



Oregon

Tina Kotek, Governor

Department of Environmental Quality
Office of Compliance and Enforcement
700 NE Multnomah Street, Suite 600
Portland, OR 97232-4100
(503) 229-5696
FAX (503) 229-5100
TTY 711

February 2, 2023

CERTIFIED MAIL: 7018 1830 0001 6172 7219

Alexandra Kneeshaw
321 Lurgan Road
New Hope, PA 18938

Re: Notice of Civil Penalty Assessment and Order
Case No. WQ-SW-WR-2022-543

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$24,657 for violating the National Pollutant Discharge Elimination System Construction Stormwater Discharge General Permit No. 1200-C (the Permit) assigned to your project located at Savage Creek Road (36-4W-31C 2400) in Grant's Pass, Oregon (the Site). Specifically, DEQ has cited you for failing to implement your erosion and sediment control plan (ESCP).

DEQ issued this penalty because the Permit requires you to implement your ESCP as the primary mechanism to reduce pollutants in stormwater discharges from construction activities. Failing to implement the ESCP causes a risk of turbid, sediment laden discharges from the construction activities to waters of the states. The Site is located uphill of Cold Springs Creek, a tributary to Savage Creek, as well as other unnamed tributaries to Savage Creek. Turbidity in the water column degrades water quality and can harm aquatic resources by covering up food sources, abrading fish gills, and smothering invertebrates and fish eggs living in the waterway or downstream. By failing to implement your ESCP you caused a risk of harm to Savage Creek.

Included in Section IV is an order requiring you to demonstrate compliance with the Permit within 60 days from the date of this order becoming final. \$21,057 of the civil penalty represents the economic benefit you gained by failing to implement BMPs listed in the ESCP. If you complete these requirements, DEQ will consider recalculating the costs as delayed rather than avoided and will reduce the civil penalty accordingly.

You may pay the civil penalty as follows:

Pay online with e-check (ACH) or Credit Card. Go to Your DEQ Online here: <https://ydo.oregon.gov>. Select Register Account or Login, then select Pay Invoices/Fees on your account dashboard. Enter the Invoice number and Account ID included on the attached payment slip. Note: US Bank charges a 2.3% convenience charge for credit card transactions. ACH payments have no additional charges.

Pay by check or money order: Make checks payable to "Department of Environmental Quality" and mail to the address on the enclosed payment slip. Please make sure to include the payment slip with your check or money order.

If you wish to appeal this matter, DEQ must receive a request for a hearing within 20 calendar days from your receipt of this letter. The hearing request must be in writing. Send your request to DEQ Office of Compliance and Enforcement:

Via mail – 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232

Via email – DEQappeals@deq.oregon.gov

Via fax – 503-229-6762

Once DEQ receives your request, we will arrange to meet with you to discuss this matter. If DEQ does not receive a timely written hearing request, the penalty will become due.

The attached Notice further details DEQ's reasons for issuing the penalty and provides further instructions for appealing the penalty. Please review 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 instead of paying a penalty. Further information is available by calling the number below or at <http://www.oregon.gov/deq/Regulations/Pages/SEP.aspx>.

DEQ's rules are available at <http://www.oregon.gov/deq/Regulations/Pages/Statutes.aspx> or by calling the number below.

If you have any questions, please contact Emily Knobbe at 971-300-9770.

Sincerely,



Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Enclosures

cc: Alexandra Kneeshaw, akneeshaw1@gmail.com
Kathy Jacobsen, DEQ
Sarah Sauter, DEQ
Heather Tugaw, DEQ

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

2 OF THE STATE OF OREGON

3 IN THE MATTER OF:) NOTICE OF CIVIL PENALTY
4 ALEXANDRA KNEESHAW,) ASSESSMENT AND ORDER
5 Respondent.) CASE NO. WQ-SW-WR-2022-543

6 I. AUTHORITY

7 The Department of Environmental Quality (DEQ) issues this Notice of Civil Penalty Assessment
8 and Order (Notice) pursuant to Oregon Revised Statutes (ORS) 468.100, ORS 468.126 through 468.140,
9 ORS Chapter 468B, ORS Chapter 183 and Oregon Administrative Rules (OAR) Chapter 340, Divisions
10 011, 012, and 045.

11 II. FINDINGS OF FACT

12 1. Respondent owns and operates a 1.88 acre parcel of land located at Savage Creek Road
13 (36-4W – 31C 2400) in Grants Pass, Oregon (the Site).

14 2. DEQ assigned Respondent coverage under the National Pollutant Discharge Elimination
15 System Construction Stormwater Discharge General Permit No. 1200-C (the Permit) on June 23, 2021,
16 for the Site. This Permit was in effect at all material times.

