



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

August 19, 2022

CERTIFIED MAIL: 7020 2450 0000 3349 5055

Regency of Oregon, Inc.
c/o eResidentAgent, Inc.
698 12th Street SE, Ste. 200
Salem, OR 97301

Re: Notice of Civil Penalty Assessment and Order
Case No. WQ/D-NWR-2022-050

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued Regency of Oregon, Inc. a civil penalty of \$1,050 for violating the Technology Based Effluent Limits (TBELs) set forth in the National Pollutant Discharge Elimination System (NPDES) permit (Permit No. 101644) issued to the Canby Regency Mobile Home Park located in Canby, Oregon. Specifically, on six separate occasions, the facility exceeded the TBEL established for BOD₅ in the facility's wastewater.

DEQ issued this penalty because increased levels of BOD₅ in wastewater discharges can deplete the oxygen levels in the receiving water, causing stress and even death to aquatic organisms.

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 503-229-5422 or toll free in Oregon at 800-452-4011, extension 5422.

Sincerely,

A handwritten signature in blue ink, appearing to be 'K O'Donnell', written in a cursive style.

Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Enclosures

cc: Jon Pettit, Regency of Oregon, Inc. (via email: Jon@churchill-group.com)
Dena Murray, Canby Regency Mobile Home Park (via email: petersen.dena@gmail.com)
Mark Bentz, DEQ NWR
Accounting, DEQ

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
2 OF THE STATE OF OREGON
3

4 IN THE MATTER OF:) NOTICE OF CIVIL PENALTY
5 REGENCY OF OREGON, INC.) ASSESSMENT AND ORDER
6 a Delaware company,)
7 Respondent.) CASE NO. WQ/D-NWR-2022-050

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, ORS 468.126 through 468.140,
11 ORS Chapter 468B, ORS Chapter 183 and Oregon Administrative Rules (OAR) Chapter 340, Divisions
12 011, 012, and 045.

13 II. FINDINGS OF FACT

14 1. Respondent is the owner and operator of the Canby Regency Mobile Home Park located at
15 10038 S. New Era Road in Canby (the Facility).

16 2. The Facility first obtained a National Pollutant Discharge Elimination System (NPDES)
17 Permit in 1971 and has maintained permit coverage since then. The Facility's prior NPDES Permit
18 (#101644) expired on November 30, 2014 (Prior Permit), however Respondent submitted a renewal
19 application on July 18, 2014. Because Respondent submitted a timely renewal application, the permit
20 was administratively extended until the Facility's current NPDES permit (#101644) took effect on
21 March 1, 2022 (Current Permit).

22 3. Both permits authorize the Facility to discharge treated domestic wastewater to the
23 Willamette River, a water of state pursuant to ORS 468B.005(10). The permits also authorize the
24 Facility to transfer wastewater solids to another treatment facility for additional treatment and disposal.

25 4. Schedule B.2.a. of both permits requires discharge monitoring reports (DMRs) to be
26 submitted to DEQ each calendar month.

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1 5. Pursuant to Schedule A.1. of the Prior Permit, the TBEL for the monthly average effluent
2 concentration of BOD₅ during November 1–April 30 was 30 mg/L.

3 6. Pursuant to Schedule A.1. of the Prior Permit, the TBEL for the weekly average effluent
4 concentration of BOD₅ during November 1–April 30 was 45 mg/L.

5 7. In December 2021, Respondent's monthly average BOD₅ concentration was 31.9 mg/L,
6 which exceeded the permit limit of 30.0 mg/L by 6%.

7 8. In January 2022, Respondent's monthly average BOD₅ concentration was 33.8 mg/L, which
8 exceeded the permit limit of 30.0 mg/L by 12%.

9 9. Pursuant to Schedule A.1. of the Current Permit, the TBEL for the monthly average effluent
10 concentration of BOD₅ during May 1–October 31 is 10 mg/L.

11 10. Pursuant to Schedule A.1. of the Current Permit, the TBEL for the weekly average effluent
12 concentration of BOD₅ during May 1–October 31 is 15 mg/L.

13 11. In May 2022, Respondent's monthly average BOD₅ concentration was 28.2 mg/L, which
14 exceeded the permit limit of 10.0 mg/L by 182%.

