

**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

IN THE MATTER OF AN)	AGREED ORDER
ADMINISTRATIVE ORDER)	DOCKET NO. 11638
AGAINST:)	
City of Everett)	

To: Ray Stephanson, Mayor
 City of Everett
 2930 Wetmore Avenue
 Everett, WA 98201-4067

Order Docket No.	11638
Site Location	City of Everett Water Pollution Control Facility and Collection System

I. INTRODUCTION

This is an Agreed Order between the Department of Ecology (Ecology) and the City of Everett (Everett) to achieve compliance with Everett’s National Pollutant Discharge Elimination System (NPDES) Permit No. WA0024490 (Permit), Chapter 90.48 Revised Code of Washington (RCW) and Chapter 173-245 Washington Administrative Code (WAC) by taking certain actions which are described below to ensure that all remaining combined sewer overflow (CSO) reduction projects are completed to achieve the greatest reasonable reduction of CSOs at the earliest possible date.

II. RECOGNITION OF ECOLOGY’S JURISDICTION

This Agreed Order is issued pursuant to the authority vested in Ecology by Chapter 90.48 RCW and the Federal Water Pollution Control Act (FWPCA), 33 U.S.C. sec 1311, et seq. RCW 90.48.030 provides that Ecology shall have the jurisdiction to control and prevent the pollution of streams, lakes, rivers, ponds, inland waters, salt waters, water courses, other surface and underground waters of the state of Washington.

RCW 90.48.120(2) authorizes Ecology to issue administrative orders requiring compliance whenever it determines that a person has violated or created a substantial potential to violate any provision of Chapter 90.48 RCW or fails to control the polluting content of waste to be discharged to waters of the state.

Everett agrees to undertake all actions required of it by the terms and conditions of this Agreed Order and not to contest Ecology’s jurisdiction and authority to administer this Agreed Order. Everett agrees not to appeal this Agreed Order.

Nothing in this Agreed Order shall in any way relieve Everett of its obligations to comply with the requirements of its Permit. Nor shall anything in this Agreed Order limit Ecology’s authority to enforce the provisions of the aforementioned Permit.

Projects that remain outside the term of the present permit are not captured in an enforceable document. For CSO Reduction Plan projects outside the permit's compliance schedule, an order is an appropriate enforcement mechanism to ensure compliance with the law. Under WAC 173-245-090(2)(c), Ecology may incorporate such a schedule into an administrative order.

Everett's *2014 Comprehensive Sewer Plan and 2014 CSO Control Plan Update* contain a number of CSO reduction projects that have projected completion dates of 2027. Upon approval of those plans, Ecology acknowledges the year 2027 is the "earliest possible date" for the purpose of compliance with the law for those specific CSO outfalls.

IV. CORRECTIVE ACTIONS [or COMPLIANCE SCHEDULE]

In accordance with RCW 90.48.120(2) IT IS AGREED, that Everett must take the following actions by the date (milestone) set forth below. These actions are necessary to satisfy the requirements of Chapters 173-245 WAC. Everett has participated in defining these actions and the milestone by which they shall be completed. Everett shall also submit documents needing approvals from the various government agencies in a timely fashion in order that the dates for the various actions are able to be met.

- In order to meet the requirements of WAC 173-245-020(22), Everett shall complete construction of CSO reduction projects identified in the *2014 CSO Control Plan Update* or future amendments submitted by Everett and approved by Ecology to reduce CSOs from the remaining 10 uncontrolled CSO basins down to an average of no more than one overflow per outfall per year by December 31, 2027. Future CSO Reduction Plan Amendments may not result in a compliance date later than December 31, 2027.

V. PROGRESS REPORTING

Everett shall immediately notify Ecology of any occurrence which may result in noncompliance with the requirements of this Agreed Order. Such notifications shall state the nature of the potential noncompliance, the reason(s) therefore and the actions taken to address the potential noncompliance.

VI. AMENDMENTS TO THE AGREED COMPLIANCE SCHEDULE

Amendments to the agreed compliance schedule may be requested for good cause. Extension of the deadline imposed by this Agreed Order is unlikely and will only be granted when requests for extensions are submitted in writing, in a timely fashion, and demonstrate good cause for granting the extension. Failure to obtain financial assistance in the form of grants or loans shall not be considered good cause.

To be effective, all proposed amendments must be signed by the person with signature authority for each party.

VII. EFFECTIVE DATE

This Order is effective on the date the agreement has been signed by both parties.

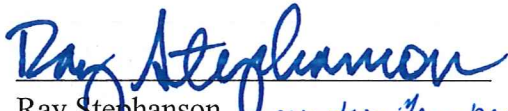
VIII. TERMINATION OF THE AGREED ORDER

Upon completion by Everett of the actions identified in Section IV of this Agreed Order and issuance of a Notice of Compliance by Ecology, the requirements of this Agreed Order shall be deemed to be fulfilled and shall have no further effect on Everett.

XIII. MORE INFORMATION

- **Pollution Control Hearings Board Website:** www.eho.wa.gov/Boards_PCHB.aspx
- **Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board:** <http://apps.leg.wa.gov/RCW/default.aspx?cite=43.21B>
- **Chapter 371-08 WAC – Practice And Procedure:**
<http://apps.leg.wa.gov/WAC/default.aspx?cite=371-08>
- **Chapter 34.05 RCW – Administrative Procedure Act:**
<http://apps.leg.wa.gov/RCW/default.aspx?cite=34.05>
- **Laws:** www.ecy.wa.gov/laws-rules/ecyrcw.html
- **Rules:** www.ecy.wa.gov/laws-rules/ecywac.html

XIV. SIGNATURES

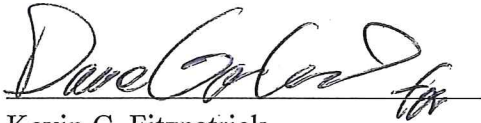


Ray Stephanson
Mayor
City of Everett

*attest: Jan Maen
Deputy City Clerk*

7-22-2015

Date

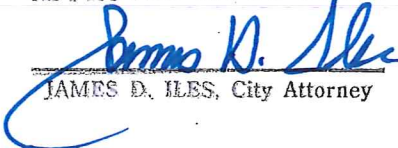


Kevin C. Fitzpatrick
Water Quality Section Manager
Department of Ecology
Northwest Regional Office

8-6-2015

Date

APPROVED AS TO FORM


JAMES D. ILES, City Attorney