO) who oversees the inspectors (DECI) are required to make weekly reports with photos of sites such as our local CHDS landfill at the corner of Wilson Rd. and Rte 120 in Round Lake Village.

Firstly, the DECI reports (received via FOIA) for the CHDS site in Round Lake for 2022 had no photos and thus, there is no evidence that the weekly inspections were occurring. Additionally, corrective actions were not noted, until complaints by citizens were made public. Yet, any individual going by the site in a car could see that there were multiple storm water concerns at the site, e.g. silt fence being down for months, lack of seeding/landscaping on slopes, insufficient distance from the county roads, even an occasional fire, plus others.

2A Suggestion, Inspections: "Minimum inspection documentation shall include: site observations and a minimum of one site photo, inspector's name, date, and time of inspection, status of perimeter control, and site outlet observations." This would be required and not at the EO's discretion.

2B Suggestion, Enforcement Officer Duties: "Minimum inspection by Enforcement Officer once per month to verify accuracy of weekly inspections by Designated Erosion Control Inspectors, with documentation to include at a minimum: inspector's name, date, and time of inspection, conclusion regarding weekly documentations with a photo showing the date."

Next, as members of the Round Lake Village community we are concerned about the close relationships between: the village officials, the EO (Kurt Bauman of Baxter & Woodman), the CDHS leadership (Dan Powell), and the DECI inspectors (Angelo Zografos of Pearson Brown & Associates). Dan Powell, the CHDS owner, selects the DECI inspector, Pearson Brown & Associates; Pearson Brown also does other work for Dan Powell. The Village leadership selects the EO, Baxter & Woodman, the company that is also the Round Lake Village Engineer doing additional work for the Village. Round Lake Village earns substantial tipping fees from CHDS (greater than \$125,000/year, FOIA details are requested). This arrangement appears to create a serious conflict of interest since all of the incentives are to find no needed improvements that could incur expense; in effect, be paid a fee to inspect to find nothing. The Round Lake Village has provided no evidence that any official has visited the CHDS site in an official capacity.

So, to us it appears that there are significant loopholes in terms of oversight for the WDO in Lake County – specifically at some sites in certified communities. The inspections at all levels should have independence from the entities that they are inspecting. We feel strongly that additional oversight is clearly needed.

Also, as you ponder these issues, I would like to point out that while we are discussing these potential changes, the CHDS site is growing much larger, daily. The site (roughly 57 acres) brings in approximately 20,000 more loads of “clean fill” each year than it sells, not counting additional loads of asphalt, wooden pallets, tree stumps, and other items that the Village doesn’t track (profit from) and CHDS doesn’t disclose (but can be seen from the roads). In 2022, the lease for CHDS on that Village property was extended for an additional 5 years; the lease is paid for by “tipping” fees per load. The growing pile of landfill can be seen and smelled from the adjacent roads. The potential, in our opinion, is that this site could become a significant source of pollution if not more effectively monitored.

Thank you for your attention,

Handwritten signatures of Linda Troester and John Troester, with a small ampersand between them.

Linda Troester & John Troester
305 Spring Valley Ct,
Round Lake, IL 60073
LEFTROESTER@gmail.com
847-989-2445

From: [Susan Pribyl](#)
To: [Traynoff, Kelcey](#)
Subject: [EXTERNAL] Public Comment on WDO Amendments
Date: Monday, May 29, 2023 8:46:41 PM
Attachments: [image.png](#)

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May 29, 2023

Ms. Kelcey Traynoff
Lake County Stormwater Management Commission
500 W. Winchester Road
Libertyville, IL 60048

Dear Ms. Traynoff,

Below you will find my public comments regarding what I feel are important WDO amendments to be considered.

Over the years, I have followed the process as SMC has diligently developed and amended the WDO. I appreciate the amount of work that has gone into this ordinance. However, the most carefully crafted ordinances are significantly reduced in value without adequate oversight.

Because of a recent example in our community and in our watershed, many members of the public feel it is essential to add additional specific language and oversight to both the DECI and EO sections of the WDO to protect our precious natural resources and public health.

Specifically, I am advocating for three amendments to the WDO. Below is background and rationale for those amendments followed by the three specific requested amendments.

FOIA of DECI inspections & public observations

By using the Freedom of Information Act, I requested seven months of DECI reports (March 1 – September 30, 2022) for the CHDS, LLC site in Round Lake. This site is not really a “construction” site but rather a large ongoing fill/grade operation.

Numerous residents driving by this site noted obvious stormwater concerns (during this 7-month period and beyond) - from the silt fence being down for months (several community members took photos of this) to the complete lack of seeding/landscaping on steep slopes near the road, mud track-out, etc. It was clear that these ongoing issues were not being addressed.

Disappointingly, what I found via FOIA in the first 33 DECI reports that I received (dated from March 2 to August 19), there were **exactly zero** corrective actions or modifications noted as necessary for this CHDS site. I specifically asked about site photos and was told there were NO photos taken during these 7 months of inspections.

