



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 5, 2023

CERTIFIED MAIL: 9589 0710 5270 0110 6010 95

Willamette Falls Paper Company, Inc
c/o Robert W. Palmer, Registered Agent
1300 SW Fifth Avenue, Suite 3400
Portland, OR 97201

Re: Notice of Civil Penalty Assessment and Order
Case No. WQ/SP-NWR-2023-047

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$1,800 for spilling or releasing oil into the Willamette River from your facility in West Linn. DEQ issued this penalty because spilling oil into waters of the state is a serious violation of Oregon environmental law that negatively impacts aquatic life and ecosystems. In addition, numerous spills of this kind have cumulative adverse impacts on the water quality of the Willamette River.

DEQ appreciates your efforts to minimize the impacts of the violation by promptly notifying OERS and cleaning up the spill. DEQ considered these efforts when determining the amount of civil penalty.

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. 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>.

DEQ's rules are available at <http://www.oregon.gov/deq/Regulations/Pages/Statutes.aspx> or by calling the number below.

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If you have any questions, please contact Esther Westbrook at 503-229-5374 or toll free in Oregon at 800-452-4011, extension 5374.

Sincerely,

Handwritten signature of Kieran O'Donnell in black ink.

Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Enclosures

cc: Aaron Lenhardt, Willamette Falls Paper Company, Inc, 4800 Mill St., West Linn, OR 97068
Kevin Chan, Portland Office, DEQ
Wes Risher, Portland Office, DEQ
Accounting, DEQ

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

3 IN THE MATTER OF:)
4 WILLAMETTE FALLS)
5 PAPER COMPANY, INC,)
an Oregon corporation,)
 Respondent.)

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8 I. AUTHORITY

9 The Department of Environmental Quality (DEQ) issues this Notice of Civil Penalty
10 Assessment and Order pursuant to Oregon Revised Statutes (ORS) 468.100 and 468.126 through
11 468.140, ORS Chapters 183, 466 and 468B, and Oregon Administrative Rules (OAR) Chapter 340,
12 Divisions 011 and 012, and 142.

13 II. FINDINGS OF FACT

- 14 1. Respondent operates a paper mill located at 4800 Mill Street in West Linn,
15 Clackamas County, Oregon (the Facility).
- 16 2. On February 14, 2023, an oil pump attached to an agitator malfunctioned, releasing
17 lubricating oil onto the floor of the refiner room at the Facility. The oil was carried into a floor
18 drain and seeped through a crack in the stock prep courtyard below, then entered an underground
19 channel, which discharges to the Willamette River.
- 20 3. On February 14, 2023, an estimated 3-10 gallons of lubricating oil entered the
21 Willamette River from Respondent's Facility.
- 22 4. There was a sheen on the Willamette River in the vicinity of the Facility from
23 approximately February 14, 2023, to March 14, 2023.
- 24 5. The lubricating oil is a petroleum product and is defined as "oil" under ORS 466.605(8).
- 25 6. The Willamette River is "waters of the state" as defined in ORS 468B.005(10).

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1 III. CONCLUSIONS

2 On or about February 14, 2023, Respondent caused pollution by spilling or releasing oil
3 which entered waters of the state, in violation of ORS 468B.025(1)(a), as described in Section II
4 above. This is a Class I violation pursuant to OAR 340-012-0081(1)(c). DEQ hereby assesses an
5 \$1,800 civil penalty for this violation.

6 IV. ORDER TO PAY CIVIL PENALTY

7 Based upon the foregoing FINDINGS OF FACTS AND CONCLUSION, Respondent is
8 hereby ORDERED TO:

9 Pay a civil penalty of \$1,800. The determination of the civil penalty is attached as Exhibit
10 No. 1, which is incorporated as part of this Notice.

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

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

15 You have a right to a contested case hearing on this Notice, if you request one in writing.
16 DEQ must receive your request for hearing **within 20 calendar days** from the date you receive
17 this Notice. If you have any affirmative defenses or wish to dispute any allegations of fact in this
18 Notice or attached exhibit, you must do so in your request for hearing, as factual matters not
19 denied will be considered admitted, and failure to raise a defense will be a waiver of the defense.
20 (See OAR 340-011-0530 for further information about requests for hearing.) You must send your
21 request to: **DEQ, Office of Compliance and Enforcement, 700 NE Multnomah Street, Suite**
22 **600, Portland, Oregon 97232**, fax it to **503-229-6762** or email it to
23 **DEQappeals@deq.oregon.gov**. An administrative law judge employed by the Office of
24 Administrative Hearings will conduct the hearing, according to ORS Chapter 183, OAR Chapter
25 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be represented by an
26 attorney at the hearing, however you are not required to be. If you are an individual, you may
27 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
2 a duly 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
9 default without further action by DEQ, as per OAR 340-011-0535(1). If you do request a hearing
10 but later withdraw your request, fail to attend the hearing or notify DEQ that you will not be
11 attending the hearing, DEQ will issue a final order by default pursuant to OAR 340-011-0535(3).
12 DEQ designates the relevant portions of its files, including information submitted by you, as the
13 record for purposes of proving a prima facie case.

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15
16
17 7/5/2023
18 Date

17 
18 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: Causing pollution by spilling or releasing oil which entered waters of the state, in violation of ORS 468B.025(1)(a).

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0081(1)(c).

MAGNITUDE: The magnitude of the violation is minor pursuant to OAR 340-012-0130(4) as there is no selected magnitude specified in OAR 340-012-0135 applicable to this violation and DEQ finds that the violation had no more than a de minimis adverse impact on human health or the environment, and posed no more than a de minimis threat to human health and the environment. In making this finding, DEQ considered the following reasonably available information: the amount spilled to the Willamette River was approximately 3-10 gallons. The spill caused a sheen on the river but there were no visible effects on wildlife or natural resources.

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 \$2,000 for a Class I, minor magnitude violation in the matrix listed in OAR 340-012-0140(3)(b)(A)(iii) and applicable pursuant to OAR 340-012-0140(3)(a)(K) because Respondent violated an oil and hazardous material spill and release statute, rule, or related order, is not a person listed in OAR 340-012-0140(2)(a)(N), and the violation occurred during a commercial activity.

"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 2 according to OAR 340-012-0145(2)(a)(C), because Respondent had a Class I violation in Case No. WQ/SP-NWR-2021-147.

"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 insufficient information on which to base a finding under paragraphs (3)(a) or (b).

"O" is whether the violation was repeated or ongoing and receives a value of 0 according to OAR 340-012-0145(4)(a), because there was only one occurrence of the violation. Respondent spilled or released oil into the Willamette River on February 14, 2023.

"M" is the mental state of the Respondent and receives a value of 0 according to OAR 340-012-0145(5)(a) because there is insufficient information on which to base a finding under paragraphs (5)(b) through (5)(e).

- "C" is Respondent's efforts to correct the violation and receives a value of -3 according to OAR 340-012-0145(6)(c), because Respondent made reasonable efforts to minimize the effects of the violation. Respondent promptly reported the spill to OERS and initiated spill response and cleanup efforts.
- "EB" is the approximate economic benefit that an entity gained by not complying with the law. 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 DEQ does not have sufficient information on which to base a finding that Respondent received an economic benefit from the violation.

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

$$\begin{aligned} &= \$2,000 + [(0.1 \times \$2,000) \times (2 + 0 + 0 + 0 - 3)] + \$0 \\ &= \$2,000 + [\$200 \times (-1)] + \$0 \\ &= \$2,000 - \$200 + \$0 \\ &= \$1,800 \end{aligned}$$