



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

June 14, 2022

CERTIFIED MAIL: 7018 1830 0001 6172 5888

Wood Waste Management, LLC
c/o Cynthia Rueda
7315 NE 47th Avenue
Portland, OR 97218

Re: Notice of Civil Penalty Assessment and Order
Case No. WQ/SW-NWR-2021-518

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$18,941 for violating multiple provisions of Oregon's water pollution control laws at your facility located at 7315 NE 47th Avenue in Portland. Specifically, DEQ has cited you for operating a scrap and waste material facility that discharges stormwater to a water of the state without first obtaining coverage under the 1200-Z NPDES Industrial Stormwater Discharge General Permit. DEQ has also cited you for causing significant waste track-out onto NE 47th Avenue which is mixing with stormwater and discharging to the Columbia Slough.

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.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/Statutes.aspx> or by calling the number below.

If you have any questions, please contact Erin Saylor at 971-808-7368 or toll free in Oregon at 800-452-4011, extension 5422.

Sincerely,



Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Enclosures

cc: Jess Aloisio, City of Portland
Daria Gneckow, DEQ, Northwest Region
Accounting, DEQ

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

2 OF THE STATE OF OREGON

3 IN THE MATTER OF:) NOTICE OF CIVIL PENALTY
4 WOOD WASTE MANAGEMENT, LLC) ASSESSMENT AND ORDER
an Oregon Limited Liability Corporation,)
5 Respondent.) CASE NO. WQ/SW-NWR-2021-518

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 is the owner and operator of the Wood Waste Management facility located
13 at 7315 NE 47th Avenue in Portland, Oregon (the Facility).

14 2. The Facility accepts yard debris waste from the public and sells landscape products,
15 including compost products, bark, rock, and wood chips.

16 3. Vehicles, machinery, and equipment are stored outdoors at the Facility, as are stockpiles
17 of bark and wood waste. Additionally, Respondent conducts outdoor material handling at the Facility.

18 4. The Facility is classified under Standard Industrial Classification (SIC) code 5093—
19 Scrap and Waste Materials.

20 5. OAR 468B.050(1)(d) prohibits any person from operating an industrial or commercial
21 facility, the operation or conduct of which would cause an increase in the discharge of wastes into the
22 waters of the state without a permit.

23 6. OAR 345-045-0033(6) requires any person operating a discharge source or conducting
24 an activity described in a general permit to apply for coverage under that general permit.

25 7. The National Pollutant Discharge Elimination System General Permit Number 1200-Z
26 (the 1200-Z Permit) regulates stormwater discharges from industrial facilities that may reach Oregon
27 waterways, either directly or through conveyance systems such as ditches or storm drains.

1 8. Table 1 of the 1200-Z Permit indicates that facilities with the primary SIC code “5093
2 Scrap and Waste Materials” are covered under the permit. Table 2 of the 1200-Z Permit further
3 specifies that discharges to the Columbia Slough from industrial activities involving materials storage
4 and waste handling are covered under the permit.

5 9. Respondent previously had coverage under a 1200-COLS stormwater discharge permit
6 from February 18, 2002, through August 31, 2011. Respondent terminated coverage when it began
7 managing its stormwater onsite through a stormwater retention pond located on the north side of the
8 property.

9 10. Between approximately August 2011 and November 2018, Respondent trucked excess
10 stormwater offsite to Clackamas Compost Products. Clackamas Compost Products was
11 administratively dissolved on November 14, 2018.

12 11. Respondent’s stormwater retention pond includes an emergency overflow standpipe that
13 discharges to Ferrous Ditch, which flows along the southern boundary of the facility to the Columbia
14 Slough, a water of the state.

15 12. After the closure of Clackamas Compost Products, a manager at the Facility directed
16 employees to pump excess stormwater into the emergency overflow standpipe. The practice of
17 pumping excess stormwater into the emergency overflow standpipe continued from approximately
18 November 2018 through May 2021.

19 13. OAR 468B.025(1)(a) prohibits any person from causing pollution or placing wastes in a
20 location where such wastes are likely to be carried to waters of the state.

21 14. On April 24, 2021, an employee from the City of Portland’s (the City) Bureau of
22 Environmental Services (BES) observed turbid stormwater discharge leaving the Facility and entering
23 the City’s storm sewer system, which discharges to the Columbia Slough.

24 15. On April 29, 2021, BES notified Respondent that a 1200-Z permit was required for
25 the Facility and that an application must be submitted by June 14, 2021.

26 16. On May 27, 2021, DEQ conducted an inspection of the Facility. At the time of the
27 inspection, a long, flexible hose extended from below the surface of the stormwater

1 retention pond to a pump while another flexible hose with PVC piping at the end extended from the
2 pump. The inspector noted that the configuration, hose lengths, and proximity to the overflow
3 standpipe would make it easy and efficient to pump excess stormwater to the standpipe.

4 17. During the May 27, 2021, inspection, significant waste track-out extended from the
5 Facility onto NE 47th Avenue.

6 18. Santo Caamal, a Yard Supervisor at the Facility, provided a signed statement to DEQ
7 dated June 1, 2021, in which he stated that after the closure of Clackamas Compost Products he was
8 directed by the Facility's general manager to pump excess stormwater into the overflow standpipe
9 when the retention pond was full. Mr. Caamal stated that he continued that practice "for 3 years off and
10 on."

11 19. On June 18, 2021, DEQ sent Respondent a Pre-Enforcement Notice that, in part,
12 directed Respondent to apply for coverage under the 1200-Z Permit.

