



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

September 13, 2022

CERTIFIED MAIL: 7020 2450 0000 3349 5161

Central Coast Clean Water Company
c/o Russell Trimble, Registered Agent
PO Box 1276
Depoe Bay, OR 97341-1276

Re: Notice of Civil Penalty Assessment and Order
Case No. WQ/M-WR-2022-042

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$2,250 for causing pollution of waters of the state when you discharged non-disinfected wastewater from your wastewater treatment facility to the Pacific Ocean on June 13-15, 2021. DEQ issued this penalty because non-disinfected domestic wastewater contains high concentrations of bacteria that pose a risk to human health and aquatic life.

DEQ appreciates your efforts to correct the violation, including setting aside funding to improve your wastewater disinfection system. 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.oregon.gov

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,

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

Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Enclosures

cc: Gus Glaser, DEQ
Ranei Nomura, DEQ
Accounting, DEQ

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

IN THE MATTER OF:)
CENTRAL COAST CLEAN) NOTICE OF CIVIL PENALTY
WATER COMPANY,) ASSESSMENT AND ORDER
an Oregon nonprofit corporation,)
Respondent.) CASE NO. WQ/M-WR-2022-042

I. AUTHORITY

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

II. FINDINGS OF FACT

1. At all relevant times, Respondent operated a domestic wastewater collection, treatment and disposal system authorized by a National Pollutant Discharge Elimination System Permit (the Permit) issued and administered by DEQ.

2. The Permit authorized Respondent to operate the system and discharge to waters of the state adequately treated wastewater only in conformance with all requirements, conditions, and limitations of the Permit.

3. As part of its treatment process, Respondent uses chlorine to kill bacteria in its wastewater effluent (disinfect) prior to discharge.

4. Schedule A, Condition 1.b of the Permit limits fecal coliform bacteria in Respondent's discharged effluent to a monthly median of 14 organisms per 100 milliliters (mL) of effluent.

5. Schedule A, Condition 1.b of the Permit limits enterococci bacteria in Respondent's discharged effluent to a monthly geometric mean of 35 organisms per 100 mL of effluent.

6. Fecal coliform is limited in wastewater discharges because it is indicator of the presence of human disease-causing bacteria in treated domestic wastewater.

7. Fecal coliform bacteria are present in non-disinfected domestic wastewater at concentrations of approximately 1,000,000 organisms per 100 mL.

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

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

5 You have a right to a contested case hearing on this Notice, if you request one in writing. DEQ
6 must receive your request for hearing **within 20 calendar days** from the date you receive this Notice. If
7 you have any affirmative defenses or wish to dispute any allegations of fact in this Notice or attached
8 exhibit, you must do so in your request for hearing, as factual matters not denied will be considered
9 admitted, and failure to raise a defense will be a waiver of the defense. (See OAR 340-011-0530 for
10 further information about requests for hearing.) You must send your request to: **DEQ, Office of**
11 **Compliance and Enforcement, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232**, fax
12 it to **503-229-6762** or email it to DEQappeals@deq.oregon.gov. An administrative law judge
13 employed by the Office of Administrative Hearings will conduct the hearing, according to ORS
14 Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be
15 represented by an attorney at the hearing, however you are not required to be. If you are an individual,
16 you may represent yourself. If you are a corporation, partnership, limited liability company,
17 unincorporated association, trust or government body, you must be represented by an attorney or a duly
18 authorized representative, as set forth in OAR 137-003-0555.

19 Active duty Service members have a right to stay proceedings under the federal Service
20 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-
21 452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed
22 Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military
23 Department does not have a toll free telephone number.

24 If you fail to file a timely request for hearing, the Notice will become a final order by default
25 without further action by DEQ, as per OAR 340-011-0535(1). If you do request a hearing but later
26 withdraw your request, fail to attend the hearing or notify DEQ that you will not be attending the
27 hearing, DEQ will issue a final order by default pursuant to OAR 340-011-0535(3). DEQ designates

1 the relevant portions of its files, including information submitted by you, as the record for purposes of
2 proving a prima facie case.

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9/13/2022
Date



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 NO. 1 Causing pollution of waters of the state in violation of ORS 468B.025(1)(a).
- CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0055(1)(a).
- 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 major or minor 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)(i) because Respondent has an NPDES permit for a private domestic wastewater treatment facility with a permitted flow of less than two million gallons per day.
- "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 were more than one but less than seven occurrences of a violation. Each day of violation constitutes a separate occurrence. The violation occurred on three days: June 13, 14, and 15, 2021.
- "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. Deteriorating tubing caused a vacuum leak which prevented disinfection. It is foreseeable that worn equipment may lead to malfunctioning that in turn would result in a 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 that violation would not be repeated by allocating monies in its 2022-23 budget to study the possibility of replacing the current system with a liquid hypochlorite system.

"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 there is insufficient information on which to make an estimate of Respondent's economic benefit, if any.

PENALTY CALCULATION: $\text{Penalty} = \$BP + [(0.1 \times \$BP) \times (P + H + O + M + C)] + EB$

$$\begin{aligned} &= \$1,500 + [(0.1 \times \$1,500) \times (0 + 0 + 2 + 4 - 1)] + \$0 \\ &= \$1,500 + (\$150 \times 5) + \$0 \\ &= \$1,500 + \$750 + \$0 \\ &= \$2,250 \end{aligned}$$