17 3. Schedule A, condition 4 of the Permit requires permit registrants to prepare an Erosion
18 and Sediment Control Plan (ESCP) and incorporate Best Management Practices (BMPs) into their land-
19 disturbing construction work.

20 4. Respondent's ESCP proposed BMPs including: perimeter sediment control, storm drain
21 inlet protection, establish concrete truck and other equipment washout areas, and soil stabilization
22 measures.

23 5. On March 4, 2022, DEQ inspected the Site. At the time of the inspection, Respondent
24 had not implemented perimeter sediment control, storm drain inlet protection, or soil stabilization
25 measures. In addition, Respondent had not established concrete truck and other equipment washout
26 areas.

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1 III. CONCLUSIONS

2 1. Since on or about June 23, 2021, through on or at least March 4, 2022, Respondent violated
3 ORS 468B.025(2) by violating Schedule A, Condition 4 of the Permit by failing to implement an ESCP at
4 the Site, as described in Section II above. Specifically, from the time of permit coverage to the time of the
5 DEQ inspection, Respondent failed to implement perimeter sediment control, storm drain inlet
6 protection, or soil stabilization measures, and failed to establish concrete truck and other equipment
7 washout areas. This is a Class I violation, according to OAR 340-012-0055(1)(r). DEQ hereby assesses a
8 \$24,657 civil penalty for this violation.

9 IV. ORDER TO PAY CIVIL PENALTY AND TO COMPLY

10 Based upon the foregoing FINDINGS OF FACTS AND CONCLUSIONS, Respondent is
11 hereby ORDERED TO:

12 1. Pay a total civil penalty of \$35,457. The determination of the civil penalty is attached as
13 Exhibit 1 and is incorporated as part of this Notice.

14 If you do not file a request for hearing as set forth in Section V below, please pay the penalty as
15 follows:

16 Pay online with e-check (ACH) or Credit Card. Go to Your DEQ Online here:
17 <https://ydo.oregon.gov>. Select Register Account or Login, then select Pay Invoices/Fees on your account
18 dashboard. Enter the Invoice number and Account ID included on the attached payment slip. Note: US
19 Bank charges a 2.3% convenience charge for credit card transactions. ACH payments have no additional
20 charges.

21 Pay by check or money order: Make checks payable to “Department of Environmental
22 Quality” and mail to the address on the enclosed payment slip. Please make sure to include the payment
23 slip with your check or money order.

24 2. Within 60 days of this order becoming final by operation of law or on appeal, submit to
25 DEQ written documentation demonstrating Respondent's compliance with the Permit by implementing
26 the ESCP. Documentation must be sent to: Sarah Sauter, 221 W Stewart Ave, Ste 201, Medford,
27 Oregon 97501.

1 V. NOTICE OF RIGHT TO REQUEST A CONTESTED CASE HEARING

2 You have a right to a contested case hearing on this Notice, if you request one in writing. DEQ
3 must receive your request for hearing **within 20 calendar days** from the date you receive this Notice. If
4 you have any affirmative defenses or wish to dispute any allegations of fact in this Notice or attached
5 exhibit, you must do so in your request for hearing, as factual matters not denied will be considered
6 admitted, and failure to raise a defense will be a waiver of the defense. (See OAR 340-011-0530 for
7 further information about requests for hearing.) You must send your request to: **DEQ, Office of**
8 **Compliance and Enforcement, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232**, fax
9 it to **503-229-6762** or email it to DEQappeals@deq.oregon.gov. An administrative law judge
10 employed by the Office of Administrative Hearings will conduct the hearing, according to ORS
11 Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be
12 represented by an attorney at the hearing, however you are not required to be. If you are an individual,
13 you may represent yourself. If you are a corporation, partnership, limited liability company,
14 unincorporated association, trust or government body, you must be represented by an attorney or a duly
15 authorized representative, as set forth in OAR 137-003-0555.

16 Active duty Service members have a right to stay proceedings under the federal Service
17 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-
18 452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed
19 Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military
20 Department does not have a toll free telephone number.

21 If you fail to file a timely request for hearing, the Notice will become a final order by default
22 without further action by DEQ, as per OAR 340-011-0535(1). If you do request a hearing but later
23 withdraw your request, fail to attend the hearing or notify DEQ that you will not be attending the
24 hearing, DEQ will issue a final order by default pursuant to OAR 340-011-0535(3). DEQ designates

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1 the relevant portions of its files, including information submitted by you, as the record for purposes of
2 proving a prima facie case.

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2/2/2023

Date



Kieran O'Donnell, Manager
Office of Compliance and Enforcement

EXHIBIT 1

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

VIOLATION NO. 1 Violated ORS 468B.025(2) by violating Schedule A, section 4 of the Permit.

