



# Oregon

Kate Brown, Governor

## Department of Environmental Quality

Office of Compliance and Enforcement

700 NE Multnomah Street, Suite 600

Portland, OR 97232

(503) 229-5382

FAX (503) 229-5787

TTY 711

September 22, 2021

CERTIFIED MAIL No.: 7017 0530 0000 7760 6377

Morrison 12 Apartments LLC  
c/o CT Corporation System, Registered Agent  
780 Commercial St. SE, Suite 100  
Salem, OR 97301

Re: Notice of Civil Penalty Assessment and Order  
No. WQ/SW-NWR-2021-118

*DEQ is committed to balancing its vital obligation to enforce the law and protect the environment with a consideration of the dramatic disruptions to public health and the economy caused by the COVID-19 outbreak. We understand the outbreak may impact your ability to timely appeal, pay the assessed civil penalty, or comply with this order. You may submit to DEQ documentation identifying whether COVID-19-related disruption affects your ability to comply with this order. Visit our webpage at: <https://www.oregon.gov/deq/Pages/covid-19.aspx> for more information about documenting specific COVID-19 disruptions your facility may be encountering and how that affects your ability to comply. DEQ will exercise reasonable discretion regarding settlement of this order.*

This letter is to inform you that DEQ has issued you a total civil penalty of \$26,557 for failing to comply with your National Pollution Discharge Elimination System (NPDES) Stormwater Discharge Permit No. 1200-C (the Permit) for construction activities at the Modera Morrison site in Portland. Specifically, DEQ cited you for failing to implement your Erosion and Sediment Control Plan (ESCP), failing to conduct required visual monitoring, and submitting to DEQ false or inaccurate visual monitoring records. These are violations of the Permit and Oregon environmental law.

DEQ issued this penalty because implementing the ESCP is essential to ensure compliance with the Permit, as it includes pollution control measures that are specific to your site. These measures are intended to prevent the discharge of sediment to surface waters, as sediment can harm aquatic life and impact beneficial uses of those waters. Conducting regular and accurate monitoring enables registrants to evaluate the effectiveness of erosion and sediment controls and implement corrective actions as necessary.

DEQ appreciates your efforts to correct the violation by submitting a revised ESCP and implementing corrective actions at the site. 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 – 503-229-5100

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 Esther Westbrook at 503-229-5374 or toll free in Oregon at 800-452-4011, extension 5374.

Sincerely,



Kieran O'Donnell, Manager  
Office of Compliance and Enforcement

Enclosures

cc: Cassidy Bolger, Morrison 12 Apartments LLC, 720 SW Washington St., Suite 720,  
Portland, OR 97205  
Michael Kennedy, Northwest Region, DEQ  
Christine Svetkovich, Northwest Region, DEQ  
Accounting, DEQ

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION  
OF THE STATE OF OREGON

IN THE MATTER OF: ) NOTICE OF CIVIL PENALTY  
MORRISON 12 AVE APARTMENTS LLC, ) ASSESSMENT AND ORDER  
a Delaware limited liability company, )  
Respondent. ) NO. WQ/SW-NWR-2021-118

I. AUTHORITY

The Department of Environmental Quality (DEQ) issues this Notice of Civil Penalty Assessment and Order pursuant to Oregon Revised Statutes (ORS) 468.100 and 468.126 through 468.140, ORS Chapters 183 and 468B, and Oregon Administrative Rules (OAR) Chapter 340, Divisions 011, 012, and 045.

II. FINDINGS OF FACT

1. On February 10, 2020, DEQ issued coverage to Respondent under the National Pollutant Discharge Elimination System (NPDES) General Permit No. 1200-C (the Previous Permit). The Previous Permit expired on December 14, 2020. On December 15, 2020, DEQ issued the current Permit (the Current Permit), and Respondent's coverage was subsequently transferred. Respondent had permit coverage at all material times.

2. The Previous Permit and the Current Permit authorize construction activities that may discharge to surface waters or conveyance systems leading to surface waters of the state. Specifically, Respondent's coverage under the Previous Permit and the Current Permit authorized construction activities at "Modera Morrison," an apartment complex construction project located at 1120 SE Morrison Street in Portland, Multnomah County, Oregon (the Site). The total disturbed area at the Site is approximately 1.16 acres.

