



Oregon

Kate Brown, 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

May 30, 2018

CERTIFIED MAIL: 7016 0750 0000 3470 3333

Window Products, Inc., d/b/a Cascade Windows
c/o National Registered Agents, Inc.
711 Capitol Way S Suite 204
Olympia, WA 98501-1267

Re: Notice of Civil Penalty Assessment and Order
Case No. WQ/SW-NWR-2018-001

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$26,203 for failing to comply with the requirements of the stormwater discharge permit for your facility at 10255 SW Spokane Ct. in Tualatin. Specifically, you failed to comply with Schedule B of the stormwater permit by failing to monitor your facility's stormwater discharge for Total Copper, Total Lead, Total Zinc, pH, Total Suspended Solids (TSS), Total Oil & Grease, Chemical Oxygen Demand (COD), Total Aluminum and Total Iron one of the required two times during the first half of the 2016-17 monitoring year (July 1 – December 31, 2016). In addition, you failed to implement important elements of your Stormwater Pollution Control Plan including maintenance of your catch basins and privately-owned water quality facility and regular pavement sweeping. You also failed to conduct monthly inspections of your facility, as required by the permit, during the 2016-2017 permit year.

DEQ issued this penalty because several of these violations have been repeated since at least 2015, and you have not corrected the violations in response to site visits and warning letters from Clean Water Services. In addition, the violations pose a risk to the environment. Specifically, the system that protects water quality in Oregon is highly dependent on permittees complying with the monitoring requirements of their permits. Without monitoring data, DEQ and the public cannot determine whether permittees are complying with pollutant limits or the pollutant loadings to the state's waterways. Failing to comply with the monitoring requirements is therefore considered among the most serious of violations. Conducting monthly facility inspections, as required by the permit, is important to ensure that the control measures and practices in your SWPCP are being properly implemented. These control measures and practices are designed to reduce the pollutant loads in your discharge to the Hedges Creek Wetland, which flows into the Tualatin River.

The enclosed Notice also cites you, without penalty, for failing to conduct Tier II corrective actions, failing to conduct employee education, and failing to submit an updated Stormwater Pollution Control Plan (SWPCP) that complies with the requirements of the 2017 permit renewal.

Tier II treatment was installed at your facility in July 2016 to address zinc levels in your stormwater discharge above the statewide benchmark value. Failure to conduct Tier II corrective actions and reporting in response to the zinc benchmark exceedances in the 2016-2017 permit year is concerning because you are not investigating and addressing the cause of the elevated zinc levels. If you do not

adequately address those causes and zinc levels continue to exceed the benchmark during the 2018-2019 permit year, your facility will trigger another round of Tier II treatment requirements.

Included in Section IV is an order requiring you to complete the following corrective actions and submit documentation to Clean Water Services within 60 days after the order becomes final by operation of law or on appeal:

- Conduct maintenance of all of the Facility catch basins, including catch basin inserts installed to meet Tier II requirements, maintenance of the privately-owned water quality facility, and parking lot sweeping according to the maintenance schedule in the SWPCP;
- Complete benchmark exceedance reports for the Total Zinc exceedances during the 2016-17 permit year and any other benchmark exceedances in the 2017-2018 permit year (July 1, 2017 – June 30, 2018);
- Complete a monthly facility inspection according to Schedule B.7 of the 1200-Z permit effective August 1, 2017 (New Permit);
- Conduct employee education conducted according to Schedule A.1.j of the New Permit; and
- Revise and update the SWPCP so that it complies with the requirements of the New Permit. A SWPCP checklist has been attached for your convenience.

If you have any questions about how to complete these requirements, please contact Joy Ramirez, Clean Water Services, at 503-681-5147.

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.state.or.us

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 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/administrative-rules.aspx> or by calling the number below.

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If you have any questions, please contact Becka Puskas at 503-229-5058 or toll free in Oregon at 800-452-4011, extension 5058.

Sincerely,



Sarah G. Wheeler, Acting Manager
Office of Compliance and Enforcement

Enclosures

cc: Hank Serat, Window Products, Inc. d/b/a Cascade Windows, 10255 SW Spokane Ct., Tualatin, OR 97065
Hank Serat, Window Products, Inc. d/b/a Cascade Windows, 10507 E. Montgomery Dr., Spokane Valley, WA 99706
Aleksey Tourkin, Window Products, Inc. d/b/a Cascade Windows, 10255 SW Spokane Ct., Tualatin, OR 97065
Joy Ramirez, Clean Water Services, Regulatory Affairs Department, 2550 SW Hillsboro Hwy, Hillsboro OR 97123

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

IN THE MATTER OF:)	NOTICE OF CIVIL PENALTY
WINDOW PRODUCTS, INC.,)	ASSESSMENT AND ORDER
a Washington corporation,)	CASE NO. WQ/SW-NWR-2018-001
d/b/a Cascade Windows,)	
Respondent.)	

