

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 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 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: 6/30/2023	
Running Total of Settlement Funds Received	\$13,610,456.81
Total VW Funds Budgeted	\$79,000,000.00

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	\$2,272,989.67	\$13,500,000	\$1,529,609.22	\$1,500,000.00	\$743,380.45
Repower Jumbo Mark II Diesel Ferry with Battery Electric Power (diesel-electric hybrid) <i>EMA4-Ferries-C1</i>	\$35,000,000.00	\$ 0	\$35,000,000.00	\$ 0	\$ 0	\$ 0
Purchase and Install Workplace LD ZEV SE at Government Owned Property <i>EMA9-Workplace-C1</i>	\$2,500,000.00	\$276,606.79	\$2,250,000	\$213,428.97	\$250,000.00	\$63,177.82
Scrap & replace pre-2007 diesel school buses with all-electric school buses <i>EMA2-School Bus-C1</i>	\$13,000,000.00	\$9,003,133.08	\$12,000,000.00	\$8,507,699.44	\$1,000,000.00	\$495,433.64
Purchase and Install Electric Vehicle Charging Infrastructure along High-Traffic Transportation Corridors in WA <i>EMA9-Corridor-C1</i>	\$4,500,000.00	\$1,860,786.53	\$4,050,000.00	\$1,683,834.13	\$450,000.00	\$176,952.40
Shore Power for Ocean Going Vessels <i>EMA5-Shore Power-C1</i>	\$4,000,000.00	\$196,940.74	\$3,600,000.00	\$35,326.02	\$400,000.00	\$161,614.72
Washington DERA 2022: Scrap and Replace 2009 and older diesel fire apparatus with electric fire apparatus	\$5,000,000.00	\$0	\$4,500,000.00	\$ 0	\$500,000.00	\$0

<i>EMA10-FireEngine-C2</i>						
Total	\$79,000,000	\$13,610,456.81	\$74,900,000	\$11,969,897.78	\$4,100,000	\$1,640,559.03

Project Narrative

EMA Project ID: EMA2-Transit-C1	
Expected Termination Date	6/30/2025
Project Status	Ecology has grant agreements in place with six transit authorities in Washington for about \$13.3 million to purchase 47 all-electric transit buses. Transit authorities have received 11 electric buses and placed orders for another 32 electric buses. Ecology expects the remaining transit buses to be ordered in the upcoming period. Two transit authorities have completed their projects and are closed out.
Summary of Costs Expended	Ecology accrued administrative costs of approximately \$71,495.66 and project costs of approximately \$1.9 million during this, (January – June 2023) reporting period. Ecology anticipates requesting reimbursement for costs expended in this reporting period in September 2023.
Summary of Expenditures in the Next Reporting Period	All expenditures will be on a reimbursement basis. Ecology anticipates accruing administrative costs of approximately \$82,990 and project costs of approximately \$8.3 million in the next (July - December 2023) reporting period. Ecology anticipates requesting reimbursement for costs expended in the next reporting period from Wilmington Trust in March 2024.
Modifications to the Project Scope/Timeline	Ecology allowed for an extension through June 30, 2025 for one transit authority. In addition to the change to timeline, this grant’s scope changed to allow the transit authority to purchase smaller electric transit buses (minimum GVWR 14,001 lbs). Ecology extended two other grants through June 30, 2024 to accommodate delivery delays without changes to scope.

EMA Project ID: EMA4-Ferries-C1	
Expected Termination Date	12/31/2024
Project Status	Ecology has one grant agreement in place for \$35 million to convert a diesel ferry to hybrid-electric. Task 1 of this grant agreement, Final Design of Hybrid Propulsion and Equipment, is 95% complete. Task 2, Procurement of Hybrid Equipment/Materials, is 90% complete. All long lead time materials have been ordered and received. Tasks 1 and 2 are expected to be complete in the next reporting period, and Task 3 will begin in the next reporting period.
Summary of Costs Expended	Ecology did not accrue any administrative or project costs for this project during this reporting period (January – June 2023).

Summary of Expenditures in the Next Reporting Period	All expenditures will be on a reimbursement basis. Ecology anticipates accruing project costs of approximately \$8,400,000 in the next (July - December 2023) reporting period. Ecology anticipates requesting reimbursement for costs expended in the next reporting period from Wilmington Trust in March 2024.
Modifications to the Project Scope/Timeline	Ecology amended this agreement in March 2023 to extend the grant expiration to December 31, 2024 to accommodate supply chain and other material procurement delays. The scope of this project is unchanged.

