



Oregon

Tina Kotek, Governor

Department of Environmental Quality
Office of Compliance and Enforcement
700 NE Multnomah Street, Suite 600
Portland, OR 97232-4100
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TTY 711

June 6, 2023

CERTIFIED MAIL No.: 7016 2710 0000 4221 2779

Merle Keys, Mayor
City of Dufur
P.O. Box 145
Dufur, OR 97021

Re: Order and Stipulated Penalty Demand Notice
Case No. WQ/M-WR-2023-055

This letter is to inform you that the Department of Environmental Quality (DEQ) has issued you an Order and Stipulated Penalty Demand Notice for violations of the Mutual Agreement and Final Order (MAO) you signed with DEQ in February 2020.

As described in the MAO, upon receipt of a written notice from DEQ for any violation of the MAO you are required to pay stipulated penalties. This letter and the attached Order serve as notice that a violation of the interim effluent limits for BOD5 occurred in November 2022, and the penalty for the violations, \$300, is now due.

Please be advised that further violations of the Permit or MAO are subject to additional civil penalties. Your right to appeal the Order is outlined in the document as well as in the MAO.

If you have any questions about the attached Order please contact Becka Puskas in DEQ's Office of Compliance and Enforcement at (503) 229-5058 or becka.puskas@deq.oregon.gov. Questions about compliance with the permit or the MAO should be directed to Justin Sterger at 541-633-2016 or justin.sterger@deq.oregon.gov.

Sincerely,

Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Enclosures

Cc: Ruben D. Cleaveland, Attorney for City of Dufur, VanKoten & Cleaveland LLC
(cleavelandr@yahoo.com)
Brandon Beechhamp, City of Dufur (dufurecitypw@ortelco.net)
Kathy Bostick, City of Dufur (kathy@cityofdudur.org)
Brandon Mahon, Consultant for City of Dufur (bmahon@andersonperry.com)
Justin Sterger, DEQ
Business Office, DEQ

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

IN THE MATTER OF:) ORDER AND STIPULATED
CITY OF DUFUR,) PENALTY DEMAND NOTICE
)
) CASE NO. WQ/M-ER-2023-055
Respondent.)

I. FINDINGS OF FACT AND CONCLUSIONS

1. On February 20, 2020, Respondent and the Department of Environmental Quality (DEQ) entered into Mutual Agreement and Final Order No. WQ/M-ER-2007-083, Amendment #6 (“the MAO”).
2. Section II, Paragraph 3.a of the MAO states that Respondent’s discharge at Outfall 001 shall not exceed the interim effluent limit for BOD5 of 75 milligrams per liter (mg/L) as a monthly average.
3. Respondent discharged effluent at Outfall 001 as follows:

Parameter	Date	Reported Value	Interim Effluent Limit	% Over limit
BOD5 Monthly Average Effluent Concentration	November 2022	190 mg/L	75 mg/L	153%

4. During the month of November 2022, Respondent violated Section II, Paragraph 3.a of the MAO. This is a Class I violation according to OAR 340-012-0053(1)(a).
5. As stated in Section I, Paragraph 9.b of the MAO, Respondent is required to pay \$300 for each exceedance of 50% or more over the BOD5 limit described in Section I, Paragraph 2, above.
6. The penalty for Respondent’s violations, described in Section I, Paragraphs 2-5 above, is \$300.

II. ORDER TO PAY CIVIL PENALTY

Based upon the foregoing FINDINGS OF FACT AND CONCLUSIONS, Respondent is hereby ORDERED TO: Pay a total civil penalty of \$300.

If you do not file a request for hearing as set forth in Section III below, your check or money

1 order must be made payable to "State Treasurer, State of Oregon" and sent to the **DEQ,**
2 **Business Office, 700 NE Multnomah Street, Suite #600, Portland, Oregon 97232.**


3 III. NOTICE OF RIGHT TO REQUEST A CONTESTED CASE HEARING

4 You have a right to a contested case hearing on this Order and Stipulated Penalty
5 Demand Notice. **As described in Section I, Paragraph 10 of the MAO, the issue shall be**
6 **limited to Respondent's compliance or non-compliance with the MAO.** DEQ must receive
7 the written request for hearing **within 20 calendar days** from the date you receive this Order and
8 Stipulated Penalty Demand Notice. If you have any affirmative defenses or wish to dispute any
9 allegations of fact in this Order, you must do so in your request for hearing, as factual matters not
10 denied will be considered admitted, and failure to raise a defense will be a waiver of the defense.
11 (See OAR 340-011-0530 for further information about requests for hearing.) You must send your
12 request to: **DEQ, Office of Compliance and Enforcement, 700 NE Multnomah Street, Suite**
13 **600, Portland, Oregon 97232,** fax it to **503-229-5100** or email it to
14 **DEQappeals@deq.state.or.us**. An administrative law judge employed by the Office of
15 Administrative Hearings will conduct the hearing, according to ORS Chapter 183, OAR Chapter
16 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be represented by an
17 attorney at the hearing, however you are not required to be. If you are an individual, you may
18 represent yourself. If you are a corporation, partnership, limited liability company,
19 unincorporated association, trust or government body, you must be represented by an attorney or
20 a duly authorized representative, as set forth in OAR 137-003-0555.

21 Active duty Service members have a right to stay proceedings under the federal Service
22 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-
23 452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed
24 Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military
25 Department does not have a toll free telephone number.

1 If you fail to file a request for hearing in writing within 20 calendar days of receipt of this
2 Order, the Order will become a final order by default without further action by DEQ as per OAR
3 340-011-0535(5). DEQ designates the relevant portions of its files, including information
4 submitted by you, as the record for purposes of proving a prima facie case.
5
6
7

8 6/6/2023
9 Date


Kieran O'Donnell, Manager
Office of Compliance and Enforcement