I. AUTHORITY

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

II. FINDINGS OF FACT

1. On July 1, 2012, DEQ assigned Respondent coverage under National Pollutant Discharge Elimination System Industrial Stormwater Discharge General Permit No. 1200-Z (Permit) for the window manufacturing facility located at 10255 SW Spokane Ct. in Tualatin, Oregon (the Facility). DEQ renewed Respondent's coverage under the permit on September 29, 2017.¹

Stormwater Monitoring

2. Schedule B.1.a of the Permit requires Respondent to monitor for the “statewide benchmark” pollutants identified in Schedule A.9 of the Permit and applicable “sector-specific benchmarks” identified in Schedule E of the Permit. According to Schedule A.9, Table 3, the statewide benchmarks include Total Copper, Total Lead, Total Zinc, pH, Total Suspended Solids (TSS), and Total Oil & Grease.

3. Schedule E, Table E.A-1 of the Permit establishes Chemical Oxygen Demand (COD) as a sector-specific benchmark pollutant for facilities that manufacture wood pallets and skids (SIC Code 2448).

¹ The references to the “Permit” in this Notice (Violations No. 1-5) are to the 1200-Z permit effective through July 31, 2017 because Violations No. 1-5 occurred during the 2016-2017 Permit year (July 1, 2016 through June 30, 2017). DEQ issued a new 1200-Z permit, effective August 1, 2017 through July 31, 2022, which currently applies to Respondent’s Facility (the “New Permit”). Violation No. 6 occurred on or after December 29, 2017, under the New Permit.

1 4. The SIC Codes corresponding to Respondent's activity at the Facility are 3089, 3231 and
2 2448.

3 5. Schedule B.2.e.i of the Permit establishes a stormwater monitoring year of July 1 to June 30.

4 6. Schedule B.2.e of the Permit requires Respondent to monitor its stormwater discharge for
5 statewide benchmarks and any applicable sector-specific benchmark pollutants four times per
6 monitoring year in accordance with Schedule B, Table 4, with two samples on or before December 31
7 and two samples on or after January 1.

8 7. The Facility's monitoring point is located at a water quality manhole at or near the in-feed to
9 the Facility's privately owned water quality facility (POWQF), which in turn discharges to the Hedges
10 Creek Wetland.

11 8. During the July 1, 2016 – June 30, 2017 monitoring year (the "2016-17 monitoring year"),
12 Respondent was required to monitor the Facility's stormwater discharge for Total Copper, Total Lead,
13 Total Zinc, pH, Total Suspended Solids (TSS), Total Oil & Grease and Chemical Oxygen Demand
14 (COD) at the Facility's monitoring point, four times a year, with two samples taken on or before
15 December 31 and two samples on or after January 1.

16 9. Respondent collected only one of the required two samples for Total Copper, Total Lead,
17 Total Zinc, pH, TSS, Total Oil & Grease and COD during the first half of the 2016-17 monitoring year.
18 Specifically, Respondent collected a sample on October 2, 2016 but failed to collect a second sample
19 between July 1, 2016 and December 31, 2016.

20 10. There was sufficient rainfall from October 16, 2016 through December 31, 2016 to generate
21 a discharge from the Facility.

22 SWPCP Implementation

23 11. Schedule A.6-A.8 of the Permit require Respondent to prepare a Stormwater Pollution
24 Control Plan (SWPCP).

25 12. Among other required elements, under Schedule A.7.c.v of the Permit, a SWPCP must
26 contain "A description of control measures installed and implemented to meet the technology and water
27 quality based requirements in Schedule A.1-A.5 and any applicable sector specific requirements in

1 Schedule E of the permit. Include in the description how the stormwater control measures address
2 potential pollutant sources from industrial activities and significant materials on-site, spills and leaks
3 and authorized non-stormwater discharges.”

4 13. Schedule A.6.c of the Permit requires Respondent to “implement the SWPCP and any
5 revisions to the plan. Failure to implement any of the control measures or practices described in the
6 SWPCP is a violation of the permit.”

7 14. Respondent submitted a SWPCP to Clean Water Services in 2012. The SWPCP was
8 revised six times. The last substantive revision to the SWPCP (Revision 3) was on January 20, 2015.
9 The SWPCP was later revised to change the legal contact for the Permit (Revisions 4-6).

