



# Oregon

Tina Kotek, 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

March 21, 2023

CERTIFIED MAIL: 7018 1830 0001 6172 7417

Carson Waller & Justin McCreadie  
577 N. Laurel Street, Unit B  
Ashland, OR 97520

Re: Notice of Civil Penalty Assessment and Order  
Case No. AQ-AB-WR-2022-522

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$2,565 for openly accumulating asbestos-containing waste material and disposing of the material at a site not authorized by DEQ to receive it. Specifically, in February 2022, you removed asbestos-containing popcorn ceiling texture from the residence that you own at 587 N. Laurel Street, Unit B in Ashland, Oregon. You left the material in the driveway of the residence in loose plastic packaging and tracked it across the property. You disposed of the pile of waste several days later at a location not authorized to accept asbestos.

DEQ issued this penalty because the violations described in the attached Notice of Civil Penalty Assessment and Order (Notice) could have released asbestos fibers into the air and exposed the public to asbestos. Asbestos fibers are a respiratory hazard proven to cause lung cancer, mesothelioma, and asbestosis. Asbestos is a danger to public health and a hazardous air contaminant for which there is no known safe level of exposure. The open accumulation of asbestos-containing material is prohibited because it presents a significant risk to public health and the environment. Disposal of asbestos-containing waste material at sites authorized by DEQ to accept asbestos is another important public health protection.

You may pay the civil penalty as follows:

Pay online with e-check (ACH) or Credit Card. Go to Your DEQ Online here: <https://ydo.oregon.gov>. Select Register Account or Login, then select Pay Invoices/Fees on your account dashboard. Enter the Invoice number and Account ID included on the attached payment slip. Note: US Bank charges a 2.3% convenience charge for credit card transactions. ACH payments have no additional charges.

Pay by check or money order: Make checks payable to "Department of Environmental Quality" and mail to the address on the enclosed payment slip. Please make sure to include the payment slip with your check or money order.

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 – 503-229-6762

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.

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 portion of your 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.

Sincerely,



Kieran O'Donnell, Manager  
Office of Compliance and Enforcement

Enclosures

cc: Jennifer Horton, DEQ

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION  
OF THE STATE OF OREGON

IN THE MATTER OF: )  
CARSON WALLER, an individual and ) NOTICE OF CIVIL PENALTY  
JUSTIN MCCREADIE, an individual, ) ASSESSMENT AND ORDER  
Respondents. ) CASE NO. AQ-AB-WR-2022-522

I. AUTHORITY

The Department of Environmental Quality (DEQ) issues this Notice of Civil Penalty Assessment and Order (Notice) to Respondents pursuant to Oregon Revised Statutes (ORS) 468.100, ORS 468.126 through 468.140, ORS Chapter 183 and 468A and Oregon Administrative Rules (OAR) Chapter 340, Divisions 011, 012, and 248.

II. FINDINGS OF FACT

1. On January 25, 2022, Respondents purchased two residential properties: 577 N. Laurel Street, Unit B (the 577 Unit) and 587 N. Laurel Street, Unit B (the 587 Unit), both in Ashland, Oregon. Following the purchase, Respondent Waller moved into one of the units and Respondent McCreadie moved into the other unit.

2. On or about February 26, 2022, Respondents removed approximately 800 square feet of white popcorn ceiling material from the 587 Unit. Respondents wrapped the white popcorn ceiling material in plastic drop cloth and placed it in the driveway of the 587 Unit.

3. On February 28, 2022, there was white popcorn ceiling material on the doormat, driveway, and on the rock landscaping outside of the 587 Unit.

4. On February 28, 2022, there was a pile of white popcorn ceiling material stored in loosely wrapped plastic in the carport of the 587 Unit.

5. On or after February 28, 2022, Respondents disposed of the pile of white popcorn ceiling material described in Section II, paragraph 4, above (along with other building materials) at the Rogue Disposal transfer station located at 8001 Table Rock Road in White City, Oregon (the Rogue Disposal Transfer Station).

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6. The Rogue Disposal Transfer Station is not a permitted disposal site authorized by DEQ to receive asbestos-containing waste material.

7. On March 10, 2022, DEQ inspected the 587 Unit and the surrounding property.

8. On March 10, 2022, there was white popcorn ceiling material on the doormat, driveway, and on the rock landscaping outside of the 587 Unit.

9. On or shortly after March 10, 2022, Respondents wetted and bagged the remaining popcorn ceiling material that was on the doormat, driveway, and on the rock landscaping at the 587 Unit.

10. The white popcorn ceiling material described in Section II, Paragraphs 2-5 and 8-9, above, contained 4-10% Chrysotile asbestos by weight.

