

DEPARTMENT OF  
**ECOLOGY**  
State of Washington



Mr. Andrew Lee, Deputy Director  
City of Seattle, Seattle Public Utilities  
Drainage and Wastewater Line of Business  
PO Box 34018  
Seattle, WA 98124-4018

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

Dear Mr. Lee:

On July 3, 2013, the EPA, the Washington State Department of 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 your National Pollutant Elimination System Permit (NPDES Permit) and sanitary sewer overflow violations.

Section X of the Consent Decree requires Seattle to pay stipulated penalties for certain violations of the Consent Decree. The occurrence of a dry weather CSO, as defined by Paragraph 9 of the Consent Decree, is a violation that gives rise to Seattle's obligation to pay a stipulated penalty of \$7,500 per day for each dry weather CSO that occurs. 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 of each sewer overflow. See Paragraph 61 of the Consent Decree. Failure to comply with reporting requirements of the Consent Decree is a violation that gives rise to Seattle's obligation to pay a stipulated penalty of \$1,000 per day per violation. See Paragraphs 45 and 58-61 of the Consent Decree.

During the time frame of April 1, 2017 and December 31, 2018, there were three sewer overflows and one late report for which EPA and Ecology have made a decision to issue stipulated penalties.

Date of Incident	Location of Incident	Description	Stipulated Penalty Value
9/11/2017	5635 Seaview Ave N / Pump Station 43 main (ERTS 675734)	~87,984 gallons to Salmon Bay	\$2,500
12/19/2017	53 <sup>rd</sup> Ave S & Lake Washington Blvd S (ERTS 678000)	~23,000 gallons to Lake Washington	\$2,500
1/14/2018	9853 Rainier Ave S (ERTS 678484)	~5,000 gallons to Lake Washington	\$2,500

Date of Incident	Location of Incident	Date Discovered or Confirmed	Date of Notification to Ecology/EPA	Stipulated Penalty Value
1/27/2018	9549 1 <sup>st</sup> Ave NW (ERTS 678891)	1/28/2018	1/30/2018	\$1,000

**Total Stipulated Penalty: \$8,500**

Paragraph 64 of the Consent Decree allows the United States, the State, or both to seek stipulated penalties by sending a written demand to the City; and further provides that when a joint demand for stipulated penalties is made that the City shall pay 50% of the demanded amount to the United States and 50% to the State.

As a result of the three identified sewer overflows and one late report pursuant to this letter, EPA and Ecology are jointly issuing a demand for payment of \$8,500. Accordingly, Seattle is required to pay \$4,250 to EPA, and \$4,250 to Ecology.

Payment is due within thirty 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, 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 90-5-1-1-1006. 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, WA 98504-7611

Payment to the State must be accompanied by a transmittal letter that states the payment is for a civil penalty and 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 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:

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 6<sup>th</sup> Avenue, Suite 900 (ORC-158)  
Seattle, WA 98101  
yackulic.ted@epa.gov  
Ph: 206.553.1218  
Fax: 206.553.0163

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

For Ecology:

Rachel McCrea  
Water Quality Section Manager  
Washington State Department of Ecology  
Northwest Regional Office  
3190 - 160<sup>th</sup> Avenue SE  
Bellevue, WA 98008-5452  
rachel.mccrea@ecy.wa.gov  
Ph: 425.649.7033

For the State:

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 sanitary sewer overflow or overflows Seattle wishes to dispute, and Seattle's reasons for believing the assessed amount is incorrect.

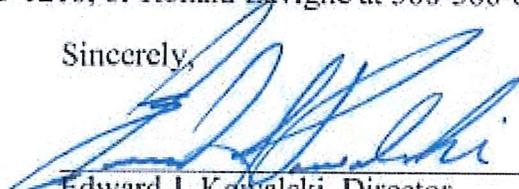
In accordance with Section X, Paragraph 64, all penalties which are not in dispute are due and payable to the United States and Ecology within 30 days of receipt of this letter.

Should you have any questions regarding this letter, you may reach Edward Kowalski at (206) 553-6695, Rachel McCrea at (425) 649-7033, or have your counsel contact Ted Yackulic, Assistant Regional Counsel, at (206) 553-1218, or Ronald Lavigne at 360-586-6751.

Sincerely,

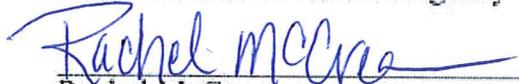
Date:

4/26/2019

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

Date:

5/6/2019

  
Rachel McCrea  
Water Quality Section Manager  
Washington Department of Ecology

Certified Mail No.: 9171 9690 0935 0204 6827 19

cc: Betty Meyer, City of Seattle  
Heather R. Bartlett, Water Quality Program Manager, Ecology Headquarters  
Amy Jankowiak, Ecology Northwest Regional Office  
Shawn McKone, Ecology Northwest Regional Office  
Ronald Lavigne, Attorney General of Washington Ecology division  
Kathryn Macdonald, U.S. Department of Justice

