

# Storms on the horizon

By Drew Brien

As we wrap up the fall season and head into the winter months, we can surely expect heavy rains and strong winds in the forecast. Each year the WCIA Claims Department receives numerous storm related claims and, while each claim is handled on its own merits, more often than not these storm related claims are an 'act of nature' outside the control of the City.

It is likely that your public works department is currently working to inspect stormwater catch basins and clearing them of any debris in preparation for months of wet weather. It is not uncommon for catch basins to get clogged and overflow during periods of heavy rain. If we can demonstrate that the stormwater system has been reasonably inspected and maintained, we have a strong defense against these claims under the public duty doctrine. **Any related maintenance and/or inspections needs to be documented.** Having written documentation greatly improves the defense of these types of claims, especially if a claim goes to litigation.

It is not uncommon for areas of the Pacific Northwest to experience concentrated periods of heavy rain that exceeds what the stormwater system has capacity to handle. It is becoming more frequent for one or more WCIA members to experience a 1 in 100-year rainfall event. Generally, municipalities are not liable for insufficient capacity of the stormwater system during these type of rain events, if the system was properly designed and maintained, as the cost to design all stormwater systems to a 100-year rainfall event would be unduly burdensome for municipalities.

Winter weather related damage more often than not is beyond the control of our members, but documenting the actions taken now to prepare for winter weather can improve chances of successfully defending a claim after winter has taken its toll.