

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 that allowed them to cheat on emissions tests. 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 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, that 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 31 (for the preceding six-month period of July 1 to December 31) and July 31 (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: 12/31/2022	
Running Total of Settlement Funds Received	\$11,915,643.98
Total VW Funds Budgeted	\$74,000,000.00
Total VW Funds	\$112,700,000.00

Eligible Mitigation Action Beneficiary Project ID	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>	\$15,000,000.00	\$2,161,528.31	\$13,500,000.00	\$1,523,308.77	\$1,500,000.00	\$638,219.54
Repower Jumbo Mark II Diesel Ferry with Battery Electric Power (diesel-electric hybrid) <i>EMA4-Ferries-C1</i>	\$35,000,000.00	\$ -	\$35,000,000.00	\$ -	\$ -	\$ -
Purchase and Install Workplace LD ZEV SE at Government Owned Property <i>EMA9-Workplace-C1</i>	\$2,500,000.00	\$275,684.72	\$2,250,000.00	\$213,428.97	\$250,000.00	\$62,255.75
Scrap & replace pre-2007 diesel school buses with all-electric school buses <i>EMA2-School Bus-C1</i>	\$13,000,000.00	\$8,001,107.49	\$12,000,000.00	\$7,575,802.44	\$1,000,000.00	\$425,305.05
Purchase and Install Electric Vehicle Charging Infrastructure along High-Traffic Transportation Corridors in WA <i>EMA9-Corridor-C1</i>	\$4,500,000.00	\$1,348,841.40	\$4,050,000.00	\$1,209,839.30	\$450,000.00	\$139,002.10
Shore Power for Ocean Going Vessels <i>EMA5-Shore Power-C1</i>	\$4,000,000.00	\$128,482.06	\$3,600,000.00	\$ -	\$400,000.00	\$128,482.06
Total	\$74,000,000.00	\$11,915,643.98	\$70,400,000.00	\$10,522,379.48	\$3,600,000.00	\$1,393,264.50

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 \$13,300,000 to purchase 47 all-electric transit buses. Transit awardees have received five electric buses and placed orders for another 38 electric buses. Ecology expects the remaining transit buses to be ordered in the upcoming reporting period. Two transit authorities have completed their projects and are closed out.
Summary of Costs Expended	Ecology accrued administrative costs of approximately \$87,762 and project costs of approximately \$4,650 during this (July- December 2022) reporting period. Ecology anticipates requesting reimbursement for costs expended in this reporting period in March 2023.
Summary of Expenditures in the Next Reporting Period	All expenditures will be on a reimbursement basis. Ecology anticipates accruing administrative costs of approximately \$85,273 and project costs of approximately \$11,000,000 in the next (January- June 2023) reporting period. Ecology anticipates requesting reimbursement for costs expended in the next reporting period from Wilmington Trust in September 2023.
Modifications to the Project Scope/Timeline	No modifications to scope or timeline in this reporting period.

EMA Project ID: EMA4-Ferries-C1	
Expected Termination Date	12/31/2024
Project Status	WSF and Ecology are working together to amend this grant agreement to accommodate project delays due to a warehouse fire and scope expansion. The amount of funding and scope of work funded with VW dollars will not change, but this grant-funded project provided momentum for WSF to secure funding for conversion of two additional Jumbo Mark II ferries. Task 1 (Final Design of Hybrid Propulsion and Equipment) and Task 2 (Procurement of Hybrid Equipment/Materials) are expected to be complete by June 2023.
Summary of Costs Expended	Ecology did not approve expenditures for this project during this reporting period (July – December 2022).
Summary of Expenditures in the Next Reporting Period	All expenditures will be on a reimbursement basis. Ecology anticipates accruing project costs of approximately \$3,400,000 in the next (January- June 2023) reporting period. Ecology anticipates requesting reimbursement for costs expended in the next reporting period from Wilmington Trust in September 2023.
Modifications to the Project Scope/Timeline	WSF and Ecology are working together to amend this grant agreement to accommodate project delays due to a warehouse fire and scope expansion. The grant agreement scope is unchanged, but this grant-funded

project provided momentum for WSF to secure funding for conversion of two additional Jumbo Mark II ferries. WSF is taking advantage of administrative efficiencies by undergoing the planning and procurement process for all three ferries at the same time.