Without photos, there is no evidence that the DECI visited the site and it seems odd that the reports show no modifications as needed for months when even the general public could see the obvious nature of the need to take corrective action at this site.

In fact, local residents began to contact the DECI's company directly with their concerns in mid-August. Then, on August 22, 2022, one of our volunteers (a former DECI inspector himself) emailed the DECI's company that the community had real concerns about how this site was being managed. This email mentioned that our volunteers would soon start documenting the stormwater issues that were not being addressed by conducting our own walk-by and drone inspections at the site – the findings of which we would report directly to SMC.

Interestingly, the very next day on August 23, 2022, the DECI inspections suddenly noted multiple needed corrective actions for the site (some of the same necessary modifications that had been apparent to the public for months).

Additionally, I also have Lake County Health Department (LCHD) inspection reports for a portion of this site (obtained via FOIA) and it is helpful to compare reports from the same time period. While LCHD was citing numerous ongoing violations onsite (some of which relate to stormwater), the DECI reports were showing no concerns. Those ongoing violations cited by LCHD led to the state lawsuit: *The People of the State of IL vs. CHDS* and the lawsuit specifically describes that the waste from these violations could contaminate both surface & groundwater.

Enforcement Officer Duties

In the WDO, the EO is charged with overseeing the DECI and enforcing non-compliance. We obtained copies of invoices from the Village Engineer sent to the Village of Round Lake which include charges for EO duties for the CHDS site. But in this case, we are lacking any specifics regarding what the EO may have been doing to oversee this site. We have received no documented communication from the EO to the DECI in regard to the obvious shortcomings of the DECI reports. It seems that even if the EO was only driving by the site occasionally, it would have been obvious to a paid professional that the DECI reports he was tasked to review were not accurate.

Large fill/grading operations as a distinct use category

The WDO currently doesn't distinguish between a large ongoing fill/grade operation (like CHDS) versus a development/construction project with a defined end point.

The current WDO focuses on building and construction sites. I believe it does not adequately address the concerns raised by these types of large, ongoing fill/grading operation sites - as this use category is fundamentally different. The WDO could make that distinction and require a different oversight structure for this type of operation.

For example, the current WDO (1101.01) mentions EO inspections at "construction stages" but at this type of fill site there is no construction going on, just perpetual earth-moving and increasingly huge above-ground piles of dirt, asphalt, wooden pallets, concrete, landscape waste. We recognize that this type of site is not common in our county, but that sediment control is even more important at these ongoing above-ground fill sites.

We understand the SMC staff is aware that Lake County Planning Building & Development staff are currently *expediting* updating their ordinance to create and define a new use category of large fill/grade operations as they've come to realize that their current ordinances are not sufficient for regulating this type of site.

We are requesting that SMC do something similar with the WDO – *expedite* an amendment that focuses on these sites. Our specific request is to require that large ongoing fill/grade operations have an additional layer of monitoring directly by SMC staff when these types of sites are located in a certified community (as SMC already has oversight of any such fill site in an area not located in a certified community).

There is a sentence in the WDO introduction that I feel is appropriate here - “local conditions may sometimes require extraordinary regulatory measures”. I feel the argument can definitely be made that these types of sites rise to the level of needing extraordinary oversight.

I am specifically advocating for the following three amendments:

3A 1) Amendment #5a - 1101: Inspections

I am requesting that DECIIs need to include at least one photo (3 – 6 preferred) with their required written weekly reports as this will provide documentation that they actually were physically at the inspection site. I ask to remove "at the discretion of the EO". Amendment would then read as follows:

"Minimum inspection documentation shall include: site observations and a minimum of one site photo (3 – 6 photos preferred) (~~at the discretion of the EO~~), inspector's name, date and time of inspection, status of perimeter control, and site outlet observations."

3B 2) Appendix E: Enforcement Officer Duties

It seems appropriate that these next two amendments/responsibilities be specifically delineated in Appendix E (as a layperson, I can suggest that they follow the lettering system currently used in this appendix but there may be better placement)

To ensure compliance with the WDO, I am requesting to incorporate a written requirement for the Enforcement Officer (EO) to physically inspect the site at regular intervals as well as to review the accuracy of the DECI reports. The WDO, as currently written, does not specify these responsibilities. We request that language be added to Appendix E: Enforcement Officer Duties, add letter “O”:

“The Enforcement Officer shall physically visit each site a minimum of once per month to verify the accuracy of the DECI reports. The Enforcement Officer shall document these monthly visits with written notes and photos.”

3C 3) Appendix E: Enforcement Officer Duties: Additional oversight requirement for large fill/grade operations

I am requesting that language be added to Appendix E: Enforcement Officer Duties, add letter “P”:

“The Enforcement Officer for any large ongoing fill/grade operation located in a certified community shall coordinate, at a minimum, a quarterly onsite review with SMC staff to verify the operator's compliance with the WDO.

