



Oregon

Tina Kotek, Governor

Department of Environmental Quality
Office of Compliance and Enforcement
700 NE Multnomah Street, Suite 600
Portland, OR 97232
(503) 229-5696
FAX (503) 229-5100
TTY 711

June 1, 2023

CERTIFIED MAIL No. 7016 2710 0000 4221 2731

Shane Teeters
4365 60th Avenue, NE
Salem, OR 97305

Re: Notice of Civil Penalty Assessment and Order
Case No. AQ/OB-WR-2022-085

This letter is to inform you that DEQ has issued you a civil penalty of \$2,870 for illegal open burning at 4365 60th Avenue, NE, Salem, Oregon (the Property). On February 19, 2022, and March 10, 2022, you burned artificial turf, plastic tarps, Styrofoam, ceramics and insulation at this location.

In addition, your burn pile contained a large number of tree stumps that originated in or around the Detroit, Oregon area that were later brought to the Property and burned. Oregon law prohibits burning debris that is moved from the property of origin unless you have a Letter Permit from DEQ that authorizes burning this material.

DEQ issued this penalty because open burning materials such as plastics, Styrofoam, ceramics and insulation is prohibited at all times statewide. Burning these materials poses a threat to the environment and public health, especially for the young, elderly, and those with respiratory conditions. Toxic chemical exposure can result from such burning. Additionally, tree stumps typically burn dirty and generate a lot of smoke in the surrounding area. Each illegal burn such as these contribute to the cumulative amount of pollution in the atmosphere.

You may pay the penalty by mailing a check or money order to the address below. 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.

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.

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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 Jenny Root at 503-229-5874 or toll-free in Oregon at 800-452-4011, extension 5874.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Kieran O'Donnell', is written over a faint, illegible typed name.

Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Enclosures

cc: Sarah Gallino, Western Region, Salem Office, DEQ
Don Hendrix, AQ, HQ, DEQ
Accounting, DEQ

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
2 OF THE STATE OF OREGON
3

4 IN THE MATTER OF:) NOTICE OF CIVIL PENALTY
SHANE TEETERS,) ASSESSMENT AND ORDER
5 an individual,)
Respondent.) CASE NO. AQ/OB-WR-2022-085
6

7 I. AUTHORITY

8 The Department of Environmental Quality (DEQ) issues this Notice of Civil Penalty Assessment
9 and Order (Notice) pursuant to Oregon Revised Statutes (ORS) 468.100, ORS 468.126 through 468.140,
10 ORS Chapters 183 and 468A and Oregon Administrative Rules (OAR) Chapter 340, Divisions 011, 012
11 and 264.

12 II. FINDINGS OF FACT

13 1. At all material times, Respondent controlled and was a tenant of real property at 4365
14 60th Avenue NE, Salem, Oregon (the Property).

15 2. On or before February 19, 2022, Respondent or another person removed a large number
16 of tree stumps from around or near Detroit, Oregon, and deposited the tree stumps on the Property.

17 3. On or about February 19, 2022, Marion County Fire District No. 1 (the Fire Department)
18 responded to an open burn at the Property that was actively burning and emitting dense smoke and
19 noxious odors.

20 4. The open burn pile at the Property contained rolls of artificial turf, plastic tarps, and a
21 large number of tree stumps.

22 5. On or about March 10, 2022, the Fire Department again responded to an open burn at
23 the Property that was actively burning and emitting dense smoke.

24 6. On or about March 10, 2022, the open burn pile at the Property on that day contained
25 remnants of burned artificial turf, plastic tarps, tree stumps, Styrofoam, ceramics, and insulation.

26 7. Materials such as artificial turf, plastics, Styrofoam, ceramics and insulation emit dense
27 smoke and noxious odors when burned.

1 8. At all material times, Respondent did not obtain a Letter Permit from DEQ, in
2 accordance with OAR 340-264-0180(1), to burn tree stumps or any other waste at the Property.

3 III. CONCLUSIONS

4 1. On or about February 19, 2022, and March 10, 2022, Respondent violated OAR 340-
5 264-0060(3), adopted pursuant to ORS 468A.025, by causing or allowing to be initiated or maintained,
6 the open burning of materials prohibited from being open burned as described in Section II, Paragraphs 3
7 through 7 above. Specifically, on both days, the burn pile at the Property contained artificial turf, and
8 plastic tarps. On or about March 10, 2022, the burn pile at the property actively burning contained
9 remnants of burned artificial turf, plastic tarps, Styrofoam, ceramics and insulation, materials that emit
10 dense smoke and noxious odors when burned. Respondent is strictly liable for this open burning violation
11 pursuant to OAR 340-264-0060(1)(a) and (c). These are Class I violations according to OAR 340-012-
12 0054(1)(w). DEQ hereby assesses a \$2,100 civil penalty for these violations.