3. Respondent began construction activities at the Site in June 2020.

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1 4. DEQ inspected the Site on July 1, 2021. At the time of the inspection:

- 2 a. There was no construction entrance installed at the Site. The area being used as a  
3 construction entrance was bare dirt, access was uncontrolled, and there was track-  
4 out of soils onto the street;
- 5 b. Straw wattles used as perimeter controls were damaged and not maintained;
- 6 c. Stormwater catch basins at the Site were either lacking filter fabric inlet  
7 protection or the filter fabric was clogged, damaged or not maintained so as to  
8 render the catch basins unprotected; and
- 9 d. Waste containers were not covered.

10 5. Respondent's Erosion and Sediment Control Plan (ESCP) dated January 27, 2020  
11 contains the following conditions or requirements:

- 12 a. Install a "temporary gravel construction entrance" on SE 11<sup>th</sup> Ave. (Sheet C401,  
13 Detail Drawing 2 on Sheet C403);
- 14 b. Install straw wattles along the property perimeter (Sheet C401, Detail Drawing 4  
15 on Sheet C403);
- 16 c. Install filter fabric inlet protection in catch basins (Sheet C401, Detail Drawing 1  
17 on Sheet C403); and
- 18 d. Implement the following BMPs when applicable: covered storage areas for waste  
19 and supplies (Erosion Control Note 18 on Sheet C400).

20 6. Schedule B, Condition (1)(b) of the Previous Permit requires that when the site is  
21 active, all ESCP controls and practices must be monitored visually on a daily basis when  
22 stormwater runoff, including runoff from snowmelt, is occurring, and at least once every  
23 fourteen (14) calendar days, regardless of whether stormwater runoff is occurring. Schedule B,  
24 Condition 6.2 of the Current Permit requires that Respondent conduct visual monitoring once  
25 every 14 calendar days, and within twenty-four (24) hours of any storm event, including  
26 snowmelt that results in discharge from the site.

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1           7. On or about July 6, 2021, Respondent provided copies of visual monitoring records to  
2 DEQ. The records were dated March 22, 2021 through July 2, 2021.

3           8. According to rain gauge data, there were approximately 61 days when Respondent  
4 should have conducted visual monitoring at the Site from June 1, 2020 through March 21, 2021.

5           9. Respondent did not conduct any visual monitoring at the Site from June 1, 2020 until  
6 March 22, 2021.

7           10. Schedule B, Condition 6.4 of the Current Permit states that visual monitoring must  
8 include an evaluation of all elements of the ESCP including: confirmation that all stormwater  
9 controls are properly installed and are working as intended to prevent pollutant discharges,  
10 identification of any locations where new or modified stormwater controls are necessary, and  
11 documentation of any indication of sediment that has left or is likely to leave the project site.

12           11. Schedule B, Condition 6.5 of the Current Permit states that visual monitoring  
13 inspection reports must include a summary of the inspection, including the observations  
14 described in Section II, Paragraph 10 above.

15           12. Respondent submitted twenty-two (22) visual monitoring inspection reports for June  
16 2021. In all of these reports, Respondent answered "yes" to the following questions:

- 17           a. Is the site free of visible/measurable offsite sedimentation, vehicle track-out, or  
18           other signs of sediment leaving the site?  
19           b. Have perimeter controls been installed and maintained?  
20           c. Is inlet protection in place at the nearest downstream inlet(s) and inlets onsite?  
21           d. Is a wheel wash, paved, or stabilized rock exit being utilized?

22           13. Respondent's visual monitoring inspection reports referenced in Section II, Paragraph  
23 12 above did not accurately evaluate the erosion and sediment controls and conditions at the Site  
24 observed by DEQ on July 1, 2021, as described in Section II, Paragraph 4 above.

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### III. CONCLUSIONS

1. From on or before July 1, 2021 through the present, Respondent violated Schedule A, Condition (8)(a) of the Previous Permit, Schedule A, Condition 4 of the Current Permit, and ORS 468B.025(2) by failing to substantially implement the ESCP, as described in Section II, Paragraphs 1 through 5 above. Specifically, Respondent failed to install a gravel construction entrance, maintain perimeter controls, install and maintain filter fabric inlet protection, and properly cover waste storage at the Site. This is a Class I violation according to OAR 340-012-0055(1)(r). DEQ hereby assesses a \$16,605 civil penalty for this violation.

2. From June 1, 2020 through March 21, 2021, Respondent violated Schedule B, Condition (1)(a) of the Previous Permit and Schedule B, Condition 6.2 of the Current Permit by failing to conduct visual monitoring on approximately 61 days, as described in Section II, Paragraphs 6 through 9 above. These are Class I violations according to OAR 340-012-0055(1)(o). DEQ hereby assesses a \$6,802 civil penalty for these violations.

