

DEPARTMENT OF
ECOLOGY
State of Washington



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Mark Isaacson, Director
King County Wastewater Treatment Division
King Street Center, KSC-NR-0500
201 S. Jackson St.
Seattle, WA 98104

Re: United States of America and the State of Washington v. King County
Consent Decree (Consent Decree), Civil Action No. 2:13-cv-00677-JCC
Demand for Payment of Stipulated Penalties

Dear Mr. Isaacson:

On July 3, 2013, EPA, the Washington State Department of Ecology, and the King County (County) entered into the above-mentioned Consent Decree to resolve alleged violations of the Clean Water Act, including violations of your National Pollutant Elimination System Permit.

Section X of the Consent Decree requires the County to pay stipulated penalties for certain violations of the Consent Decree. Effluent limit violations of certain County combined sewer outfalls (CSO), as defined by Paragraph 58 of the Consent Decree, gives rise to County's obligation to pay a stipulated penalty of \$10,000 per annum for failing to meet the Total Suspended Solids removal efficiency, \$10,000 per annum for failing to meet the Settleable Solids annual average, \$2,000 per event for failing to meet the Settleable solids maximum per event, \$2,000 per month for failing to meet the Fecal Coliform monthly geometric mean (Fecal limit), and \$2,000 for failing to meet the Total Residual Chlorine daily maximum (TRC limit). Furthermore, Paragraph 62 of the Consent Decree, gives rise to the County's obligation to pay a stipulated penalty of \$2,500 per day for each Sewer Overflow.

During the time frame of January 1, 2015, through December 31, 2015, the County committed 23 violations for which EPA and Ecology have made a decision to issue stipulated penalties. As shown in the table below, the County failed to meet either the TRC limit or the Fecal limit at the Elliot West CSO Treatment Plant, the Carkeek CSO Treatment Plant, and the Henderson/MLK CSO Treatment Plant. Each of these 18 occasions result in separate violations subject to a stipulated penalty of \$2,000. In addition, the County violated the Settleable Solids annual average requirement at the Alki CSO Wastewater Treatment Plant and the annual average Total Suspended Solids Removal Efficiency requirement at the Elliott West CSO Treatment Plant, both subject to a stipulated penalty of \$10,000. The County also had three sewer overflows, each subject to a stipulated penalty of \$2,500.

Date of Violation	Location of Incident	Parameter/Reported Value	Limit	Stipulated Penalty Value
1/7/2015	Elliott West CSO 27	TRC 221 µg/l	104 µg/l Max Daily	\$2,000
2/6/2015	Elliott West CSO 27	TRC 324 µg/l	109 µg/l Max Daily	\$2,000
February 2015	Elliott West CSO 27	Fecal Coliform 11,033 cfu/100 mL	400 cfu/100 mL Monthly Geo Mean	\$2,000
3/15/2015	Elliott West CSO 27	TRC 148 µg/l	109 µg/l Max Daily	\$2,000
3/15/2015	Henderson/MLK CSO 44	TRC 1,100 µg/l	109 µg/l Max Daily	\$2,000
8/14/2015	Elliott West CSO 27	TRC 2,630 µg/l	109 µg/l Max Daily	\$2,000
8/29/2015	Elliott West CSO 27	TRC 517 µg/l	109 µg/l Max Daily	\$2,000
10/10/2015	Elliott West CSO 27	TRC 787 µg/l	109 µg/l Max Daily	\$2,000
10/30/2015	Elliott West CSO 27	TRC 995 µg/l	109 µg/l Max Daily	\$2,000
11/13-14/2015	Elliott West CSO 27	TRC 580/737 µg/l	109 µg/l Max Daily	\$2,000
11/14/2015	Carkeek CSO 46	TRC 2,210 µg/l	109 µg/l Max Daily	\$2,000
November 2015	Elliott West CSO 27	Fecal Coliform 577 cfu/100 mL	400 cfu/100 mL Monthly Geo Mean	\$2,000
12/7/2015	Elliott West CSO 27	TRC 232 µg/l	109 µg/l Max Daily	\$2,000
12/8/2015	Elliott West CSO 27	TRC 212 µg/l	109 µg/l Max Daily	\$2,000
12/9/2015	Elliott West CSO 27	TRC 153 µg/l	109 µg/l Max Daily	\$2,000
12/17/2015	Elliott West CSO 27	TRC 221 µg/l	109 µg/l Max Daily	\$2,000
December 2015	Elliott West CSO 27	Fecal Coliform 471 cfu/100 mL	400 cfu/100 mL Monthly Geo Mean	\$2,000
December 2015	Henderson/MLK CSO 44	Fecal Coliform >400 cfu/100 mL	400 cfu/100 mL Monthly Geo Mean	\$2,000
2015	Elliott West CSO 27	Settleable Solids 2.6 mL/L/hr	0.3 mL/L/hr Annual Average	\$10,000
2015	Alki CSO 51	Total Suspended Solids Removal Efficiency 33.8 %	≥50% Annual Average	\$10,000