13 20. On June 29, 2021, BES sent Respondent a Warning Letter with Opportunity to Correct,
14 reiterating Respondent's obligation to apply for coverage under the 1200-Z Permit. The letter required
15 submission of an application by July 13, 2021.

16 21. To date, Respondent has not applied for coverage under the 1200-Z Permit and
17 continues to discharge stormwater via the City's catch basins on NE 47th Ave.

18 III. CONCLUSIONS

19 1. Respondent violated ORS 468B.050(1)(d) by operating a scrap and waste material facility that
20 discharges stormwater to a water of the state without first obtaining coverage under the 1200-Z NPDES
21 Industrial Stormwater Discharge General Permit. The Facility is categorized under SIC code 5093, a
22 category of facilities that must obtain coverage under the 1200-Z Permit pursuant to OAR 345-045-
23 0033(6). The Facility discharges industrial stormwater via its driveway to City stormwater catch basins on
24 NE 47th Avenue that flow to the Columbia Slough, a water of the state under ORS 468B.005(10).
25 Additionally, Respondent intentionally discharged industrial stormwater via an overflow pipe to the
26 Columbia Slough without a permit from approximately November 2018 through May 2021. This is a Class
27 I violation pursuant to OAR 340-012-0055(1)(d). DEQ hereby assesses a \$18,941 civil

1 penalty for this violation.

2 2. Respondent violated ORS 468B.025(1)(a) by placing or causing to be placed wastes in a
3 location where such wastes are likely to be carried into the waters of the state. From at least May 27,
4 2021, to present, Respondent has caused significant waste track-out on NE 47th Avenue which
5 continues to mix with stormwater and flow to City catch basins that discharge to the Columbia Slough.
6 This is a Class II violation pursuant to OAR 340-012-0055(2)(c). DEQ has not assessed a civil penalty
7 for this violation.

8 IV. ORDER TO PAY CIVIL PENALTY AND TO COMPLY

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

11 1. Pay a civil penalty of \$18,941. The determination of the civil penalty is attached as Exhibit
12 No. 1 and is incorporated as part of this Notice.

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

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

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

- 22 2. Within 30 days of this order becoming final by operation of law or on appeal:
- 23 a. Submit an application for coverage under the National Pollutant Discharge
24 Elimination System General Permit Number 1200-Z.
 - 25 b. Clean the waste track-out off the facility’s driveway and NE 47th Avenue,
26 including the accumulated waste along the curbs.

27 ///

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 exhibits, 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 **503-229-5100** or email it to DEQappeals@deq.state.or.us. 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

25 ///

26 ///

27 ///

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

3
4
5
6 6/14/2022
7 Date

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
Kieran O'Donnell
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 1: Respondent violated ORS 468B.050(1)(d) by operating a scrap and waste material facility that discharges industrial stormwater to a water of the state without first obtaining coverage under the NPDES Stormwater Discharge 1200-Z General Permit.

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

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)(a)(E)(iii), as Respondent should have applied for coverage under the NPDES 1200-Z General Permit.

"P" is whether Respondent has any prior significant actions (PSAs), 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 Respondent has no prior water quality violations.

"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 Respondent has no prior water quality 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 violation is a separate occurrence. Respondent's facility regularly discharges stormwater from its driveway to City catch basins on NE 47th Avenue. Additionally, Respondent pumped overflow stormwater into a standpipe that ultimately discharges to the Columbia Slough from approximately November 2018 through May 2021.

"M" is the mental state of the Respondent and receives a value of 8 according to OAR 340-012-0145(5)(d) because Respondent's actions were reckless. Respondent was aware the overflow pipe discharged to Ferrous Ditch which flows to the Columbia Slough. With this

knowledge, Respondent intentionally pumped overflow stormwater into the standpipe for a period of approximately three years instead of trucking it offsite, as had been Respondent's previous practice. Additionally, both the City and DEQ have informed Respondent numerous times in writing that it must apply for coverage under the 1200-Z Permit. To date, Respondent has failed to apply for coverage under the Permit and continues to discharge stormwater from its facility entrance to city stormwater catch basins on NE 47th Avenue.

"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 has failed to apply for coverage under the 1200-Z Permit despite being directed to do so multiple times.

"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 \$9,341 according to OAR 340-012-0150(1) because Respondent avoided spending \$1,050 on the 1200-Z application fee, \$6,000 to prepare a Stormwater Pollution Control Plan (SWPCP), and a total of \$4,835 in annual permit fees between 2018–2021.

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 (0+0+4+8+2)] + \$9,341
= \$4,000 + \$5,600 + \$9,341
= \$18,941



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

CIVIL PENALTY - ORS 468.135(2)

DATE:	June 14, 2022
RESPONSE DATE :	August 23, 2022
TOTAL PENALTY:	\$18,941.00

Account Name:	WOOD WASTE MANAGMENT		
Account Type:	Vendor/Organization/Company	Reference Number:	CPGFD2200034
SubSystem ID:	206546	FIMS Acct. ID:	7972

Penalty Summary

Penalty Amount	Interest	Adjustment	Amount Paid	Total Penalty
\$ 18,941.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 18,941.00

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.	CPGFD2200034		
PAYCODE:	00401 7400 10040 74001 0500 000000 00		
FEE PROGRAM ID:	950	RESPONSE DATE:	August 23, 2022
FIMS ACCT. ID:	7972	TOTAL PENALTY DUE:	\$18941.00

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 0095000079722(CPGF)220003400018941003



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
6/13/2022	2021-518 WQ-SW-NWR-2021-518	\$18,941.00

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 _____