EMA Project ID: EMA9-Workplace-C1	
Expected Termination Date	6/30/2023
Project Status	Ecology has closed out all eight agreements for about \$400,000. 68 level 2 plugs and one DC fast charging plug are activated and available for use.
Summary of Costs Expended	Ecology accrued administrative costs of \$626.89 and project costs of \$122,388.88 during this (January – June 2023) reporting period.
Summary of Expenditures in the Next Reporting Period	This grant program is now complete, so Ecology will not accrue project or administrative costs during the next (July - December) reporting period.
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	6/30/2024
Project Status	Ecology has grant agreements in place with 21 school districts for a total of approximately \$11 million to scrap and replace 37 diesel school buses with all-electric school buses. School districts have received delivery of 36 electric buses. Bus delivery will continue in the next reporting period. 19 agreements have been completed and closed out, and one district withdrew from their agreement due to manufacturer non-performance.
Summary of Costs Expended	Ecology accrued administrative costs of approximately \$47,678.26 and \$1.9 million in project costs during this (January – June 2023) reporting period. Ecology anticipates requesting reimbursement for costs expended in this reporting period in September 2023. The district that withdrew from their agreement had already been reimbursed \$15,472.84 for their charging infrastructure. Ecology worked with the district to process a refund for that amount. This refund will be reflected in the September 2023 Attachment A.

Summary of Expenditures in the Next Reporting Period	All expenditures will be on a reimbursement basis. Ecology anticipates accruing administrative costs of approximately \$55,343.00 and project costs of approximately \$384,610.43 in the next (July - December 2023) reporting period. Ecology anticipates requesting reimbursement for costs expended in the next reporting period from Wilmington Trust in March 2024.
Modifications to the Project Scope/Timeline	Ecology allowed for an extension to June 30, 2024 for two school districts to accommodate bus delivery delays and charging installation delays. The scope of the grants remains unchanged.

EMA Project ID: EMA9-Corridor-C1	
Expected Termination Date	6/30/2029
Project Status	Ecology has grants in place with 14 grantees for \$3.7 million to purchase and install 38 DCFC stations along high-traffic transportation corridors in Washington. Nine projects are complete and will be reporting for five years. Five projects are expected to be completed in the next reporting period. Ecology is negotiating the terms of an extension for one agreement and will provide an update in the next reporting period.
Summary of Costs Expended	Ecology accrued administrative costs of approximately \$25,801.24 and project costs of \$54,770.92 during this (January – June 2023) reporting period. Ecology anticipates requesting reimbursement for costs expended in this reporting period in September 2023.
Summary of Expenditures in the Next Reporting Period	All expenditures will be on a reimbursement basis. Ecology anticipates accruing administrative costs of approximately \$29,949.00 and project costs of approximately \$1.9 million in the next (July – December 2023) reporting period. Ecology anticipates requesting reimbursement for costs expended in the next reporting period from Wilmington Trust in March 2024.
Modifications to the Project Scope/Timeline	Two agreements were extended to accommodate project delays. These projects are expected to be complete by June 30, 2024 and will then begin the required five-year reporting period.

EMA Project ID: EMA5-Shore Power-C1	
Expected Termination Date	6/30/2026
Project Status	Ecology has two grants in place for \$3.6 million to install shore power for ocean going vessels in Seattle, WA at the Port of Seattle and at Pier 66. Ecology has completed an amendment with the Port of Seattle to extend the timeline of their project to December 31, 2024. The Northwest Seaport Alliance remains on track to be completed by the project expiration date of June 30, 2027.
Summary of Costs Expended	Ecology accrued administrative costs of approximately \$22,525.87 and project costs of \$50,636.05 during this (January – June 2023) reporting period. Ecology anticipates requesting reimbursement for costs expended in this reporting period in September 2023.

Summary of Expenditures in the Next Reporting Period	All expenditures will be on a reimbursement basis. Ecology anticipates accruing administrative costs of approximately \$26,147.00 and project costs of approximately \$1.5 million in the next (July – December 2023) reporting period. Ecology anticipates requesting reimbursement for costs expended in the next reporting period from Wilmington Trust in March 2024.
Modifications to the Project Scope/Timeline	Port of Seattle signed an amendment to extend the project for one year to December 31, 2024. The scope of the projects is unchanged.

EMA Project ID: EMA10-FireEngine-C2	
Expected Termination Date	9/30/2026
Project Status	Ecology has two grant agreements in place with fire departments in Washington for approximately \$1.2 million to purchase a total of two electric fire trucks. This grant program is a partnership between Ecology's VW Federal Settlement Program and Ecology's Diesel Emissions Reduction Act (DERA) Program. Both fire departments have placed order for both electric fire engines and are expecting delivery in 2025 and 2026.
Summary of Costs Expended	Ecology accrued administrative costs of approximately \$47,246.77 and no project costs during this (January – June 2023) reporting period.
Summary of Expenditures in the Next Reporting Period	All expenditures will be on a reimbursement basis. Ecology anticipates accruing administrative costs of approximately \$54,843.00 and no project costs in the next (July – December 2023) reporting period. Ecology anticipates requesting reimbursement for costs expended in the next reporting period from Wilmington Trust in March 2024.
Modifications to the Project Scope/Timeline	Ecology allowed for an extension to both grant agreements to June 30, 2026 after approval for an extension from the DERA program.

The information in this report is true and correct. Submission is made under penalty of perjury.

Laura Watson, Director
Washington State Department of Ecology

Date

7/14/23

Heather R. Bartlett, Deputy Director
Washington State Department of Ecology

Date