



Oregon

Kate Brown, Governor

Department of Environmental Quality

Office of the Director
811 SW Sixth Avenue
Portland, OR 97204-1390
(503) 229-5343
FAX (503) 229-5100
TTY: 711

March 22, 2016

CERTIFIED MAIL No. 70142870000133782962

Norden Shipping PTE. LTD.
c/o Richard Shaw
5350 30th Ave. NW, Suite A
Seattle, WA 98107

Re: Notice of Civil Penalty Assessment and Order
Case No. WQ/SP-NWR-16-036

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$2,100 for allowing oil to enter the Columbia River, waters of the state, from your bulk carrier vessel, the M/V Nord Auckland. On February 18, 2016, Nord Auckland spilled approximately 13 gallons of "Bunker C" waste oil into the Columbia River, in violation of ORS 468B.305(1).

DEQ issued this penalty because spilling oil into waters of the state is a serious violation of Oregon environmental law. The spilling of oil or petroleum products into state waters has negative environmental impacts on aquatic life and ecosystems. DEQ is concerned with the adverse impacts and cumulative effects that numerous spills of this kind have on the water quality of the Columbia River and on Oregon's water quality in general.

DEQ appreciates your efforts to minimize the effects of the violation by deploying containment boom and absorbents to contain the spill and washing the vessel's hull. DEQ considered these efforts when determining the amount of the civil penalty.

If you wish to appeal this matter, DEQ must receive a request for a contested case hearing within 20 calendar days from your receipt of this letter. The 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 timely written hearing request, 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.



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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.

If you have any questions, please contact DEQ Environmental Law Specialist Esther Westbrook, at (503) 229-5374. You may call toll-free within Oregon at 1-800-452-4011, extension 5374.

Sincerely,



Leah K. Feldon, Manager
Office of Compliance and Enforcement

Enclosures

cc: Mike Greenburg, Northwest Region, DEQ
Ben Cornell, Washington Dept. of Ecology: bcor461@ECY.WA.GOV

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
2 OF THE STATE OF OREGON

3 IN THE MATTER OF:) NOTICE OF CIVIL PENALTY
4 NORDEN SHIPPING PTE. LTD.,) ASSESSMENT AND ORDER
a Singapore company,)
5 Respondent.) CASE NO. WQ/SP-NWR-16-036

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7 I. AUTHORITY

8 The Department of Environmental Quality (DEQ) issues this Notice of Civil Penalty Assessment
9 and Order (Notice) pursuant to Oregon Revised Statutes (ORS) 468.100 and 468.126 through 468.140,
10 468B.450(1), ORS Chapters 183 and 468B, and Oregon Administrative Rules (OAR) Chapter 340,
11 Divisions 011 and 012, and 081.

12 II. FINDINGS OF FACT

- 13 1. Respondent owns or operates the bulk carrier vessel named M/V "Nord Auckland."
14 2. On February 18, 2016, Nord Auckland was anchored in the Columbia River near the
15 Port of Kalama in Kalama, Washington.
16 3. On February 18, 2016, a waste oil incinerator tank on Nord Auckland overflowed due to
17 high temperature, causing waste oil to flow onto the deck of the vessel and into the Columbia River.
18 The waste oil is a fuel oil also called Bunker C.
19 4. On February 18, 2016, approximately 13 gallons of waste oil spilled into the Columbia
20 River.
21 5. On February 18-19, 2016, there was an oil sheen on the Columbia River downstream of
22 Nord Auckland up to three quarters of a mile long.
23 6. Nord Auckland is a "ship" as defined in ORS 468B.300(27).
24 7. The waste oil described in Paragraph 3 above is defined as "oil" under ORS 468B.300(18).
25 8. The Columbia River is "waters of the state" as defined in ORS 468B.005(10).

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1 III. CONCLUSION

2 On October 2, 2015, Respondent violated ORS 468B.305(1) by causing or allowing oil to enter
3 waters of the state from a ship, as described in Section II, Paragraphs 1-8 above. This is a Class I violation
4 according to OAR 340-012-0081(1)(c). DEQ hereby assesses a \$2,100 civil penalty for this violation.

5 IV. ORDER TO PAY CIVIL PENALTY

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

8 Pay a total civil penalty of Pay a total civil penalty of \$2,100. The determination of the civil
9 penalty is attached as Exhibit No. 1 and is incorporated as part of this Notice.

