



# 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

December 2, 2019

CERTIFIED MAIL: 7017 1450 0000 8310 3206

Georgia Pacific Toledo, LLC  
c/o C T Corporation System, Registered Agent  
780 Commercial Street SE, Suite 100  
Salem, OR 97301

Re: Notice of Civil Penalty Assessment and Order  
Case No. WQ/I-WR-2019-006

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$27,106 for discharging wastewater from outlets not authorized by your National Pollutant Discharge Elimination System (NPDES) Permit for your kraft pulp and paper mill at 1400 Butler Bridge Road in Toledo, Oregon. Specifically, on September 13 and 14, 2018, you discharged approximately 1,260 gallons of treated wastewater through a storm drain to the Yaquina River. On October 15, 2018, you discharged treated wastewater from an off-site manhole to Little Beaver Creek at a rate of approximately 50 gallons per minute.

DEQ issued this penalty because your NPDES Permit includes specific discharge points that are monitored and controlled to minimize impacts to water quality. Discharging wastewater from any other points is prohibited. During the September 2018 discharge, the five day biochemical oxygen demand (BOD<sub>5</sub>) for your wastewater was high, exceeding the permitted limit on at least September 13, 2018. This means that the amount of oxygen consumed by organisms breaking down waste in your wastewater may have reduced the amount of dissolved oxygen available to aquatic organisms in the Yaquina River. In addition, your unauthorized discharge of wastewater to Little Beaver Creek on October 15, 2018 may have impacted water quality or aquatic organisms in the creek.

DEQ appreciates your efforts to minimize the impacts of the unauthorized discharge violations by replacing vacuum breakers and flange bolts in your wastewater system, the failure of which caused the unauthorized discharges in September and October 2018. DEQ considered these efforts when determining the amount of civil penalty.

The Notice also cites you, with penalty, for failing to monitor for BOD<sub>5</sub> from September 11, 2018 to September 14, 2018. Because you failed to follow Quality Assurance / Quality Control (QA/QC) procedures required under the Permit, your BOD<sub>5</sub> data is unreliable. Specifically, you failed to adjust the BOD<sub>5</sub> test dilutions to measure the higher BOD<sub>5</sub> concentrations accurately. While DEQ knows that you exceeded the daily maximum BOD<sub>5</sub> limit on September 13, 2018, we do not know by how much the limit was exceeded. In addition, you may have exceeded the daily maximum limit on September 11, 12 and 14 and the monthly average limit for September.

Included in Section IV of the Notice is an order requiring you to, within 60 days of the order becoming final by operation of law or on appeal, have a third party accredited by the Oregon Environmental Laboratory Accreditation Program audit the BOD analysis process in your laboratory and prepare a report with recommendations, including timelines, for QA/QC improvements. Once you have implemented the recommended changes, the order requires you to submit a summary of QA/QC improvements to DEQ by June 1, 2020.

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 Becka Puskas at 503-229-5058 or toll free in Oregon at 800-452-4011, extension 5058.

Sincerely,



Kieran O'Donnell, Manager  
Office of Compliance and Enforcement

Enclosures

cc: German Heredia, Georgia-Pacific Toledo, LLC, 1400 SE Butler Bridge Road, Toledo, OR 97391  
James McClure, Georgia-Pacific Toledo, LLC, 1400 SE Butler Bridge Road, Toledo, OR 97391  
Tim McFetridge, DEQ  
Ranei Nomura, DEQ  
Accounting, DEQ  
John Koestler, WQ, DEQ

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

IN THE MATTER OF: ) NOTICE OF CIVIL PENALTY  
GEORGIA-PACIFIC TOLEDO, LLC, ) ASSESSMENT AND ORDER  
Respondent. ) CASE NO. WQ/I-WR-2019-006

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 Chapters 183 and 468B, and Oregon Administrative Rules (OAR) Chapter 340, Divisions 011, 012, and 045.

