



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 18, 2021

CERTIFIED MAIL: 7018 1830 0001 5903 8853

Dirt Doctor LLC
c/o Steve Haight, Registered Agent
1174 Craiglea Drive
Eagle Point, OR 97524

Re: Notice of Civil Penalty Assessment and Order
No. AQ/AB-WR-2021-095

This letter is to inform you that DEQ has issued you a civil penalty of \$4,201 for conducting an asbestos abatement project without being licensed by DEQ. In October 2020, you handled asbestos-containing vinyl flooring material when cleaning up wildfire debris at a residential property in Phoenix.

DEQ issued this penalty because you do not have a DEQ license or the required training to conduct asbestos abatement work. The abatement project did not comply with applicable asbestos regulations, and likely caused the release of asbestos fibers into the atmosphere, creating the potential to expose workers and the public. Additionally, DEQ was unable to determine where you disposed of the waste materials from the unlicensed project. Asbestos fibers are a respiratory hazard proven to cause lung cancer, mesothelioma and asbestosis. Asbestos is a danger to public health and a hazardous air contaminant for which there is no known safe level of exposure.

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 via check, money order, or e-check (ACH) by following the instructions on the attached invoice and logging in to Your DEQ Online here: <https://ordeq-edms-public.govonlinesaas.com/pub/login>

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 DEQ Environmental Law Specialist Esther Westbrook, at (503) 229-5374. You may call toll-free within Oregon at 1-800-452-4011, extension 5374.

Sincerely,



Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Enclosures

cc: Jennifer Horton, Medford Office, DEQ
Claudia Davis, Salem Office, DEQ
Accounting, DEQ

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

IN THE MATTER OF:) NOTICE OF CIVIL PENALTY
DIRT DOCTOR LLC,) ASSESSMENT AND ORDER
an Oregon limited liability company,)
Respondent.) NO. AQ/AB-WR-2021-095

I. AUTHORITY

This Notice of Civil Penalty Assessment and Order is issued pursuant to Oregon Revised Statutes (ORS) 468.100 and 468.126 through 468.140, ORS Chapters 183 and 468A, and Oregon Administrative Rules (OAR) Chapter 340, Divisions 011, 012 and 248.

II. FINDINGS OF FACT

1. On or about October 4, 2020, Clements Enterprises LLC, the owner of the residential property located at 808 E. Bolz Road in Phoenix, Jackson County, Oregon (the Facility), hired Respondent to perform cleanup work at the Facility to prepare it for demolition. The Facility had been damaged in the Almeda wildfire.

2. On or about March 5, 2020, Respondent handled and removed approximately 100 square feet of vinyl flooring at the Facility.

3. The vinyl flooring at the Facility contained approximately 15-25% Chrysotile asbestos by weight.

4. The vinyl flooring at the Facility had been damaged by fire and was in poor condition, such that handling the material crumbled, pulverized or reduced it to powder when dry, causing the potential to release asbestos fibers into the air.

5. Respondent is not licensed by DEQ to perform asbestos abatement projects.

III. CONCLUSION

On or about October 5, 2020, Respondent violated ORS 468A.715(1) and OAR 340-248-0110(3) by conducting an asbestos abatement project without being licensed by DEQ, as described in Section II above. Specifically, Respondent removed and handled vinyl flooring,

1 which was an “asbestos-containing material” as defined by OAR 340-248-0010(8) because it
2 contained more than 1% asbestos by weight. The removal and handling of the asbestos-
3 containing vinyl flooring was an “asbestos abatement project,” as defined by OAR 340-248-
4 0010(6) because it was part of the demolition or maintenance of the Facility that involved the
5 removal and handling of asbestos-containing materials with the potential to release asbestos
6 fibers into the air. This is a Class I violation according to OAR 340-012-0054(1)(t). DEQ hereby
7 assesses a \$4,201 civil penalty for this violation.

8 IV. ORDER TO PAY CIVIL PENALTY

9 Based upon the foregoing FINDINGS OF FACTS AND CONCLUSION, Respondent is
10 hereby ORDERED TO:

11 Pay a civil penalty of \$4,201. The determination of the civil penalty is attached as Exhibit
12 No. 1 and incorporated as part of this Notice.

13 If you do not file a request for hearing as set forth in Section V below, please pay the
14 penalty via check, money order, or e-check (ACH) by following the instructions on the attached
15 invoice and logging in to Your DEQ Online here: [https://ordeq-edms-](https://ordeq-edms-public.govonlinesaas.com/pub/login)
16 [public.govonlinesaas.com/pub/login](https://ordeq-edms-public.govonlinesaas.com/pub/login)