10 15. According to the SWPCP, page 3, the Facility’s stormwater discharges through a series of
11 eight catch basins, to a water quality manhole. Under normal conditions (less than a 25 year storm
12 event), the stormwater then flows to a POWQF (a vegetated swale and retention facility with concrete
13 walls), and then to the Hedges Creek Wetland, which flows into the Tualatin River. During a larger
14 storm event (more than 25 year storm event), the Facility’s stormwater overflows from the manhole
15 directly to the Hedges Creek Wetland.

16 16. Respondent’s SWPCP, pages 3-4, includes the following control measures or practices:

- 17 a. “Facility maintenance personnel perform monthly inspections of property and
18 catchbasin filters for loading or other discrepancies. Filters kept onsite for replacement.”
19 b. “A private company is contracted to provide parking lot sweeping on a monthly basis
20 year-round. The Facility Maintenance Department is responsible for monitoring the
21 completion of this process.”
22 c. “A private company is contracted to provide semiannual sediment removal from the
23 catchbasins in the first and third quarters of the calendar year. The Facility Maintenance
24 Department is responsible for monitoring the completion of the process. 2015 Revision:
25 Sediment removal will be conducted quarterly to increase removal of particulate materials
26 from onsite catchbasins.”

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1 d. "A private company is contracted to maintain the vegetation and growth within the
2 boundary of the POWQF. 2015 Revision: Landscape maintenance of the vegetated swale
3 will be conducted on a semi-annual basis following the Water Quality Facility Maintenance
4 Checklist in Appendix E. The Facility Maintenance Department is responsible for
5 monitoring the completion of this process."

6 e. The Facility Maintenance Department will maintain records of inspection and
7 maintenance dates, using the tracking table provided in Appendix E.

8 17. On June 23, 2017, Clean Water Services conducted an inspection of the Facility. On the
9 day of the inspection:

- 10 a. There was glass trackout on the paved area outside the Facility;
11 b. The Facility's catch basins were filled with debris and in need of cleaning;
12 c. The vegetated swale (POWQF) was not maintained and overgrown with vegetation,
13 rendering the monitoring point inaccessible; and
14 d. There were no records onsite at the Facility documenting maintenance of the catch
15 basins, catch basin inserts, POWQF, or parking lot sweeping.

16 Monthly Facility Inspections

17 18. Schedule B.7.a of the Permit requires Respondent to conduct monthly inspections when the
18 Facility is in operation of areas where industrial materials or activities are exposed to stormwater and
19 areas where stormwater control measures, structures, catch basins and treatment facilities are located.
20 Schedule B, Condition 7.a.i further details specific items that must be inspected.

21 19. Schedule B.7.b of the Permit requires Respondent to complete an inspection report that is
22 retained on site and submitted to DEQ or Clean Water Services upon request. The inspection report
23 must include: i) the inspection date and time; ii) control measures needing cleaning, replacement,
24 maintenance, reconditioning or repair; iii) the condition of the drainage/conveyance system and need
25 for maintenance; iv) previously unidentified sources of pollutants; and v) stormwater discharge
26 observations and whether discharge contained floating solids (associated with industrial activity), foam,
27 visible oil sheen, and was discolored.

1 20. On June 23, 2017, Clean Water Services requested a copy of monthly inspection reports and
2 stormwater discharge observations required by the Permit.

3 21. As of the date of this Notice, Respondent has not provided any records of monthly facility
4 inspections conducted during the 2016-2017 permit year (July 1, 2016 – June 30, 2017) to Clean Water
5 Services or DEQ.

6 Tier II Corrective Actions

7 22. On July 5, 2016, Respondent installed Bio Clean inserts in the Facility's catch basins to
8 address elevated levels of Total Zinc in the Facility's stormwater discharge (the "Tier II Treatment").

9 23. Schedule A.12.c.iii of the Permit states that "[a]fter the stormwater treatment measures are
10 implemented, if sampling results continue to exceed the same benchmark parameter(s) that triggered
11 the Tier II corrective action requirements, permit registrant must within 30 days of obtaining the sample
12 results, evaluate whether the treatment measures were properly installed, maintained and implemented
13 and whether modifications to these measures are necessary. Summarize these findings in a Tier II
14 Benchmark Exceedance report that is retained on site and submitted to DEQ or agent [Clean Water
15 Services] annually with the Discharge Monitoring Report form."

16 24. As reported in Respondent's 2016-17 Discharge Monitoring Report (DMR), Respondent's
17 stormwater discharge exceeded the benchmark for Total Zinc of 0.12 milligrams per liter (mg/L) as
18 follows:

- 19 a. Respondent's stormwater discharge contained 0.39 mg/L Total Zinc on October 2, 2016;
20 b. Respondent's stormwater discharge contained 0.17 mg/L Total Zinc on January 20,
21 2017; and
22 c. Respondent's stormwater discharge contained 0.32 mg/L Total Zinc on February 8,
23 2017.