II. FINDINGS OF FACT

1. Respondent owns and operates a kraft pulp and paper mill at 1400 Butler Bridge Road in Toledo, Oregon (Facility).

2. On July 14, 2006, DEQ issued Respondent National Pollutant Discharge Elimination System Permit No. 101409 (Permit).

3. The Permit was in effect at all material times.

4. The Permit authorizes Respondent to discharge treated wastewater to the Yaquina River only from the authorized discharge point or points established in Schedule A of the Permit and only in conformance with all of the requirements, limitations, and conditions set forth in the Permit.

5. Schedule A, Condition 1.a of the Permit authorizes the discharge of treated effluent to the Pacific Ocean at Outfall 001.

6. Schedule A, Condition 1.b of the Permit authorizes the discharge of wastewater from the Hogged fuel boiler drainage area to the Yaquina River at Outfall 003.

7. The Permit does not include any authorized discharge points other than the two authorized discharge points, Outfall 001 and Outfall 003, described in Paragraphs 5 and 6 of Section II, above.

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1           8. From approximately 2:30 p.m. on September 13, 2018 to approximately 11:30 a.m. on  
2 September 14, 2018, Respondent discharged approximately 1,260 gallons of treated wastewater to the  
3 Yaquina River through a storm drain.

4           9. The storm drain described in Paragraph 8 of Section II is not a discharge point authorized by  
5 the Permit.

6           10. From at least 7:00 a.m. to approximately 6:00 p.m. on October 15, 2018, Respondent  
7 discharged treated wastewater from an off-site manhole to Little Beaver Creek at a rate of  
8 approximately 50 gallons per minute.

9           11. The storm drain described in Paragraph 10 of Section II is not a discharge point authorized  
10 by the Permit.

11           12. Schedule A, Condition 1.a of the Permit states that for five day biochemical oxygen demand  
12 (BOD<sub>5</sub>) at Outfall 001:

13               a.       the monthly average effluent load shall not exceed 12,800 pounds per day  
14               (lbs/day); and

15               b.       the daily maximum effluent load shall not exceed 25,700 lbs/day.

16           13. On September 13, 2019, Respondent's effluent at Outfall 001 had a BOD<sub>5</sub> load of greater  
17 than 26,620 lbs/day.

18           14. Schedule B, Condition 1.a of the Permit requires Respondent to monitor its effluent for  
19 BOD<sub>5</sub> at Outfall 001 at least three times a week using a 24-hour composite sample.

20           15. Schedule B, Condition 1 of the Permit states that "The laboratory used by the permittee to  
21 analyze samples shall have a quality assurance/quality control (QA/QC) program to verify the accuracy  
22 of the sample analysis. If QA/QC requirements are not met for any analysis and cannot be re-analyzed,  
23 then the results shall be included in the report, but not used in calculations required by this permit."

24           16. Schedule F.C.3 of the Permit requires Respondent to conduct monitoring according to test  
25 procedures approved under 40 CFR part 136, unless other test procedures have been specified in the  
26 Permit.

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1 17. According to 40 CFR part 136, Table IB.9, Standard Method 5210 B is an approved test  
2 procedure for BOD<sub>5</sub>.

3 18. Standard Method 5210 B requires Respondent to make at least three dilutions of prepared  
4 sample estimated to produce, at the end of the test, at least one dilution that would result in a residual  
5 dissolved oxygen (DO) of  $\geq 1.0$  mg/L and a DO uptake of  $\geq 2$  mg/L after the 5 day incubation. Section 5  
6 C of Standard Method 5210 B gives dilutions for strong industrial waste. Standard Methods also  
7 recommends running a chemical oxygen demand (COD) test to serve as a guide in selecting the BOD  
8 dilutions.

9 19. When performing analysis on the BOD<sub>5</sub> samples collected for September 11, 12, 13 and 14,  
10 2018, Respondent did not adjust BOD test dilutions to measure the higher BOD concentration  
11 according to Standard Method 5210 B and did not use the dilutions for strong industrial waste in  
12 Section 5 C of Standard Method 5210 B.

