

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

IN THE MATTER OF PENALTY)	NOTICE OF PENALTY
ASSESSMENT AGAINST)	INCURRED AND DUE
Midway Sewer District)	PENALTY DOCKET #19539
Marc Montieth, General Manager)	

To: Marc Montieth, General Manager
Midway Sewer District
P.O. Box 3487
Kent, WA 98089-0209

Notice of Penalty Docket #	19539
Site Location	260th Street Pump Station 26211 Pacific Hwy S. Des Moines, WA 98198
Penalty Amount	\$21,000.00
Due Date	Within 30 days after receiving this Notice of Penalty.

The Department of Ecology (Ecology) has assessed a penalty against Midway Sewer District in the amount of \$21,000.00 for violating provisions of:

- Chapter 90.48.080 Revised Code of Washington (RCW) – Discharge of Polluting Matter in Waters Prohibited
- National Pollutant Discharge Elimination System (NPDES) Permit WA0020958

Ecology has authority to issue this penalty under RCW 90.48.144 and is basing the penalties on the violations listed in this notice.

DETERMINATION OF VIOLATION(S)

Ecology's determination that a violation/violations has/have occurred is based on the violations listed below.

A sanitary sewer overflow (SSO) occurred at a pump station owned and operated by the Midway Sewer District between September 10 and 14, 2020. Ecology authorizes the Midway Sewer District under NPDES Permit WA0020958 (Permit) to discharge treated domestic wastewater to Puget Sound via Outfall 001. The September 10-14 SSO event was an unauthorized discharge of untreated domestic wastewater to Waters of the State. This SSO event is a violation of RCW 90.48 and conditions S1 and S5 of NPDES Permit WA0020958.

Description of Incident:

On September 10, 2020, at approximately 3:00 p.m., the 260th Street pump station serving the Midway Sewer District's Wastewater Treatment Plant failed. The failure was due to a tripped electrical breaker that provides power to the pump control module. Midway staff are not able to explain why the breaker tripped. Midway has a redundant alarm system set up at the pump station. The tripped breaker did not trigger the pump station's primary alarm system. However,

the pump station's secondary alarm system (Sensaphone) did call in a high water alarm to the phone of the on-call operator. The operator carrying the phone at the time assumed the alarm was due to fellow employees performing routine maintenance at the pump station, and cleared the alarm without further follow up. The operator carrying the on-call phone did not contact other staff to verify that it was a false alarm or that maintenance was being performed.

At 9:00 a.m. on Friday, September 11, Midway employees performed an incomplete standard station check and did not notice or address the overflow condition. The station remained in a state of failure until operators returned to the site on Monday morning, September 14 at approximately 7:00 a.m. Jace Layton, Superintendent of the Midway Sewer District, called the overflow event into Ecology's Environmental Report Tracking System (ERTS) at 11:34 a.m. on September 14 (ERTS #700623).

Violations

RCW 90.48.080

RCW 90.48.080 states that, "It shall be unlawful for any person to throw, drain, run, or otherwise discharge into any of the water of this state, or to cause, permit or suffer to be thrown, run, drained, allowed to seep or otherwise discharge into such waters any organic or inorganic matter that shall cause or tend to cause pollution of such waters..."

The discharges from the pump station into McSorley Creek on September 10-14, 2020, resulted in closure of Saltwater State Park from September 16 until October 22 because of high bacteria levels. Sampling results downstream of the station indicated elevated levels of fecal coliform and enterococci during the weeks following the discharge. The discharge is also suspected as the cause of a fish kill event, evidence of which was recorded in photographs of the area downstream of the station taken on September 17. The discharge of untreated or improperly treated wastewater into McSorley Creek and Puget Sound is a violation of RCW 90.48.080.

