



DEPARTMENT OF
ECOLOGY
State of Washington



Mr. Andrew Lee
General Manager and CEO
City of Seattle, Seattle Public Utilities
P.O. Box 34018
Seattle, Washington 98124-5177

Re: United States of America and the State of Washington v. The City of Seattle
Consent Decree, Civil Action No. 2:13-cv-00678-JCC
Demand for Payment of Stipulated Penalties

Dear Mr. Lee:

On July 3, 2013, the United States of America, on behalf of the Environmental Protection Agency (EPA), the State of Washington (“State”), on behalf of the Washington State Department of Ecology (“Ecology”), and the City of Seattle (“Seattle”) entered into the above-mentioned Consent Decree to resolve alleged violations of the Clean Water Act, including violations of Seattle’s National Pollutant Discharge Elimination System (NPDES) Permit (No. WA0031682).

Section X of the Consent Decree requires Seattle to pay stipulated penalties for certain violations of the Consent Decree. This letter constitutes a formal demand for stipulated penalties for Seattle’s violations of the Consent Decree. The occurrence of a dry weather combined sewer overflow (CSO), as defined by Paragraph 9.o of the Consent Decree, is a violation that requires Seattle to pay a stipulated penalty of \$7,500 per day. See Paragraph 60 of the Consent Decree. The occurrence of a Sewer Overflow, as defined by Paragraph 9.aa of the Consent Decree, is a violation that gives rise to Seattle’s obligation to pay a stipulated penalty of \$2,500 per day. See Paragraph 61 of the Consent Decree.

During the time frame of July 1, 2020, through June 30, 2021, Seattle had four dry weather overflows and 35 sewer overflows for which EPA and Ecology are currently demanding stipulated penalties. The following tables provide an itemized list of each violation.

Dry Weather Overflows

Date of Violation	Location of Incident	Dry Weather Overflow Description	Stipulated Penalty Value
01/20/2021	CSO Outfall 145 at 3600 Sunnyside Ave N	Dry weather overflow of ~200,000 to 500,000 gallons into Lake Union when debris and grease blocked the inflow pipe to Wastewater Pump Station 57. SPU became aware of this event on January 20, 2021; however, a review of pump station data indicates the overflow started during the intense storm on December 21, 2020.	\$7,500

Date of Violation	Location of Incident	Dry Weather Overflow Description	Stipulated Penalty Value
01/13/2021	CSO Outfall 88 at 5080 Beach Dr SW	Dry weather overflow of ~44,000 gallons into Puget Sound when the power transfer switch malfunctioned at the end of the routine weekly automated exercising of the backup generator at Wastewater Pump Station 39.	\$7,500
03/02/2021	CSO Outfall 174 at 2 nd Ave NW/NW Canal St	Dry weather overflow of ~6,820 gallons to Salmon Bay several times in March. The overflows were caused by a surge of flow from an upstream pump and bypass system, which overwhelmed the wastewater system.	\$7,500
05/22/2021	CSO Outfall 013 at NE Ambleside Rd/NE Penrith RD	Dry weather overflow of ~55,000 to Lake Washington when a level sensor malfunctioned. An erroneous high-level alarm triggered a gate valve to close, causing the overflow.	\$7,500

Subtotal \$30,000

Sewer Overflows

Date of Violation	Location of Incident	Description	Stipulated Penalty Value
10/11/2020	108 S Washington St	200 gallons into a building due to grease blocking the system.	\$2,500
10/29/2020	1420 35 th Ave S	3,000 gallons to Lake Washington due to unsecured bypass hose that was accessible to the public.	\$2,500
11/06/2020	12320 3 rd Ave NE	600 gallons into a building due to debris blocking the system	\$2,500
11/16/2020	337 NE 56 th ST	780 gallons into a building due to roots blocking the system.	\$2,500
12/21/2020	6521 48 th Ave NE	Unknown amount into a building due to roots blocking the system.	\$2,500
12/21/2020	1146 19 th Ave E	Unknown amount into a building due to roots blocking the system.	\$2,500
12/21/2020	522 17 th Ave E	Unknown amount into a building due to roots blocking the system.	\$2,500
12/21/2020	4051 130 th Ave S	Unknown amount into a building due to debris blocking the system.	\$2,500
12/21/2020	8039 20 th Ave NE	Unknown amount into a building due to roots blocking the system.	\$2,500
12/22/2020	1572 Parkside Dr	Unknown amount into a building due to capacity issues within the system.	\$2,500

