



Oregon

Kate Brown, Governor

Department of Environmental Quality

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December 1, 2015

CERTIFIED MAIL No. 7011 2000 0000 5122 8766

Bright Wood Corporation
c/o Steven M. Cyr, Registered Agent
335 Hess Street
Madras, OR 97741

Re: Notice of Civil Penalty Assessment and Order
Case No. AQ/AC-ER-15-179

This letter is to inform you that DEQ has issued you a civil penalty of \$2,200 for allowing fugitive sawdust emissions from your woodwaste bins that discharged out the top of the bins and blew onto the property of neighboring businesses. The violation occurred on August 12, 2015, at your millworks facility at Railroad Boulevard in Redmond.

DEQ issued this penalty because airborne dust and wood particles decrease visibility and may be an irritant to those who suffer from asthma or other respiratory illness at the work site or in nearby businesses, and may create nuisance conditions for others in the surrounding area.

DEQ appreciates your efforts to mitigate the effects of the violation by using a street sweeper and leaf blower to remove and cleanup the sawdust from neighboring properties. DEQ considered these efforts when determining the amount of civil penalty.

If you wish to appeal this matter, you have 20 calendar days from receipt of this letter to request a contested case hearing. This hearing request must be in writing. Send your hearing request to DEQ Office of Compliance and Enforcement – Appeals:

Via mail - 811 S.W. 6th Ave., Portland, OR 97204

Via fax - 503-229-5100

Once DEQ receives your request, we will arrange to meet with you to discuss this matter. If DEQ does not receive a written hearing request from you within 20 days, the penalty will become due. Alternatively, you can pay the penalty by sending a check or money order to the above address.

The attached Notice further details DEQ's reasons for issuing the penalty and provides further instructions for appealing the penalty. Please review it and refer to it when discussing this case with DEQ.

DEQ may allow you to resolve part of your penalty through the completion of a Supplemental Environmental Project (SEP). SEPs are environmental improvement projects that you sponsor in lieu of paying your penalty. Enclosed is more detail on how to pursue a SEP. SEP documents are available on the internet at <http://www.deq.state.or.us/programs/enforcement/SEP.htm>, or by calling the number below to request a paper copy.

DEQ's rules are available on the internet at <http://www.deq.state.or.us/regulations/rules.htm>, or by calling the number below to request a paper copy.



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If you have any questions, please contact DEQ Environmental Law Specialist Jenny Root, at (503) 229-5874. You may call toll-free within Oregon at 1-800-452-4011, extension 5874.

Sincerely,



Leah K. Feldon, Manager
Office of Compliance and Enforcement

Enclosures

cc: Bonnie Hough, Eastern Region, Bend office, DEQ
John Robinson, Bright Wood Corporation
PO Box 828, Madras, OR 97741

1 **5100.** An administrative law judge employed by the Office of Administrative Hearings will
2 conduct the hearing, according to ORS Chapter 183, OAR Chapter 340, Division 011 and OAR
3 137-003-0501 to 0700. You have a right to be represented by an attorney at the hearing, or you
4 may represent yourself unless you are a corporation, agency or association.

5 Active duty service-members have a right to stay proceedings under the federal
6 Servicemembers Civil Relief Act. For more information, please call the Oregon State Bar at
7 1(800) 452-8260 or the Oregon Military Department at 1(800) 452-7500. Additional information
8 can be found online at the United States Armed Forces Legal Assistance (AFLA) Legal Services
9 Locator website, <http://legalassistance.law.af.mil/content/locator.php>.

10 If you fail to file a request for hearing in writing within 20 calendar days of receipt of the
11 Notice, the Notice will become a final order by default without further action by DEQ, as per
12 OAR 340-011-0535(1). If you do request a hearing but later withdraw your request, fail to attend
13 the hearing, or notify DEQ that you will not be attending the hearing, DEQ will issue a final
14 order by default pursuant to OAR 340-011-0535(3). DEQ designates the relevant portions of its
15 files, including information submitted by you, as the record for purposes of proving a prima facie
16 case.

17
18
19 Date

12/1/15

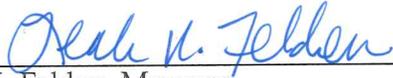

Leah K. Feldon, Manager
Office of Compliance and Enforcement

EXHIBIT NO. 1

FINDINGS AND DETERMINATION OF RESPONDENT'S CIVIL PENALTY
PURSUANT TO OREGON ADMINISTRATIVE RULE (OAR) 340-012-0045

VIOLATION: Failing to operate all air contaminant-generating processes at the Facility (woodwaste bins) so that fugitive dust from the operation was adequately controlled at all times, in violation of Condition 2.3b. of the Permit.

CLASSIFICATION: This is a Class II violation pursuant to OAR 340-012-0054(2)(b).

MAGNITUDE: The magnitude of the violation is moderate, pursuant to OAR 340-012-0130(1), as there is no selected magnitude specified in OAR 340-012-0135 for this violation, and the information reasonably available to the Department does not indicate a minor or major magnitude.

CIVIL PENALTY FORMULA: The formula for determining the amount of penalty of each violation is:
$$BP + [(0.1 \times BP) \times (P + H + O + M + C)] + EB$$

"BP" is the base penalty, which is \$2,000 for a Class II, moderate magnitude violation in the matrix listed in OAR 340-012-0140(3)(b)(B)(ii) and applicable pursuant to OAR 340-012-0140(3)(a)(A), because Respondent operates under a General Air Contaminant Discharge Permit.

"P" is whether Respondent has any prior significant actions, as defined in OAR 340-012-0030(19), in the same media as the violation at issue that occurred at a facility owned or operated by the same Respondent, and receives a value of 0 according to OAR 340-012-0145(2)(a)(A), because there are no prior significant actions.

"H" is Respondent's history of correcting prior significant actions and receives a value of 0 according to OAR 340-012-0145(3)(c), because there is no prior history.

"O" is whether the violation was repeated or ongoing and receives a value of 0 according to OAR 340-012-0145(4)(a), because there was only one occurrence of the violation.

"M" is the mental state of the Respondent and receives a value of 4 according to OAR 340-012-0145(5)(c), because Respondent's conduct was negligent. Respondent has coverage under a General Air Contaminant Discharge Permit, which specifically requires that Respondent control fugitive dust from the Facility's operations. Respondent previously received a warning letter for failing to control fugitive dust from the Facility (October 30, 2014). By failing to properly train employees at the Facility to recognize when the dust bins were full and needed emptying, Respondent failed to take reasonable care to avoid the foreseeable risk

that the bins would fill to capacity resulting in overflow and discharge of sawdust out of the top of the bins, in violation of the Permit.

"C" is Respondent's efforts to correct or mitigate the violation and receives a value of -3 according to OAR 340-012-0145(6)(c), because Respondent took reasonable affirmative efforts to minimize the effects of the violation by using a street sweeper and leaf blower to remove and cleanup the sawdust from neighboring properties.

"EB" is the approximate economic benefit that Respondent gained by not complying with the law. It is designed to "level the playing field" by taking away any economic advantage the entity gained and to deter potential violators from deciding it is cheaper to violate and pay the penalty than to pay the costs of compliance. In this case, "EB" receives a value of \$0 as any economic benefit obtained would likely be de minimis.

PENALTY CALCULATION:

$$\begin{aligned} \text{Penalty} &= \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB} \\ &= \$2,000 + [(0.1 \times \$2,000) \times (0 + 0 + 0 + 4 + -3)] + \$0 \\ &= \$4,000 + (\$200 \times 1) + \$0 \\ &= \$2,000 + \$200 + \$0 \\ &= \$2,200 \end{aligned}$$