



# 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

July 11, 2023

CERTIFIED MAIL: 95890710 5270 0110 6009 37

C-2 Utility Contractors LLC  
c/o CT Corporation System, Registered Agent  
780 Commercial St., Suite 100  
Salem, OR 97301

Re: Notice of Civil Penalty Assessment and Order  
Case No. WQ/SW-NWR-2022-621

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued C-2 Utility Contractors LLC a civil penalty of \$7,600 for failing to perform stormwater discharge monitoring in accordance with the National Pollutant Discharge Elimination System Industrial Stormwater General Permit, No. 1200-Z (the Permit) at the facility located at 11618 NE Summer Street, Suite A in Portland, Oregon during the 2021-2022 monitoring year. Specifically, the Permit requires that you take two grab samples before the first of the year and two in the second half of the year. You performed all four instances of grab sample monitoring after January 1.

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](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.

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 Courtney Brown at 503-229-6839 or toll free in Oregon at 800-452-4011, extension 6839.

Sincerely,



Kieran O'Donnell, Manager  
Office of Compliance and Enforcement

Enclosures

cc: Mat Dorfman, City of Portland, Bureau of Environmental Services  
Christine Svetkovich, DEQ  
Accounting, DEQ  
C-2 Utility Contractors LLC, 11618 NE Summer Street, Suite A, Portland, OR 97220

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION  
2 OF THE STATE OF OREGON

3 IN THE MATTER OF: )  
4 C-2 UTILITY CONTRACTORS LLC, ) NOTICE OF CIVIL PENALTY  
4 a foreign limited liability corporation, ) ASSESSMENT AND ORDER  
5 Respondent. ) CASE NO. WQ/SW-NWR-2022-621

6 I. AUTHORITY

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

11 II. FINDINGS OF FACT

12 1. Respondent is registered under the National Pollutant Discharge Elimination System Industrial  
13 Stormwater General Permit, No. 1200-Z (the Permit) for its facility located at 11618 NE Summer  
14 Street, Suite A, Portland, Oregon (the Facility).

15 2. Schedule B, condition 7, Table 6 of the Permit requires permit registrants to perform grab  
16 sample monitoring for statewide benchmarks four times per monitoring year with two samples taken  
17 between July 1 and December 31, and two samples taken between January 1 and June 30.

18 3. During the 2021-2022 monitoring year Respondent took samples on March 8, April 4, May 2,  
19 and May 27, 2022, but did not take any samples between July 1 and December 31, 2021.

20 III. CONCLUSIONS

21 Respondent has violated ORS 468B.025(2) and Schedule B, condition 7, Table 6 of the  
22 Permit by failing to take two samples between January 1 and June 30 and two samples between July 1 and  
23 December 1 during the 2021-2022 monitoring year. Specifically, Respondent took all four samples after  
24 January 1 and June 30, 2022, as described in Section II above. This is a class I violation pursuant to OAR  
25 340-012-0055(1)(o). DEQ hereby assesses an \$7,600 civil penalty for this violation.

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1 IV. ORDER TO PAY CIVIL PENALTY

2 Based upon the foregoing FINDINGS OF FACTS AND CONCLUSIONS, Respondent is  
3 hereby ORDERED TO: Pay a total civil penalty of \$7,600. The determination of the civil penalty is  
4 attached as Exhibit No.1 and is incorporated as part of this Notice.

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

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

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

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

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

1 unincorporated association, trust or government body, you must be represented by an attorney or a duly  
2 authorized representative, as set forth in OAR 137-003-0555.

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

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

14  
15  
16 7/11/2023  
17 Date

16   
17 Kieran O'Donnell, Manager  
18 Office of Compliance and Enforcement

EXHIBIT

FINDINGS AND DETERMINATION OF RESPONDENT'S CIVIL PENALTY  
PURSUANT TO OREGON ADMINISTRATIVE RULE (OAR) 340-012-0045

VIOLATION: Violating ORS 468B.025(2) by violating Schedule B, condition 7 of the Permit by failing to perform all the required stormwater monitoring in the 2021-2022 monitoring year.

CLASSIFICATION: These are Class I violations pursuant to OAR 340-012-0055(1)(o).

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)(iii) because Respondent has coverage under an NPDES General Permit.

"P" is whether Respondent has 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 Respondent and receives a value of 4 according to OAR 340-012-0145(2)(a)(C), because Respondent has one prior significant action, EEO case no: WQ/SW-NWR-2021-527, which included three class I violations.

"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.

"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 were more than one but less than seven occurrences of the violation. Respondent failed to collect two grab samples before January 1, 2022.

"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. Respondent applied for coverage under the Permit and has a copy of the Permit, which expressly requires Respondent to perform monitoring for statewide benchmarks according to the timing and frequency prescribed in the Permit. By failing to adhere to the Permit's monitoring requirements, Respondent failed to take reasonable care to avoid a foreseeable risk that it would violate Oregon law.

"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 or the effects of the violation could not be corrected or minimized.

"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. Respondent gained no economic benefit through this violation.

PENALTY CALCULATION:  $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$   
 $= \$4,000 + [(0.1 \times \$4,000) \times (4 + -1 + 2 + 4 + 0)] + \$0$   
 $= \$4,000 + (\$400 \times 9) + \$0$   
 $= \$4,000 + \$3,600 + \$0$   
 $= \$7,600$

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)**

<b>DATE:</b>	July 11, 2023
<b>RESPONSE DATE :</b>	September 19, 2023
<b>TOTAL PENALTY:</b>	\$7,600.00

<b>Account Name:</b>	C-2 UTILITY CONTRACTORS, LLC <C-2 UTILITY CONTRACTORS, LLC> <126732>		
<b>Account Type:</b>	Vendor/Organization/Company	<b>Reference Number:</b>	CPGFD2300089
<b>SubSystem ID:</b>	194613	<b>FIMS Acct. ID:</b>	3833

**Penalty Summary**

Penalty Amount	Interest	Adjustment	Amount Paid	Total Penalty
\$ 7,600.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 7,600.00

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'



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 PLEASE RETURN THIS PORTION WITH YOUR PAYMENT



<b>REFERENCE NO.</b>	CPGFD2300089		
<b>PAYCODE:</b>	00401 7400 10040 74001 0500 000000 00		
<b>FEE PROGRAM ID:</b>	950	<b>RESPONSE DATE:</b>	September 19,
<b>FIMS ACCT. ID:</b>	3833	<b>TOTAL PENALTY DUE:</b>	\$7600.00

**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 0095000038338CPGFD230008900007600000





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
7/10/2023	2022-621 WQ-SW-NWR-2022-621	\$7,600.00

### 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 \_\_\_\_\_