24 25. On June 23, 2017, Clean Water Services requested a copy of Tier II Benchmark Exceedance
25 Reports for the Total Zinc exceedances described in Paragraph 24, above.

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1 26. As of the date of this Notice, Respondent has not provided any Tier II Benchmark
2 Exceedance Reports for the Total Zinc exceedances described in Paragraph 24, above to Clean Water
3 Services or DEQ.

4 Employee Education

5 27. Schedule A.1.j of the Permit requires Respondent to conduct employee education as
6 follows: "Develop and maintain an employee orientation and education program to inform personnel on
7 the components and goals of the SWPCP. Train all employees who work in areas where industrial
8 materials or activities are exposed to stormwater, or who are responsible for implementing activities
9 necessary to meet the conditions of this permit (e.g., inspectors, maintenance personnel). Training must
10 cover both the specific control measures used to achieve the narrative technology based effluent limits
11 such as spill response procedures and good housekeeping practices, and the monitoring, inspection,
12 reporting and documentation requirements in the permit. The education and training must occur within
13 30 calendar days of hiring an employee who works in areas where stormwater is exposed to industrial
14 activities or conducts duties related to the implementation of the SWPCP, and annually thereafter."

15 28. Schedule B.10 of the Permit requires Respondent to keep records of education activities and
16 retain those records for at least three years.

17 29. On June 23, 2017, Clean Water Services requested annual employee education records.

18 30. As of the date of this Notice, Respondent has not provided any records of employee
19 education conducted during the 2016-2017 permit year (July 1, 2016 – June 30, 2017) to Clean Water
20 Services or DEQ.

21 SWPCP Revisions

22 31. DEQ issued a revised 1200-Z permit on August 1, 2017 (the New Permit) and renewed
23 Respondent's coverage under the New Permit on September 29, 2017.

24 32. Condition 3.c, page 6, of the New Permit required Respondent to submit an updated
25 SWPCP to Clean Water Services or DEQ by December 29, 2017.

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33. Respondent submitted a SWPCP (Revision 6) to Clean Water Services on February 9, 2018 with updated contacts and a new certification statement (the "2018 SWPCP"); however, Respondent did not update the 2018 SWPCP to comply with the requirements of the New Permit, Schedule A.7, including but not limited to the requirement to submit an updated site map including drainage patterns according to Schedule A.7.b.i.

III. CONCLUSIONS

Stormwater Monitoring

1. Respondent has violated ORS 468B.025(2) by violating a condition of a stormwater permit. Specifically, Respondent violated Schedule B of the Permit by failing to monitor for Total Copper, Total Lead, Total Zinc, pH, Total Suspended Solids (TSS), Total Oil & Grease and Chemical Oxygen Demand (COD) on one of the required two occasions during the first half of the 2016-17 monitoring year (July 1 – December 31, 2016), as described in Section II, Paragraphs 2-10, above. This is a Class I violation, according to OAR 340-012-0055(1)(o). DEQ hereby assesses a \$6,282 civil penalty for this violation.

SWPCP Implementation

2. On June 23, 2017, Respondent violated ORS 468B.025(2) and Schedule A.6.c of the Permit by failing to implement control measures or practices described in the SWPCP, as described in Section II, Paragraphs 11-17, above. This is a Class I violation, according to OAR 340-012-0055(1)(r) because Respondent failed to substantially implement a stormwater plan in accordance with a NPDES permit. DEQ hereby assesses a \$15,321 civil penalty for this violation.

Monthly Facility Inspections

3. Between at least July 2016 and June 23, 2017, Respondent violated ORS 468B.025(2) and Schedule B.7 of the Permit by failing to conduct monthly Facility inspections, as described in Section II, Paragraphs 18-21, above. These are Class II violations, according to OAR 340-012-0053(2). DEQ hereby assesses a \$4,600 civil penalty for this violation.

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1 Tier II Corrective Actions

2 4. Respondent violated ORS 468B.025(2) and Schedule A.12.c.iii of the Permit by failing to
3 conduct Tier II corrective actions and reporting for three Total Zinc exceedances during the 2016-2017
4 permit year, as described in Section II, Paragraphs 22-26, above. These are Class II violations,
5 according to OAR 340-012-0053(2). DEQ has not assessed a civil penalty for these violations.

6 Employee Education

7 5. Respondent violated ORS 468B.025(2) and Schedule A.1.j of the Permit by failing to
8 conduct an annual employee education program during the 2016-2017 permit year, as described in
9 Section II, Paragraphs 27-30, above. This is a Class II violation, according to OAR 340-012-0053(2).
10 DEQ has not assessed a civil penalty for this violation.

