



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

May 11, 2023

CERTIFIED MAIL: 9589 0710 5270 0113 1700 31

Central Pipeline, Inc.
c/o Schuyler VanWart
985 Industrial Cir.
White City, OR 97503

Re: Notice of Civil Penalty Assessment and Order
Case No. WQ-SW-WR-2022-512

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$9,444 for water quality violations at a quarry that you own in Central Point, Oregon. Specifically, you violated several conditions of your 1200-A stormwater permit, File No. 121659, including failing to maintain an updated Stormwater Pollution Control Plan that reflects current site conditions.

DEQ issued this penalty because compliance with permit conditions that are appropriately tailored to a facility's operations reduce pollutant loads to waters of the state and protect water quality. A Stormwater Pollution Control Plan is a tool required by the 1200-A permit to help ensure that adequate best management practices and monitoring is in place at quarries to protect water quality in adjacent streams.

Included in Section IV of the enclosed Notice of Civil Penalty Assessment and Order (Notice) is an order requiring you to submit an updated Stormwater Pollution Control Plan within 30 days of the order becoming final by operation of law or on appeal.

\$5,844 of the civil penalty represents the economic benefit you gained by avoiding the cost to prepare an updated Stormwater Pollution Control Plan for the Facility. If you complete this requirement, DEQ will consider recalculating the costs as delayed rather than avoided and will reduce the civil penalty accordingly.

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

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: Lisa Reinhart, DOGAMI (Lisa.REINHART@dogami.oregon.gov)
Bill Meyers, DEQ
Heather Tugaw, DEQ
Accounting, DEQ

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

3 IN THE MATTER OF:)
4 CENTRAL PIPELINE INC.,) NOTICE OF CIVIL PENALTY
an Oregon corporation,) ASSESSMENT AND ORDER
5 Respondent.) CASE NO. WQ-SW-WR-2022-512
6

7 I. AUTHORITY

8 The Department of Environmental Quality (DEQ) issues this Notice of Civil Penalty Assessment
9 and Order (Notice) pursuant to Oregon Revised Statutes (ORS) 468.100, ORS 468.126 through 468.140,
10 468B, ORS Chapter 183 and Oregon Administrative Rules (OAR) Chapter 340, Divisions 011, 012, and
11 045.

12 II. FINDINGS OF FACT

13 1. Respondent operates a quarry property known as Jacksonville Pit No. 1 at 1930 Pair A Dice
14 Ranch Road, Jacksonville, Oregon (Tax Lot 372W19310) (the Facility).

15 2. On August 14, 2019, DEQ assigned Respondent coverage under National Pollutant
16 Discharge Elimination System (NPDES) General Permit Number 1200-A (the 1200-A Permit) for the
17 Facility (File No. 121659).

18 3. The 1200-A Permit was in effect at all material times.

19 4. The 1200-A Permit authorizes Respondent to construct, install, modify, or operate
20 stormwater treatment or control facilities, and to discharge stormwater, mine dewatering water, and
21 non-stormwater discharges specifically authorized by the permit to waters of the state in conformance
22 with all the requirements, limitations, and conditions set forth in the permit.

23 5. The Facility has one authorized discharge point, known as D001, which is located along the
24 western boundary of the Facility, just north of the pit. D001 discharges to Walker Creek.

25 6. Respondent is authorized under the 1200-A Permit to discharge co-mingled groundwater
26 and stormwater from the pit.

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1 7. On or before September 2020, Respondent leased the Facility to West Coast Reclamation,
2 Inc. (WCR), and allowed the Facility to be used by WCR for the processing of imported material for
3 gold ore.

4 8. WCR's gold ore extraction process, conducted at the Facility, involved crushing the
5 imported material (aggregate), and screening and washing the crushed material on-site. At least some of
6 the material that was left over after the process was stockpiled at the Facility.

7 9. On or before September 2020, Respondent allowed WCR to install at least three unlined
8 infiltration ponds located to the southeast of the pit, which were used to dispose of water from the gold
9 ore extraction process described above in Section II, paragraph 8, above.

10 10. On October 13, 2021, staff from the Oregon Department of Geology and Mineral Industries
11 (DOGAMI) inspected the Facility. On October 13, 2021:

- 12 a. There was gold processing equipment on-site at the Facility, including a crusher and a
13 shaker;
- 14 b. DOGAMI staff observed the three infiltration ponds described in Section II, paragraph
15 9, above;
- 16 c. Aggregate was actively being imported into the Facility and was being and stockpiled in
17 the southeast corner of the Facility. Two loads of aggregate were delivered to the
18 Facility during the inspection; and
- 19 d. There were two different pipes (other than the D001 discharge pipe) located on the
20 western boundary of the property, that had the potential to discharge from the Facility to
21 Walker Creek.

