



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

October 12, 2021

CERTIFIED MAIL: 7018 1830 0001 5903 9508

Insurance Auto Auctions, Inc.
c/o Corporation Service Company, Registered Agent
1127 Broadway St., NE Suite 310
Salem, OR 97301

Re: Notice of Civil Penalty Assessment and Order
Case No. WQ/SW-NWR-2021-026

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 <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 civil penalty of \$6,701 for failing to comply with the National Pollutant Discharge Elimination System 1200-Z Industrial Stormwater General Permit (the Permit). You have coverage under the Permit for your facility located at 4415 NE 158th Ave. in Portland, Oregon. During the 2019-2020 monitoring year, you failed to collect a grab sample from one of your outfalls and analyze it for benchmark and impairment pollutants.

DEQ issued this penalty because monitoring is an important condition of the Permit. Monitoring may reveal the presence of harmful levels of pollutants that pose a threat to waters of the state. In addition, monitoring allows permittees and DEQ to gauge the effectiveness of stormwater controls and best management practices at reducing levels of pollutants in discharges. DEQ is also citing you, without penalty, for exceeding the hold time for an analysis of total suspended solids. DEQ has previously cited and penalized Insurance Auto Auctions for violating these same monitoring requirements of the Permit.

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

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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>. Payments sent by mail must be sent to the address on the invoice.

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 Courtney Brown at 503-229-6839 or toll free in Oregon at 800-452-4011, extension 6839.

Sincerely,



Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Enclosures

cc: Joshua Ernst, Bureau of Environmental Services, City of Portland
Victoria McCoy, Insurance Auto Auctions, Inc., 4415 NE 158th Ave., Portland, OR 97230
Christine Svetkovich, DEQ
Accounting, DEQ

1 III. CONCLUSIONS

2 1. Respondent has violated ORS 468B.025(2), and Schedule B, condition 2.f and Table
3 5 of the Permit by failing to monitor its stormwater discharge for benchmarks and impairment
4 pollutants four times per monitoring year. Specifically, during the 2019-2020 monitoring year
5 Respondent failed to collect one sample from Discharge Point #006 and analyze it for benchmark
6 parameters and impairment pollutants. This is a Class I violation, according to OAR 340-012-
7 0055(1)(o). DEQ assesses a \$6,701 civil penalty for this violation.

8 2. Respondent has violated ORS 468B.025(2), and Schedule F, condition C.3 of the
9 Permit by exceeding the allowable hold time for total suspended solids analysis. Specifically,
10 Respondent exceeded the hold time for analysis of total suspended solids for the sampled
11 collected on April 22, 2020 at discharge point #003. This is a Class II violation according to
12 OAR 340-012-0053(2). DEQ has not assessed a civil penalty for this violation.

13 IV. ORDER TO PAY CIVIL PENALTY

14 Based upon the foregoing FINDINGS OF FACTS AND CONCLUSIONS, Respondent is
15 hereby ORDERED TO pay a total civil penalty of \$6,701. The determination of the civil penalty is
16 attached as Exhibit No. 1 and is incorporated as part of this Notice.

17 If you do not file a request for hearing as set forth in Section V below, please pay the
18 penalty via check, money order, or e-check (ACH) by following the instructions on the attached
19 invoice and logging in to Your DEQ Online here: [https://ordeq-edms-](https://ordeq-edms-public.govonlinesaas.com/pub/login)
20 [public.govonlinesaas.com/pub/login](https://ordeq-edms-public.govonlinesaas.com/pub/login). Payments sent by mail must be sent to the address on the
21 invoice. Once you pay the penalty, the Notice becomes final.

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

23 You have a right to a contested case hearing on this Notice, if you request one in writing.
24 DEQ must receive your request for hearing **within 20 calendar days** from the date you receive
25 this Notice. If you have any affirmative defenses or wish to dispute any allegations of fact in this
26 Notice or attached exhibit, you must do so in your request for hearing, as factual matters not
27 denied will be considered admitted, and failure to raise a defense will be a waiver of the defense.

1 (See OAR 340-011-0530 for further information about requests for hearing.) You must send your
2 request to: **DEQ, Office of Compliance and Enforcement, 700 NE Multnomah Street, Suite**
3 **600, Portland, Oregon 97232**, fax it to **503-229-5100** or email it to

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

11 Active duty Service members have a right to stay proceedings under the federal Service
12 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-
13 452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed
14 Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military
15 Department does not have a toll free telephone number.

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

22
23
24 10 / 12 / 2021
25 Date


24 
25 Kieran O'Donnell, Manager
26 Office of Compliance and Enforcement
27

EXHIBIT 1

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

VIOLATION: Failing to monitor stormwater in accordance with Schedule B, Table 5 of the Permit during the 2019-2020 monitoring year, in violation of ORS 468B.025(2).

CLASSIFICATION: These are Class I violations pursuant to OAR 340-012-0-0055(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, 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)(E)(iii). Respondent has coverage under an NPDES general 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 3 according to OAR 340-012-0145(2)(a). Respondent has two Class I violations in case no. WQ/SW-NWR-2018-238.

"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 insufficient information on which to base a finding under paragraphs (3)(a) or (b).

"O" is whether the violation was repeated or ongoing and receives a value of 0 according to OAR 340-012-0145(4)(a) because there was one occurrence of the violation. Respondent failed to collect one grab sample from discharge point #006 during the 2019-2020 monitoring year. Each missed sample from each discharge point constitutes a separate occurrence.

"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. DEQ previously cited Respondent for violating the Permit's monitoring requirements. Therefore, Respondent failed to take reasonable care to avoid a foreseeable risk of conduct constituting 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 the violation would not be repeated by proposing secondary sampling locations, investigating alternative laboratories and proposing installation of automated rain gauges.

"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 \$301. This is the amount Respondent gained by avoiding spending \$329.17 in costs for lab analysis and \$60 in labor to take the sample. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

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

$$\begin{aligned} &= \$4,000 + [(0.1 \times \$4,000) \times (3 + 0 + 0 + 4 + -1)] + \$301 \\ &= \$4,000 + (\$400 \times 6) + \$301 \\ &= \$4,000 + \$2,400 + \$301 \\ &= \$6,701 \end{aligned}$$