11 SWPCP Revisions

12 6. Respondent violated ORS 468B.025(2) and Condition 3.c of the New Permit by failing to
13 submit an updated SWPCP to Clean Water Services by December 29, 2017, as described in Section II,
14 Paragraphs 31-33, above. This is a Class II violation, according to OAR 340-012-0053(2). DEQ has
15 not assessed a civil penalty for this violation.

16 IV. ORDER TO PAY CIVIL PENALTY AND TO COMPLY

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

19 1. Pay a total civil penalty of \$26,203. The determination of the civil penalties are attached as
20 Exhibits 1, Exhibit 2, and Exhibit 3, and are incorporated as part of this Notice.

21 If you do not file a request for hearing as set forth in Section V below, your check or money
22 order must be made payable to "State Treasurer, State of Oregon" and sent to the **DEQ, Business**
23 **Office, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232**. Once you pay the penalty,
24 the Findings of Fact, Conclusions and Order become final.

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1 2. Within 60 days after the order becomes final by operation of law or on appeal, take the
2 following corrective actions and submit documentation to Clean Water Services, Regulatory Affairs
3 Department, Attn: Joy Ramirez, 2550 SW Hillsboro Hwy., Hillsboro, OR 97123 or
4 RamirezJ@CleanWaterServices.org:

- 5 a. Conduct maintenance of all of the Facility catch basins, including catch basin inserts
6 installed to meet Tier II requirements, maintenance of the POWQF, and parking lot
7 sweeping according to the maintenance schedule in the SWPCP;
- 8 b. Complete benchmark exceedance reports for the Total Zinc exceedances described in
9 Section II, Paragraph 24, above and any other benchmark exceedances in the 2017-2018
10 permit year (July 1, 2017 – June 30, 2018);
- 11 c. Complete a monthly Facility inspection according to Schedule B.7 of the New Permit;
- 12 d. Conduct employee education conducted according to Schedule A.1.j of the New Permit;
- 13 and
- 14 e. Revise and update the SWPCP so that it complies with the requirements of the New
15 Permit.

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

17 You have a right to a contested case hearing on this Notice, if you request one in writing. DEQ
18 must receive your request for hearing **within 20 calendar days** from the date you receive this Notice. If
19 you have any affirmative defenses or wish to dispute any allegations of fact in this Notice or attached
20 exhibit(s), you must do so in your request for hearing, as factual matters not denied will be considered
21 admitted, and failure to raise a defense will be a waiver of the defense. (See OAR 340-011-0530 for
22 further information about requests for hearing.) You must send your request to: **DEQ, Office of**
23 **Compliance and Enforcement, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232**, fax
24 it to **503-229-5100**, or email it to **DEQappeals@deq.state.or.us**. An administrative law judge
25 employed by the Office of Administrative Hearings will conduct the hearing, according to ORS
26 Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be
27 represented by an attorney at the hearing, however you are not required to be. If you are an individual,

1 you may represent yourself. If you are a corporation, partnership, limited liability company,
2 unincorporated association, trust or government body, you must be represented by an attorney or a duly
3 authorized representative, as set forth in OAR 137-003-0555.

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

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

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18 May 30, 2018

19 Date

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Sarah G. Wheeler

Sarah G. Wheeler, Acting 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: Violating a condition of a stormwater discharge permit by failing to conduct Schedule B monitoring, in violation of ORS 468B.025(2).

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

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 \$4,000 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(3)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(3)(a)(E)(iii) because Respondent has coverage under NPDES Stormwater Discharge General Permit No. 1200-Z.

"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 2 according to OAR 340-012-0145(2)(a)(C) because Respondent has one Class II violation in Case No. WQ/SW-NWR-2015-009, issued on March 9, 2015 and one Class II violation in Case No. WQ/SW-NWR-2016-253, issued on January 26, 2017.

"H" is Respondent's history of correcting prior significant actions, and receives a value of -1 according to OAR 340-012-0145(3)(d) because Respondent corrected all prior violations cited as prior significant actions but did not make extraordinary efforts to correct those prior violations.

"O" is whether the violation was repeated or ongoing, and receives a value of 0 according to OAR 340-012-0145(4)(b) because there was one occurrence of the violation. Respondent failed to monitor for Total Copper, Total Lead, Total Zinc, pH, TSS, Total Oil & Grease and COD on one occasion during the first half of the 2016-17 monitoring year.

