

## SETTLEMENT AGREEMENT

This Settlement Agreement (Agreement) is entered into by and between NORTHWEST CLEAN AIR AGENCY (NWCAA), and the CITY OF BELLINGHAM (the CITY) (collectively, the Parties, and individually, a Party).

The purpose of this Agreement is to resolve all claims under the Washington Clean Air Act (CAA), ch. 70A.15 RCW, that NWCAA has or may have against the CITY arising from the facts set forth below, including allegations set forth in Notice of Violation 4706 (NOV 4706), issued to the CITY by NWCAA on March 27, 2024.

## RECITALS

The CITY is a municipality of the State of Washington and has been at all relevant times the owner and operator of the Post Point Wastewater Treatment Plant (Post Point WWTP) located at 200 McKenzie Street, Bellingham, WA. The CITY is a person within the meaning of RCW 70A.15.1030(2).

NWCAA, a Washington municipal corporation, is a local air pollution control authority established under the CAA, RCW 70A.15.1520.

Exercising its authority under the CAA, NWCAA has adopted 40 CFR Part 62 Subpart LLL (Subpart LLL) and 40 CFR 60 Subpart LLLL (Subpart LLLL) by reference into its regulations. NWCAA also has been delegated authority to enforce those regulations by the U.S. Environmental Protection Agency (EPA).

Subpart LLL and Subpart LLLL define a sewage sludge incineration (SSI) unit, in relevant part, as “incineration unit(s) combusting sewage sludge for the purpose of reducing the volume of sewage sludge by removing combustible matter....” 40 CFR § 62.16045; 40 CFR § 60.4930.

The CITY operates 2 multiple-hearth SSI units at the Post Point WWTP to reduce the volume of municipal wastewater sewage sludge. Both SSI units were initially constructed before October 14, 2010.

Each SSI unit at the Post Point WWTP is a “stationary source” as defined by 40 CFR § 60.2 and 40 CFR § 62.01. The SSI units at Post Point WWTP each became subject to the requirements of Subpart LLL as of May 31, 2016, when that rule took effect.

40 CFR § 62.15855(b) provides that when an SSI unit is modified as that term is defined in 40 CFR § 16045, it becomes subject to Subpart LLLL, rather than Subpart LLL.

40 CFR § 62.16045 defines “modification” to include a change to an existing SSI unit after September 21, 2011, where “The cumulative cost of the changes over the life of the unit exceeds 50-percent of the original cost of building and installing the SSI unit (not including the cost of land) updated to current costs (current dollars).”

Based upon information received from the CITY, NWCAA issued NOV 4706 to the CITY on March 27, 2024, alleging three violations: (1) failure to demonstrate compliance with Subpart LLLL; (2) failure to apply for and obtain New Source Review permits prior to burner replacements for the SSI units; and (3) failure to submit a major source Title V permit application.

The CITY denies each violation alleged in NOV 4706.

In October 2024, the CITY submitted an application to NWCAA for a regulatory order to limit Post Point WWTP's potential to emit carbon monoxide to below the Title V major source threshold. NWCAA Regulatory Order 52 was issued on August 13, 2025. It provides a federally-enforceable emission limit for carbon monoxide with monitoring requirements.

### **TERMS OF AGREEMENT**

This is a settlement of disputed issues of fact and law. It is not an adjudication regarding any allegations by NWCAA or an admission related to those allegations on the part of the CITY. The Parties agree to take such actions as may be required to carry out the following terms:

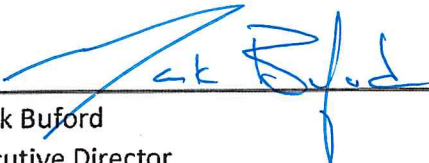
1. The CITY agrees to:
  - a. Use the information from the carbon monoxide (CO) continuous emission rate monitoring system (CERMS), installed as stipulated in NWCAA Regulatory Order 52, as the compliance demonstration method for the CO limits in Subparts LLL and Subpart LLLL, as applicable. The CITY is authorized to upgrade or replace the CERMS as part of the Emission Control Upgrades Project with equipment designed to meet Subpart LLLL performance specifications.
  - b. Upgrade the air pollution control system for each SSI to meet the provisions of Subpart LLLL applicable to a modified multiple hearth SSI Unit (the Emission Control Upgrades Project) on or before the following dates:
    - i. **June 30, 2026** - CITY submits to NWCAA the Basis of Design Report for the Emission Control Upgrades Project.
    - ii. **September 30, 2026** – CITY executes general contractor/construction manager (GC/CM) contract for the Emission Control Upgrades Project.
    - iii. **February 26, 2027** - CITY submits a Notice of Construction application to NWCAA for the Emission Control Upgrades Project pursuant to NWCAA 300.25. The application shall address all applicable requirements of Subpart LLLL and of NWCAA 300.25.
    - iv. Within three months following issuance by NWCAA of a final Order of Approval for the Emission Control Upgrades Project, the CITY issues Notice To Proceed with construction of the Project.
    - v. Within 36 months following issuance by NWCAA of a final Order of Approval for the Emission Control Upgrades Project the CITY shall conduct the initial performance test required by 40 CFR §§ 60.8(a) and 60.4865(a) on one SSI unit at Post Point.