22 11. Schedule A.7 of the 1200-A Permit requires Respondent to prepare and implement a
23 Stormwater Pollution Control Plan (SWPCP) and to keep the SWPCP current and updated as necessary
24 to reflect any changes to the site. Schedule A, Condition 8 contains a list of required SWPCP elements
25 including a site map, site description including drainage patterns and discharge structures, and a
26 description of mining and processing activities taking place on site, including a description of the
27 material to be mined, mining method, types of on-site processing, and area to be affected, and a

1 description of potential pollutants to stormwater or mine dewatering discharges. Schedule A, Condition
2 9 of the 1200-A Permit requires that certain SWPCP revisions be submitted to DOGAMI including
3 “Changes to the site or control measures that may significantly change the nature of pollutants present
4 in stormwater or mine dewatering discharge; or significantly increase the pollutant(s) levels, discharge
5 frequency, or discharge volume and flow rate” (Schedule A, Condition 9.b.iii) and “Changes to the
6 monitoring locations or outfalls” (Schedule A, Condition 9.b.iv).

7 12. On January 21, 2020, Respondent submitted a copy of the SWPCP to DOGAMI, and on
8 December 8, 2021, Respondent submitted a revised copy of the SWPCP. The revised SWPCP did not
9 include the conditions at the site as follows:

- 10 a. The revised SWPCP states that the “only mining activity is washing stockpiled
11 aggregate to produce sand and clean rock.” This does not adequately describe the mining
12 and processing activities onsite because, in fact, aggregate is also being processed for
13 gold at the Facility.
- 14 b. The revised SWPCP states that “Process water is discharged into a series of three
15 settling/evaporation ponds and resused in the aggregate washing process.” This
16 description does not adequately describe the discharge structures and potential
17 pollutants.
- 18 c. The revised SWPCP does not describe the two pipes with a potential to discharge to
19 Walker Creek, described in Section II, paragraph 10.d, above.
- 20 d. The revised SWPCP did not include a legible map that includes the items described in
21 Schedule A.8.b.ii.1-17 of the 1200-A Permit.

22 13. Schedule A.1.b of the 1200-A Permit requires Respondent to minimize the exposure of
23 industrial areas to stormwater by ensuring that fueling, material storage and disposal areas are covered,
24 bermed or curbed to divert stormwater away from those areas. In addition, hazardous materials must be
25 stored within berms or other secondary containment to prevent leaks and spills from contaminating
26 stormwater.

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1 14. On October 13, 2021 there was a single-walled fuel tank sitting on the ground with no
2 berms, cover or secondary containment. In addition, there was an uncovered trash can that contained
3 waste including used cans of brake cleaner and soiled rags.

4 15. Schedule B.7.a of the 1200-A Permit requires daily inspections of dikes, containment
5 systems and pond freeboard when the Facility is active. According to the same condition, areas of the
6 site where industrial activities are exposed to stormwater, including locations of Best Management
7 Practices, material storage and stockpiling areas, vehicle entrance and exit areas must be monitored at
8 least once per month.

9 16. Schedule B.9 of the 1200-A Permit requires Respondent to keep copies of inspection
10 records and other permit related records on-site at the Facility. Schedule F.C.8 requires Respondent to
11 keep inspection records for a period of three years.

12 17. During the October 13, 2021 inspection, Respondent did not have any inspection records on
13 site at the Facility. As of the date of this Notice, Respondent has not provided any inspection records to
14 DOGAMI.

15 18. Schedule A.1.j of the 1200-A Permit requires Respondent to develop and maintain an
16 employee education program and to conduct training for all employees, inspectors and personnel who
17 work in areas where industrial activities are exposed to stormwater or who are responsible for
18 implementing activities necessary to meet the conditions of the 1200-A Permit. The education and
19 training must be conducted within 30 days of hiring a new employee and annually thereafter. Schedule
20 B.9.b of the 1200-A Permit requires Respondent to keep records of education activities.

21 19. During the October 13, 2021 inspection, Respondent did not have any employee education
22 records.

23 20. On February 2, 2023, DEQ inspected the Facility. The Facility had been graded and the
24 three infiltration ponds described in Section II, paragraph 9, above had been filled in.

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1 III. CONCLUSIONS

2 1. From at least September 2020 to the date of this Notice, Respondent violated ORS
3 468B.025(2) and Schedule A.7 of the 1200-A Permit by failing to maintain an updated SWPCP that
4 reflects the changes to the Facility, as described in Section II, paragraphs 1-12 and 20, above. Specifically,
5 the SWPCP updates that Respondent submitted in December 8, 2021 did not describe the mining
6 activities and process water ponds at the Facility at that time. Despite the termination of gold processing
7 activities on or before February 2023, the revised SWPC still does not describe the two pipes with a
8 potential to discharge from the Facility nor does it contain an adequate site map. This is a Class II
9 violation, according to OAR 340-012-0053(2). DEQ hereby assesses a \$9,444 civil penalty for this
10 violation.

11 2. On October 13, 2021, Respondent violated ORS 468B.025(2) and Schedule A.1.b of the 1200-
12 A Permit by failing to minimize the exposure of industrial areas to stormwater, as described in Section II,
13 paragraphs 13-14, above. This is a Class II violation, according to OAR 340-012-0053(2). DEQ has not
14 assessed a civil penalty for this violation.