"M" is the mental state of the Respondent, and receives a value of 4 according to OAR 340-012-0145(5)(d) because Respondent's conduct was negligent. Negligent means the respondent failed to take reasonable care to avoid a foreseeable risk of conduct constituting or resulting in a violation. The requirement to monitor four times a year, with two samples taken on or before December 31 and two samples on or after January 1, is an express condition of the

Permit. In addition, Respondent's SWPCP, page 4, states that Respondent has hired a private company to conduct sampling but that Respondent's "Facility Maintenance Department is responsible for monitoring the completion of this process." By failing to ensure that monitoring was completed both of the required two times during July-December 2016—even though there was sufficient rainfall to generate multiple stormwater discharges from the Facility during that time period—Respondent failed to take reasonable care to avoid a foreseeable risk of conduct constituting or resulting in a stormwater monitoring violation.

"C" is Respondent's efforts to correct or mitigate the violation, and receives a value of 0 according to OAR 340-012-0145(6)(f) because the violation cannot be corrected.

"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 \$282. This is the amount Respondent gained by avoiding spending \$409 in sampling and analysis costs for one missed stormwater sample during July 1, 2016 – December 31, 2016. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
= \$4,000 + [(0.1 x \$4,000) x (2 + -1 + 0 + 4 + 0)] + \$282
= \$4,000 + (\$400 x 5) + \$282
= \$4,000 + \$2,000 + \$282
= \$6,282

EXHIBIT 2

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

VIOLATION No. 2: Failing to implement control measures or practices described in the SWPCP, in violation of Schedule A.6.c of the Permit and ORS 468B.025(2).

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 \$4,000 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(3)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(3)(a)(E)(iii) because Respondent has coverage under NPDES Stormwater Discharge General Permit No. 1200-Z.

"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 2 according to OAR 340-012-0145(2)(a)(C) because Respondent has one Class II violation in Case No. WQ/SW-NWR-2015-009, issued on March 9, 2015 and one Class II violation in Case No. WQ/SW-NWR-2016-253, issued on January 26, 2017.

"H" is Respondent's history of correcting prior significant actions, and receives a value of -1 according to OAR 340-012-0145(3)(d) because Respondent corrected all prior violations cited as prior significant actions but did not make extraordinary efforts to correct those prior violations.

"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 the violation is a separate occurrence. On June 23, 2017, Clean Water Services noted multiple failures to implement the SWPCP, including failure to maintain catch basins and catch basin inserts, failure to maintain the POWQF, and failure to conduct regular pavement sweeping. According to Schedule 6.c of the Permit, failure to implement the SWPCP is a violation of the Permit. As of the date of this Notice, Respondent has not submitted documentation to Clean Water Services or DEQ demonstrating that this violation has been corrected.

- "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's SWPCP identifies control measures or practices to address potential pollutant sources in the Facility's stormwater discharge, including maintenance schedules for catch basins, catch basin inserts, the POWQF and pavement sweeping. In addition, Respondent was notified in Warning Letters from Clean Water Services dated May 6, 2015 and April 9, 2016 that failure to keep records of preventative maintenance activities, including catch basin cleaning and lot sweeping, are violations of the Permit. As of the date of the Clean Water Services inspection on June 23, 2017, Respondent had not maintained its catch basins, catch basin inserts, or the POWQF and had not conducted pavement sweeping. As of the date of this Notice, Respondent has not submitted any records documenting that these control measures and practices have been implemented at the Facility. By failing to implement control measures or practices described in the SWPCP, even after Clean Water Services had notified Respondent of these issues on May 6, 2015, April 9, 2016, and again on June 23, 2017, Respondent failed to act intentionally with actual knowledge of the 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).
- "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 \$5,321. This is the amount Respondent gained by avoiding the costs to implement the control measures and practices identified in the SWPCP during the 2016-17 permit year. Specifically, Respondent avoided spending \$4,752 for quarterly catch basin cleaning; and \$1,000 for semi-annual maintenance of the POWQF; and \$2,160 for parking lot sweeping once per month from July 2016 through June 2017. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

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

$$= \$4,000 + [(0.1 \times \$4,000) \times (2 + -1 + 4 + 8 + 2)] + \$5,321$$

$$= \$4,000 + (\$400 \times 15) + \$5,321$$

$$= \$4,000 + \$6,000 + \$5,321$$

$$= \$15,321$$

EXHIBIT 3

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

VIOLATION No. 3: Failing to conduct monthly facility inspections, in violation of Schedule B.7 of the Permit and ORS 468B.025(2).

CLASSIFICATION: This is a Class II violation pursuant to OAR 340-012-0053(2).

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 \$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)(E)(iii) because Respondent has coverage under NPDES Stormwater Discharge General Permit No. 1200-Z.

"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 2 according to OAR 340-012-0145(2)(a)(C) because Respondent has one Class II violation in Case No. WQ/SW-NWR-2015-009, issued on March 9, 2015 and one Class II violation in Case No. WQ/SW-NWR-2016-253, issued on January 26, 2017.