10 If you do not file a request for hearing as set forth in Section V below, your check or money
11 order must be made payable to "**State Treasurer, State of Oregon**" and sent to the **DEQ, Business**
12 **Office, 811 S.W. Sixth Avenue, Portland, Oregon 97204**. Once you pay the penalty, the Findings of
13 Fact, Conclusions and Order become final.

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

15 You have a right to a contested case hearing on this Notice, if you request one in writing. You
16 must ensure that DEQ receives the request for hearing **within 20 calendar days** from the date you
17 receive this Notice. If you have any affirmative defenses or wish to dispute any allegations of fact in
18 this Notice or attached exhibit, you must include them in your request for hearing, as factual matters
19 not denied will be considered admitted, and failure to raise a defense will be a waiver of the defense.
20 (See OAR 340-011-0530 for further information about requests for hearing.) You must mail the request
21 for hearing to: **DEQ, Office of Compliance and Enforcement - Appeals, 811 SW Sixth Avenue,**
22 **Portland, Oregon 97204**, or fax it to **503-229-5100**. An administrative law judge employed by the
23 Office of Administrative Hearings will conduct the hearing, according to ORS Chapter 183, OAR
24 Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be represented by an
25 attorney at the hearing, or you may represent yourself unless you are a corporation, agency or
26 association.

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1 Active duty service-members have a right to stay proceedings under the federal Service
2 members Civil Relief Act. For more information, please call the Oregon State Bar at 1-800-
3 452-8260 or the Oregon Military Department at 1-800-452-7500. Additional information can be found
4 online at the United States Armed Forces Legal Assistance (AFLA) Legal Services Locator website
5 <http://legalassistance.law.af.mil/content/locator.php>.

6 If you fail to file a request for hearing in writing within 20 calendar days of receipt of the
7 Notice, the Notice will become a final order by default without further action by DEQ, as per OAR
8 340-011-0535(1). If you do request a hearing but later withdraw your request, fail to attend the hearing
9 or notify DEQ that you will not be attending the hearing, DEQ will issue a final order by default
10 pursuant to OAR 340-011-0535(3). DEQ designates the relevant portions of its files, including
11 information submitted by you, as the record for purposes of proving a prima facie case.

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15 March 22, 2016

16 Date

15 Sharon Wheeler for

16 Leah K. Feldon, Manager
17 Office of Compliance and Enforcement
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EXHIBIT NO. 1

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

- VIOLATION: Spilling or releasing oil which enters waters of the state from a ship, in violation of ORS 468B.305(1).
- CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0081(1)(c).
- MAGNITUDE: The magnitude of the violation is minor pursuant to OAR 340-012-0130(4) as there is no selected magnitude specified in OAR 340-012-0135 applicable to this violation and DEQ finds that the violation had no more than a de minimis adverse impact on human health or the environment, and posed no more than a de minimis threat to human health and the environment. In making this finding, DEQ considered the following reasonably available information: the amount spilled to the Columbia River was approximately 13 gallons. The spill caused a large sheen on the river, which was unrecoverable. There were no visible effects on wildlife or natural resources.
- 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 \$3,000 for a Class I, minor magnitude violation in the matrix listed in OAR 340-012-0140(2)(b)(A)(iii) and applicable pursuant to OAR 340-012-0140(2)(a)(N) because Respondent violated an oil and hazardous material spill and release statute, and Nord Auckland is a "covered vessel" as defined in ORS 468B.300(5).
- "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. Respondent caused or allowed a spill of diesel fuel to the Columbia River on February 18, 2016.
- "M" is the mental state of the Respondent and receives a value of 0 according to OAR 340-012-0145(5)(a), because there is insufficient information on which to base a finding under paragraphs (5)(b) through (5)(d).

"C" is Respondent's efforts to correct the violation and receives a value of -3 according to OAR 340-012-0145(6)(c), because Respondent made reasonable affirmative efforts to minimize the effects of the violation by promptly implementing its spill response plan. Respondent deployed containment boom around the vessel and had its hull cleaned after it berthed at the Port of Kalama.

"EB" is the approximate economic benefit that an entity 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 because DEQ has insufficient evidence on which to base a finding that Respondent received an economic benefit from the violation.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
= \$3,000 + [(0.1 x \$3,000) x (0 + 0 + 0 + 0 + (-3))] + \$0
= \$3,000 + [(\$300) x (-3)] + \$0
= \$3,000 - \$900 + \$0
= \$2,100