



# 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 3, 2022

CERTIFIED MAIL: 7018 1830 0001 5906 3787

City of Stanfield  
Attn: Benjamin Burgener, City Manager  
PO Box 369  
Stanfield, Oregon 97875

Re: Notice of Civil Penalty Assessment and Order  
Case No. WQ/M-ER-2022-004

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$1,950 for violating your wastewater permit by discharging wastewater that exceeded coliform limitations in Schedule A, Condition 1 of the Permit. Pollutant levels in your wastewater are limited to protect water quality and aquatic life. By violating these limits, you risked adverse harm to public health and Oregon waters.

DEQ appreciates your efforts to ensure the violation will not be repeated by requiring pre-treatment plans and certification from truck wash-out users. 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](mailto:DEQappeals@deq.state.or.us)

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. 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>.

City of Stanfield  
Case No. WQ/M-ER-2022-004  
Page 2

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 Jeff Bachman at 503-229-5950 or toll free in Oregon at 800-452-4011, extension 5950.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kieran O'Donnell".

Kieran O'Donnell, Manager  
Office of Compliance and Enforcement

Enclosures

cc: Anna Morgan-Hayes, DEQ  
Shannon Davis, DEQ  
Accounting, DEQ

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

2 OF THE STATE OF OREGON

3 IN THE MATTER OF: ) NOTICE OF CIVIL PENALTY  
4 CITY OF STANFIELD, ) ASSESSMENT AND ORDER  
5 Respondent. ) CASE NO. WQ/M-ER-2022-004

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 Chapters 183 and 468B, and Oregon Administrative Rules (OAR) Chapter 340, Divisions 011 and  
10 012.

11 II. FINDINGS OF FACT

12 1. Respondent operates a municipal sewage treatment facility located at North Sherman  
13 and Hinkle Road in Stanfield, Umatilla County, Oregon (the Facility).

14 2. On February 1, 2012, DEQ issued National Pollution Discharge Elimination System  
15 Waste Discharge Permit No. 101136 (the Permit) to Respondent. The Permit allows Respondent to  
16 discharge treated wastewater from the Facility to the Umatilla River, waters of the state, in  
17 conformance with the requirements, limits and conditions set forth in the Permit. The Permit was in  
18 effect at all material times.

19 3. Schedule A, Condition 1(b)(2) of the Permit contains the following technology-based  
20 effluent limitations (TBELs) for total coliform bacteria: no two consecutive samples may exceed an  
21 average of 240 total coliform per 100 milliliters (mL) of effluent.

22 4. On August 25, 2021, Respondent collected an effluent sample where the total coliform  
23 bacteria concentration exceeded 2,419 colonies per 100 mL

24 5. Respondent next collected an effluent sample on September 1, 2021. The total coliform  
25 bacteria concentration of the sample was 388 colonies per 100 mL.

26 ///

27 ///



1 further information about requests for hearing.) You must send your request to: **DEQ, Office of**  
2 **Compliance and Enforcement, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232**, fax  
3 it to **503-229-6762** or email it to [DEQappeals@deq.oregon.gov](mailto:DEQappeals@deq.oregon.gov). An administrative law judge  
4 employed by the Office of Administrative Hearings will conduct the hearing, according to ORS  
5 Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be  
6 represented by an attorney at the hearing, however you are not required to be. If you are an individual,  
7 you may represent yourself. If you are a corporation, partnership, limited liability company,  
8 unincorporated association, trust or government body, you must be represented by an attorney or a duly  
9 authorized representative, as set forth in OAR 137-003-0555.

10 Active duty Service members have a right to stay proceedings under the federal Service  
11 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-  
12 452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed  
13 Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military  
14 Department does not have a toll free telephone number.

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

21  
22  
23  
24 8/3/2022   
25 Date Kieran O'Donnell, Manager  
26 Office of Compliance and Enforcement  
27

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 wastewater permit condition in violation of ORS 468B.025(2) by discharging wastewater that exceeded coliform effluent limitations in Schedule A, Condition 1(b)(2) of the Permit.

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0055(1)(k)(D) because Respondent discharged wastewater that exceeded the bacteria limit by more than five times the limit.

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 \$1,500 for a Class I, moderate 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).

"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 0 according to OAR 340-012-0145(4)(a) because there was a single occurrence of the violation.

"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. According to OAR 340-012-0030(15), negligent means the respondent failed to take reasonable care to avoid a foreseeable risk of conduct constituting or resulting in a violation. The coliform limit is an express condition of Respondent's Permit. By failing to require truck wash-out users to submit pre-treatment plans and avoid system upset, Respondent failed to ensure compliance with the limit. Respondent failed to exercise reasonable care to avoid the foreseeable risk of committing the 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. Respondent shut down the plant once the source of the violation was discovered. Respondent also notified users of the truck wash-out station and required those businesses to submit pre-treatment plans and receive certificates in order to continue using the plant's wash-out station.

"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 as DEQ has insufficient information and therefore any estimated cost would be too speculative to be reasonable.

PENALTY CALCULATION:  $Penalty = BP + [(0.1 \times BP) \times (P + H + O + M + C)] + EB$   
 $= \$1,500 + [(0.1 \times \$1,500) \times (0 + 0 + 0 + 4 + -1)] + \$0$   
 $= \$1,500 + (\$150 \times 3) + \$0$   
 $= \$1,500 + \$450 + \$0$   
 $= \$1,950$