"H" is Respondent's history of correcting prior significant actions, and receives a value of -1 according to OAR 340-012-0145(3)(d) because Respondent corrected all prior violations cited as prior significant actions but did not make extraordinary efforts to correct those prior violations.

"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. Respondent failed to conduct twelve monthly facility inspections during the 2016-2017 permit year.

"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. The requirement to conduct monthly facility inspections is an express condition of the Permit, Schedule B.7. In addition, Respondent was notified in Warning Letters from Clean Water Services dated May 6, 2015 and April 9, 2016 that failure to

conduct monthly facility inspections and keep records of those inspections is a violation of the Permit. As of the date of this Notice, Respondent has not provided records of any monthly facility inspections conducted during the 2016-2017 permit year. By failing to conduct monthly inspections of the Facility as required by the Permit, despite actual knowledge of the requirement, Respondent failed to act intentionally with actual knowledge of the requirement.

"C" is Respondent's efforts to correct or mitigate the violation, and receives a value of 0 according to OAR 340-012-0145(6)(f) because the violation cannot be corrected.

"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 \$0 because any economic benefit gained by Respondent is de minimis.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
= \$2,000 + [(0.1 x \$2,000) x (2 + -1 + 4 + 8 + 0)] + \$0
= \$2,000 + (\$200 x 13) + \$0
= \$2,000 + \$2,600 + \$0
= \$4,600



Appendix II

DEQ Industrial Stormwater Permit Stormwater Pollution Control Plan (SWPCP) Check List

Instructions: Complete this form and submit with SWPCP. Fill in the appropriate page number(s) indicating the location of information in the SWPCP. New requirements are italicized. At a minimum, the SWPCP must include the components below and describe how the permit registrants intends to comply with the narrative technology-based effluent limit to eliminate or reduce the potential to contaminate stormwater and prevent any violation of instream water quality standards.

Site Name: Cascade Windows (dba) Empire Pacific File No.: 5 119507

Permit Schedule		Requirement	Page #	Comments (For official use only)
New Discharger	Permit Cover and Exclusion	A new discharger to an impaired water without a TMDL must meet one of the conditions in this section of the permit to obtain coverage		
Tier II Status	A.3	Facility triggered Tier II under previous permit term <input checked="" type="checkbox"/> Yes Facility triggered Tier II under current permit term <input type="checkbox"/> Yes Provide a description of treatment controls or source control or mass load reduction waiver, including low impact development, in response to corrective action requirements and operation and maintenance procedures.		Tier II plan not included 2015 Rev.
Signature	A.6.b	Signed and certified in accordance with 40 CFR 122.22		
Title Page	A.7.a	Plan date		2015
		Name of the site	iv iii	✓
		Name of the site operator or owner	iv	
		The name of the person(s) preparing the SWPCP	iii	✓
		File No. and EPA permit No.		missing EPA
		Primary SIC code and any co-located SIC codes	pg 2	
		Contact person(s) name, telephone number and email		missing
		Physical address, including county		
Site Description*	A.7.b	A.7.b.ii A description of industrial activities conducted at the site and significant materials stored, used, treated or disposed of in a manner which exposes those activities or materials to stormwater. Include in the description the methods of storage, usage, treatment or disposal	1	
		A.7.b.iii Location and description, with any available characterization data, of areas of known or discovered significant materials from previous operations		Not included
		A.7.b.iv Regular business hours of operation		Not included
General Location Map	A.7.b.i	General location of the site in relation to surrounding properties, transportation routes, surface waters and other relevant features	app. A	
Site Map* (please identify clearly)	A.7.b.i	2. Drainage patterns		missing
		3. Conveyance and discharge structures, such as piping or ditches	app. B	
		4. All discharge points assigned a unique three-digit identifying number starting with 001, 002 used for electronic reporting		missing - not updated
		5. Outline of the drainage area for each discharge point		missing

