



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 30, 2022

CERTIFIED MAIL: 7020 2450 0000 3349 5062

Woodgrain, Inc.
c/o Data Research, Inc., Registered Agent
8130 SW Beaverton-Hillsdale Hwy
Portland, OR 97225

Re: Notice of Civil Penalty Assessment and Order
Case No. WQ-I-ER-2022-010

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$6,000 for failing to collect and report pH monitoring data as required by Schedule B, Conditions 1-2 of the Water Pollution Control Facilities Permit for your lumber sawmill facility located in Pilot Rock. In addition, DEQ cited you, without penalty, for exceeding the pH limit in the Permit.

DEQ issued this penalty because the failure to collect and report required monitoring data deprives DEQ and the public of information necessary to determine whether Respondent is complying with the Permit's limits, which are set at levels to protect human health and the environment.

DEQ appreciates your efforts to ensure the violation will not be repeated by retraining your employee to record and report monitoring data in accordance with the permit. 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 – 503-229-6762

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>.

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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,



Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Enclosures

cc: Anna Morgan-Hayes, DEQ
Mike Hiatt, 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	WOODGRAIN, INC.,)	ASSESSMENT AND ORDER
5	an Oregon corporation,)	
	Respondent.)	CASE NO. WQ/I-ER-2022-010

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

11 II. FINDINGS OF FACT

12 1. At all relevant times, Respondent operated a lumber sawmill facility located at 600 NW
13 Cedar Street, Pilot Rock, Oregon.

14 2. At all relevant times, Respondent was authorized to dispose of wastewater from its
15 operations pursuant to Water Pollution Control Facilities (WPCF) Permit No. 101465 (the Permit).

16 3. Schedule B, Conditions 1-2 of the Permit require Respondent to monitor wastewater pH
17 by taking field measurements monthly, and to submit monitoring reports detailing those measurements
18 by the 15th day of the month following the reporting period.

19 4. In May 2021, Respondent measured the pH in each of its two wastewater ponds, but did
20 not record the pH values or report them in its May 2021 monitoring report.

21 5. Schedule A, Condition 5 of the Permit limits the pH of wastewater in Respondent's
22 wastewater ponds to a range of 6.5 to 9.0 standard units (s.u.).

23 6. On November 30, 2021, Respondent measured the pH of wastewater in Respondent's
24 "Frog Pond" and found that the pH of the wastewater was 9.5 s.u.

25 7. On December 14, 2021, Respondent measured the pH of wastewater in the Frog Pond
26 and found that the pH of the wastewater was 9.3 s.u.

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1 III. CONCLUSIONS

2 1. Respondent violated ORS 468B.025(2) and Schedule B, conditions 1-2 of the Permit by
3 failing to record pH values during the May 2021 monitoring period, as described in Section II,
4 paragraphs 3 and 4 above. These are Class I violations, according to OAR 340-012-0055(1)(o). DEQ
5 assesses a \$6,000 civil penalty for these violations.

6 2. Respondent violated ORS 468B.025(2) and Schedule A, Condition 5 of the Permit by
7 discharging wastewater with pH outside the range allowed by the Permit as described in Section II,
8 Paragraphs 5-7 above. These are Class III violations according to OAR 340-012-055(3)(b). DEQ does not
9 assess a 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: Pay a total civil penalty of \$6,000. The determination of the civil penalty is
13 attached as Exhibit 1 and is incorporated as part of this Notice.

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

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

18 You have a right to a contested case hearing on this Notice, if you request one in writing. DEQ
19 must receive your request for hearing **within 20 calendar days** from the date you receive this Notice. If
20 you have any affirmative defenses or wish to dispute any allegations of fact in this Notice or attached
21 exhibit, you must do so in your request for hearing, as factual matters not denied will be considered
22 admitted, and failure to raise a defense will be a waiver of the defense. (See OAR 340-011-0530 for
23 further information about requests for hearing.) You must send your request to: **DEQ, Office of**
24 **Compliance and Enforcement, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232**, fax
25 it to **503-229-6762** or email it to DEQappeals@deq.oregon.gov. An administrative law judge
26 employed by the Office of Administrative Hearings will conduct the hearing, according to ORS
27 Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be

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

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

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

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19 8/30/2022

20 Date

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21 Kieran O'Donnell, Manager
22 Office of Compliance and Enforcement
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EXHIBIT 1

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

VIOLATION NO. 1 Failure to conduct pH monitoring as required by Schedule B of the Permit in violation of ORS 468B.025(2).

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

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 \$4,000 for a Class I violation in the matrix listed in OAR 340-012-0140 (3)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140 (3)(a)(E)(ii) because Respondent has a Tier II industrial WPCF 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 was more than one but less than seven occurrences of the violation. Respondent failed to conduct monthly pH monitoring of its two wastewater ponds.

"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. The pH data collection and reporting requirement is an express condition of Respondent's Permit. By failing to take the action necessary to ensure compliance with the requirement, 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 as Respondent made reasonable efforts to ensure that the violation would not be repeated by retraining the employee whose conduct led to the violation.

"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 any economic benefit Respondent received was de minimis.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
= \$4,000 + [(0.1 x \$4,000) x (0 + 0 + 2+ 4 + (-1))] + \$0
= \$4,000 + (\$400 x 5) + \$0
= \$4,000 + \$2,000 + \$0
= \$6,000