

VW Settlement

Beneficiary Mitigation Plan for the State of Washington

Semi-annual report

Background:

In 2015, the U.S. Environmental Protection Agency (EPA) issued a notice of violation to the automaker Volkswagen (VW) after it was discovered that the company illegally installed software on many of its diesel vehicles. The software allowed the vehicles to pass emissions tests when, in reality, they were emitting between 10 and 40 times the permitted levels of harmful nitrogen oxides.

These actions violated the federal Clean Air Act, violations that VW resolved in a series of settlements in 2016 and 2017. The settlements require VW to fund Environmental Mitigation Trust Agreements for State and Indian Tribe Beneficiaries. On March 15, 2017 the U.S. District Court for the Northern District of California (“the Court”) appointed Wilmington Trust, N.A. as the Trustee (the “Trustee”).

On November 3, 2017 Washington’s Governor Jay Inslee identified the Washington State Department of Ecology (Ecology) as the Lead Agency for purposes of Washington’s participation in the Environmental Mitigation Trust Agreement for State Beneficiaries (the “State Trust”). On January 29, 2018 the Trustee filed notice with the Court that Washington satisfied its filing requirements, in accordance with the State Trust agreement, identifying Washington as a State Trust beneficiary.

In accordance with the Trust agreement, the Trustee allocated Washington \$112.7M in federal settlement funds. The State Trust’s purpose is to fund environmental mitigation projects that reduce emissions of nitrogen oxides (“NOx”) where the subject vehicles were, are, or will be operated. On November 6, 2019 Washington Filed its Beneficiary Mitigation Plan with the Trustee, which lays out spending priorities and high-level principles that will be used to guide the selection of eligible mitigation projects to meet the purpose of the State Trust.

Ecology submitted Washington’s first Eligible Mitigation Action (EMA) request which the Trustee approved on July 19, 2019. On September 17, 2019 Ecology received its first disbursement of trust assets. In accordance with the State Trust agreement, Ecology’s first semi-annual report is due no later than six months after receiving its first disbursement of Trust Assets.

Subsequent semi-annual reports are due no later than January 30 (for the preceding six-month period of July 1 to December 31) and July 30 (for the preceding six-month period of January 1 to June 30) of each year. Ecology will report on additional projects underway with budgeted VW funds in subsequent semi-annual reports.

Summary of All Costs

Reporting Period Ending: 12/31/2020	
Running Total of Settlement Funds Received	\$680,412.39
Total VW Funds Budgeted	\$74,000,000.00

Eligible Mitigation Action <i>Beneficiary Project ID</i>	Total Funds Budgeted	Total Funds Received	Project Funds		Administrative Funds	
			Budgeted	Received	Budgeted	Received
Scrap & replace or repower pre-2007 diesel transit buses with all-electric transit buses <i>EMA2-Transit-C1</i>	\$15,000,000	\$328,502.53	\$13,500,000	\$0	\$1,500,000	\$328,502.53
Repower Jumbo Mark II Diesel Ferry with Battery Electric Power (diesel-electric hybrid) <i>EMA4-Ferries-C1</i>	\$35,000,000	\$0	\$35,000,000	\$0	\$0	\$0
Purchase and Install Workplace LD ZEV SE at Government Owned Property <i>EMA9-Workplace-C1</i>	\$2,500,000	\$59,540.09	\$2,250,000	\$0	\$250,000	\$59,540.09
Scrap & replace pre-2007 diesel school buses with all-electric school buses <i>EMA2-School Bus-C1</i>	\$13,000,000	\$234,237.14	\$12,000,000	\$15,472.84	\$1,000,000	\$218,764.30
Purchase and Install Electric Vehicle Charging Infrastructure along High-Traffic Transportation Corridors in Washington <i>EMA9-Corridor-C1</i>	\$4,500,000	\$27,231.94	\$4,050,000	\$0	\$450,000	\$27,231.94
Shore Power for Ocean Going Vessels <i>EMA5-Shore Power-C1</i>	\$4,000,000	\$30,900.69	\$3,600,000	\$0	\$400,000	\$30,900.69
Total	\$74,000,000	\$680,412.39	\$70,400,000	\$15,472.84	\$3,600,000	\$664,939.55

