



REGION 10

SEATTLE, WA 98101

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 ("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, on behalf of the Washington State Department of Ecology ("State" or "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 or "Sewer Overflow"), 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 requires Seattle to pay a stipulated penalty of \$2,500 per day. See Paragraph 61 of the Consent Decree. Failure to comply with the Compliance Program requirements, including compliance with the conditions of Seattle's individual NPDES permit, is a violation that requires Seattle to pay a stipulated penalty of \$3,000 per day. See paragraphs 16 and 57 of the Consent Decree.

During the time frame of January 1, 2023, through December 31, 2023, Seattle had seven violations of its Compliance Program requirements and 20 sewer overflows for which EPA and Ecology are currently demanding stipulated penalties. The following tables provide an itemized list of each violation.

Compliance Program Requirement Violations

Date of Violation	Location of Incident	Compliance Program Requirement Violation Description	Stipulated Penalty Value
09/20/2023	8314 Island Dr S Outfall #46	57,186 gallons released to Lake Washington due to insufficient maintenance.	\$3,000
11/04/2023	Lake Washington BLVD S & S Alaska St Outfall #43	57,521 gallons released to Lake Washington due to an operations error.	\$3,000
11/04/2023	Lake Washington BLVD S & S Juneau St Outfall #44	3,651 gallons released to Lake Washington due to insufficient maintenance.	\$3,000
11/04/2023	5711 S Holly St Outfall #45	15,137 gallons released to Lake Washington due to insufficient maintenance.	\$3,000
11/04/2023	1209 E Shelby St Outfall #138	21,261 gallons released to Portage Bay due to insufficient maintenance.	\$3,000
12/05/2023	1209 E Shelby St Outfall #138	126,005 gallons released to Portage Bay due to an operations error.	\$3,000
12/07/2023	NE Ambleside Rd & NE Penrith Rd Outfall #13	651,036 gallons released to Lake Washington due to insufficient maintenance.	\$3,000
Subtotal			\$21,000

Sewer Overflows

Date of Violation	Location of Incident	Description	Stipulated Penalty Value
01/25/2023	5080 Beach Dr SW	4,000 gallons to Puget Sound due to a force main failure.	\$2,500
04/17/2023	9401 26 th Ave SW	200 gallons to a building due to a blockage of the City's sewer line caused by construction debris.	\$2,500
09/19/2023	118 Republican St	12,000 gallons to a building due to a blockage caused by roots.	\$2,500
09/24/2023	1423 N 45 th St	2,450 gallons to a building due to a blockage of the City's sewer line caused by roots.	\$2,500
09/26/2023	4022 Meridian Ave N	1,270 gallons to a building due to a blockage of the City's sewer line caused by roots.	\$2,500
11/04/2023	9700 Ravenna Ave NE	9,000 gallons to Thornton Creek due to a blockage of the City's sewer line caused by roots.	\$2,500

Date of Violation	Location of Incident	Description	Stipulated Penalty Value
11/04/2023	153 McGraw St	100 gallons to a building due to a blockage of the City's sewer line caused by roots.	\$2,500
11/04/2023	5205 12 th Ave S	1,660 gallons to a building due to a blockage of the City's sewer line caused by vandalism.	\$2,500
11/04/2023	8039 & 8056 20 th Ave NE	980 gallons to a building due to capacity issues.	\$2,500
11/07/2023	8039 20 th Ave NE	36,580 gallons to a building due to capacity issues.	\$2,500
11/07/2023	6321, 6322, & 6324 18 th Ave NE	2,617 gallons to a building due to a blockage of the City's sewer line caused by roots.	\$2,500
11/07/2023	6818 21 st Ave NE	1,100 gallons to a building due to capacity issues.	\$2,500
11/08/2023	3033 NE 75 th St	1,000 gallons overflowed to the street due to capacity issues.	\$2,500
11/12/2023	9444 5 th Ave SW	1,500 gallons to a building due to a blockage of the City's sewer line caused by vandalism.	\$2,500
11/18/2023	8500 14 th Ave NW	200 gallons to a building due to a blockage of the City's sewer line caused by debris.	\$2,500
11/22/2023	13018 Lake City Way NE	3,650 gallons to Thornton Creek due to a blockage of the City's sewer line caused by roots.	\$2,500
12/04/2023	Lake Washington BLVD & 53 rd Ave S	144,900 gallons to Lake Washington due to an operations error.	\$2,500
12/05/2023	40 th Ave S & S Norfolk St	400,000 gallons to the Duwamish River due to pump station an operations error.	\$2,500
12/05/2023	8415 Airport Way S	135,000 gallons to the King County International Airport's storm water drainage system due to pump station capacity issues.	\$2,500
12/05/2023	903 N 36 th St	1,000 gallons to the street due to a blockage of the City's sewer line caused by vandalism.	\$2,500
Subtotal			\$50,000
Total Stipulated Penalty			<u>\$71,000</u>

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 \$71,000. Accordingly, Seattle is required to pay \$35,500 to EPA and \$35,500 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:

eescdcopy.enrd@usdoj.gov

Re: Consent Decree, Civil Action No. 2:13-cv-00678-JCC

OR

EES Case Management Unit
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611

Re: Consent Decree, Civil Action No. 2:13-cv-00678-JCC

For EPA:

Tara Martich
martich.tara@epa.gov
Re: Consent Decree, Civil Action No. 2:13-cv-00678-JCC

OR

Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 10
1200 6th Avenue, Suite 155
Seattle, Washington 98101

For the State of Washington:

Adam Levitan
adam.levitan@atg.wa.gov
Re: Consent Decree, Civil Action No. 2:13-cv-00678-JCC

OR

Attorney General of Washington
Ecology Division
P.O. Box 40117
Olympia, Washington 98504

For Ecology:

Sean Wilson
sean.wilson@ecy.wa.gov
Re: Consent Decree, Civil Action No. 2:13-cv-00678-JCC

OR

Seattle CSO Permit Manager
Water Quality Program
Washington Department of Ecology
Northwest Region Office
P.O. Box 330316
Shoreline, Washington 98133

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 Dino Marshalonis with EPA at (206) 553-1519, Rachel McCrea with Ecology at (206) 594-0146 or have your counsel contact Ted Yackulic, Assistant Regional Counsel, at (206) 553-1218 or Adam Levitan, Assistant Attorney General, at (360) 586-4616. Thank you.

Sincerely,

Date: _____

Date: _____

Vince McGowan
Water Quality Program Manager
Washington Department of Ecology

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

ecc: Melissa Ivancevich, City of Seattle
Ben Marré, 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
Adam Levitan, Washington State Office of the Attorney General Ecology Division
Tara Martich, U.S. Environmental Protection Agency
EES Case Management Unit, U.S. Department of Justice