13 20. Respondent conducted a COD test on September 11, 2018 and found that there was high  
14 loading to the wastewater treatment system. However, Respondent did not analyze additional BOD  
15 dilutions.

### 16 III. CONCLUSIONS

17 1. On September 13 and 14, 2018, Respondent violated ORS 468B.050(1)(e) by using a new  
18 outlet for the discharge of wastes into waters of the state, as described in Paragraphs 4-9 of Section II.  
19 Specifically, the storm drain described in Paragraph 8 above, is not an authorized discharge point for  
20 treated wastewater under the Permit. Respondent's treated wastewater is "waste" according to ORS  
21 468B.005(9) because it is a liquid which will or may cause pollution or tend to cause pollution of any  
22 waters of the state. The Yaquina River is a waters of the state according to ORS 468B.005(10). These  
23 are two (2) Class I violations, according to OAR 340-012-0055(1)(c). DEQ hereby assesses a \$9,000 civil  
24 penalty for these violations.

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2. On October 15, 2018, Respondent violated ORS 468B.050(1)(e) by using a new outlet for the discharge of wastes into waters of the state, as described in Paragraphs 4-6 and 10-11 of Section II. Specifically, the manhole described in Paragraph 10 above, is not an authorized discharge point for treated wastewater under the Permit. Respondent's treated wastewater is "waste" according to ORS 468B.005(9) because it is a liquid which will or may cause pollution or tend to cause pollution of any waters of the state. Little Beaver Creek is a waters of the state according to ORS 468B.005(10). This is a Class I violation, according to OAR 340-012-0055(1)(c). DEQ hereby assesses an \$8,506 civil penalty for this violation.

3. Respondent violated ORS 468B.025(2) by violating a condition of a wastewater discharge permit. Specifically, Respondent violated Schedule F.C.3 of the Permit by failing to monitor its effluent for BOD<sub>5</sub> because the QA/QC failures rendered the data unreliable, as described in Paragraphs 14-20 of Section II. These are four (4) Class I violations according to OAR 340-012-0055(1)(o). DEQ hereby assesses a \$9,600 civil penalty for these violations.

4. Respondent violated ORS 468B.025(2) by violating a condition of a wastewater discharge permit. Specifically, on September 13, 2018, Respondent violated Schedule A, Condition 1.a of the Permit by discharging effluent with a BOD<sub>5</sub> load that exceeds the Permit limit as described in Paragraphs 12-13 of Section II. This is one Class III violation according to OAR 340-012-0055(3)(b)(A). DEQ has not assessed a civil penalty for this violation.

#### 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 \$27,106. The determination of the civil penalties are attached as Exhibits 1-3 and are incorporated as part of this Notice.

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

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1           2. Within 60 days of this order becoming final by operation of law or on appeal, Respondent  
2 must have a third party accredited by the Oregon Environmental Laboratory Accreditation Program  
3 audit the BOD analysis process in Respondent's laboratory and prepare a report with recommendations,  
4 including timelines, for QA/QC improvements.

5           3. Respondent must implement the recommendations in the report described in Paragraph 2 of  
6 Section IV according to the timelines therein.

7           4. By June 1, 2020, Respondent must submit to DEQ a summary of the recommendations  
8 described in Paragraphs 2 and 3 of Section IV above, changes made to Respondent's BOD analysis  
9 process, and an evaluation of whether or not those changes helped reduce QA/QC failures.

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

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

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

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

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15 12/2/2019  
16 Date

17   
18 Kieran O'Donnell, Manager  
19 Office of Compliance and Enforcement  
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## EXHIBIT 1

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

VIOLATION No. 1: Using a new outlet for the discharge of wastes into waters of the state, in violation of ORS 468B.050(1)(e).