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0055(1)(r).

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 applicable to this violation, and the information reasonably available to DEQ 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 \$1,500 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(4)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(4)(a)(F)(ii).

"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 4 according to OAR 340-012-0145(4)(d) because there were more than 28 occurrences of the violation. Each day of violation is a separate occurrence. Respondent obtained Permit coverage on June 23, 2021. Respondent failed to implement BMPs every day from the first date of coverage through at least the date of the DEQ inspection on March 4, 2022.

"M" is the mental state of the Respondent, and receives a value of 8 according to OAR 340-012-0145(5)(d) because Respondent failed to act intentionally with actual knowledge of the requirement. Respondent obtained Permit coverage on June 23, 2021. Respondent submitted an ESCP with the application, which was approved by DEQ. Implementation of BMPs in accordance with an approved ESCP is a significant component of the Permit. Therefore, Respondent had actual knowledge of the requirement to implement BMPs in accordance with the ESCP and intentionally failed to fulfill requirement.

"C" is Respondent's efforts to correct or mitigate the violation, and receives a value of 2 according to OAR 340-012-0145(6)(g) because Respondent did not address the violation as described in paragraphs (6)(a) through (6)(e) and the facts do not support a finding under paragraph (6)(f). As of the date of this order, Respondent has not implemented BMPs as required by the Permit.

"EB" is the approximate dollar value of the benefit gained and the costs avoided or delayed as a result of the Respondent's noncompliance. 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 \$21,057. This is the amount Respondent gained by avoiding spending \$34,630.84 to implement the BMPs detailed in the ESCP, such as hydroseeding, straw mulching, and soil stabilization matting. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$

$$\begin{aligned} &= \$1,500 + [(0.1 \times \$1,500) \times (0 + 0 + 4 + 8 + 2)] + \$21,057 \\ &= \$1,500 + (\$150 \times 14) + \$21,057 \\ &= \$1,500 + \$2,100 + \$21,057 \\ &= \$24,657 \end{aligned}$$

Oregon Department of Environmental Quality
 700 NE Multnomah Street, Suite 600
 Portland, OR 97232-4100



State of Oregon
 Department of Environmental Quality

Phone: 503-229-5437
 Fax: 503-229-5850

CIVIL PENALTY - ORS 468.135(2)

DATE:	February 2, 2023
RESPONSE DATE :	April 13, 2023
TOTAL PENALTY:	\$24,657.00

Account Name:	ALEXANDRA KNEESHAW <SAVAGE CREEK GRADING> <127266>		
Account Type:	Vendor/Organization/Company	Reference Number:	CPGFD2300048
SubSystem ID:	178851	FIMS Acct. ID:	4227

Penalty Summary

Penalty Amount	Interest	Adjustment	Amount Paid	Total Penalty
\$ 24,657.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 24,657.00

Payment of this penalty is subject to the exercise of your options or right to appeal as described in the enclosed enforcement documents.

To Pay Online with ACH or Credit Card Visit <https://ydo.oregon.gov> and select 'Register Account'



 PLEASE RETURN THIS PORTION WITH YOUR PAYMENT



REFERENCE NO.	CPGFD2300048		
PAYCODE:	00401 7400 10040 74001 0500 000000 00		
FEE PROGRAM ID:	950	RESPONSE DATE:	April 13, 2023
FIMS ACCT. ID:	4227	TOTAL PENALTY DUE:	\$24657.00

AMOUNT ENCLOSED:

MAKE CHECK PAYABLE TO: Department of Environmental Quality

DEQ FINANCIAL SERVICES - LBX4244
 PO BOX 4244
 PORTLAND OR 97208-4244

Check this box if updated address information has been provided on the back of the form.

00401 7400 10040 74001 0500 000000 0095000042273(CPGFD)230004800024657002



State of Oregon
Department of
Environmental
Quality

State of Oregon Department of Environmental Quality

CIVIL PENALTY - ORS 468.135(2)

700 NE Multnomah Street, Suite 600
Portland, OR 97232-4100
Phone: 503-229-5437
Fax: 503-229-5850

Penalty Detail

Transaction Date	Description	Amount
1/31/2023	2022-543 WQ-SW-WR-2022-543	\$24,657.00

SFMS Agencies Use:

Trans Code	Treasury Fund	SFMS	Index	PCA (5)	Agency Object	Project #	Phase
723	00401	7400	10040	74001	0500	00000	00

Address Changes

Please visit <https://ydo.oregon.gov> to update your mailing address online or provide the following information:

Name _____
Address _____
City, State, Zip _____