



# Oregon

Tina Kotek, Governor

Department of Environmental Quality  
Office of Compliance and Enforcement  
700 NE Multnomah Street, Suite 600  
Portland, OR 97232  
(503) 229-5382  
FAX (503) 229-5787  
TTY 711

February 23, 2023

CERTIFIED MAIL No. 7020 2450 0000 3349 5727

Basque Station, Inc.  
c/o James M. Zatica, Registered Agent  
PO Box 159  
Jordan Valley, OR 97910

Re: Notice of Civil Penalty Assessment and Order  
Case No. AQ/ACDP-ER-2022-079

This letter is to inform you that DEQ has issued you a civil penalty of \$1,200 for failing to submit a timely and complete 2021 annual report to DEQ for your gasoline dispensing facility at 801 Main Street, Jordan Valley, Oregon, as required by your Air Contaminant Discharge Permit.

DEQ issued this penalty because annual reports are an important mechanism for DEQ to determine whether sources of air contaminants are operating within the conditions and limits of permits. Without a complete report, DEQ is unable to determine the compliance status of your gasoline dispensing facility to ensure emissions are within levels that do not pose harm to the public's health or the environment.

Included in Section IV of the attached Notice is an order requiring you to submit a complete 2021 annual report to DEQ within 30 days of the order becoming final. The annual report you submitted on June 9, 2022, was incomplete because it did not include required information regarding facility changes and maintenance.

You can pay the penalty by sending a check or money order to the above address. 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](mailto:DEQappeals@deq.oregon.gov)

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.

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 portion of the 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 Jenny Root at 503-229-5874 or toll-free in Oregon at 800-452-4011, extension 5874.

Sincerely,



Kieran O'Donnell, Manager  
Office of Compliance and Enforcement

Enclosures

cc: Tom Hack, Eastern Region, Pendleton Office, DEQ  
Mark Bailey, Eastern Region, Bend Office, DEQ  
Donald Hendrix, AQ, DEQ  
Accounting, DEQ



1 III. CONCLUSION

2 Respondent violated Condition 11.4 of the Permit and OAR 340-214-0114(1) and (2),  
3 adopted pursuant to ORS 468A.050(1), by failing to submit a complete 2021 annual report to  
4 DEQ by February 15, 2022, as further described in Section II, Paragraphs 4 through 6 above.  
5 This is a Class II violation according to OAR 340-012-0054(2)(f). DEQ has assessed a \$1,200  
6 civil penalty for this violation.

7 IV. ORDER TO PAY CIVIL PENALTY AND COMPLY

8 Based upon the foregoing FINDINGS OF FACTS AND CONCLUSION, Respondent is  
9 hereby ORDERED TO:

10 1. Pay a total civil penalty of \$1,200. The determination of the civil penalty is attached  
11 as Exhibit 1 and is incorporated as part of this Notice.

12 2. Within 30 days of this order becoming final by operation of law or on appeal,  
13 submit to DEQ, a complete 2021 annual report that includes the information for Item #s 11 and 12  
14 on the report form to: **Permit Coordinator, DEQ Eastern Region, Bend Office, 475 NE**  
15 **Bellevue, Suite 110, Bend, OR 97701.**

16 If you do not file a request for hearing as set forth in Section V below, your check or  
17 money order must be made payable to "**State Treasurer, State of Oregon**" and sent to the **DEQ,**  
18 **Business 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.  
21 DEQ must receive your request for hearing **within 20 calendar days** from the date you receive  
22 this Notice. If you have any affirmative defenses or wish to dispute any allegations of fact in this  
23 Notice or attached exhibit, you must do so in your request for hearing, as factual matters not  
24 denied will be considered admitted, and failure to raise a defense will be a waiver of the defense.  
25 (See OAR 340-011-0530 for further information about requests for hearing.) You must send your  
26 request to: **DEQ, Office of Compliance and Enforcement, 700 NE Multnomah Street, Suite**  
27 **600, Portland, Oregon 97232**, fax it to **503-229-5100** or email it to

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

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

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

19  
20 2/23/2023  
21 Date


20   
21 Kieran O'Donnell, Manager  
22 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: Failing to timely submit to DEQ, a complete 2021 annual report for Respondent's GDF, in violation of Condition 11.4 of AQGP-022 and OAR 340-214-0114(1) and (2).

CLASSIFICATION: This is a Class II violation pursuant to OAR 340-012-0054(2)(f).

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 \$750 for a Class II, moderate magnitude violation in the matrix listed in OAR 340-012-0140(4)(b)(B)(ii) and applicable pursuant to OAR 340-012-0140(4)(a)(C) because Respondent must operate the GDF under a General Air Contaminant Discharge Permit only because the GDF is subject to Area Source NESHAP regulations.

"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 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 0 according to OAR 340-012-0145(4)(a), because there was one occurrence of the violation. Respondent failed to timely submit one (2021) complete annual report for the GDF.

"M" is the mental state of the Respondent and receives a value of 4 pursuant to OAR 340-012-0145(5)(c) because Respondent's conduct was negligent. Respondent's Permit expressly requires Respondent to submit an annual report to DEQ by February 15th of each year. On August 26, 2020, DEQ issued Respondent a Warning Letter for failing to submit its 2019 annual report to DEQ by the February 15, 2020, due date. By failing to take adequate measures to ensure the 2021 annual report would be submitted timely and complete, Respondent failed to take reasonable care to avoid a foreseeable risk that Respondent would violate the Permit and Oregon law.

"C" is Respondent's efforts to correct or mitigate the violation and receives a value of 2 according to OAR 340-012-0145(6)(g), because Respondent did not address the violation as described in paragraphs (6)(a) through (6)(e) and the facts do not support a finding under paragraph (6)(f). To date, Respondent has not submitted a complete 2021 annual report to DEQ.

"EB" is the approximate dollar value of the benefit gained and the costs avoided or delayed as a result of 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 derived is likely to be de minimis.

PENALTY CALCULATION:  $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$   
 $= \$750 + [(0.1 \times \$750) \times (0 + 0 + 0 + 4 + 2)] + \$0$   
 $= \$750 + (75 \times 6) + \$0$   
 $= \$750 + \$450 + \$0$   
 $= \$1,200$