Thank you so much for reading my lengthy public comments and for considering my sincere request to make these amendments to the WDO.

Susan Pribyl
Ingleside, IL

Manitou Creek Watershed Alliance



From: [Grant Benjamin](#)
To: [Traynoff, Kelcey](#)
Subject: [EXTERNAL] WDO Amendments Public Comment: "Trust but Verify"
Date: Tuesday, May 30, 2023 1:09:49 PM
Attachments: [image.png](#)

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Ms. Traynoff,

As an active volunteer with the Manitou Creek Watershed Alliance (MCWA), I have been closely following the recent SMC discussions regarding proposed amendments to the Lake County Watershed Development Ordinance (WDO). This email is my public comment regarding some of the proposed amendments. My comments are focused on the duties and responsibilities of the Designated Erosion Control Inspector (DECI) and the Enforcement Officer (EO) as described in the WDO.

4A I decided to submit these comments when I saw an addition made to the originally-proposed SMC amendment language, following review by the Technical Advisory Committee (TAC) in the April 20, 2023 meeting. Specifically, under section 1101.02, for the minimum inspection documentation, the parenthetical statement was added "(at the discretion of the EO)". We are concerned with that change and strongly request that this "discretion" statement be removed. Since everyone now carries a high-resolution camera in their cell phone, providing inspection site photos is not difficult and should not be discretionary.

My concerns can be summarized in a simple phrase: Trust but verify.

Based on our community volunteers obtaining, through Freedom of Information Act (FOIA) requests, copies of DECI monitoring of the enormous CHDS LLC fill site at IL-120 and Wilson Rd in the far southwest corner of the Village of Round Lake, we cannot trust that required inspections and adequate oversight have been occurring. We cannot trust, because the very limited documentation does not allow us to verify that the inspector was actually at the site. We can't trust, because we cannot verify that the village EO was providing sufficient oversight of the DECI inspections. We can't trust, because we have been passing by the site for three years and have seen potential on-going perimeter violations that were not documented in the DECI reports. We can't trust, because when we requested additional information, we were told that any observed issues were dealt with verbally (and thus, any issues and resolutions were not documented).

Fundamentally, adherence to the WDO protects those of us who live and work in a watershed down-stream of development activity. And adherence to WDO requirements foundationally relies on the DECI and EO roles. To be assured that inspections are being professionally conducted and appropriately documented, citizen-volunteers should not need to be submitting FOIA requests to villages and townships for every project in our watershed. Provisions in the WDO should provide us that confidence.

Documentation, including photos, is needed to verify, because there are inherent potentials for conflicts of interest with the current practices for hiring DECI's and EO's. I am not alleging that there are actual conflicts of interest, but even potential for conflicts poisons community confidence in adherence to WDO requirements.

The first potential conflict is with the DECI.

Through our FOIA research, we have learned that many DECI's are hired directly by the developer responsible for the project. And the engineering firms where the DECI works often have additional project work for the same developer. Thus, if the DECI's firm wants additional work with the developer, they may be motivated to minimize observed violations in the DECI report. This potential for conflict of interest can be mitigated with required thorough inspection documentation and oversight.

The second potential conflict is with the EO.

The WDO provides oversight of DECI's through EO's. But in many cases the EO works for an engineering firm hired by the village, or works directly for the village. The village administration may be very eager to have a new project move ahead to increase the tax base. The firm may want to continue obtaining work with the village, and thus minimize any issues that could slow or shut down a village priority project. Again, potential for conflict of interest can be mitigated with well-documented inspections and oversight.

The third potential conflict is with the TAC.

There is a relatively small group of engineering firms engaged in major project work across Lake County and in county villages and townships. Many of these engineering firms have representatives on the TAC, while also having active contracts with villages, townships, and private developers. So when the TAC recommends a "discretionary" change to the WDO requirements, it may be to reduce their own firm's workload. I feel strongly that the requirement for site photos is a policy decision, not a technical decision. I suggest that TAC expertise is best applied to fundamental technical questions, not policy choices. It should be SMC staff and the SMC board that determine DECI and EO documentation and enforcement policies, not the TAC. While the TAC is an important resource for SMC, any recommendations coming from TAC should be considered as "advisory" only, and then further evaluated by SMC through a lens of potential for conflict of interest.

Having attended SMC, TAC and MAC meetings (as well as watershed work group meetings) for over 7 years now, I have deep respect for all the work SMC does for Lake County. So we want to be sure that all the excellent work SMC does is not undermined by "loopholes" in WDO requirements, and potential (or perceived potential) conflicts of interest, which reduce citizen confidence in project compliance. Trust but verify.

Thank you for your time and consideration of my comments.

Regards,

Grant Benjamin
Ingleside, IL

Manitou Creek Watershed Alliance

