



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 2, 2023

CERTIFIED MAIL: 7018 1830 0001 5906 2896

Regency of Oregon, Inc.
c/o eResidentAgent, Inc.
698 12th Street SE, Ste. 200
Salem, OR 97301

Re: Notice of Civil Penalty Assessment and Order
Case No. WQ/D-NWR-2023-001

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued Regency of Oregon, Inc. a civil penalty of \$1,050 for violating the Technology Based Effluent Limits (TBELs) set forth in the National Pollutant Discharge Elimination System (NPDES) permit (Permit No. 101644) issued to the Canby Regency Mobile Home Park located in Canby, Oregon. Specifically, on eight separate occasions, the facility exceeded the TBEL established for BOD₅ in the facility's wastewater.

DEQ issued this penalty because increased levels of BOD₅ in wastewater discharges can deplete the oxygen levels in the receiving water, causing stress and even death to aquatic organisms.

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. 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 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 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: Jon Pettit, Regency of Oregon, Inc. (via email: Jon@churchill-group.com)
Dena Murray, Canby Regency Mobile Home Park (via email: petersen.dena@gmail.com)
Mark Bentz, DEQ NWR
Accounting, DEQ

6. Pursuant to Schedule A.1. of the Permit, the permit limit for weekly average effluent concentration of BOD₅ and TSS is 15 mg/L during May 1–October 31 and 45 mg/L during Nov. 1–April 30.

7. The Discharge Monitoring Reports (DMRs) submitted by Respondent for July 2022 through October 2022, identified the following violations of the BOD₅ limits in the Permit:

Date	Violation	Violation Class
July 2022	The reported monthly average BOD ₅ concentration of 16.8 mg/L exceeded the permit limit by 68%.	I
July 2022	The reported weekly average BOD ₅ concentration of 16.8 mg/L exceeded the permit limit by 12%	III
August 2022	The reported monthly average BOD ₅ concentration of 13.5 mg/L exceeded the permit limit by 35%.	II
September 2022	The reported monthly average BOD ₅ concentration of 22.1 mg/L exceeded the permit limit by 121%	I
September 2022	The reported weekly average BOD ₅ concentration of 22.1 mg/L exceeded the permit limit by 47%	II
October 2022	The reported monthly average BOD ₅ concentration of 26.2 mg/L exceeded the permit limit by 162%	I
October 2022	The reported weekly average BOD ₅ concentration of 26.2 mg/L exceeded the permit limit by 75%	I
December 2022	The reported monthly average BOD ₅ concentration of 44.3 mg/L exceeded the permit limit by 48%	I

8. The Discharge Monitoring Reports (DMRs) submitted by Respondent for July 2022 through September 2022, identified the following violations of the TSS limits in the Permit:

Date	Violation	Violation Class
July 2022	The reported monthly average TSS concentration of 11.6 mg/L exceeded the permit limit by 16%	III

October 2022	The reported monthly average TSS concentration of 12.8 mg/L exceeded the permit limit by 28%	II
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9. Pursuant to Schedule F.A1 of the Permits, failure to comply with any permit condition is a violation of Oregon Revised Statutes (ORS) 468B.025.

10. Pursuant to ORS 468B.025(2), no person shall violate the conditions of any waste discharge permit issued under ORS 468B.050.

III. CONCLUSIONS

1. Respondent violated ORS 468B.025(2) and Schedule A.1 of the Permit by exceeding the permit limits for BOD₅ on eight occasions. Specifically, between July 2022 and December 2022, Respondent exceeded the BOD₅ limits in the Permit by 50% or more five times—these are Class I violations pursuant to OAR 340-012-0055(1)(k)(A); by 20% or more but less than 50% two times—these are Class II violations pursuant to OAR 340-012-0055(2)(a)(A); and by less than 20% one time—this is a Class III violation pursuant to OAR 340-012-0055(3)(b)(A). DEQ hereby assesses a \$1,050 civil penalty for these violations.