Date of Violation	Location of Incident	Description	Stipulated Penalty Value
12/29/2020	558 1 st Ave S	Unknown amount into a building due to capacity issues within the system.	\$2,500
12/30/2020	5503 4 th Ave NW	Unknown amount into a building due to roots blocking the system.	\$2,500
12/30/2020	Corson Ave S/S Dawson St	57,000 gallons to ground and homes due to a blockage caused by concrete slurry in the system.	\$2,500
01/02/2021	5817 18 th Ave S	Unknown amount to ground and buildings due to capacity issues within the system.	\$2,500
01/02/2021	WWPS045 at 7609 Perimeter Rd S	21,000 gallons to Duwamish River due to Pump Station 45 capacity constraints.	\$2,500
01/03/2021	714 Harvard Ave E	5,000 gallons into a building due to roots blocking the system.	\$2,500
01/03/2021	1044 S Rose St	100 gallons into a building due to surcharging in the King County sewer.	\$2,500
01/11/2021	333 Boren Ave	500 gallons into a building due to debris blocking the system.	\$2,500
01/12/2021	1314 6 th Ave W	150 gallons into a building due to roots blocking the system.	\$2,500
01/12/2021	740 S Kenyon St	480 gallons into a building due to surcharging in the King County sewer.	\$2,500
01/12/2021	WWPS056 at 10334 Bedford Ct NW	18,000 gallons to ground and catch basin due to grease blocking the system.	\$2,500
01/13/2021	5821 18 th Ave S	Unknown amount into a building due to capacity issues within the system.	\$2,500
01/13/2021	2803 3 rd Ave W	Unknown amount into a building due to debris blocking the system	\$2,500
01/13/2021	6830 21 st Ave NE	Unknown amount into a building due to capacity issues within the system.	\$2,500
01/13/2021	11423 Crestwood Dr S	500 gallons into a building due to grease blocking the system.	\$2,500
01/13/2021	2022 3 rd Ave N	500 gallons into a building due to capacity issues within the system.	\$2,500
01/29/2021	5204 15 th Ave NE	500 gallons into a building due to a collapsed sewer.	\$2,500
02/07/2021	808 NE 64 th St	18,000 gallons to ground and a catch basin due to grease blocking the system.	\$2,500
03/05/2021	2137 Harbor Ave SW	1,200 gallons to Elliot Bay due to a broken sewer pipe.	\$2,500

Date of Violation	Location of Incident	Description	Stipulated Penalty Value
03/07/2021	1028 NE 96 th St	100 gallons into a building due to grease blocking the system.	\$2,500
03/28/2021	2139 Bonair Dr SW	6,000 gallons into a building due to debris blocking the system.	\$2,500
04/27/2021	2139 Bonair Dr SW	1,655 gallons to Puget Sound due to a broken sewer pipe.	\$2,500
05/22/2021	619 NW Market St	Unknown amount into a building due to a construction incident.	\$2,500
06/21/2021	1906 Pike Pl	10,000 gallons into a building due to a broken sewer pipe.	\$2,500
06/22/2021	1900 Pike Pl	1,400 gallons into a building due to FOG blocking the system.	\$2,500

Subtotal **\$87,500**
Total Stipulated Penalty **\$117,500**

Paragraph 64 of the Consent Decree allows the United States, the State or both to seek stipulated penalties by sending a written demand to Seattle; and further provides that when a joint demand for stipulated penalties is made, Seattle shall pay 50% of the demanded amount to the United States and 50% to the State. EPA and Ecology are jointly issuing a demand for payment of \$117,500. Accordingly, Seattle is required to pay \$58,750 to EPA and \$58,750 to Ecology.

