



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 48

West Coast Reclamation, Inc.
Richard Healy
P.O. Box 549
Jacksonville, OR 97530

Re: Notice of Civil Penalty Assessment and Order
Case No. WQ-SW-WR-2022-536

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$17,873 for conducting activity without the required National Pollutant Elimination Discharge Elimination System Industrial Stormwater Discharge General Permit No. 1200-Z (the 1200-Z Permit). Specifically, you began mining activity at the Sterling Creek Mine in Jackson County, Oregon on or before December 6, 2021, but as of the date of this Notice of Civil Penalty Assessment and Order (Notice), you have not applied for permit coverage despite written notifications of the permit requirement from DEQ and the Oregon Department of Geology and Mineral Industries (DOGAMI). The mining activity has the potential to discharge stormwater exposed to industrial activities to the nearby Sterling Creek.

DEQ issued this penalty because water quality permits are tailored to the industrial operations conducted at a facility and the pollutants that they generate. Compliance with permit conditions is appropriately tailored to a facility's operations to reduce pollutant loads to waters of the state and protect water quality.

Included in Section IV of the enclosed Notice is an order requiring you to apply for coverage under the 1200-Z Permit within 30 days of this order becoming final by operation of law or on appeal.

\$8,273 of the civil penalty represents the economic benefit you gained by failing to apply for and maintain coverage under the 1200-Z Permit since December 2021. If you apply for 1200-Z Permit coverage, DEQ will consider recalculating some of 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: Richard Healey, West Coast Reclamation, Inc. (r.healey@auricglobal.com)
Jack Cross, West Coast Reclamation, Inc. (whosneasavage@gmail.com)
Larry Preston, Sterling Mine Properties, 823 West Eighth Street, Medford, OR 97501
Lisa Reinhart, DOGAMI (Lisa.REINHART@dogami.oregon.gov)
Kendra Girard, DEQ Stormwater Specialist
Heather Tugaw, DEQ Water Quality Manager
Accounting, DEQ

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

IN THE MATTER OF:

WEST COAST RECLAMATION, INC.,
an Nevada corporation, and
RICHARD HEALY, an individual,

Respondents.

)
) NOTICE OF CIVIL PENALTY
) ASSESSMENT AND ORDER
) CASE NO. WQ-SW-WR-2022-536
)
)
)

I. AUTHORITY

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

II. FINDINGS OF FACT

1. Respondent West Coast Reclamation, Inc. (WCR) is a Nevada corporation registered to conduct business in Oregon. On its Secretary of State business registration, WCR lists its principal place of business as Pair A Dice Ranch Road in Jacksonville, Oregon.
2. Respondent Richard Healy is the President and Secretary of WCR, who makes decisions about the company's mining operations in Oregon.
3. Respondent WCR owns and operates a property along Sterling Creek Road in Jacksonville, Oregon known as the Sterling Creek Mine (the Mine). The Mine is located on the following properties: Map 392W08, Taxlots 100 and 107 and Map 392W, Taxlots 300 and 301.
4. Respondents conduct mining activities at the Mine, which has a primary Standard Industrial Classification 10 (Metal Mining).
5. The Mine is located near Sterling Creek, and during precipitation events, mining (industrial) activities exposed to stormwater has the potential to discharge industrial stormwater to the creek.
6. On December 6, 2021, the Oregon Department of Geology and Mineral Industries (DOGAMI) inspected the Mine.

1 7. On December 6, 2021, Respondents were conducting mining activities at the Mine,
2 including removing stockpiles of old mine tailings, which were left by former mining operations.

3 8. On January 20, 2022, DOGAMI sent Respondent Richard Healy a report informing him that
4 WCR must obtain coverage under the National Pollutant Discharge Elimination System General Permit
5 No. 1200-Z (the 1200-Z Permit).

6 9. On March 23, 2022, DEQ issued Respondents Richard Healy and WCR an Expedited
7 Enforcement Offer informing WCR that it must obtain coverage under the 1200-Z Permit and
8 requesting that WCR submit a completed application by May 23, 2022.

9 10. As of the date of this Notice and Order Respondents have not submitted an application for
10 1200-Z Permit coverage.

11 III. CONCLUSIONS

12 1. From at least December 6, 2021 to the date of this Notice, Respondents violated OAR 340-
13 045-0015(2) and OAR 340-045-0033(6) by conducting an activity described in the 1200-Z Permit without
14 first applying for coverage under the 1200-Z Permit, as described in Section II, paragraphs 1-10, above.
15 Specifically, Respondents have conducted metal mining activities at the Mine, with a primary Standard
16 Industrial Classification 10 (metal mining), including the removal of mine tailings. The industrial activity
17 at the Mine may discharge industrial stormwater to Sterling Creek, which is a waters of the state as defined
18 in ORS 468B.05(10). This is a Class I violation, according to OAR 340-012-0055(1)(d). DEQ hereby
19 assesses a \$17,873 civil penalty for this violation.