Project Narrative

EMA Project ID: EMA2-Transit-C1	
Expected Termination Date	6/30/2023
Project Status	Ecology has grant agreements in place with six transit authorities in Washington for about \$13,000,000 to purchase 47 all-electric transit buses. The Washington transit bus procurement contract has expired. Upon availability of the new contract, Ecology grant awardees will purchase new electric transit buses. Awardees may develop their own electric transit bus procurement contract or purchase electric transit buses from another state's procurement contract. According to the Ecology grant agreements, Transit Authorities have until 6/30/21 to order their electric buses.
Summary of Costs Expended	Ecology accrued administrative costs of approximately \$140,047.27 and no project costs during this (July - December, 2020) reporting period. Ecology anticipates requesting reimbursement for costs expended in this reporting period in September 2021.
Summary of Expenditures in the Next Reporting Period	All expenditures will be on a reimbursement basis. Ecology anticipates accruing administrative costs of approximately \$179,582.23 and project costs of zero in the next (January – June, 2021) reporting period. Ecology anticipates requesting reimbursement for costs expended in the next reporting period from Wilmington Trust in September, 2021.
Modifications to the Project Scope/Timeline	None at this time, although Ecology is monitoring the progress to update the Washington State Contract and will note any modifications to the timeline in subsequent reports.

EMA Project ID: EMA4-Ferries-C1	
Expected Termination Date	6/30/2022
Project Status	Ecology has a signed grant agreement in place with Washington State Ferries (WSF) for \$35,000,000 for the conversion of a diesel ferry to a hybrid electric ferry. WSF issued contractor, Siemens, an official Notice to Proceed with design work for Part B, <i>Design for Hybrid Propulsion System Upgrade</i> . Siemens has completed the design work and designs have been submitted to US Coast Guard (USCG), for approval. WSF anticipates design feedback from USCG in the upcoming (January – June, 2021) reporting period. WSF and Siemens have executed procurement of materials with a long lead time delivery.
Summary of Costs Expended	Ecology recorded no expenditures during this reporting period.
Summary of Expenditures in the Next Reporting Period	All expenditures will be on a reimbursement basis. Ecology anticipates accruing project costs of approximately \$4,000,000 in the next (January – June, 2021) reporting period. Ecology anticipates requesting reimbursement for costs expended in the next reporting period from Wilmington Trust in September, 2021.

Modifications to the Project Scope/Timeline	There are no major modifications to the Project Scope or Timeline at this time. The project schedule for Task 1 Final Design has been revised to reflect minimal impacts due to COVID19. WSF anticipates a November 2021 start for physical construction.
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EMA Project ID: EMA9-Workplace-C1	
Expected Termination Date	6/30/2022
Project Status	Ecology has grant agreements in place with eight agencies for about \$400k to install 39 EV charging stations. Two of the ten agencies initially awarded grants subsequently declined their awards due to budget uncertainties in response to COVID-19. At this time, no other project or budget delays have been identified. Projects are on track to be completed by the end of the project period, 6/30/22.
Summary of Costs Expended	Ecology accrued administrative costs of approximately \$1,240.15 and no project costs during this (July – December, 2020) reporting period. Ecology anticipates requesting reimbursement for costs expended in this reporting period in September 2021.
Summary of Expenditures in the Next Reporting Period	All expenditures will be on a reimbursement basis. Ecology anticipates accruing administrative costs of approximately \$1,590.25 and project costs of approximately \$150,000 in the next (January – June, 2021) reporting period. Ecology anticipates requesting reimbursement for costs expended in the next reporting period from Wilmington Trust in September, 2021.
Modifications to the Project Scope/Timeline	Ecology funded about \$400k in grants with this funding opportunity for which we allocated \$2.5 million in our D-4. Ecology is evaluating whether to develop a second funding opportunity or to modify the Project Scope and/or Timeline in our D-4 for this EMA.