Payment is due within 30 days of the date this written demand is received by Seattle, see Paragraph 64 of the Consent Decree and payment shall be made in accordance with paragraphs 52 and 53 of the Consent Decree, see Paragraph 66 of the Consent Decree. Please note that the payment to the United States is by Electronic Fund Transfer and notice of such transfer as required by Paragraph 52 shall be sent to the following address:

EPA Cincinnati Finance Office
26 Martin Luther King Drive
Cincinnati, Ohio 45268

The notice sent to the above address shall include a copy of the electronic fund transfer authorization and a transmittal letter. The transmittal letter must state that the payment is made for a civil penalty owed pursuant to the Consent Decree and reference the civil action number for this matter and the DOJ case number 90-5-1-1-1006. See Paragraph 52 of the Consent Decree.

Consistent with Paragraph 53, payment to the State may be by check payable to "Department of Ecology" and mailed to:

Department of Ecology
Cashiering Unit
P.O. Box 47611
Olympia, Washington 98504-7611

Payment to the State must be accompanied by a transmittal letter that states the payment is for a civil penalty owed pursuant to the Consent Decree and shall reference the civil action number for this matter. See Paragraph 53 of the Consent Decree.

In addition, the notices provided to the United States and the State must also satisfy the notice requirement of Section XIII of the Consent Decree (Notices).

For written notification or communication under Section XIII and Paragraph 83 of the Consent Decree, please use the following individuals as to the United States:

For DOJ:

Chief, Environmental Enforcement Section
Environment & Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
Ph: 202.514.5271
Fax: 202.514.0097

Kathryn C. Macdonald, Attorney
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
kathryn.macdonald@usdoj.gov
Ph: 202.353.7397
Fax: 202.514.0097

For EPA:

Ted Yackulic
Assistant Regional Counsel
U.S. EPA, Region 10
1200 6th Avenue, Suite 900 (ORC-158)
Seattle, WA 98101
yackulic.ted@epa.gov
Ph: 206.553.1218
Fax: 206.553.0163

Tara Martich
CWA Enforcement Specialist
U.S. EPA, Region 10
222 W. 7th Ave, Box 19
Anchorage, AK 99513
martich.tara@epa.gov
Ph: 907.271.6323

For Ecology:

Rachel McCrea
Water Quality Section Manager
Washington State Department of Ecology
Northwest Region Office
P.O. Box 330316
Shoreline, WA 98133-9716
rachel.mccrea@ecy.wa.gov
Ph: 206.594.0146

For the State of Washington:

Ronald L. Lavigne
Senior Counsel
Attorney General of Washington
Ecology Division
P.O. Box 40117
Olympia, WA 98504
ronald.lavigne@atg.wa.gov
Ph: 360.586.6751

If Seattle believes the amount assessed is incorrect, Seattle may invoke the dispute resolution procedures under Section XII of the Consent Decree. As part of your statement of matters in dispute, please include the violations Seattle wishes to dispute and Seattle's reasons for believing the assessed amount is incorrect.

In accordance with Section X, Paragraph 64, all penalties which are not in dispute are due and payable to the United States and Ecology within 30 days of receipt of this letter.

Should you have any questions regarding this letter, you may reach Edward Kowalski at (206) 553-6695, Rachel McCrea at (206) 594-0146 or have your counsel contact Ted Yackulic, Assistant Regional Counsel, at (206) 553-1218 or Ronald Lavigne, Assistant Attorney General, at (360) 586-6751.

Sincerely,

Date: _____

Edward J. Kowalski, Director
Office of Compliance and Enforcement
Environmental Protection Agency

Date: _____

Vince McGowan
Water Quality Program Manager
Washington Department of Ecology

Certified Mail No.: 9171 9690 0935 0233 1616 36

ecc: Melissa Ivancevich, City of Seattle
Shawn McKone, Ecology Northwest Region Office
Rachel McCrea, Ecology Northwest Region Office
Sean Wilson, Ecology Northwest Region Office
Greg Lipnickey, Ecology Northwest Region Office
Ronald Lavigne, Washington State Office of the Attorney General Ecology Division
Kathryn Macdonald, U.S. Department of Justice