20 IV. ORDER TO PAY CIVIL PENALTY AND TO COMPLY

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

23 1. Pay a total civil penalty of \$17,873. The determination of the civil penalty is attached as
24 Exhibit 1 and incorporated as part of this Notice.

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27 \\\

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

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

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

11 2. Within 30 days of this order becoming final by operation of law or on appeal, submit to
12 DEQ a complete application for coverage of industrial activities at the Mine under the 1200-Z Permit.

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

14 You have a right to a contested case hearing on this Notice, if you request one in writing. DEQ
15 must receive your request for hearing **within 20 calendar days** from the date you receive this Notice. If
16 you have any affirmative defenses or wish to dispute any allegations of fact in this Notice or attached
17 exhibit, you must do so in your request for hearing, as factual matters not denied will be considered
18 admitted, and failure to raise a defense will be a waiver of the defense. (See OAR 340-011-0530 for
19 further information about requests for hearing.) You must send your request to: **DEQ, Office of**
20 **Compliance and Enforcement, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232**, fax
21 it to **503-229-6762** or email it to DEQappeals@deq.oregon.gov. An administrative law judge
22 employed by the Office of Administrative Hearings will conduct the hearing, according to ORS
23 Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be
24 represented by an attorney at the hearing, however you are not required to be. If you are an individual,
25 you may represent yourself. If you are a corporation, partnership, limited liability company,
26 unincorporated association, trust or government body, you must be represented by an attorney or a duly
27 authorized representative, as set forth in OAR 137-003-0555.

1 Active duty Service members have a right to stay proceedings under the federal Service
2 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-
3 452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed
4 Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military
5 Department does not have a toll free telephone number.

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

12
13
14
15 5/11/2023
16 Date


15 
16 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 Conducting an activity described in the 1200-Z Permit without first applying for coverage under the 1200-Z Permit, in violation of OAR 340-045-0015(2) and OAR 340-045-0033(6).

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0055(1)(d).

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(2)(a)(D) because Respondent should have applied for coverage under a NPDES General Permit.

"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.

"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 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 should have had coverage under a 1200-Z permit since at least December 6, 2021, when Respondents were actively conducting mining activities at the Mine. As of the date of this Notice, Respondents have not applied for coverage under the 1200-Z Permit.

"M" is the mental state of the Respondents, and receives a value of 8 according to OAR 340-012-0145(5)(d) because Respondent acted or failed to act intentionally with actual knowledge of the requirement. Respondents were notified in writing by DOGAMI on or about January 15, 2022, and by DEQ on March 23, 2022 that WCR must obtain coverage under the 1200-Z Permit. However, as of the date of this Notice, Respondents have not submitted a permit

application to DEQ. Thus, Respondents failed to act intentionally with actual knowledge of the requirement.

"C" is Respondents' efforts to correct or mitigate the violation, and receives a value of 2 according to OAR 340-012-0145(6)(g) because Respondents 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).

"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 \$8,273. This is the amount Respondents gained by avoiding \$10,148 in costs to apply for and maintain coverage under the 1200-Z Permit since December 2021. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

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

$$\begin{aligned} &= \$4,000 + [(0.1 \times \$4,000) \times (0 + 0 + 4 + 8 + 2)] + \$8,273 \\ &= \$4,000 + (\$400 \times 14) + \$8,273 \\ &= \$4,000 + \$5,600 + \$8,273 \\ &= \$17,873 \end{aligned}$$

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:	\$17,873.00

Account Name:	STERLING CREEK MINE		
Account Type:	Vendor/Organization/Company	Reference Number:	CPGFD2300074
SubSystem ID:	205369	FIMS Acct. ID:	6842

Penalty Summary

Penalty Amount	Interest	Adjustment	Amount Paid	Total Penalty
\$ 17,873.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 17,873.00

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.	CPGFD2300074		
PAYCODE:	00401 7400 10040 74001 0500 000000 00		
FEE PROGRAM ID:	950	RESPONSE DATE:	July 20, 2023
FIMS ACCT. ID:	6842	TOTAL PENALTY DUE:	\$17873.00

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 0095000068428CPGFD230007400017873004



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	2022-536 WQ-SW-ER-2022-536	\$17,873.00

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 _____