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STORM WATER REGS - WASHINGTON

Snohomish County v. Pollution Control Hearings Board

Supreme Court of Washington, En Banc - December 29, 2016 - P.3d - 2016 WL 7495874

Municipal storm water permittees appealed Pollution Control Hearings Board's order holding that the vested rights doctrine did not apply to storm water regulations that the Department of Ecology required permittees, as owners or operators of large and medium municipal separate storm sewer systems, to adopt and apply to completed development applications as part of the National Pollutant Discharge Elimination System (NPDES) permitting program.

The Superior Court consolidated the appeals. Permittees sought direct review, which the Court of Appeals granted. The Court of Appeals reversed finding that vested rights doctrine excused compliance with storm water regulations. Department filed petition for review, which the Supreme Court granted.

The Supreme Court of Washington held that:

- Storm water regulations that permittees were required to implement and apply to completed development applications as part of NPDES permitting program were not "land use control ordinances" subject to vesting statutes requiring building permits and subdivision applications to be considered under land use control ordinances in effect when application was filed, disapproving of *Adams v. Thurston County*, 70 Wash.App. 471, 855 P.2d 284 and *Victoria Tower Partnership v. City of Seattle*, 49 Wash.App. 755, 745 P.2d 1328, and
- Storm water regulations did not violate doctrine of finality of land use decisions.