### III. CONCLUSIONS

1. From February 26, 2022 to March 10, 2022, Respondents violated OAR 340-248-0205(1) by openly accumulating asbestos-containing waste material as described in Section II, paragraphs 1-10, above. Specifically, on or about February 26, 2022, Respondents placed a pile of white popcorn ceiling material loosely wrapped plastic in the carport of the 587 Unit and placed additional white popcorn ceiling material on the doormat, driveway, and on the rock landscaping outside of the 587 Unit. The pile of white popcorn ceiling material was removed and disposed on or about February 28, 2022, however the rest of the material on the doormat, driveway, and on the rock landscaping remained until at least March 10, 2022. The white popcorn ceiling material was not packaged in labeled and leak tight containers as required according to OAR 340-248-0280(2)(b), and thus this constituted “open accumulation” as defined in OAR 340-248-0010(34). The white popcorn ceiling material stored outside of Unit 587 was “asbestos-containing waste material” as defined in OAR 340-248-0010(9) because it is waste that contains asbestos-containing material. The white popcorn ceiling material is asbestos-containing material as defined in OAR 340-248-0010(8) because it contains more than one percent asbestos by weight. This is a Class I violation according to OAR 340-012-0054(1)(s). DEQ hereby assesses a \$1,300 civil penalty for this violation.

2. Respondents violated OAR 340-245-0280(5) by disposing of asbestos-containing waste material at a site not authorized by DEQ to receive the material, as described in in Section II, paragraphs 4-

6, above. This is a Class I violation according to OAR 340-012-0054(1)(u). DEQ hereby assesses a \$1,265 civil penalty for this violation.

#### IV. ORDER TO PAY CIVIL PENALTY

Based upon the foregoing FINDINGS OF FACTS AND CONCLUSIONS, Respondents are hereby ORDERED TO:

1. Pay a total civil penalty of \$2,565. The determination of the civil penalties are attached as Exhibits 1 and 2 and are incorporated as part of this Notice.

If you do not file a request for hearing as set forth in Section V below, please pay the penalty as follows:

Pay online with e-check (ACH) or Credit Card. Go to Your DEQ Online here: <https://ydo.oregon.gov>. Select Register Account or Login, then select Pay Invoices/Fees on your account dashboard. Enter the Invoice number and Account ID included on the attached payment slip. Note: US Bank charges a 2.3% convenience charge for credit card transactions. ACH payments have no additional charges.

Pay by check or money order: Make checks payable to "Department of Environmental Quality" and mail to the address on the enclosed payment slip. Please make sure to include the payment slip with your check or money order.

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

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

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

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

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

17  
18  
19  
20 3/21/2023

21 Date



21 Kieran O'Donnell, Manager  
22 Office of Compliance and Enforcement  
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EXHIBIT 1

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

- VIOLATION NO. 1 Openly accumulating asbestos-containing waste material, in violation of OAR 340-248-0205(1).
- CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0054(1)(s).
- MAGNITUDE: The magnitude of the violation is major pursuant to OAR 340-012-0135(1)(i)(A) because the violation involved more than 160 square feet of asbestos-containing waste material. Respondents openly accumulated approximately 800 square feet of asbestos-containing waste material.
- 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 \$1,000 for a Class I, major magnitude violation in the matrix listed in OAR 340-012-0140(5)(b)(A)(i) and applicable pursuant to OAR 340-012-0140(5)(a)(C) because Respondents are residential owner-occupants.
- "P" is whether Respondents have 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 Respondents, and receives a value of 0 according to OAR 340-012-0145(2)(a)(A), because there are no prior significant actions for either Respondent.
- "H" is Respondents' 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 3 according to OAR 340-012-0145(4)(c) because there were from seven to 28 occurrences of the violation. Each day is a separate occurrence of the violation. Respondents openly accumulated asbestos-containing waste material for at least 13 days from February 26, 2022 to March 10, 2022.
- "M" is the mental state of the Respondents, and receives a value of 2 according to OAR 340-012-0145(5)(b) because Respondents had constructive knowledge (reasonably should have known) of the requirement. The 587 Unit was constructed in 1975. As the owners, Respondents reasonably should have known that the 587 Unit was almost fifty years old and may contain asbestos or other hazardous materials. Popcorn ceiling texture is a material is widely understood to be a building material that commonly contains asbestos. It is also widely known that asbestos is a regulated material due to the health risks it presents. Thus, Respondents reasonably should have known about the prohibition against openly accumulating asbestos-containing waste material.

"C" is Respondents' efforts to correct or mitigate the violation, and receives a value of -2 according to OAR 340-012-0145(6)(d) because Respondent eventually made some efforts to minimize the effects of the violation by wetting and bagging the remaining popcorn ceiling material that remained on the doormat, driveway, and on the rock landscaping on or shortly after March 10, 2022.

"EB" is the approximate dollar value of the benefit gained and the costs avoided or delayed as a result of the Respondents' 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:  $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$

$$\begin{aligned} &= \$1,000 + [(0.1 \times \$1,000) \times (0 + 0 + 3 + 2 + -2)] + \$0 \\ &= \$1,000 + (\$100 \times 3) + \$0 \\ &= \$1,000 + \$300 + \$0 \\ &= \$1,300 \end{aligned}$$



EXHIBIT 2

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

VIOLATION NO. 2 Disposing of asbestos-containing waste material at a site not authorized by DEQ to receive the material, in violation of OAR 340-245-0280(5).

