



Oregon

Kate Brown, Governor

Department of Environmental Quality

Headquarters

811 SW 6th Ave

Portland, OR 97204-1390

(503) 229-5696

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TTY: 711

July 25, 2016

CERTIFIED MAIL: 70142120000183028569

Hollingsworth & Vose Fiber Company
c/o The Prentice-Hall Corporation System, Inc., Registered Agent
1127 Broadway Street NE, Suite 310
Salem, OR 97301

Re: Notice of Civil Penalty Assessment and Order
Case No. WQ/I-WR-2016-046

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$2,600 for violating the technology-based effluent limitations for total suspended solids (TSS) in your National Pollutant Discharge Elimination System (NPDES) waste discharge permit in January 2015. You were also cited, without penalty, for three pH exceedances that occurred in 2015. The violations occurred at your facility in Corvallis, Oregon.

DEQ issued this penalty because compliance with waste discharge limitations in your NPDES permit is essential to help protect water quality and public health. DEQ calculated the TSS and pH limits in your permit in order to protect water quality in the Willamette River.

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.

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.



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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: Cindy Frost, Hollingsworth & Vose Fiber Company, 1115 SE Crystal Lake Drive, Corvallis,
OR 97339-0598
Ranei Nomura, Manager, Western Region - Salem, DEQ
Robert Dicksa, Western Region - Salem, DEQ
WQ Permit Repository

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

3 IN THE MATTER OF:)
4 HOLLINGSWORTH & VOSE) NOTICE OF CIVIL PENALTY
5 FIBER COMPANY,) ASSESSMENT AND ORDER
6 a Delaware corporation,)
7 Respondent.) CASE NO. WQ/I-WR-2016-046

8 I. AUTHORITY

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

13 II. FINDINGS OF FACT

14 1. Respondent operates a wastewater treatment facility located at 1185 SE Crystal Lake Drive
15 in Corvallis, Benton County, Oregon (the Facility).

16 2. On August 18, 2003, DEQ transferred National Pollutant Discharge Elimination System
17 Waste Discharge Permit No. 101331 (the Permit) to Respondent. The Permit allows Respondent to
18 discharge treated wastewater from the Facility to the Willamette River, waters of the state, in
19 conformance with the requirements, limits and conditions set forth in the Permit. The Permit expired
20 on July 31, 2008, but DEQ administratively extended it. The Permit was in effect at all material times.

21 3. Schedule A, Condition 1(a) of the Permit establishes technology-based effluent limitations
22 (TBEL) for total suspended solids (TSS) as follows: 2,500 pounds per day (lbs/day) for the monthly
23 average and 3,500 lbs/day for the daily maximum for November 1 through April 30 of each year.

24 4. Respondent reported a TSS value of 10,275 lbs/day for the daily maximum on January 28,
25 2015, and a value of 5,549 lbs/day for the January 2015 monthly average.

26 5. Schedule A, Condition 1(a) of the Permit establishes the TBEL for pH as within the range of
27 6.0-9.0.

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6. Respondent reported the following pH exceedances for its effluent discharge:

Date	pH Value
January 28, 2015	9.15
February 11, 2015	9.24
December 29, 2015	9.52

III. CONCLUSIONS

1. In January 2015, Respondent violated the daily maximum and monthly average TSS limits in Schedule A, Condition 1(a) of its Permit, as described in Section II, paragraphs 1 through 4 above, in violation of ORS 468B.025(2). These are Class I violations according to OAR 340-012-0055(1)(k)(A). DEQ hereby assesses a \$2,600 civil penalty for these violations.

2. On January 28, February 11, and December 29 of 2015, Respondent violated the pH limits in Schedule A, Condition 1(a) of its Permit, as described in Section II, paragraphs 1-2 and 5-6 above, in violation of ORS 468B.025(2). These are Class III violations according to OAR 340-012-0055(3)(b)(B). DEQ has not assessed a civil penalty for these violations.

IV. ORDER TO PAY CIVIL PENALTY

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

Pay a total civil penalty of \$2,600. The determination of the civil penalty is attached as Exhibit No. 1 and incorporated as part of this Notice.

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

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

14 Active duty service-members have a right to stay proceedings under the federal Service
15 members Civil Relief Act. For more information, please call the Oregon State Bar at 1-800-
16 452-8260 or the Oregon Military Department at 1-800-452-7500. Additional information can be found
17 online at the United States Armed Forces Legal Assistance (AFLA) Legal Services Locator website
18 <http://legalassistance.law.af.mil/content/locator.php>.

19 If you fail to file a request for hearing in writing within 20 calendar days of receipt of the
20 Notice, the Notice will become a final order by default without further action by DEQ, as per OAR
21 340-011-0535(1). If you do request a hearing but later withdraw your request, fail to attend the hearing
22 or notify DEQ that you will not be attending the hearing, DEQ will issue a final order by default
23 pursuant to OAR 340-011-0535(3). DEQ designates the relevant portions of its files, including
24 information submitted by you, as the record for purposes of proving a prima facie case

25
26 July 25, 2016

27 Date

Leah K. Feldon

Leah K. Feldon, Manager
Office of Compliance and Enforcement

EXHIBIT NO. 1

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

VIOLATION: Violating the technology-based effluent limitation (TBEL) for TSS in Schedule A, Condition 1(a) of its NPDES permit, in violation of ORS 468B.025(2).

CLASSIFICATION: These are Class I violations pursuant to OAR 340-012-0055(1)(k)(A), because the discharge levels exceeded the limitation by 50 percent or more.

MAGNITUDE: The magnitude of the violation is minor pursuant to OAR 340-012-0135(2)(a)(C)(i), because the dilution of the technology based effluent limitation exceedances was 10 or more.

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 I, minor magnitude violation in the matrix listed in OAR 340-012-0140(3)(b)(A)(iii) and applicable pursuant to OAR 340-012-0140(3)(a)(E)(ii) because Respondent violated a water quality statute, rule, permit or related order and has a Tier 2 industrial source NPDES permit.

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

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

"O" is whether the violation was repeated or ongoing and receives a value of 2 according to OAR 340-012-0145(4)(b), because there were two occurrences of the violation. Respondent exceeded the daily maximum TBEL for TSS on January 28, 2015, and exceeded the monthly average TBEL for TSS in January 2015.

"M" is the mental state of the Respondent and receives a value of 2 according to OAR 340-012-0145(5)(b), because Respondent had constructive knowledge (reasonably should have known) of the requirement. Respondent holds an NPDES permit, which sets express limits for TSS and other parameters.

"C" is Respondent's efforts to correct or mitigate the violation and receives a value of -1 according to OAR 340-012-0145(6)(e), because Respondent made reasonable efforts to ensure the violation would not be repeated by repairing the malfunctioning aerator that had caused the TSS exceedances.

"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 there is insufficient information on which to make an estimate of Respondent's economic benefit, if any.

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 (0 + 0 + 2 + 2 + (-1))] + \$0
= \$2,000 + [\$200 x 3] + \$0
= \$2,000 + \$600 + \$0
= \$2,600