EMA Project ID: EMA9-Workplace-C1	
Expected Termination Date	6/30/2023
Project Status	Ecology has grant agreements in place with eight public organizations for about \$400,000 to install 39 EV charging stations (38 level 2 and one DCFC). Four projects accounting for 17 stations are complete and available for use. The four remaining projects experienced delays due to COVID-19 response and supply chain disruptions. Ecology approved a one-year extension and expect all projects to be complete by 6/30/2023.
Summary of Costs Expended	Ecology accrued administrative costs of approximately \$770 and no project costs during this (July- December 2022) reporting period. Ecology anticipates requesting reimbursement for costs expended in this reporting period in March 2023.
Summary of Expenditures in the Next Reporting Period	All expenditures will be on a reimbursement basis. Ecology anticipates accruing administrative costs of approximately \$748 and project costs of approximately \$138,000 in the next (January- June 2023) reporting period. Ecology anticipates requesting reimbursement for costs expended in the next reporting period from Wilmington Trust in September 2023.
Modifications to the Project Scope/Timeline	No changes to scope or timeline in this reporting period.

EMA Project ID: EMA2-School Bus-C1	
Expected Termination Date	6/30/2023
Project Status	Ecology has grant agreements in place with 22 school districts for a total of about \$12,000,000 to scrap 40 diesel school buses and replace them with all-electric school buses. Grants include funds for the purchase and installation of associated charging infrastructure. School districts have received 29 electric buses and have ordered an additional 10 electric buses. One bus order is pending because of supplier issues. Bus delivery will continue through the next reporting period. Fifteen agreements have been completed and closed out.
Summary of Costs Expended	Ecology accrued administrative costs of approximately \$58,526 and no project costs during this (July- December 2022) reporting period. Ecology anticipates requesting reimbursement for costs expended in this reporting period in March 2023.
Summary of Expenditures in the Next Reporting Period	All expenditures will be on a reimbursement basis. Ecology anticipates accruing administrative costs of approximately \$56,866 and project costs of approximately \$3,334,025 in the next (January-June 2023)

	reporting period. Ecology anticipates requesting reimbursement for costs expended in the next reporting period from Wilmington Trust in September 2023.
Modifications to the Project Scope/Timeline	No changes were made to the scope or timeline of projects during this reporting period.

EMA Project ID: EMA9-Corridor-C1	
Expected Termination Date	6/30/2027, 6/30/2028
Project Status	Ecology has grants in place with 15 organizations for approximately \$3,400,000 to purchase and install 41 DCFC stations along high-traffic transportation corridors in Washington. Four projects are fully complete, and the remaining will be completed in the next reporting period.
Summary of Costs Expended	Ecology accrued administrative costs of approximately \$31,672 and project costs of \$105,606 during this (July-December 2022) reporting period. Ecology anticipates requesting reimbursement for costs expended in this reporting period in March 2023.
Summary of Expenditures in the Next Reporting Period	All expenditures will be on a reimbursement basis. Ecology anticipates accruing administrative costs of approximately \$30,773 and project costs of approximately \$1,487,191 million in the next (January-June 2023) reporting period. Ecology anticipates requesting reimbursement for costs expended in the next reporting period from Wilmington Trust in September 2023.
Modifications to the Project Scope/Timeline	One grant agreement was cancelled by the recipient due to rising project costs at the project site. Ecology is working with the grantee to close out this agreement. Ecology approved a one-year project extension for another grantee in this reporting period. This extends the five-year reporting period to 6/30/2028 for five agreements.

EMA Project ID: EMA5-Shore Power-C1	
Expected Termination Date	12/31/2023, and 12/31/2026
Project Status	Ecology has two grants in place for \$3,600,000 to install shore power for ocean going vessels in Seattle, WA. One project is experiencing delays due to supply chain issues. Ecology is working with the grantee to allow an extension to the agreement. The second project remains on track.
Summary of Costs Expended	Ecology accrued approximately \$27,651 of administrative costs and \$35,326 of project costs during this (July-December 2022) reporting period. Ecology anticipates requesting reimbursement for costs expended in this reporting period in March 2023.
Summary of Expenditures in the Next Reporting Period	All expenditures will be on a reimbursement basis. Ecology anticipates accruing administrative costs of approximately \$26,867 and project costs of zero in the next (January-June 2023) reporting period. Ecology anticipates requesting reimbursement for costs expended in the next reporting period from Wilmington Trust in September 2023.

Modifications to the Project Scope/Timeline	Ecology is working with one grantee to allow for an amendment to extend the expiration of this agreement to account of supply chain delays. The scope of the projects is unchanged.
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This report must be signed by one of Washington’s “Authorized Senior Officials”, either Director Watson or Deputy Director Bartlett.

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