- vi. Within 42 months following issuance by NWCAA of a final Order of Approval for the Emission Control Upgrades Project the CITY shall conduct the initial performance test required by 40 CFR §§ 60.8(a) and 60.4865(a) on the second SSI unit at Post Point.
2. **Interim Controls.** Between the Effective Date of this Agreement and the start-up date of each SSI following completion of the Emission Control Upgrades Project on that SSI the CITY shall operate SSI #1 to maintain a calendar day afterburner average operating temperature of 1300 degrees F, and SSI #2 to maintain a calendar day afterburner average operating temperature of 1375 degrees F, excluding startup, shutdown, malfunctions and periods during which sludge is not being combusted. If sludge is combusted for less than a full calendar day, and the incinerator is shut down or idled, temperatures shall be averaged over the length of time that the sludge was combusted.
  3. The parties understand that achievement of the schedule outlined above will depend on many factors, including but not limited to the timely delivery of third-party engineering services, construction support, materials, equipment and regulatory approvals. The feasibility of achieving deadlines could also be affected by legal challenges to the Order of Approval or other permits or approvals required for the Project. Many of the above-listed milestones are sequential in nature, such that a delay in achievement of any milestone may affect the schedule for achievement of subsequent milestones. Recognizing the complexity and duration of the Emission Control Upgrades Project, the parties understand that the schedule set forth above may require adjustment to address contingencies that arise during the course of the project.
    - a. Should contingencies arise after the Effective Date of this Agreement that prevent, or are expected to prevent, the CITY from meeting any of the dates set out above, the CITY shall promptly notify NWCAA when it becomes aware of such contingency, with an explanation of the reasons for the delay, and propose a revision to the remaining scheduled dates as necessary to accommodate the delay. NWCAA approval of the revised schedule will not be unreasonably withheld. Should NWCAA object to the CITY's proposed schedule, the Parties agree to negotiate in good faith to amend the dates set forth in Section 1 of the Agreement accordingly.
    - b. In the event that the Order of Approval for the Emission Control Upgrades Project or any other permit or approval required for construction of the Project is stayed in any administrative or judicial appeal, the deadlines in subsections 1.a.iv – vi above shall be tolled for as long as such stay remains in effect.
  4. The CITY shall submit written updates on the status of the Emission Control Upgrades Project to NWCAA annually on or before June 30 of each year until the Subpart LLLL performance testing has been completed, and upon completion of each the milestones listed in Subsection 1.b.
  5. **Resolution of Claims.** This Agreement resolves the violations alleged in NOV 4706, except that violation 3 alleged in NOV 4706 has been addressed separately by NWCAA Regulatory Order 52. NWCAA agrees that it will not take enforcement actions seeking to require that the CITY's

SSI units comply with the requirements of Subpart LLLL so long as the CITY complies with the terms of this Agreement.

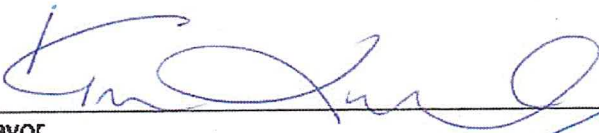
6. **No Admission of Liability.** This Agreement and its terms are not to be construed as an admission of liability by the CITY and are not admissible in any forum as evidence of liability for the violations alleged in NOV 4706 or liability for any other violations or claims that could be alleged based on the facts set forth above. The Parties agree, however, that the Agreement is admissible as evidence of its terms.
7. **Waiver of Appeal Rights.** By entering into this Agreement, the CITY shall have waived its right of administrative or judicial review of the violations alleged by NOV 4706. However, the CITY does not waive the right to contest whether violations of this Agreement have occurred.
8. **Remedies.** NWCAA reserves all legal and equitable remedies available to enforce the terms, conditions, and requirements of this Agreement. The CITY reserves the right to appeal any finding by NWCAA that the CITY violated any terms of this Agreement.
9. **Entire Agreement.** No Party is entering into this Agreement in reliance on any oral or written promises, inducements, representations, understandings, or agreements other than those contained in this Agreement. This Agreement may be modified only in writing signed by the Parties.
10. **Applicable Law.** This Agreement shall be interpreted and enforced in accordance with the laws of the State of Washington.
11. **Venue.** All Parties hereby submit to the jurisdiction of the courts of the State of Washington in connection with any claims arising out of or in connection with this Agreement. Venue for any proceeding to enforce the terms of this Agreement will be Whatcom County Superior Court.
12. **Construction of Agreement.** This Agreement is jointly drafted and may not be construed, in any way, against any Party on the ground that the Party or its counsel drafted this Agreement.
13. **Signatures Authorized.** The undersigned representatives for NWCAA and the CITY certify that they are fully authorized by the Party whom they represent to enter into the terms and conditions of this Agreement and to legally bind such Party thereto.
14. **Execution in Counterparts.** This Agreement may be executed in one or more counterparts, each of which, when so executed, is deemed to be an original and all of which taken together constitute one Agreement.
15. **Effective Date.** This Agreement shall become effective when signed by all Parties.


Northwest Clean Air Agency

 Date: 11/19/25  
Mark Buford  
Executive Director

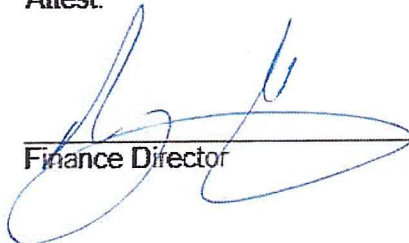
EXECUTED this 18th day of November, 2025 for the CITY OF BELLINGHAM  
by:

Departmental Approval:


  
Mayor

  
Joel Pfundt – PW Director

Attest:

  
Finance Director

Approved as to Form:

  
Office of the City Attorney