3. Respondent violated Schedule B, Condition 6.5 of the Current Permit and ORS 468B.025(2) by submitting visual monitoring inspection reports that did not accurately evaluate the erosion and sediment controls and conditions at the Site, as described in Section II, Paragraphs 4, and 10 through 13 above. Specifically, Respondent submitted to DEQ twenty-two visual monitoring inspection reports for the month of June 2021 that falsely stated that erosion and sediment controls at the Site were appropriately installed and maintained. This is a Class I violation according to OAR 340-012-0053(1)(b) because the submittal masked a violation or caused DEQ to misinterpret a substantive fact. Specifically, Respondent's visual monitoring inspection reports masked the violation that the ESCP had not been fully implemented or caused DEQ to misinterpret substantive facts about the condition of the Site. DEQ hereby assesses a \$3,150 civil penalty for these violations.

### IV. ORDER TO PAY CIVIL PENALTY

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

1 Pay a total civil penalty of \$26,557. The determination of the civil penalties are  
2 attached as Exhibit Nos. 1 through 3, and incorporated as part of this Notice.

3 If you do not file a request for hearing as set forth in Section V below, your check or  
4 money order must be made payable to "**State Treasurer, State of Oregon**" and sent to the **DEQ,**  
5 **Business Office, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232.** Once you  
6 pay the penalty, the Findings of Fact, Conclusions and Order become final.

#### 7 V. NOTICE OF RIGHT TO REQUEST A CONTESTED CASE HEARING

8 You have a right to a contested case hearing on this Notice, if you request one in writing.  
9 DEQ must receive your request for hearing **within 20 calendar days** from the date you receive  
10 this Notice. If you have any affirmative defenses or wish to dispute any allegations of fact in this  
11 Notice or attached exhibits, you must do so in your request for hearing, as factual matters not  
12 denied will be considered admitted, and failure to raise a defense will be a waiver of the defense.  
13 (See OAR 340-011-0530 for further information about requests for hearing.) You must send your  
14 request to: **DEQ, Office of Compliance and Enforcement, 700 NE Multnomah Street, Suite**  
15 **600, Portland, Oregon 97232,** fax it to **503-229-5100** or email it to  
16 [DEQappeals@deq.state.or.us](mailto:DEQappeals@deq.state.or.us). An administrative law judge employed by the Office of  
17 Administrative Hearings will conduct the hearing, according to ORS Chapter 183, OAR Chapter  
18 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be represented by an  
19 attorney at the hearing, however you are not required to be. If you are an individual, you may  
20 represent yourself. If you are a corporation, partnership, limited liability company,  
21 unincorporated association, trust or government body, you must be represented by an attorney or  
22 a duly authorized representative, as set forth in OAR 137-003-0555.

23 Active duty Service members have a right to stay proceedings under the federal Service  
24 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-  
25 452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed  
26 Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military  
27 Department does not have a toll free telephone number.



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

7  
8  
9  
10 9/22/21  
11 Date

Angie St. Clair for

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 1: Failing to substantially implement the Erosion and Sediment Control Plan (ESCP), in violation of Schedule A, Condition 8.a of the Previous Permit, Schedule A, Condition 4 of the Current Permit, and ORS 468B.025(2).

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

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)(ii) and applicable pursuant to OAR 340-012-0140(4)(a)(F)(ii) because Respondent has coverage under the NPDES 1200-C General Permit for a construction site that is more than one but less than five acres in size.

"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 4 according to OAR 340-012-0145(4)(d), because there were more than 28 occurrences of the violation. Each day of violation constitutes a separate occurrence. Respondent failed to substantially implement the plan from June 2020 through at least July 1, 2021, which was more than 28 days.

"M" is the mental state of the Respondent and receives a 4 according to OAR 340-012-0145(5)(c), because Respondent's conduct was negligent. The 1200-C Permit and the ESCP prepared by Respondent's engineer require implementation of erosion and sediment control measures in order to prevent the discharge of significant amounts of sediment from the Site. By failing to install or maintain erosion control measures included in the ESCP, Respondent failed to take reasonable care to avoid a foreseeable risk that it would violate its Permit.