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

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 \$6,000 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(2)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(2)(a)(E)(ii) because Respondent has a Tier I industrial source NPDES 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 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 was more than one but less than seven occurrences of the violation. Each day is a separate occurrence of the violation. Respondent discharged treated wastewater from an unauthorized discharge point to the Yaquina River on September 13 and 14, 2018.

"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 240-012-0030(15), negligent means respondent failed to take reasonable care to avoid a foreseeable risk of conduct constituting or resulting in a violation. By failing to adequately maintain the vacuum breakers associated with its wastewater treatment system, Respondent failed to take reasonable care to avoid a foreseeable risk of wastewater discharging from its wastewater treatment system to the Yaquina River from an unauthorized discharge point.

"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 taking the vacuum breaker that failed out of service and replacing it on or about September 17, 2018.

"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 the economic benefit is de minimis. On or about September 17, 2019, Respondent replaced the vacuum breaker that failed on or about September 13, 2018. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

PENALTY CALCULATION:  $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$   
= \$6,000 + [(0.1 x \$6,000) x (0 + 0 + 2 + 4 + -1)] + \$0  
= \$6,000 + (\$600 x 5) + \$0  
= \$6,000 + \$3,000 + \$0  
= \$9,000

## EXHIBIT 2

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

VIOLATION No. 2: Using a new outlet for the discharge of wastes into waters of the state, in violation of ORS 468B.050(1)(e).

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

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 \$6,000 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(2)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(2)(a)(E)(ii) because Respondent has a Tier I industrial source NPDES 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 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 0 according to OAR 340-012-0145(4)(a) because there was only one occurrence of the violation. Respondent discharged treated wastewater from an unauthorized discharge point to Little Beaver Creek on October 15, 2018.

"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 240-012-0030(15), negligent means respondent failed to take reasonable care to avoid a foreseeable risk of conduct constituting or resulting in a violation. By failing to adequately maintain the flanges in the manholes associated with its wastewater system, Respondent failed to take reasonable care to avoid a foreseeable risk of wastewater discharging from its wastewater treatment system to Little Beaver Creek from an unauthorized discharge point.

"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. On or before June 27, 2019, Respondent replaced the flange bolts in six manhole locations that are wet most of the year.

"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 \$706. This is the amount Respondent gained by delaying spending \$25,000 to replace the flange bolts on six manholes associated with its wastewater system from October 15, 2018 to June 27, 2019. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

PENALTY CALCULATION:  $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$   
= \$6,000 + [(0.1 x \$6,000) x (0 + 0 + 0 + 4 + -1)] + \$706  
= \$6,000 + (\$600 x 3) + \$706  
= \$6,000 + \$1,800 + \$706  
= \$8,506

### EXHIBIT 3

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

VIOLATION No. 3: Failing to monitor for BOD<sub>5</sub>, in violation of ORS 468B.025(2) and Schedule F.C.3 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, 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 \$6,000 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(2)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(2)(a)(E)(ii) because Respondent has a Tier I industrial source NPDES 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 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 was more than one but less than seven occurrences of the violation. Respondent failed to monitor for BOD<sub>5</sub> on September 11, 12, 13 and 14, 2018. Therefore, there are four occurrences of the violation.

"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 240-012-0030(15), negligent means respondent failed to take reasonable care to avoid a foreseeable risk of conduct constituting or resulting in a violation. By failing to comply with QA/QC procedures for analyzing its effluent required by the Permit, Respondent failed to take reasonable care to avoid a foreseeable risk of a monitoring 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 there is insufficient information to make a finding under paragraphs (6)(a) through (6)(e), or (6)(g).



"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 information to calculate an economic benefit for this violation.

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

$$\begin{aligned} &= \$6,000 + [(0.1 \times \$6,000) \times (0 + 0 + 2 + 4 + 0)] + \$0 \\ &= \$6,000 + (\$600 \times 6) + \$0 \\ &= \$6,000 + \$3,600 + \$0 \\ &= \$9,600 \end{aligned}$$