

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 25, 2023

CERTIFIED MAIL: 7018 1830 0001 5906 2964

Columbia Plywood Corporation c/o CT Corporation System 780 Commercial St SE, Ste 100 Salem, OR 97301

Re:

Notice of Civil Penalty Assessment and Order

Case No. WQ/I-ER-2022-142

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued the Columbia Plywood Corporation a civil penalty of \$6,000 for discharging wastewater to the Upper Klamath River from an unauthorized discharge point at the Columbia Forest Products facility located at 4949 S Highway 97 in Klamath Falls.

DEQ issued this penalty because the discharge of untreated wastewater directly to waters of the state poses a risk to water quality. Columbia Plywood Corporation holds an NPDES Permit that authorizes discharges only from in-stream log handling operations and a single outfall and sets appropriate effluent limits that must be met for log handling operations and at the point of outfall discharge. Compliance with the Permit is essential in protecting water quality.

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 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. <u>Please review and refer to it when discussing this case with DEQ</u>.

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.

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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 Erin Saylor at 503-229-5422 or toll free in Oregon at 800-452-4011, extension 5422.

Sincerely,

Kieran O'Donnell, Manager

Office of Compliance and Enforcement

Enclosures

cc: Bill Surber, Columbia Forest Products (via email at: wsurber@cfpwood.com)

Justin Sterger, DEQ ER Accounting, DEQ

1	BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
2	OF THE STATE OF OREGON
3 4 5 6	IN THE MATTER OF: OUTICE OF CIVIL PENALTY ASSESSMENT AND ORDER COLUMBIA PLYWOOD CORP. Respondent. CASE NO. WQ/I-ER-2022-142
7 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 Chapter 468B, ORS Chapter 183 and Oregon Administrative Rules (OAR) Chapter 340, Divisions
12	011, 012, and 045.
13	II. FINDINGS OF FACT
14	1. Respondent has coverage under National Pollutant Discharge Elimination System
15	(NPDES) Permit No. 100016 (the Permit) for wastewater discharges from the Columbia Forest
16	Products plywood manufacturing facility located at 4949 S Highway 97 in Klamath Falls (the Facility).
17	2. The Facility is located adjacent to the Upper Klamath River, a water of the state
18	pursuant to ORS 468B.005(10)
19	3. Pursuant to the Permit, Respondent is authorized to discharge non-contact cooling water
20	and boiler blowdown from a single outfall (Outfall 001) and conduct in-stream log storage and
21	handling activities.
22	4. The Facility recycles boiler blowdown and non-contact cooling water for reuse in the
23	log conditioning vats. The vat water is treated with 0.5% sodium hydroxide to neutralize the pH to \sim 7
24	standard units. Periodically the vats are drained and discharged to an aeration basin and settling pond
25	and may be discharged via Outfall 001 provided the permit limits are met.
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- 5. On November 22, 2022, Respondent notified DEQ that Vat #8 experienced an overflow event that day that resulted in the discharge of approximately 600 gallons of vat water mixed with sodium hydroxide out of the vat door and directly to the Upper Klamath River.
- 6. On December 6, 2022, Respondent notified DEQ that Vat #3 experienced an overflow event that day that resulted in the discharge of approximately 1,200 gallons of vat water mixed with sodium hydroxide out of the vat door and directly into the Upper Klamath River.
- 7. Pursuant to ORS 468B.050(1)(e) and OAR 340-045-0015(1)(e), no person may construct or use any new outlet for the discharge of any wastes into the waters of the state without permit coverage that authorizes the use of that outlet.
- 8. Pursuant to ORS 468B.025(2), no person shall violate the conditions of any waste discharge permit issued under ORS 468B.050.
- 9. To prevent additional overflow events from occurring, Respondent has replaced a faulty float switch on the vat pump and reprogrammed the control panel to automatically shut off the vat pumps when the risk of overflow is high. Additionally, Respondent has constructed a concrete weir wall to contain water should another overflow event occur.

III. CONCLUSIONS

1. Respondent violated ORS 468B.025(2) and ORS 468B.050(1)(e) by discharging wastewater from an unauthorized discharge point. Specifically, Respondent discharged untreated vat water directly from Vat #8 and Vat #3 into the Upper Klamath River, a water of the state. Neither of the vats are approved discharge points. This is a Class I violation pursuant to OAR 340-012-0055(1)(c). DEQ hereby assesses a \$6,000 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 \$6,000. The determination of the civil penalty is attached as Exhibit 1 and is incorporated as part of this Notice.

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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.

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 exhibit, 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. An administrative law judge employed by the Office of Administrative Hearings will conduct the hearing, according to ORS Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be represented by an attorney at the hearing, however you are not required to be. If you are an individual, you may represent yourself. If you are a corporation, partnership, limited liability company, unincorporated association, trust or government body, you must be represented by an attorney or a duly authorized representative, as set forth in OAR 137-003-0555.

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

If you fail to file a timely request for hearing, the Notice will become a final order by default without further action by DEQ, as per OAR 340-011-0535(1). If you do request a hearing but later withdraw your request, fail to attend the hearing or notify DEQ that you will not be attending the hearing, DEQ will issue a final order by default pursuant to OAR 340-011-0535(3). DEQ designates

1	the relevant portions of its files, including information submitted by you, as the record for purposes of
2	proving a prima facie case.
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7	5/25/2023 from July
8	Date Kieran O'Donnell, Manager 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: Respond

Respondent violated ORS 468B.025(2) and ORS 468B.050(1)(e) by

discharging wastewater from an unauthorized discharge point.

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 \$4,000 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(3)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(3)(a)(E)(ii) because Respondent has a Tier II industrial source NPDES Permit.
- "P" is whether Respondent has any prior significant actions (PSAs), 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) because Respondent has had no water quality PSAs in the preceding ten years.
- "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 experienced two overflow events.
- "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. By allowing wastewater to discharge directly from the vats, Respondent failed to take reasonable care to avoid the foreseeable risk that a violation would occur.
- "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 replacing a faulty float switch, reprogramming the vat pumps' control panel, and constructing a concrete weir wall.

"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 according to OAR 340-012-0150(4) because there is insufficient information on which to make an estimate under the rule.

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

= \$4,000 + $[(0.1 \times $4,000) \times (0 + 0 + 2 + 4 + -1)] + 0
= \$4,000 + $($400 \times 5) + 0
= \$4,000 + \$2,000 + \$0
= \$6,000