EMA Project ID: EMA2-School Bus-C1	
Expected Termination Date	6/30/2023
Project Status	Ecology has grant agreements in place with all 22 school districts for a total of about \$12M to scrap and replace diesel school buses with all-electric school buses. Several agreements also include funds for the purchase and installation of associated charging infrastructure. School districts have begun ordering buses and several have received buses. Bus delivery is expected to continue in the next reporting period.
Summary of Costs Expended	Ecology accrued administrative costs of approximately \$93,393.22 and project costs of approximately \$623,776 during this (July – December, 2020) reporting period. Ecology anticipates requesting reimbursement for costs expended in this reporting period in September 2021.

Summary of Expenditures in the Next Reporting Period	All expenditures will be on a reimbursement basis. Ecology anticipates accruing administrative costs of approximately \$119,757.88 and project costs of approximately \$6,560,000 in the next (January – June, 2021) reporting period. Ecology anticipates requesting reimbursement for costs expended in the next reporting period from Wilmington Trust in September, 2021.
Modifications to the Project Scope/Timeline	The COVID-19 pandemic has caused minor delays to getting grants in place and buses ordered but there are no major modifications to the Project Scope or Timeline at this time.

EMA Project ID: EMA9-Corridor-C1	
Expected Termination Date	6/30/2022
Project Status	Awards have been accepted for 18 grants for approximately \$3.7M to purchase and install 50 DCFC stations on high-transportation traffic corridors in Washington. Ecology is in the process of negotiating grant agreements with recipients and expects to have grants in place in the next reporting period.
Summary of Costs Expended	Ecology accrued administrative costs of approximately \$50,540.02 and no project costs during this (July – December, 2020) reporting period. Ecology anticipates requesting reimbursement for costs expended in this reporting period (July - December, 2020) in September 2021.
Summary of Expenditures in the Next Reporting Period	All expenditures will be on a reimbursement basis. Ecology anticipates accruing administrative costs of approximately \$64,807.34 and project costs of approximately \$1,500,000 in the next (January – June, 2021) reporting period. Ecology anticipates requesting reimbursement for costs expended in the next reporting period (January – June, 2021) from Wilmington Trust in September, 2021.
Modifications to the Project Scope/Timeline	Ecology has experienced delays during grant agreement negotiations that have led to a lengthier internal review process for recipient comments and suggested revisions. These delays are not likely to require modifications to the Project Scope or Timeline at this time.

EMA Project ID: EMA5-Shore Power-C1	
Expected Termination Date	6/30/2023
Project Status	Ecology is currently developing grant agreements for two awards for a total of \$3.6M. Ecology anticipates completing negotiations and having agreements in place in the next reporting period.

Summary of Costs Expended	Ecology accrued administrative costs of approximately \$44,124.17 and no project costs during this (July – December, 2020) reporting period. Ecology anticipates requesting reimbursement for costs expended in this reporting period in September 2021.
Summary of Expenditures in the Next Reporting Period	All expenditures will be on a reimbursement basis. Ecology anticipates accruing administrative costs of approximately \$56,580.30 and project costs of zero in the next (January – June, 2021) reporting period. Ecology anticipates requesting reimbursement for costs expended in the next reporting period from Wilmington Trust in September, 2021.
Modifications to the Project Scope/Timeline	There are no major modifications to the Project Scope or Timeline at this time.

The information in this report is true and correct. Submission is made under penalty of perjury.	<p>_____</p> <p>Laura Watson, Director Washington State Department of Ecology</p>	<p>_____</p> <p>Date</p>
	<p>_____</p> <p>Heather R. Bartlett, Deputy Director Washington State Department of Ecology</p>	<p>_____</p> <p>Date</p>