15 3. From at least August 14, 2019 to October 13, 2021, Respondent violated ORS 468B.025(2)
16 and Schedule B.7.a of the 1200-A Permit by failing to conduct required Facility inspections, as described
17 in Section II, paragraphs 15-17, above. These are Class II violations, according to OAR 340-012-0053(2).
18 DEQ has not assessed a civil penalty for these violations.

19 4. From at least August 14, 2019 to October 13, 2021, Respondent violated ORS 468B.025(2)
20 and Schedule A.1.j of the 1200-A Permit by failing to conduct required employee education, as described
21 in Section II, paragraphs 18-19, above. These are Class II violations, according to OAR 340-012-0053(2).
22 DEQ has not assessed a civil penalty for these violations.

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1 IV. ORDER TO PAY CIVIL PENALTY AND TO COMPLY

2 Based upon the foregoing FINDINGS OF FACTS AND CONCLUSIONS, Respondent is
3 hereby ORDERED TO:

4 1. Pay a total civil penalty of \$9,444. The determination of the civil penalty is attached as Exhibit
5 1 and is incorporated as part of this Notice.

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

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

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

16 2. Within 30 days of this order becoming final by operation of law or on appeal, submit to
17 DOGAMI a revised SWPCP that reflects current conditions at the Facility and meets the requirements
18 of Schedule A.7 and A.8 of the 1200-A Permit.

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. DEQ
21 must receive your request for hearing **within 20 calendar days** from the date you receive this Notice. If
22 you have any affirmative defenses or wish to dispute any allegations of fact in this Notice or attached
23 exhibit, you must do so in your request for hearing, as factual matters not denied will be considered
24 admitted, and failure to raise a defense will be a waiver of the defense. (See OAR 340-011-0530 for
25 further information about requests for hearing.) You must send your request to: **DEQ, Office of**
26 **Compliance and Enforcement, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232**, fax
27 it to **503-229-6762** or email it to DEQappeals@deq.oregon.gov. An administrative law judge

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 5/11/2023
22 Date



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 Failing to maintain an updated SWPCP that reflects the changes to the Facility, in violation of ORS 468B.025(2) and Schedule A.7 of the 1200-A Permit.

CLASSIFICATION: This is a Class II violation pursuant to OAR 340-012-0053(2).

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 \$2,000 for a Class II, moderate magnitude violation in the matrix listed in OAR 340-012-0140(3)(b)(B)(ii) and applicable pursuant to OAR 340-012-0140(3)(a)(E)(iii) because Respondent has coverage under a 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 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 4 according to OAR 340-012-0145(4)(d) because there were more than 28 occurrences of the violation. Each day is a separate occurrence of the violation. Respondent has failed to maintain an updated SWPCP that reflects the changes at the Facility from at least September 2020 to the date of this Notice. Therefore, there are more than 28 occurrences of the violation.

"M" is the mental state of the Respondent, and receives a value of 2 according to OAR 340-012-0145(5)(b) because Respondent had constructive knowledge (reasonably should have known) of the requirement. As a registrant under the 1200-A Permit, Respondent has constructive knowledge of the Permit's requirements. Schedule A.7 of the 1200-A Permit requires Respondent to keep the SWPCP current and updated as necessary to reflect any changes to the site. Thus, Respondent reasonably should have known of the requirement to maintain an updated SWPCP.

"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). As of the date of the Notice, Respondent has not submitted to DOGAMI an updated SWPCP that meets the requirements of the 1200-A Permit.

"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 \$5,844. This is the amount Respondent gained by avoiding approximately \$7,500 in consultant fees to prepare an accurate SWPCP for the Facility. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
 $= \$2,000 + [(0.1 \times \$2,000) \times (0 + 0 + 4 + 2 + 2)] + \$5,844$
 $= \$2,000 + (\$200 \times 8) + \$5,844$
 $= \$2,000 + \$1,600 + \$5,844$
 $= \$9,444$

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



State of Oregon
Department of Environmental Quality

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

CIVIL PENALTY - ORS 468.135(2)

DATE:	May 11, 2023
RESPONSE DATE :	July 20, 2023
TOTAL PENALTY:	\$9,444.00

Account Name:	CENTRAL PIPELINE, INC. <JACKSONVILLE PIT NO. 1> <121659>		
Account Type:	Vendor/Organization/Company	Reference Number:	CPGFD2300071
SubSystem ID:	191259	FIMS Acct. ID:	2581

Penalty Summary

Penalty Amount	Interest	Adjustment	Amount Paid	Total Penalty
\$ 9,444.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 9,444.00

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'



 PLEASE RETURN THIS PORTION WITH YOUR PAYMENT



REFERENCE NO.	CPGFD2300071		
PAYCODE:	00401 7400 10040 74001 0500 000000 00		
FEE PROGRAM ID:	950	RESPONSE DATE:	July 20, 2023
FIMS ACCT. ID:	2581	TOTAL PENALTY DUE:	\$9444.00

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 0095000025811CPGFD230007100009444007



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
5/10/2023	2022-512 WQ-SW-WR-2022-512	\$9,444.00

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 _____