



Oregon

Kate Brown, Governor

Department of Environmental Quality
Office of Compliance and Enforcement
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December 27, 2021

CERTIFIED MAIL: 7018 1830 0001 5906 3169

Willamette Falls Paper Company, Inc.
c/o Robert W. Palmer, Registered Agent
1300 SW Fifth St., Suite 3400
Portland, OR 97201

Re: Notice of Civil Penalty Assessment and Order
Case No. WQ/SP-NWR-2021-147

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 the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$9,600 for causing pollution of waters of the state when you discharged process water containing paper fibers to the Willamette River on June 14, June 24 and October 20, 2021. The discharges resulted in visible turbidity plumes in the river. DEQ issued this penalty because turbid discharges pose a threat to fish and other aquatic life. Excessive turbidity can clog fish gills, reduce photosynthesis in aquatic flora, and increase the temperature of the affected waters.

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.

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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 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: Mike Pinney, DEQ
Tiffany Yelton-Bram, DEQ
Accounting, DEQ

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
2 OF THE STATE OF OREGON

3 IN THE MATTER OF:)
4 WILLAMETTE FALLS PAPER) NOTICE OF CIVIL PENALTY
5 COMPANY, INC.,) ASSESSMENT AND ORDER
6 an Oregon corporation,)
7 Respondent.) CASE NO. WQ/SP-NWR-2021-147

8 I. AUTHORITY

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

12 II. FINDINGS OF FACT

13 1. Respondent operates a paper mill at 4800 Mill Street, West Linn, Oregon (the Facility).
14 2. ORS 468B.005(5) states that "Pollution" or "water pollution" means "such alteration of
15 the physical, chemical or biological properties of any waters of the state, including change in
16 temperature, taste, color, turbidity, silt or odor of the waters, or such discharge of any liquid, gaseous,
17 solid, radioactive or other substance into any waters of the state, which will or tends to, either by itself
18 or in connection with any other substance, create a public nuisance or which will or tends to render
19 such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic,
20 commercial, industrial, agricultural, recreational or other legitimate beneficial uses or to livestock,
21 wildlife, fish or other aquatic life or the habitat thereof."

22 3. ORS 468B.005(10) states that "Water" or "the waters of the state" include "lakes, bays,
23 ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals,
24 the Pacific Ocean within the territorial limits of the State of Oregon and all other bodies of surface or
25 underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those
26 private waters which do not combine or effect a junction with natural surface or underground waters),
27 which are wholly or partially within or bordering the state or within its jurisdiction."

4. On or about June 14, 2021, Respondent discharged process water containing paper fibers
from its Facility to the Willamette River resulting in visible turbidity in the river.

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.

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21 12 / 27 / 2021
22 Date



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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 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) as Respondent has an NPDES Tier 1 Industrial Source 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. There were three occurrences of the violation, on June 14, June 24 and October 20, 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. Respondent has a duty to ensure that its operations comply with Oregon law. By failing to take the actions necessary to prevent its process water from discharging to waters of the state, 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: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
= \$6,000 + [(0.1 x \$600) x (0 + 0 + 2 + 4 + 0)] + \$0
= \$6,000 + (\$600 x 6) + \$0
= \$6,000 + \$3,600 + \$0
= \$9,600