



# 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

June 27, 2023

CERTIFIED MAIL: 9589 0710 5270 0110 6010 57

U.S. Department of Agriculture  
U.S. Forest Service – Timber Lake Civilian Conservation Center  
59868 East Highway 224  
Estacada, OR 97023

Re: Notice of Civil Penalty Assessment and Order  
Case No. WQ-I-NWR-2023-019

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued the U.S. Department of Agriculture (USDA) a civil penalty of \$600 for failing to submit timely Discharge Monitoring Reports (DMRs) as required by the National Pollutant Discharge Elimination System (NPDES) Permit (the Permit) issued to the U.S. Forest Service for the wastewater treatment facility it operates at the Timber Lake Civilian Conservation Center.

DEQ issued this penalty because the Permit requires you to monitor three compliance points monthly and to report that monitoring data to DEQ by the 15th of the following month. Failure to submit timely DMRs can delay the identification of and response to compliance issues that may pose a threat to human health or the environment. In addition, DEQ is concerned that USDA continued to submit late DMRs after receiving two warning letters from DEQ.

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](mailto: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. 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 portion of the penalty. Further information is available by calling the number below or at <http://www.oregon.gov/deq/Regulations/Pages/SEP.aspx>.

U.S. Dept. of Agriculture (Forest Service)

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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,

A handwritten signature in black ink, appearing to read "Kieran O'Donnell". The signature is fluid and cursive, with the first name "Kieran" and last name "O'Donnell" clearly distinguishable.

Kieran O'Donnell, Manager  
Office of Compliance and Enforcement

Enclosures

cc: Mark Bentz, DEQ Northwest Region  
Accounting, DEQ

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION  
OF THE STATE OF OREGON

IN THE MATTER OF: )  
 )  
4 UNITED STATES DEPARTMENT OF ) NOTICE OF CIVIL PENALTY  
AGRICULTURE (FOREST SERVICE) ) ASSESSMENT AND ORDER  
5 )  
Respondent. ) CASE NO. WQ/I-NWR-2023-019

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, ORS Chapters 183 and 468B and Oregon Administrative Rules (OAR) Chapter 340, Divisions 011, 012, and 045.

II. FINDINGS OF FACT

1. Respondent is a federal governmental agency.
2. Respondent operates a wastewater treatment facility at the Timber Lake Civilian Conservation Center, located at 59868 East Highway 224 in Estacada, Oregon (the Facility).
3. Pursuant to ORS 468B.050, the Facility has coverage under National Pollutant Discharge Elimination System (NPDES) Permit No. 101498 (the Permit). The Facility's most recent permit renewal took effect on October 1, 2021.
4. Pursuant to Schedule B of the Permit, the Respondent is required to monthly monitor three compliance points for the parameters set forth in Tables B2, B3, and B4 of the Permit. Pursuant to Schedule B, Condition 2 and Table B1 of the Permit, Respondent must submit its monitoring data to DEQ electronically via DEQ-approved web-based Discharge Monitoring Reports (DMRs) by the 15th of the following month.
5. Pursuant to Schedule B of the Permit, Respondent was required to submit DMRs for each of its three compliance points for September 2022 by October 15, 2022.
6. Respondent submitted its September 2022 DMRs on October 28, 2022.
7. Pursuant to Schedule B of the Permit, Respondent was required to submit DMRs for

1 each of its three compliance points for October 2022 by November 15, 2022.

2 8. Respondent submitted its October 2022 DMRs on December 8, 2022.

3 9. Pursuant to Schedule F, Condition A1 of the Permit, Respondent must comply with all  
4 conditions of the Permit. Failure to comply with any permit condition is a violation of ORS 468B.025.

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

### 7 III. CONCLUSIONS

8 1. Respondent violated ORS 468B.025(2) and Schedule B of the Permit by failing to submit  
9 timely DMRs. Specifically, Respondent failed to submit three DMRs for September 2022 by October  
10 15, 2022, and three DMRs for October 2022 by November 15, 2022. These are Class II violations  
11 according to OAR 340-012-0055(2)(b). DEQ hereby assesses a \$600 civil penalty for these violations.

### 12 IV. ORDER TO PAY CIVIL PENALTY

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

15 1. Pay a total civil penalty of \$600. The determination of the civil penalty is attached as Exhibit 1  
16 and is incorporated as part of this Notice.

17 If you do not file a request for hearing as set forth in Section V below, your check or money order  
18 must be made payable to "**Department of Environmental Quality**" and sent to the **DEQ, Business**  
19 **Office, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232.**

### 20 V. NOTICE OF RIGHT TO REQUEST A CONTESTED CASE HEARING

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


1 it to 503-229-6762 or email it to [DEQappeals@deq.oregon.gov](mailto:DEQappeals@deq.oregon.gov). An administrative law judge  
2 employed by the Office of Administrative Hearings will conduct the hearing, according to ORS  
3 Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be  
4 represented by an attorney at the hearing, however you are not required to be. If you are an individual,  
5 you may represent yourself. If you are a corporation, partnership, limited liability company,  
6 unincorporated association, trust or government body, you must be represented by an attorney or a duly  
7 authorized representative, as set forth in OAR 137-003-0555.

8 Active duty Service members have a right to stay proceedings under the federal Service  
9 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-  
10 452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed  
11 Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military  
12 Department does not have a toll free telephone number.

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

19  
20  
21  
22  
23 Date

6/27/2023

  
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: Respondent violated ORS 468B.025(2) and Schedule B of the Permit by failing to submit timely DMRs.

CLASSIFICATION: These are Class II violations pursuant to OAR 340-012-0055(2)(b).

MAGNITUDE: The magnitude of the violation is minor pursuant to OAR 340-012-0130(4) because the violation had no more than a de minimis adverse impact on human health or the environment. The DMRs were eventually received and indicated no permit violations occurred during the relevant monitoring periods.

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 \$375 for a Class II, moderate magnitude violation in the matrix listed in OAR 340-012-0140(4)(b)(B)(iii) and applicable pursuant to OAR 340-012-0140(4)(a)(F)(i) because Respondent has NPDES permit coverage for a wastewater treatment facility with 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 0 according to OAR 340-012-0145(2) because the Respondent has had no prior violations 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 failed to timely submit six DMRs.

"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. Schedule B of the Permit clearly requires Respondent to submit DMRs by the 15th of each month. Additionally, Respondent received two prior warning letters for late DMR submissions.

"C" is Respondent's efforts to correct or mitigate the violation and receives a value of 0 according to OAR 340-012-0145(6)(f) because the violation could not be corrected.

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

PENALTY CALCULATION:  $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$   
=  $\$375 + [(0.1 \times \$375) \times (0 + 0 + 2 + 4 + 0)] + \$0$   
=  $\$375 + [\$37.5 \times 6] + \$0$   
=  $\$375 + \$225 + \$0$   
=  $\$600$