TRC = Total Residual Chlorine

Date of Violation	Location of Incident	Description	Stipulated Penalty Value
10/12/2015	King Street Regulator 28	~243,000 gallons to Puget Sound	\$2,500
11/13/2015 and 11/15/2015	Barton Street Regulator 57	~243,500 gallons to Puget Sound	\$2,500
12/9/2015	Henderson Pump Station 45	~90,000 gallons to Lake Washington	\$2,500

Total Stipulated Penalty: \$63,500

Paragraph 65 of the Consent Decree allows the United States, the State, or both to seek stipulated penalties by sending a written demand to the County; and further provides that when a joint demand for stipulated penalties is made, the County shall pay 50% of the demanded amount to the United States and 50% to the State.

As a result of the 20 identified limit violations and the three identified sanitary sewer overflows pursuant to this letter, EPA and Ecology are jointly issuing a demand for payment of \$63,500. Accordingly, the County is required to pay \$31,750 to EPA and \$31,750 to Ecology.

Payment is due within thirty days of the date this written demand is received by the County, see Paragraph 65 of the Consent Decree, and payment shall be made in accordance with paragraphs 52 and 53 of the Consent Decree, see Paragraph 67 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, OH 45268

The notice that is sent to the above address shall include a copy of the electronic fund transfer authorization and a transmittal letter that states the payment is made for a civil penalty owed pursuant to the Consent Decree and shall reference the civil action number for this matter and the DOJ case number 90-5-1-1-10030. 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, WA 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 54 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 85 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 Ave, Suite 900 (ORC-158)
Seattle, Washington 98101
yackulic.ted@epa.gov
Ph: 206.553.1218
Fax: 206.553.0163

Rob Grandinetti
NPDES Compliance Officer
U.S. EPA, Region 10
1200 6th Ave, Suite 900 (OCE-133)
Seattle, Washington 98101
grandinetti.robert@epa.gov
Ph: 509.376.3748
Fax: 509.376.2396

For Ecology:

Mark Henley
Water Quality Section Manager
Washington State Department of Ecology
Northwest Regional Office
3190 - 160th Avenue SE
Bellevue, WA 98008-5452

For the State:

Ronald L. Lavigne
Senior Counsel
Attorney General of Washington
Ecology Division
P.O. Box 40117
Olympia, WA 98504


If the County believes the amount assessed is incorrect, the County 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 effluent limit violations the County wishes to dispute, and the County's reasons for believing the assessed amount is incorrect.

In accordance with Section X, Paragraph 65, 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, Mark Henley at (425) 649-7103, or have your counsel contact Ted Yackulic, Assistant Regional Counsel, at (206) 553-1218, or Ronald Lavigne, at 360-586-6751. Thank you.

Sincerely,

Date: 11/17/2016


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

Date: 11/21/16


Heather R. Bartlett
Water Quality Program Manager
Washington Department of Ecology

cc: Jeff Lafer, King County Wastewater Treatment Division
Amy Jankowiak, Ecology Northwest Regional Office
Mark Henley, Ecology Northwest Regional Office
Shawn McKone, Ecology Northwest Regional Office
Ronald Lavigne, Washington State Office of the Attorney General Ecology Division
Kathryn Macdonald, U.S. Department of Justice