Permit Condition S1

NPDES Permit WA0020958 Condition S1, Discharge Limits, states that "all discharges and activities authorized by this permit must comply with the terms and conditions of this permit. The discharge of any of the following pollutants more frequently than, or at a level in excess of, that identified and authorized by this permit violates the terms and conditions of this permit. Beginning on the effective date of this permit, the Permittee may discharge treated domestic wastewater to Puget Sound at the permitted location subject to compliance with the following limits." The discharge from the pump station on September 10-14, 2020, was untreated, and did not comply with the effluent limits in S1.A, and was at an unpermitted location.

Permit Condition S5

NPDES Permit WA0020958 Condition S5, Operation and Maintenance, states that "The Permittee must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances), which are installed to achieve compliance with the terms and conditions of this permit." Two instances of operator error during the SSO event violate this permit condition: 1) failure to respond to the initial alarm on September 10; and 2) failure to adequately inspect the pump station or correct the overflow condition on September 11.

ELIGIBILITY FOR PAPERWORK VIOLATION WAIVER AND OPPORTUNITY TO CORRECT

Ecology has determined the requirements of RCW 34.05.110 do not apply to the violation(s) because you are not a small business as defined in RCW 34.05.110 (9).

FAILURE TO COMPLY WITH THIS NOTICE OF PENALTY

Continued failure to correct the violations listed in this Notice of Penalty may result in additional, escalated penalties.

OPTIONS FOR RESPONDING TO A NOTICE OF PENALTY

Option 1: Pay the penalty within 30 days after receiving the Notice of Penalty.

Make your payment payable to the Department of Ecology. Please include the penalty docket number on your payment.

Mail payment to:

Department of Ecology
Cashiering Unit
PO Box 47611
Olympia, WA 98504-7611

Note: Ecology may take legal action to collect the penalty if you have not paid 30 days after receiving the Notice of Penalty, and have not appealed.

Option 2: Appeal to the PCHB and serve Ecology within 30 days after the date of receipt of the Notice of Penalty.

The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do both of the following within 30 days after the date of receipt of this Notice of Penalty:

- File your appeal and a copy of this Notice of Penalty with the Pollution Control Hearings Board (PCHB) during regular business hours.
- Serve a copy of your appeal and this Notice of Penalty on Ecology in paper form, by mail or in person. E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503 Pollution Control Hearings Board 1111 Israel Road SW STE 301 Tumwater, WA 98501	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608 Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

CONTACT INFORMATION

Please direct all questions about this Notice of Penalty to:

Greg Lipnickey, QEP
Department of Ecology
Northwest Regional Office
3190 160th Avenue SE
Bellevue, WA 98008
Phone: (425) 449-6560
Email: Greg.Lipnickey@ecy.wa.gov

MORE INFORMATION

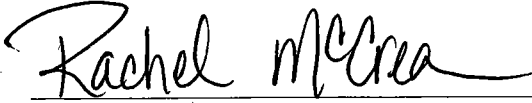
- **Pollution Control Hearings Board**
<http://www.eluho.wa.gov/Board/PCHB>
- **Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board**
<http://app.leg.wa.gov/RCW/default.aspx?cite=43.21B>
- **Chapter 371-08 WAC – Practice and Procedure**
<http://app.leg.wa.gov/WAC/default.aspx?cite=371-08>
- **Chapter 34.05 RCW – Administrative Procedure Act**
<http://app.leg.wa.gov/RCW/default.aspx?cite=34.05>
- **Ecology's Laws, rules, & rulemaking website**
<https://ecology.wa.gov/About-us/How-we-operate/Laws-rules-rulemaking>

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SIGNATURE

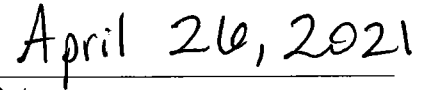
A handwritten signature in black ink that reads "Rachel McCrea". The signature is written in a cursive style with a large initial "R" and "M".

Rachel McCrea

Water Quality Section Manager

Northwest Regional Office

Washington State Department of Ecology

A handwritten date in black ink that reads "April 26, 2021". The date is written in a cursive style.

Date