



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 19, 2022

CERTIFIED MAIL: 7018 1830 0001 5906 3657

Knife River Corporation – Northwest
c/o C.T. Corporation System, Registered Agent
780 Commercial St., Suite 100
Salem, OR 97301

Re: Notice of Civil Penalty Assessment and Order
Case No. WQ/SW-ER-2021-548

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$20,822 for discharging comingled washwater, stormwater and excavation dewatering water from the Woodward Site mine and quarry, located at 4547 NW Stahancyk Lane, in Prineville, Oregon to the Rye Grass Irrigation Canal.

DEQ issued this penalty because unpermitted discharges can be harmful to beneficial uses of the waters of the state, including agricultural uses and aquatic life and habitat. Discharge permits require registrants to develop plans and implement and maintain best management practices to minimize and mitigate pollutants in the discharge. DEQ appreciates the Noncompliance Notice (dated December 7, 2021) that you submitted and has considered this reporting in preparing this formal enforcement action.

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.oregon.gov

Via fax – 503-229-6762

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.

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 Courtney Brown at 503-229-6839 or toll free in Oregon at 800-452-4011, extension 6839.

Sincerely,



Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Enclosures

cc: Lisa Reinhart, DOGAMI
Jeff Steyaert, Knife River Corporation – Northwest, Environmental, Permitting & Property
Manager, 32260 Old Hwy 34, Tangent, OR 97389-9770
Accounting, DEQ

1 ORS 468B.005(9) as they will or may cause pollution to waters of the state. The Rye Grass Irrigation
2 Canal is a “waters of the state” pursuant to ORS 468B.005(10) because it is a canal and it effects a
3 junction with natural surface waters. This is a Class I violation, according to OAR 340-012-0055(1)(c).
4 DEQ assesses a \$20,822 civil penalty for this violation.

5 IV. ORDER TO PAY CIVIL PENALTY

6 Based upon the foregoing FINDINGS OF FACTS AND CONCLUSIONS, Respondent is
7 hereby ORDERED TO: Pay a total civil penalty of \$20,822. The determinations of the civil penalties are
8 attached as Exhibit No.1 and are incorporated as part of this Notice.

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

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

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

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

20 You have a right to a contested case hearing on this Notice, if you request one in writing. DEQ
21 must receive your request for hearing **within 20 calendar days** from the date you receive this Notice. If
22 you have any affirmative defenses or wish to dispute any allegations of fact in this Notice or attached
23 exhibit, you must do so in your request for hearing, as factual matters not denied will be considered
24 admitted, and failure to raise a defense will be a waiver of the defense. (See OAR 340-011-0530 for
25 further information about requests for hearing.) You must send your request to: **DEQ, Office of**
26 **Compliance and Enforcement, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232**, fax
27 it to **503-229-6762** or email it to DEQappeals@deq.oregon.gov. An administrative law judge

1 employed by the Office of Administrative Hearings will conduct the hearing, according to ORS
2 Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be
3 represented by an attorney at the hearing, however you are not required to be. If you are an individual,
4 you may represent yourself. If you are a corporation, partnership, limited liability company,
5 unincorporated association, trust or government body, you must be represented by an attorney or a duly
6 authorized representative, as set forth in OAR 137-003-0555.

7 Active duty Service members have a right to stay proceedings under the federal Service
8 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-
9 452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed
10 Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military
11 Department does not have a toll free telephone number.

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

18
19
20
21 7 / 19 / 2022
22 Date


21 
22 Kieran O'Donnell, Manager
23 Office of Compliance and Enforcement
24
25
26
27

EXHIBIT No.1

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

VIOLATION: Discharging wastes into the waters of the state from an industrial establishment without a permit, in violation of ORS 468B.050(1)(a).

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

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 (2)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(2)(a)(D) because Respondent does not have an 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 10 according to OAR 340-012-0145(2)(b), which provides that the value of "P" will not exceed 10. Respondent has hundreds of Class I and Class I equivalent violations as described in Case No. WQ/SW-NWR-2017-204 issued on January 23, 2018, and over one hundred Class I and Class I Equivalent violations as described in Case No. WQ/SW-NWR-2017-080 issued on July 24, 2017, and 30 class I violations as described in Case No.:WQ/SW-WR-2018-142, and 3 class II violation in Case No.:WQ/SW-NWR-2019-009 in the same media as the violations that are the subject of the current formal enforcement action.

"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 insufficient information on which to base a finding under paragraphs (3)(a) or (b).

"O" is whether the violation was repeated or ongoing and receives a value of 3 according to OAR 340-012-0145(4)(c), because there were from seven to 28 occurrences of the violation. Respondent discharged for three days per month during the months of May 2020, June 2020, July 2020, and August 2020 for a total of 12 occurrences. Each day of violation constitutes a separate occurrence.

- "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 conduct was reckless. Respondent is a holder of various discharge permits throughout the state and has been issued multiple enforcement actions for permit and discharge violations. Respondent is, therefore, aware of the requirement to obtain a permit prior to discharging to waters of the state. By discharging wastes from the Facility without permit coverage, Respondent consciously disregarded a substantial and unjustifiable risk that it would violate Oregon law requiring a permit for discharges from industrial activities.
- "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 there is insufficient information to make a finding under paragraphs (6)(a) through (6)(e), or (6)(g).
- "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 \$2,222. This is the amount Respondent gained by avoiding spending \$2,734 on the NPDES 1200-A permit fee and annual fee. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

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

$$= \$6,000 + [(0.1 \times \$6,000) \times (10 + 0 + 3 + 8 + 0)] + \$2,222$$

$$= \$6,000 + [\$600 \times 21] + \$2,222$$

$$= \$6,000 + \$12,600 + \$2,222$$

$$= \$20,822$$



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

CIVIL PENALTY - ORS 468.135(2)

DATE:	July 19, 2022
RESPONSE DATE :	September 27, 2022
TOTAL PENALTY:	\$20,822.00

Account Name:	KNIFE RIVER CORP. NW		
Account Type:	Vendor/Organization/Company	Reference Number:	CPGFD2300007
SubSystem ID:	207062	FIMS Acct. ID:	8399

Penalty Summary

Penalty Amount	Interest	Adjustment	Amount Paid	Total Penalty
\$ 20,822.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 20,822.00

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.	CPGFD2300007		
PAYCODE:	00401 7400 10040 74001 0500 000000 00		
FEE PROGRAM ID:	950	RESPONSE DATE:	September 27,
FIMS ACCT. ID:	8399	TOTAL PENALTY DUE:	\$20822.00

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 0095000083992(CPGF)230000700020822003



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
7/15/2022	2021-548 WQ-SW-ER-2021-548	\$20,822.00

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 _____