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Permit Schedule	Requirement	Page #	Comments (For official use only)
Site Map* (please identify clearly)	6. Paved areas and buildings within each drainage area		Maps not updated
	7. Areas used for outdoor manufacturing, treatment, storage, or disposal of significant materials		
	8. Existing structural control measures for minimizing pollutants in stormwater runoff		
	9. Structural features that reduce flow or minimize impervious areas		
	10. Material handling and access areas		
	11. Hazardous waste treatment, storage and disposal facilities		
	12. Location of wells including waste injection wells, seepage pits, drywells		
	13. Location of springs, wetlands and other surface waterbodies both on-site and adjacent to the site		
	14. Location of groundwater wells		
	15. Location and description of authorized non-stormwater discharges		
	16. Exact location of monitoring points, indicating if any discharge points are "substantially similar" and not being monitored		
	17. Location and description of spill prevention and cleanup materials		
	18. Locations of the following materials and activities if they are exposed to stormwater and applicable:		
	A. Fueling stations		
	B. Vehicle and equipment maintenance cleaning areas		
	C. Loading/unloading areas		
	D. Locations used for the treatment, storage, or disposal of wastes		
	E. Liquid storage tanks		
	F. Processing and storage areas		
	G. Immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility;		
	H. Transfer areas for substances in bulk		
	I. Machinery		
	J. Locations and sources of run-on to your site from adjacent property		
Potential Pollutants	A.7.b.v For each area of the site where a reasonable potential exists for contributing pollutants to stormwater runoff, a description of the potential pollutant sources that could be present in stormwater discharges and if associated with a co-located SIC code	2-3	
Impervious Area	A.7.b.viii An estimate of the amount of impervious surface area (including paved areas and building roofs) and the total area drained by each stormwater discharge point to be reported in area units	1	
Receiving Waters	A.7.b.ix The name(s) of the receiving water(s) for stormwater drainage. If drainage is to a municipal storm sewer system, the name(s) of the ultimate receiving waters and the name of the municipality	3	
Monitoring Locations*	A.7.b.x The identification of each discharge point and the location(s) where stormwater monitoring will occur as required by Schedule B.2. The monitoring location must also be labeled in the SWPCP as "monitoring location"	3	Does not describe monitoring location WQAH on appx D
	Existing discharge points excluded from monitoring must include a description of the discharge point(s) and data or analysis		Not included

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Permit Schedule		Requirement	Page #	Comments (For official use only)
		supporting that the discharge point(s) are substantially similar as described in Schedule B.2.c.ii of this permit SWPCP as "monitoring location"		
Site Controls*	A.7.b.vi	A description of the control measures installed and implemented to meet the technology and water quality based requirements below and any applicable sector specific requirements (Sch.E)	3-7	
		a. Minimize Exposure	3-7	general
		b. Oil and Grease	3-7	general
		c. Waste chemicals and material disposal	4	Table 2
		d. Erosion and sediment control		
		e. Debris control	2-3	Potential Sources
		f. Dust generation and vehicle tracking		
		g. Housekeeping	3-7	
		h. Spill prevention and response	5	
		i. Preventative maintenance	5: App E	
		j. Employee education	6	
Procedures and Schedules	A.7.c.i	Spill Prevention and Response Procedures. Procedures for preventing and responding to spills and cleanup and notification procedures. Indicate who is responsible for on-site management of significant materials and include their contact information. Spills prevention plans required by other regulations may be substituted for this provision if the spill prevention plan addresses stormwater management concerns and the plan is included with the SWPCP	4-5	
		Indicate how spill response will be coordinated between the permit registrant and otherwise unpermitted tenants. The permit registrant is ultimately responsible for spills of the tenant and appropriate response	App F →	CWS - spill notification
	A.7.c.ii	Preventative Maintenance Procedures. Procedures for conducting inspections, maintenance and repairs to prevent leaks, spills, and other releases from drums, tanks and containers exposed to stormwater and the scheduled regular pickup and disposal of waste materials. Include the schedule or frequency for maintaining all control measures and waste collection	3, 5 App E	
	A.7.c.iii	Operations and Maintenance Plan. Include an operation and maintenance plan for active treatment systems, such as electro-coagulation, chemical flocculation, or ion-exchange. The O&M plan must include, as appropriate to the type of treatment system, items such as system schematic, manufacturer's maintenance/operation specifications, chemical use, treatment volumes and a monitoring or inspection plan and frequency. For passive treatment and low impact development control measures, include routine maintenance standards	5	Tier II maintenance not included
	A.7.c.iv	Employee Education Schedule. Orientation no later than 30 calendar days of hire or change in duties, education annually. Include a description of the training content and the required frequency	6	Not updated

* Some facilities must meet sector specific requirements (Schedule E) and include additional information in SWPCP, including the site map. If applicable, ensure that the SWPCP includes the sector specific information.

For Official Use Only			
New applicant:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
New discharger:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	New discharger to impaired waters condition met:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Existing facilities:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	SWPCP update per renewal:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		SWPCP update per Schedule A.8:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
		Facility triggered Tier II under previous permit term:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		Facility triggered Tier II under current permit term:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Sector E Requirements:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Sch. E additional information in SWPCP and site plan	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Date received:	2-9-2018	Plan Accepted:	<input type="checkbox"/> Yes <input type="checkbox"/> No

Reviewed by: Rec'd after warning letter issued on 01-19-2018 -
Plan not updated per new permit issued on 1 Aug 2019 requirements

1. Reviewed by J. Ramirez CWS
2. - Plan does not include Tier II information & maintenance
3. - Plan did not describe Sch E Sector requirements.
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____