

What is the trap with catch basins on private property?

by Chip McKenna

A property owner called to report his/her home was being inundated with water and debris from a recent rain storm. According to the member's storm water system map, the closest catch basin is located up the hill from the property owner. The member dispatched a crew to investigate. In order to access the site, the crew had to walk approximately 25 yards across a field. Mud, grass and other debris were removed and the catch basin was once again operable.

A research of the records revealed that the catch basin was installed in the mid-1970s and was to be maintained by the homeowners' association. To complicate matters, the homeowners' association became defunct in the late 1980s. There is no record of the member being asked to take over maintenance of the catch basin, or evidence of a maintenance easement to access the site.

The general rule of thumb is the member cleans and maintains catch basins in the public right of way. Any catch basins located on private property are to be maintained and repaired by the property owner or homeowners' association.

There is an ongoing challenge with catch basins located on private property, which are connected to a member's storm water system. If a member maintains the catch basin it may create the expectation that the member will continue to maintain it, including replacing the catch basin if needed. If no maintenance easement exists, the member may be trespassing each time it accesses the site. Failure by the member to inspect a catch basin may increase the likelihood of pollutants entering the storm water system and surface waters, leading to potential fines and penalties from the Washington State Department of Ecology.

Recommended controls include, but are not limited to the following:

1. For a newly installed catch basin, if a member has a project permitting process that indicates a member agency is to inspect or approve catch basins on private property that tie into the member's storm water system, make sure on-going maintenance responsibilities of the catch basin and private pipes are clearly documented in the project or permit records.
2. For existing catch basins where ownership or maintenance responsibility is in question:
 - a. Ensure catch basins are built per standards and specifications before accepting the structure.

- b. Develop a long-term maintenance plan for catch basins:
 - a) Who will be responsible?
 - b) What are the routine and non-routine maintenance tasks for each catch basin?
 - c) How often must these tasks be completed?
 - d) Have easements been established to access the catch basin if the member is to provide maintenance?
 - e) Is there any recourse for the member if the responsible party fails to follow its maintenance plan?
- c. Establish an inventory of catch basins in your community – which are to be maintained by the Member and which are to be maintained by another responsible party?
- d. Require the responsible party to submit maintenance certification annually or develop a procedure and schedule for the member to inspect the catch basin.
- e. Review storm water ordinance to ensure it includes enforcement provisions should the responsible party fail to meet its obligations.

For additional assistance, please contact your WCIA Risk Management Representative.