2. Respondent violated ORS 468B.025(2) and Schedule A.1 of the Permit by exceeding the permit limits for TSS on two occasions. Specifically, between July 2022 and December 2022, Respondent exceeded the TSS limits in the Permit by 20% or more but less than 50% once—this is a Class II violation pursuant to OAR 340-012-0055(2)(a)(A); and by less than 20% once—this is a Class III violation pursuant to OAR 340-012-0055(3)(b)(A). DEQ has chosen not to assess a civil penalty for these violations.

IV. ORDER TO PAY CIVIL PENALTY

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

1. Pay a civil penalty of \$1,050. The determination of the civil penalty is attached as Exhibit 1 and is incorporated as part of this Notice.

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.**

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

2 You have a right to a contested case hearing on this Notice, if you request one in writing. DEQ
3 must receive your request for hearing **within 20 calendar days** from the date you receive this Notice. If
4 you have any affirmative defenses or wish to dispute any allegations of fact in this Notice or attached
5 exhibit, you must do so in your request for hearing, as factual matters not denied will be considered
6 admitted, and failure to raise a defense will be a waiver of the defense. (See OAR 340-011-0530 for
7 further information about requests for hearing.) You must send your request to: **DEQ, Office of**
8 **Compliance and Enforcement, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232**, fax
9 it to **503-229-5100** or email it to DEQappeals@deq.state.or.us. An administrative law judge
10 employed by the Office of Administrative Hearings will conduct the hearing, according to ORS
11 Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be
12 represented by an attorney at the hearing, however you are not required to be. If you are an individual,
13 you may represent yourself. If you are a corporation, partnership, limited liability company,
14 unincorporated association, trust or government body, you must be represented by an attorney or a duly
15 authorized representative, as set forth in OAR 137-003-0555.

16 Active duty Service members have a right to stay proceedings under the federal Service
17 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-
18 452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed
19 Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military
20 Department does not have a toll free telephone number.

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

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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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5/2/2023

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 1: Respondent violated ORS 468B.025(2) and Schedule A.1 of the Permit by exceeding the BOD₅ permit limits eight times.
- CLASSIFICATION: Respondent's violations range from Class I to Class III. In accordance with OAR 340-012-0145(4)(e), the civil penalty is calculated as a Class I violation pursuant to OAR 340-012-0055(1)(k)(A).
- MAGNITUDE: The magnitude of the violation is minor pursuant to OAR 340-012-0135(2)(a)(C)(i) because Respondent's effluent was diluted by a factor of 10 or more by the receiving stream.
- 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 I, minor magnitude violation in the matrix listed in OAR 340-012-0140(4)(b)(A)(iii) and applicable pursuant to OAR 340-012-0140(4)(a)(F)(i) because Respondent's facility has a permitted flow of less than two million gallons per day.
- "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 4 according to OAR 340-012-0145(2) because Respondent had three prior Class I violations in Case No. WQ/D-NWR-2022-050.
- "H" is Respondent's history of correcting prior significant actions and receives a value of -1 according to OAR 340-012-0145(3)(b) because the violations were uncorrectable and the Respondent made reasonable efforts to minimize the effects of the violations.
- "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 between seven and 28 occurrences of the violation. Respondent exceeded the BOD₅ limits in its permit a total of eight times.
- "M" is the mental state of the Respondent and receives a value of 2 according to OAR 340-012-0145(5)(b) because Respondent reasonably should have known what the limits set forth in its permits are and the requirement to meet those limits.
- "C" is Respondent's efforts to correct or mitigate the violation and receives a value of -4 according to OAR 340-012-0145(6)(b) because the Respondent has made extraordinary

efforts to ensure the violation will not be repeated by hiring an outside firm to complete CFM testing, adding a second blower to the system, cleaning the pods, pumping the primary tanks, cleaning out the chlorine contact chamber (CCC), and resetting the recirculation pumps.

"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: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
 $= \$750 + [(0.1 \times \$750) \times (4 + -1 + 3 + 2 + -4)] + \0
 $= \$750 + (\$75 \times 4) + \$0$
 $= \$750 + \$300 + \$0$
 $= \$1,050$