

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: 12/31/2021	
Running Total of Settlement Funds Received	\$6,149,728.41
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	\$805,400.42	\$13,500,000	\$300,000	\$1,500,000	\$505,400.42
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	\$65,673.07	\$2,250,000	\$4,581.91	\$250,000	\$61,091.16
Scrap & replace pre-2007 diesel school buses with all-electric school buses <i>EMA2-School Bus-C1</i>	\$13,000,000	\$4,756,241.76	\$12,000,000	\$4,419,509.70	\$1,000,000	\$336,732.06
Purchase and Install Electric Vehicle Charging Infrastructure along High-Traffic Transportation Corridors in Washington <i>EMA9-Corridor-C1</i>	\$4,500,000	\$435,777.92	\$4,050,000	\$344,707.37	\$450,000	\$91,070.55
Shore Power for Ocean Going Vessels <i>EMA5-Shore Power-C1</i>	\$4,000,000	\$86,635.24	\$3,600,000	\$0	\$400,000	\$86,635.24
Total	\$74,000,000	\$6,149,728.41	\$70,400,000	\$5,068,798.98	\$3,600,000	\$1,080,929.43

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. Transit awardees have received one electric bus and placed orders for another six electric buses. Ecology expects the remaining transit buses to be ordered in the upcoming reporting period.
Summary of Costs Expended	Ecology accrued administrative costs of approximately \$68,003.12 and \$900,000 during this (July - December 2021) reporting period. Ecology anticipates requesting reimbursement for costs expended in this reporting period in February 2022.
Summary of Expenditures in the Next Reporting Period	All expenditures will be on a reimbursement basis. Ecology anticipates accruing administrative costs of approximately \$106,311.41 and project costs of approximately \$6,000,000 in the next (January – June 2022) reporting period. Ecology anticipates requesting reimbursement for costs expended in the next reporting period from Wilmington Trust in August, 2022.
Modifications to the Project Scope/Timeline	There are no major modifications to the Project Scope or Timeline at this time.

EMA Project ID: EMA4-Ferries-C1	
Expected Termination Date	10/30/2022
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. The Final Design of Hybrid Propulsion and Equipment is 95% complete. The project has experienced delays in ordering hybridization support equipment that are impacting development of final drawings and shipyard specifications. The project construction scheduled start date has been delayed from June 2022 to October 2022. Ecology and WSF are working together to amend the grant agreement timeline and deliverables to align with these delays.
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 \$8,500,000 in the next (January – June 2022) reporting period. Ecology anticipates requesting reimbursement for costs expended in the next reporting period from Wilmington Trust in August 2022.
Modifications to the Project Scope/Timeline	The project schedule for Task 1 Final Design has been revised to reflect impacts due to COVID19. The project construction scheduled start date has changed to October 1, 2022. WSF and Ecology are working together to amend the grant agreement to allow for the schedule delays.

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 (38 level 2 and one DCFC). One project is complete with three level 2 charging stations and one DCFC activated and ready for use. The remaining seven projects are underway and 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 \$596.29 and project costs of \$107,268.82 during this (July – December 2021) reporting period. Ecology anticipates requesting reimbursement for costs expended in this reporting period in February 2022.
Summary of Expenditures in the Next Reporting Period	All expenditures will be on a reimbursement basis. Ecology anticipates accruing administrative costs of approximately \$932.16 and project costs of approximately \$275,000 in the next (January – June 2022) reporting period. Ecology anticipates requesting reimbursement for costs expended in the next reporting period from Wilmington Trust in August 2022.
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. There are no major modifications to the project scope or timeline at this time.

EMA Project ID: EMA2-School Bus-C1	
Expected Termination Date	6/30/2023
Project Status	Ecology has grant agreements in place with all 22 awarded school districts for a total of about \$12M to scrap and replace 40 diesel school buses with all-electric school buses. Agreements also include funds for the purchase and installation of associated charging infrastructure. School districts have received delivery of 19 electric buses and ordered an additional 12 electric buses. Bus delivery will continue through the next reporting period. Eleven agreements have been completed and closed out.
Summary of Costs Expended	Ecology accrued administrative costs of approximately \$45,351.28 and project costs of approximately \$2,849,242.74 during this (July – December 2021) reporting period. Ecology anticipates requesting reimbursement for costs expended in this reporting period in February 2021.
Summary of Expenditures in the Next Reporting Period	All expenditures will be on a reimbursement basis. Ecology anticipates accruing administrative costs of approximately \$70,895.81 and project costs of approximately \$3,600,000 in the next (January – June 2022) reporting period. Ecology anticipates requesting reimbursement for costs expended in the next reporting period from Wilmington Trust in August 2022.
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	Ecology has grants in place with 14 grantees and is in the process of grant negotiations with the remaining recipient. The grants are for approximately \$3.4M to purchase and install 45 DCFC stations on high-traffic transportation corridors in Washington. One project has completed installation and activation of two chargers. The remaining projects are on track to be installed and activated by June 30, 2022.
Summary of Costs Expended	Ecology accrued administrative costs of approximately \$24,541.98 and project costs of \$162,076.67 during this (June – December 2021) reporting period. Ecology anticipates requesting reimbursement for costs expended in this reporting period (June - December 2021) in February 2022.
Summary of Expenditures in the Next Reporting Period	All expenditures will be on a reimbursement basis. Ecology anticipates accruing administrative costs of approximately \$38,365.48 and project costs of approximately \$2,750,000 in the next (January – June 2022) reporting period. Ecology anticipates requesting reimbursement for costs expended in the next reporting period (January – June 2022) from Wilmington Trust in August 2022.
Modifications to the Project Scope/Timeline	There are no major 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 has two grants in place for \$3.6M to install shore power for ocean going vessels at the Port of Seattle and
Summary of Costs Expended	Ecology accrued administrative costs of approximately \$21,426.47 and no project costs during this (June – December 2021) reporting period. Ecology anticipates requesting reimbursement for costs expended in this reporting period in February 2022.
Summary of Expenditures in the Next Reporting Period	All expenditures will be on a reimbursement basis. Ecology anticipates accruing administrative costs of approximately \$33,495.14 and project costs of zero in the next (January – June 2022) reporting period. Ecology anticipates requesting reimbursement for costs expended in the next reporting period from Wilmington Trust in August 2022.
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.

Laura Watson, Director
Washington State Department of Ecology

Date

1/20/2022

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

Date