13 2. On about February 19, 2022, and March 10, 2022, Respondent violated OAR 340-264-
14 0060(8) by causing or allowing to be initiated or maintained the open burning of debris removed from the
15 property of origin and openly burned at the Property without a Letter Permit from DEQ as further
16 described in Section II, Paragraphs 3 through 6 and 8 above. Specifically, Respondent or another person
17 removed tree stumps from property or properties around or near Detroit, Oregon, placed them in the burn
18 pile at the Property where Respondent burned them without having a Letter Permit from DEQ. The debris
19 was not “agricultural waste” as defined by OAR 340-264-0030(4) because the tree stumps were not waste
20 material generated or used by an agricultural operation in the “raising, harvesting or selling of crops or by
21 raising or selling livestock or poultry, or the produce thereof.” Respondent is strictly liable for this open
22 burning violation pursuant to OAR 340-264-0060(1)(a) and (c). These are Class II violations according to
23 OAR 340-012-0054(2)(j). DEQ hereby assesses a \$770 civil penalty for these violations.

24 IV. ORDER TO PAY CIVIL PENALTY

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

27 Pay a total civil penalty of \$2,870. The determination of the civil penalty is attached as Exhibits 1

1 and 2 and is incorporated as part of this Notice.

2 If you do not file a request for hearing as set forth in Section V below, your check or money order
3 must be made payable to "**State Treasurer, State of Oregon**" and sent to the **DEQ, Business Office,**
4 **700 NE Multnomah Street, Suite 600, Portland, Oregon 97232.**

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

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

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

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

1 hearing, DEQ will issue a final order by default pursuant to OAR 340-011-0535(3). DEQ designates
2 the relevant portions of its files, including information submitted by you, as the record for purposes of
3 proving a prima facie case.
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6 6/1/2023

7 Date

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9 Kieran O'Donnell, Manager
10 Office of Compliance and Enforcement
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EXHIBIT 1

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

VIOLATION NO. 1: Causing or allowing to be initiated or maintained, the open burning of artificial turf, plastic tarps, Styrofoam, ceramics and insulation, materials that emit dense smoke and noxious odors when burned, in violation of OAR 340-264-0060(3), adopted pursuant to ORS 468A.025.

CLASSIFICATION: These are Class I violations pursuant to OAR 340-012-0054(1)(w).

MAGNITUDE: The magnitude of the violation is moderate pursuant to OAR 340-012-0135(1)(j)(B) because Respondent initiated or allowed the initiation of between two and five cubic yards of prohibited materials.

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 \$1,500 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(4)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(4)(a)(B) because Respondent is not listed under another penalty matrix.

"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 0 according to OAR 340-012-0145(2)(a)(A), because there are no prior significant actions.

"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. The violation initially occurred on or about February 19, 2022, and March 10, 2022.

"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 that burning materials such as artificial turf, plastic tarps, Styrofoam, ceramics and insulation will create dense smoke and/or noxious odors and is prohibited.

"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 as the total EB for all materials in the burn pile are included in Exhibit 2.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
 $= \$1,500 + [(0.1 \times \$1,500) \times (0 + 0 + 2 + 2 + 0)] + \0
 $= \$1,500 + (\$150 \times 4) + \$0$
 $= \$1,500 + \$600 + \$0$
 $= \$2,100$

EXHIBIT 2

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

VIOLATION NO. 2: Causing or allowing to be initiated or maintained, the open burning of debris removed from the property of origin without a Letter Permit from DEQ, in violation of OAR 340-264-0060(8).

CLASSIFICATION: These are Class II violations according to OAR 340-012-0054(2)(k).

MAGNITUDE: The magnitude of the violation is moderate pursuant to OAR 340-012-0135(1)(j)(B), because DEQ lacks sufficient information upon which to make a determination of the type (classification) of waste burned.

CIVIL PENALTY FORMULA: The formula for determining the amount of penalty of each violation is: $BP + [(0.1 \times BP) \times (P + H + O + M + C)] + EB$

Under OAR 340-012-0045(1)(a)(E), DEQ elects to assess a penalty for this violation for the amount of economic benefit realized by the Respondent only.

"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 \$770. This is the amount Respondent gained by avoiding spending approximately \$783 to rent a 40 cubic yard dumpster from D&O Garbage and Recycling, Inc. to transport and dispose of approximately 38 total cubic yards of waste. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

PENALTY CALCULATION: $Penalty = BP + [(0.1 \times BP) \times (P + H + O + M + C)] + EB$
= $\$0 + [(0.1 \times \$0) \times (0 + 0 + 0 + 0 + 0)] + \770
= $\$0 + (\$0 \times 0) + \$770$
= $\$0 + \$0 + \$770$
= $\$770$