"C" is Respondent's efforts to correct or mitigate the violation and receives a value of -3 according to OAR 340-012-0145(6)(c), because Respondent made reasonable efforts to correct the violation. Respondent submitted a revised ESCP on July 12, 2021, and implemented corrective actions at the Site on July 13, 2021.

"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 \$14,355. This is the amount Respondent gained by avoiding spending a total of \$20,258 for installing and maintaining erosion and sediment controls, including a construction entrance, straw wattles and inlet filters. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

PENALTY CALCULATION:  $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$   
= \$1,500 + [(0.1 x \$1,500) x (0 + 0 + 4 + 4 - 3)] + \$14,355  
= \$1,500 + [\$150 x 5] + \$14,355  
= \$1,500 + \$750 + \$14,355  
= \$16,605



## EXHIBIT NO. 2

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

VIOLATION 2: Failure to conduct visual monitoring in violation of Schedule B, Condition (1)(b) of the Previous Permit, Schedule B, Condition 6.2 of the Current Permit, and ORS 468B.025(2).

CLASSIFICATION: These are Class I violations 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 \$1,500 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(4)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(4)(a)(F)(ii) because Respondent has coverage under the NPDES 1200-C General Permit for a construction site that is more than one but less than five acres in size.

"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 4 according to OAR 340-012-0145(4)(d), because there were more than 28 occurrences of the violation. Each day of violation is a separate occurrence. Between June 1, 2020 and March 22, 2021, Respondent failed to inspect the Site on at least 61 days.

"M" is the mental state of the Respondent and receives a 4 according to OAR 340-012-0145(5)(c), because Respondent's conduct was negligent. Respondent has coverage under the NPDES 1200-C Permit which expressly requires Respondent to visually monitor all erosion and sediment controls daily when stormwater runoff is occurring so that it may identify problems at the site in order to prevent discharges. By failing to perform visual monitoring at the Site for over nine months, Respondent failed to take reasonable care to avoid a foreseeable risk that it would violate its Permit.

"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 \$4,102. This is the amount Respondent gained by avoiding spending \$6,100 to conduct visual monitoring at the Site on at least 61 occasions. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

PENALTY CALCULATION:  $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$   
= \$1,500 + [(0.1 x \$1,500) x (0 + 0 + 4 + 4 + 0)] + \$4,102  
= \$1,500 + [\$150 x 8] + \$4,102  
= \$1,500 + \$1,200 + \$4,102  
= \$6,802

EXHIBIT NO. 3

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

VIOLATION 3: Submitting false or inaccurate information on visual monitoring inspection reports in violation of Schedule B, Condition 6.5 of the Current Permit and ORS 468B.025(2), which masked a violation that the ESCP had not been fully implemented or caused DEQ to misinterpret substantive facts about the condition of the Site.

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0053(1)(b).

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)(ii) and applicable pursuant to OAR 340-012-0140(4)(a)(F)(ii) because Respondent has coverage under the NPDES 1200-C General Permit for a construction site that is more than one but less than five acres in size.

"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 4 according to OAR 340-012-0145(4)(c), because there were from seven to 28 occurrences of the violation. Each day of violation is a separate occurrence. Respondent submitted twenty-two visual monitoring inspection reports that did not accurately describe the site conditions.

"M" is the mental state of the Respondent and receives an 8 according to OAR 340-012-0145(5)(d), because Respondent's conduct was reckless. Respondent has coverage under the NPDES 1200-C Permit which expressly requires Respondent to conduct visual monitoring that includes an evaluation of all elements of the ESCP, and to document those observations on visual monitoring inspection reports. When Respondent submitted visual monitoring inspection reports to DEQ that stated that erosion and sediment controls at the Site were



appropriately installed and maintained, it knew or should have known that the information was false or inaccurate. When Respondent submitted false or inaccurate inspection reports in order to mask the violation that it had failed to substantially implement the ESCP or cause DEQ to misinterpret substantive facts about the condition of erosion and sediment controls at the Site and potential discharge of sediment, it consciously disregarded a substantial and unjustifiable risk of committing the violation. This risk was of such a nature and degree that disregarding it constituted a gross deviation from the standard of care a reasonable person would observe in that situation.

"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 because DEQ has insufficient evidence on which to base a finding that Respondent received an economic benefit from the violation.

PENALTY CALCULATION:  $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$   
= \$1,500 + [(0.1x \$1,500) x (0 + 0 + 3 + 8 + 0)] + \$0  
= \$1,500 + [\$150 x 11] + \$0  
= \$1,500 + \$1,650 + \$0  
= \$3,150