15 12. In May 2022, Respondent discharged effluent with a weekly average BOD₅ concentration of
16 28.2 mg/L, which exceeded the permit limit of 15.0 mg/L by 88%.

17 13. In June 2022, Respondent's monthly average BOD₅ concentration was 18.0 mg/L, which
18 exceeded the permit limit of 10.0 mg/L by 80%.

19 14. In June 2022, Respondent discharged effluent with a weekly average BOD₅ concentration of
20 18.0 mg/L, which exceeded the permit limit of 15.0 mg/L by 20%.

21 15. Pursuant to Schedule F.A1 of both permits, failure to comply with any permit condition is a
22 violation of Oregon Revised Statutes (ORS) 468B.025.

23 16. Pursuant to ORS 468B.025(2), no person shall violate the conditions of any waste discharge
24 permit issued under ORS 468B.050.

25 III. CONCLUSIONS

26 1. Respondent violated ORS 468B.025(2) and Schedule A.1 of the Prior Permit and the Current
27 Permit by exceeding the TBELs for BOD₅ on six occasions. Specifically, Respondent exceeded the BOD₅

1 concentration by 50% or more as follows: May 2022 (exceeded the monthly average concentration by
2 182%), May 2022 (exceeded the weekly average concentration by 88%), and June 2022 (exceeded the
3 monthly average concentration by 80%)—these are Class I violations pursuant to OAR 340-012-
4 0055(1)(k)(A). Respondent exceeded the BOD₅ limitation by 20% or more but less than 50% as follows:
5 June 2022 (exceeded the weekly average concentration by 20%)—this is a Class II violation pursuant to
6 OAR 340-012-0055(2)(a)(A). Respondent exceeded the BOD₅ limitation by less than 20% as follows:
7 December 2021 (exceeded the monthly average concentration by 6%) and January 2021 (exceeded the
8 monthly average concentration by 12%)—these are Class III violations pursuant to OAR 340-012-
9 0055(3)(b)(A). DEQ hereby assesses a \$1,050 civil penalty for these violations.

10 IV. ORDER TO PAY CIVIL PENALTY

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

- 13 1. Pay a civil penalty of \$1,050. The determination of the civil penalty is attached as Exhibit 1
14 and is incorporated as part of this Notice.

15 If you do not file a request for hearing as set forth in Section V below, your check or money order must
16 be made payable to "**State Treasurer, State of Oregon**" and sent to the **DEQ, Business Office, 700**
17 **NE Multnomah Street, Suite 600, Portland, Oregon 97232.**

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

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

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

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

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

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23 Date

8/19/2022



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.025(2) and Schedule A.1 of the Prior Permit and the Current Permit by exceeding the BOD₅ technology based effluent limit (TBEL) six times.
- CLASSIFICATION: Respondent's violations range from Class I to Class III. In accordance with OAR 340-012-0145(4)(e), the civil penalty is calculated as a Class I violation pursuant to OAR 340-012-0055(1)(k)(A).
- MAGNITUDE: The magnitude of the violation is minor pursuant to OAR 340-012-0135(2)(a)(C)(i) because Respondent's effluent was diluted by a factor of 10 or more by the receiving stream.
- 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 \$750 for a Class I, minor magnitude violation in the matrix listed in OAR 340-012-0140(4)(b)(A)(iii) and applicable pursuant to OAR 340-012-0140(4)(a)(F)(i) because Respondent's facility has a permitted flow of less than two million gallons per day.
- "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 PSAs.
- "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 was more than one but less than seven occurrences of the violation. Respondent exceeded the BOD₅ concentrations in its permit a total of six times.
- "M" is the mental state of the Respondent and receives a value of 2 according to OAR 340-012-0145(5)(b) because Respondent reasonably should have known what the TBELs set forth in its permits are and the requirement to meet those TBELs.

"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 or the effects of the violation could not be corrected or minimized.

"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 on which to make an estimate under the rule.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
= $\$750 + [(0.1 \times \$750) \times (0 + 0 + 2 + 2 + 0)] + \0
= $\$750 + (\$75 \times 4) + \$0$
= $\$750 + \$300 + \$0$
= $\$1,050$