



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

July 2, 2020

CERTIFIED MAIL: 7017 1450 0000 8310 3473

Thompson's Transfer & Disposal, Inc.
Mr. Rob Thompson, President
8096 NE Avery St.
Newport, OR 97365

Re: Notice of Civil Penalty Assessment and Order
Case No. LQ-MM-WR-2019-298

DEQ is committed to balancing its vital obligation to enforce the law and protect the environment with a consideration of the dramatic disruptions to public health and the economy caused by the COVID-19 outbreak. We understand the outbreak may impact your ability to timely appeal, pay the assessed civil penalty, or comply with this order. You may submit to DEQ documentation identifying whether COVID-19-related disruption affects your ability to comply with this order. Visit our webpage <https://www.oregon.gov/deg/Pages/covid-19.aspx> for more information about documenting specific COVID-19 disruptions your facility may be encountering and how that affects your ability to comply. DEQ will exercise reasonable discretion regarding settlement of this order.

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$8,400 for failing to properly contain leachate at your transfer station, located in Newport. Specifically, during vehicle washing, you allowed harmful leachate to bypass trench drains and flow downhill towards the road.

DEQ issued this penalty because wastewater containing leachate, such as rinsate from a waste collection vehicle, may contain contaminants or pathogens which, if allowed to escape, could contaminate storm water, groundwater, or surface waters and pose a risk to public health.

This Notice also cites you, without penalty, for the following additional violations of your solid waste transfer permit: failure to include all required information on Facility signage and failure to keep the Facility virtually clear of all litter.

DEQ appreciates your efforts to ensure the violation will not be repeated by holding an all company meeting to emphasize the importance of not allowing waste outside of catch basins or trench drains during wash downs of waste collection vehicles. DEQ considered these efforts when determining the amount of civil penalty.

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 Sarah Wheeler at 503-229-6927 or toll free in Oregon at 800-452-4011, extension 6927.

Sincerely,



Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Enclosures

cc: Craig C. Filip, Solid Waste Permit Specialist
Brian Fuller, WR MM/HW Program Manager, DEQ—Eugene
Accounting, DEQ
Emily Grams, DEQ, Law Clerk

1 authorized representative, as set forth in OAR 137-003-0555.

2 Active duty Service members have a right to stay proceedings under the federal Service
3 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-
4 452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed
5 Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military
6 Department does not have a toll free telephone number.

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

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7/2/2020

Date



Kieran O'Donnell, Manager
Office of Compliance and Enforcement

EXHIBIT 1

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

VIOLATION NO. 1 Failure to comply with a Solid Waste Disposal Site Permit, Permit subsection 6.14, and OAR 340-096-0040(3)(g) by failing to properly contain leachate.

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0065(1)(f).

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 \$6,000 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(4)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(2)(a)(Q) because Respondent violated OAR 340-096-0040(3)(a) and subsection 6.14 of the Permit and Respondent has a solid waste 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 an initial value of 3 according to OAR 340-012-0145(2)(a)(C) and (D) because Respondent has one Class I violation and two Class II violations in case no. LQ/SW-WR-10-022. Pursuant to OAR 340-012-0145(2)(d) and (e) the value "P" is reduced to 0 because case no. LQ/SW-WR-10-022 was issued more than five years before the date the current violation occurred.

"H" is Respondent's history of correcting prior significant actions, and receives a value of 1 according to OAR 340-012-0145(3)(b) and (d) because the violations cited as PSAs were uncorrectable and Respondent took reasonable efforts to minimize the effects of the violations, but combined "P" and "H" values may not be less than 1.

"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 on August 3, 2019.

"M" is the mental state of the Respondent, and receives a value of 4 according to OAR 340-012-0145(5)(c) because Respondent's conduct was negligent, as defined in OAR 340-012-0030(15). Subsection 6.14 of the Permit requires Respondent to collect and remove leachate to prevent malodor, public health hazards, and discharge to public waters. Additionally,

similar conditions were documented during a 2017 DEQ complaint investigation of the Facility, as noted in Warning Letter no. 2017-WLOC-2836 sent to Respondent in August of 2017. By failing to ensure leachate was contained, Respondent failed to take reasonable care to avoid the foreseeable risk of conduct resulting in this violation.

"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. On October 24, 2019, Respondents emailed DEQ documenting an all company meeting held to emphasize the importance of not allowing waste outside of the catch basins or trench drains during wash downs of waste collection vehicles.

"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 according to OAR 340-012-0150(4) because there is insufficient information to make an estimate under this rule.

PENALTY CALCULATION: $Penalty = BP + [(0.1 \times BP) \times (P + H + O + M + C)] + EB$
= \$6,000 + [(0.1 x \$6,000) x (0 + 1 + 0 + 4 - 1)] + \$0
= \$6,000 + (\$600 x 4) + \$0
= \$6,000 + \$2,400 + \$0
= \$8,400