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.
19 DEQ must receive your request for hearing **within 20 calendar days** from the date you receive
20 this Notice. If you have any affirmative defenses or wish to dispute any allegations of fact in this
21 Notice or attached exhibits, you must do so in your request for hearing, as factual matters not
22 denied will be considered admitted, and failure to raise a defense will be a waiver of the defense.
23 (See OAR 340-011-0530 for further information about requests for hearing.) You must send your
24 request to: **DEQ, Office of Compliance and Enforcement, 700 NE Multnomah Street, Suite**
25 **600, Portland, Oregon 97232**, fax it to **503-229-5100** or email it to
26 DEQappeals@deq.state.or.us. An administrative law judge employed by the Office of
27 Administrative Hearings will conduct the hearing, according to ORS Chapter 183, OAR Chapter

1 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be represented by an
2 attorney at the hearing, however you are not required to be. If you are an individual, you may
3 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
5 a duly 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
12 default without further action by DEQ, as per OAR 340-011-0535(1). If you do request a hearing
13 but later withdraw your request, fail to attend the hearing or notify DEQ that you will not be
14 attending the hearing, DEQ will issue a final order by default pursuant to OAR 340-011-0535(3).
15 DEQ designates the relevant portions of its files, including information submitted by you, as the
16 record for purposes of proving a prima facie case.

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19 8/18/2021
20 Date

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Kieran O'Donnell, Manager
Office of Compliance and Enforcement

EXHIBIT NO. 1

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

- VIOLATION: Conducting an asbestos abatement project without being licensed by DEQ in violation of ORS 468A.710(1) and OAR 340-248-0110(3).
- CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0054(1)(t).
- MAGNITUDE: The magnitude of the violation is moderate pursuant to OAR 340-012-0135(1)(i)(C) because the violation involved from 80 square feet up to and including 160 square feet of asbestos-containing material (ACM). Respondent handled approximately 100 square feet of ACM.
- 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, moderate magnitude violation in the matrix listed in OAR 340-012-0140(3)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(3)(a)(B).
- "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 or not the violation was repeated or ongoing and receives a value 0 according to OAR 340-012-0145(4)(a), because there was only one occurrence of the violation. Respondent conducted the asbestos abatement project on one day: October 5, 2020.
- "M" is the mental state of the Respondent and receives a value of 0 according to OAR 340-012-0145(5)(a), because there is insufficient information on which to base a finding under paragraphs (5)(b) through (5)(e).
- "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 economic benefit that an entity gained by not complying with the law. 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 \$201. This is the amount Respondent gained by avoiding spending \$300 to properly dispose of the ACWM.

PENALTY CALCULATION:

$$\begin{aligned}\text{Penalty} &= \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB} \\ &= \$4,000 + [(0.1 \times \$4,000) \times (0 + 0 + 0 + 0 + 0)] + \$201 \\ &= \$4,000 + [(\$400) \times (0)] + \$201 \\ &= \$4,000 + \$0 + \$201 \\ &= \$4,201\end{aligned}$$

Oregon Department of Environmental Quality
700 NE Multnomah Street, Suite 600
Oregon, OR 97232-4100



State of Oregon
Department of Environmental Quality

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

STEVE HAIGHT
DIRT DOCTOR LLC
1174 CRAIGLEA DR.
EAGLE POINT, OR 97524

CIVIL PENALTY - ORS 468.135(2)
INVOICE

INVOICE DATE:	August 18, 2021
DUE DATE:	October 27, 2021
TOTAL AMOUNT DUE:	\$4,201.00

Account Name:	STEVE HAIGHT		
Account Type:	Individual	Invoice Number:	CPGFD2100003
SubSystem ID:	8	FIMS Acct. ID:	113

Billing Summary

Invoice Period	Current Invoice Amount	Penalty/Interest	Adjustment	Amount Paid	Total Due
07/01/2020 - 06/30/2021	\$ 4,201.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 4,201.00

Payment of this penalty is subject to the exercise of your options or right to appeal as described in the enclosed enforcement documents.

Fee in accordance with:

Sign up to **Go Paperless** or **pay online** at <https://yourdeqonline.oregon.gov>

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PLEASE RETURN THIS PORTION OF YOUR INVOICE WITH YOUR PAYMENT.



STEVE HAIGHT
1174 CRAIGLEA DR.
EAGLE POINT, OR 97524

INVOICE NUMBER:	CPGFD2100003		
PAYCODE:	00401 7400 10040 74001 0500 000000 00		
FEE PROGRAM ID:	950	DUE DATE:	October 27, 2021
FIMS ACCT. ID:	113	TOTAL AMOUNT DUE:	\$4201.00

AMOUNT ENCLOSED:

MAKE CHECK(S) 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 0095000001139CPGFD210000300004201009



State of Oregon
Department of
Environmental
Quality

State of Oregon Department of Environmental Quality

CIVIL PENALTY - ORS 468.135(2)
INVOICE

700 NE Multnomah Street, Suite 600
Oregon, OR 97232-4100
Phone: 503-229-5437
Fax: 503-229-5850

Billing Detail

Transaction Date	Description	Amount
8/17/2021	2021-095 AQ/AB-WR-2021-095	\$4,201.00

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://yourdeqonline.oregon.gov> to update your mailing address online or provide the following information:

Name _____
Address _____
City, State, Zip _____