



Marc Isaacson, Director  
King County Wastewater Treatment Division  
King Street Center, KSC-NR-0500  
201 S. Jackson Street  
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 Marc Isaacson:

On July 3, 2013, the EPA, the Washington State Department of Ecology, and King County (County) entered into the above-mentioned Consent Decree (modified October 25, 2016) to resolve alleged violations of the Clean Water Act, including violations of your National Pollutant Elimination System Permit (NPDES 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, as defined by Paragraph 58 of the Consent Decree, give rise to the County's obligation to pay stipulated penalties as follows:

- \$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);
- \$2,000 for failing to meet the Total Residual Chlorine daily maximum (TRC limit).

Furthermore, Paragraph 59 of the Consent Decree gives rise to the County's obligation to pay a stipulated penalty of \$3,000 per day (1<sup>st</sup> to 14<sup>th</sup> Day) for each failure to comply with Compliance Program Requirements, applied here to each Disinfection Failure. Paragraph 62 of the Consent Decree also 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 April 1, 2017 and December 31, 2018, there was a total of 20 violations for which EPA and Ecology have made a decision to issue stipulated penalties.

As shown in the tables below, the County had 10 effluent violations including Total Residual Chlorine (TRC), and Fecal Coliform at the Elliot West CSO Treatment Plant and the Carkeek CSO Treatment Plant. Each occasion is a separate violation subject to a stipulated penalty of \$2,000. Additional limit violations included two violations of the annual Settleable Solids limit at the Elliot West treatment plant and six violations of the Total Suspended Solids percent removal at the Elliot West, Alki, Carkeek and MLK Henderson CSO Treatment Plants. Each of these eight violations is subject to a stipulated penalty of \$10,000. The County also violated the sewer overflow prohibition on one occasion, subject to a stipulated penalty of \$2,500.

In addition to the above violations, the County reported one disinfection failure at the Elliot West facility on April 14, 2018. Disinfection failures at CSO treatment facilities violate special condition S5 (Operation and Maintenance) of the County's NPDES Permit. The County's failure to comply with the terms and conditions of its NPDES Permit, as they relate to the combined sewer system, violate paragraph 19 of the Consent Decree and is subject to a stipulated penalty of \$3,000.

The following tables provide an itemized list of each violation.

### Limit Violations

Date of Violation	Location of Incident	Parameter/Reported Value	Limit	Stipulated Penalty Value
4/11/2017	Elliott West CSO 27	TRC 3412 µg/l	109 µg/l Max Daily	\$2,000
10/21/2017	Elliott West CSO 27	TRC 658 µg/l	109 µg/l Max Daily	\$2,000
11/3/2017	Elliott West CSO 27	TRC 239 µg/l	109 µg/l Max Daily	\$2,000
11/4/2017	Elliott West CSO 27	TRC 710 µg/l	109 µg/l Max Daily	\$2,000
11/5/2017	Elliott West CSO 27	TRC 243 µg/l	109 µg/l Max Daily	\$2,000
11/21/2017	Elliott West CSO 27	TRC 225 µg/l	109 µg/l Max Daily	\$2,000
December 2017	Elliott West CSO 27	Fecal Coliform 619 cfu/100 mL	400 cfu/100 mL Monthly Geo Mean	\$2,000
December 2017	Carkeek CSO 46	Fecal Coliform 1871 cfu/100 mL	400 cfu/100 mL Monthly Geo Mean	\$2,000
2017	Elliott West CSO 27	Settleable Solids 4.04 mL/L/hr	0.3 mL/L/hr	\$10,000
2017	Elliott West CSO 27	Total Suspended Solids Removal Efficiency 21.4%	% Annual Average >50%	\$10,000
2017	Alki CSO 51	Total Suspended Solids Removal Efficiency 24.5%	% Annual Average >50%	\$10,000
2017	Carkeek CSO 46	Total Suspended Solids Removal Efficiency 28.2%	% Annual Average >50%	\$10,000
2017	MLK/Henderson 44	Total Suspended Solids Removal Efficiency 45.5%	% Annual Average >50%	\$10,000
11/26 - 11/27 2018	Elliott West CSO 27	TRC 208 µg/l; TRC 733 µg/l	109 µg/l Max Daily	\$2,000
December 2018	Elliott West CSO 27	Fecal Coliform 49,000 cfu/100 mL	400 cfu/100 mL Monthly Geo Mean	\$2,000
2018	Elliott West CSO 27	Settleable Solids 2.60 mL/L/hr	0.3 mL/L/hr	\$10,000
2018	Elliott West CSO 27	Total Suspended Solids Removal Efficiency 49.4%	% Annual Average >50%	\$10,000
2018	Alki CSO 51	Total Suspended Solids Removal Efficiency 39.5%	% Annual Average >50%	\$10,000

### Sewer overflows

Date of Incident	Location of Incident	Description	Stipulated Penalty Value
12/30/2017-1/1/2018	Hanford #2 Regulator Outfall 032	~5.5 million gallons to the East Waterway CSO exacerbated	\$ 2,500

### Disinfection failures

Date of Incident	Location of Incident	Description	Stipulated Penalty Value
4/14/2018	Elliott West CSO 27	~3.93 million gallons of non-disinfected flow to Puget Sound over a period of nearly 3 hours.	\$3,000

**Total Stipulated Penalty: \$105,500**

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 that the County shall pay 50% of the demanded amount to the United States and 50% to the State. As a result of the 18 identified limit violations, one identified disinfection failure and one overflow pursuant to this letter, EPA and Ecology are jointly issuing a demand for payment of \$105,500. Accordingly, the County is required to pay \$52,750 to EPA, and \$52,750 to Ecology.

Payment is due within thirty (30) 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 and 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 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:

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 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 or overflows the County wishes to dispute, and the County's reasons for believing the assessed amount is incorrect.

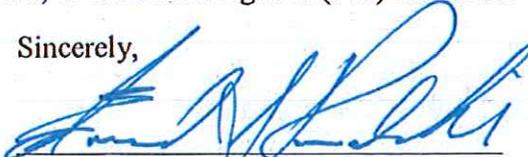
In accordance with Section X, Paragraph 65, all penalties which are not in dispute are due and payable to the United States and Ecology within thirty (30) days of receipt of this letter.

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:

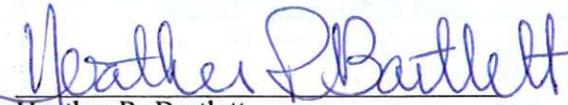
10/30/2019



Edward J. Kowalski, Director  
Enforcement and Compliance Assurance Division  
Environmental Protection Agency

Date:

11/5/19



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

Certified Mail No.: 9171 9690 0935 0204 6822 45

cc: Mr. Jeff Lafer, King County Wastewater Treatment Division  
Ms. Laura Fricke, Ecology Northwest Regional Office  
Ms. Rachel McCrea, Ecology Northwest Regional Office  
Mr. Shawn McKone, Ecology Northwest Regional Office  
Mr. Ronald Lavigne, Attorney General of Washington Ecology Division  
Ms. Kathryn Macdonald, U.S. Department of Justice