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0054(1)(u).

MAGNITUDE: The magnitude of the violation is major pursuant to OAR 340-012-0135(1)(i)(A) because the violation involved more than 160 square feet of asbestos-containing waste material. Respondents illegally disposed of approximately 800 square feet of asbestos-containing waste material.

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 \$1,000 for a Class I, major magnitude violation in the matrix listed in OAR 340-012-0140(5)(b)(A)(i) and applicable pursuant to OAR 340-012-0140(5)(a)(C) because Respondents are residential owner-occupants.

"P" is whether Respondents have 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 Respondents, and receives a value of 0 according to OAR 340-012-0145(2)(a)(A), because there are no prior significant actions for either Respondent.

"H" is Respondents' 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. On or about February 28, 2022, Respondents disposed of one load of asbestos-containing waste material at a site not authorized by DEQ to receive the material.

"M" is the mental state of the Respondents, and receives a value of 2 according to OAR 340-012-0145(5)(b) because Respondents had constructive knowledge (reasonably should have known) of the requirement. The 587 Unit was constructed in 1975. As the owners, Respondents reasonably should have known that the 587 Unit was almost fifty years old and may contain asbestos or other hazardous materials. Popcorn ceiling texture is a material is widely understood to be a building material that commonly contains asbestos. It is also widely known that asbestos is a regulated material due to the health risks it presents. Thus, Respondents reasonably should have known about the requirement to dispose of asbestos-

containing waste material at a permitted disposal site authorized by DEQ to receive the material.

"C" is Respondents' 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 \$65. This is the amount Respondent gained by avoiding spending \$95 in disposal costs, which is the difference in cost to dispose of approximately 800 square feet of asbestos-containing waste material at an authorized disposal site, as compared to the cost to dispose of the material as regular waste. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

PENALTY CALCULATION:  $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$   
 $= \$1,000 + [(0.1 \times \$1,000) \times (0 + 0 + 0 + 2 + 0)] + \$65$   
 $= \$1,000 + (\$100 \times 2) + \$65$   
 $= \$1,000 + \$200 + \$65$   
 $= \$1,265$

Oregon Department of Environmental Quality  
 700 NE Multnomah Street, Suite 600  
 Portland, OR 97232-4100



State of Oregon  
**DEQ Department of Environmental Quality**

Phone: 503-229-5437  
 Fax: 503-229-5850

CARSON WALLER

**CIVIL PENALTY - ORS 468.135(2)**

577 N. LAUREL STREET  
 ASHLAND, OR 97520

DATE:	March 21, 2023
RESPONSE DATE :	May 30, 2023
TOTAL PENALTY:	\$2,565.00

Account Name:	CARSON WALLER		
Account Type:	Individual	Reference Number:	CPGFD2300059
SubSystem ID:	305	FIMS Acct. ID:	10750

**Penalty Summary**

Penalty Amount	Interest	Adjustment	Amount Paid	Total Penalty
\$ 2,565.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 2,565.00

Payment of this penalty is subject to the exercise of your options or right to appeal as described in the enclosed enforcement documents.

To Pay Online with ACH or Credit Card Visit <https://ydo.oregon.gov> and select 'Register Account'



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 PLEASE RETURN THIS PORTION WITH YOUR PAYMENT



CARSON WALLER

577 N. LAUREL STREET  
 ASHLAND, OR 97520

REFERENCE NO.	CPGFD2300059		
PAYCODE:	00401 7400 10040 74001 0500 000000 00		
FEE PROGRAM ID:	950	RESPONSE DATE:	May 30, 2023
FIMS ACCT. ID:	10750	TOTAL PENALTY DUE:	\$2565.00

AMOUNT ENCLOSED:

MAKE CHECK PAYABLE TO: Department of Environmental Quality

DEQ FINANCIAL SERVICES - LBX4244  
 PO BOX 4244  
 PORTLAND OR 97208-4244

Check this box if updated address information has been provided on the back of the form.

00401 7400 10040 74001 0500 000000 0095000107507CPGFD230005900002565009



State of Oregon  
Department of  
Environmental  
Quality

# State of Oregon Department of Environmental Quality

**CIVIL PENALTY - ORS 468.135(2)**

700 NE Multnomah Street, Suite 600  
Portland, OR 97232-4100  
Phone: 503-229-5437  
Fax: 503-229-5850

## Penalty Detail

Transaction Date	Description	Amount
3/20/2023	2022-522 AQ/AB-WR-2022-522	\$2,565.00

### SFMS Agencies Use:

Trans Code	Treasury Fund	SFMS	Index	PCA (5)	Agency Object	Project #	Phase
723	00401	7400	10040	74001	0500	00000	00

## Address Changes

Please visit <https://ydo.oregon.gov> to update your mailing address online or provide the following information:

Name \_\_\_\_\_  
Address \_\_\_\_\_  
City, State, Zip \_\_\_\_\_