



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 5192

Odell Sanitary District
Attn: Dick Sohler, Board President
3700 Dethman Ridge Rd.
Hood River, Oregon 97031

Re: Notice of Civil Penalty Assessment and Order
Case No. WQ/M-ER-2022-062

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$2,700 for violating your wastewater system permit by failing to collect monitoring data as required by Schedule B, Conditions 2 and 3 of the permit. The monitoring conditions are among the most important of your permit. The monitoring required by your Permit enables DEQ and the public to determine whether you are complying with the pollution limits in the permit and if the wastewater treatment system is being operated optimally.

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>.

DEQ's rules are available at <http://www.oregon.gov/deq/Regulations/Pages/Statutes.aspx> or by calling the number below.

Odell Sanitary District
Case No. WQ/M-ER-2022-062
Page 2

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: Justin Sterger, 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 ODELL SANITARY DISTRICT) ASSESSMENT AND ORDER
5 Respondent.) CASE NO. WQ/M-ER-2022-062

6 I. AUTHORITY

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

10 II. FINDINGS OF FACT

11 1. Respondent operates a domestic wastewater treatment plant located at 3700 Dethman
12 Ridge Road in Hood River, Oregon (the Facility).

13 2. On July 12, 2019, DEQ issued National Pollution Discharge Elimination System Waste
14 Discharge Permit No. 100669 (the Permit) to Respondent. The Permit authorizes Respondent to
15 discharge treated wastewater from the Facility to Odell Creek, waters of the state, in conformance with
16 the requirements, limits and conditions set forth in the Permit. The Permit was in effect at all material
17 times.

18 3. Schedule B, Condition 2 of the Permit requires Respondent to monitor influent and
19 report the results as listed below:

20

Item or Parameter	Units	Time Period	Minimum Frequency	Sample Type /Required Action	Report Statistic
Influent BOD ₅ (00310)	mg/L	Year-round	1/week	Grab	1. Raw Data 2. Monthly Average
Influent Total Flow (50050)	MGD	Year-Round	Daily	Continuous	1. Raw Data 2. Monthly Average

21
22
23
24
25

26 4. Analysis of samples Respondent collected to comply with required monitoring for
27 influent five-day biochemical oxygen demand (BOD₅) did not meet the quality assurance/quality

control (QA/QC) requirements established in Schedule F, Condition C.3 of the Permit for the following 12 periods: January 19-25, February 9-15, August 23-29, and December 13-19, 2020, and January 17-23, January 31-February 6, February 21-27, June 13-19, July 4-10, August 8-14, August 22-28, and September 26-October 2, 2021.

5. Respondent did not conduct influent total flow monitoring on December 11, 12, 13 and 14, 2020.

6. Schedule B, Condition 3 of the Permit requires that Respondent monitor effluent and reports the results as listed below:

Item or Parameter	Units	Time Period	Minimum Frequency	Sample Type/Required Action	Report Statistic
Effluent BOD ₅ (00310)	mg/L	Year-round	1/week	24-Hour Composite	1. Raw Data 2. Monthly Average 3. Weekly Average
Effluent Flow (50050)	MGD	Year-Round	Daily	Continuous	1. Raw Data 2. Daily Maximum
Effluent Temperature (00010)	°C	Year-Round	Daily	Continuous	1. Raw Data 2. Daily Maximum 3. Weekly Average
UV Dose (61938)	mJ/cm ²	Year-round	Daily	Calculation	1. Monthly Maximum

7. Analysis of samples Respondent collected to comply with required monitoring for effluent BOD₅ did not meet the QA/QC requirements established in Schedule F, Condition C.3 of the Permit for the following 12 periods: January 19-25, February 9-15, August 23-29, and December 13-19, 2020, and January 17-23, January 31-February 6, February 21-27, June 13-19, July 4-10, August 8-14, August 22-28, and September 26-October 2, 2021.

8. Respondent did not conduct daily effluent flow monitoring on December 11, 12, 13, or 14, 2020.

////

1 9. Respondent did not conduct daily effluent temperature monitoring on December 11, 12,
2 13, 14, 15, or 16, 2020.

3 10. Respondent did not conduct daily UV dosage monitoring on December 11, 12, 13, or 14,
4 2020

5 III. CONCLUSION

6 Respondent violated ORS 468B.025(b) by violating monitoring conditions of its Permit.
7 Specifically, Respondent violated Section B of the Permit by failing to meet QA/QC requirements for
8 influent and effluent BOD₅ monitoring and did not conduct influent and effluent flow, effluent
9 temperature and UV dosage monitoring as described in Section II, Paragraphs 3-10, above. These are
10 Class I violations, according to OAR 340-012-0055(1)(o). DEQ assesses a \$2,700 civil penalty for these
11 violations.

12 IV. ORDER TO PAY CIVIL PENALTY

13 Based upon the foregoing FINDINGS OF FACTS AND CONCLUSIONS, Respondent is
14 hereby ORDERED TO: Pay a total civil penalty of \$2,700. The determination of the civil penalty is
15 attached as Exhibit 1 and is incorporated as part of this Notice.

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

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

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

1 employed by the Office of Administrative Hearings will conduct the hearing, according to ORS
2 Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be
3 represented by an attorney at the hearing, however you are not required to be. If you are an individual,
4 you may represent yourself. If you are a corporation, partnership, limited liability company,
5 unincorporated association, trust or government body, you must be represented by an attorney or a duly
6 authorized representative, as set forth in OAR 137-003-0555.

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

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

18
19
20
21 9/13/2022
22 Date

21 
22 Kieran O'Donnell, Manager
23 Office of Compliance and Enforcement
24
25
26
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 failing to collect monitoring data as required by Schedule B of the Permit.

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.

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's facility has a permitted flow of less than 2 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 4 according to OAR 340-012-0145(4)(d) because there were more than 28 occurrences of the violation. There were 44 occurrences total as detailed in the Notice.

"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 monitoring requirements express conditions of Respondent's Permit. By failing to take the action necessary to complete the required monitoring, 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 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 as any economic benefit Respondent received was de minimis.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
 $= \$1,500 + [(0.1 \times \$1,500) \times (0 + 0 + 4 + 4 + 0)] + \0
 $= \$1,500 + (\$150 \times 8) + \$0$
 $= \$1,500 + \$1,200 + \$0$
 $= \$2,700$

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 failing to collect monitoring data as required by Schedule B of the Permit.

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.

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's facility has a permitted flow of less than 2 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 4 according to OAR 340-012-0145(4)(d) because there were more than 28 occurrences of the violation. There were 44 occurrences total as detailed in the Notice.

"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 monitoring requirements express conditions of Respondent's Permit. By failing to take the action necessary to complete the required monitoring, 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 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 as any economic benefit Respondent received was de minimis.

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

$$\begin{aligned} &= \$1,500 + [(0.1 \times \$1,500) \times (0 + 0 + 4 + 4 + 0)] + \$0 \\ &= \$1,500 + (\$150 \times 8) + \$0 \\ &= \$1,500 + \$1,200 + \$0 \\ &= \$2,700 \end{aligned}$$