



Oregon

Tina Kotek, Governor

Department of Environmental Quality
Office of Compliance and Enforcement
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August 11, 2023

CERTIFIED MAIL: 7016 2710 0000 4221 4070

City of Powers
c/o Edward Hamlett, Mayor
P.O. Box 250
Powers, OR 97204

Re: Final Order and Stipulated Penalty Demand Notice
Case No. WQ-M-WR-2023-031

This letter is to inform you that the Department of Environmental Quality (DEQ) has issued you a Final Order and Stipulated Penalty Demand Notice for violations of the Mutual Agreement and Final Order (MAO) you signed with DEQ on June 12, 2007.

As described in the MAO, upon receipt of a written notice from DEQ, you must pay a civil penalty of \$500 and \$100, respectively, for violations of monthly and weekly BOD₅ concentration limits, and BOD₅ and TSS removal efficiency limits. This letter and the attached Order serve as notice that the violations occurred. The penalty for the violations is \$4,600 and 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 Jeff Bachman in DEQ's Office of Compliance and Enforcement at 503-229-5950.

Sincerely,

Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Enclosure

cc: Ranei Nomura, DEQ
Accounting, DEQ

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

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2
3 IN THE MATTER OF:) FINAL ORDER AND STIPULATED
4 CITY OF POWERS,) PENALTY DEMAND NOTICE
5 Respondent.) CASE NO. WQ/M-WR-2023-031

6 I. FINDINGS OF FACT AND CONCLUSIONS

7 1. On June 12, 2007 Respondent and the Department of Environmental Quality (DEQ) entered
8 into Mutual Agreement and Final Order (MAO) No. WQ/M-WR-07-004.

9 2. Paragraph 5 of the MAO establishes an interim effluent limit for monthly average biochemical
10 oxygen demand (BOD₅) concentration of 40 mg/L.

11 3. Respondent exceeded the monthly average concentration of BOD₅ as follows:

12 a. In June 2022, Respondent discharged effluent with a monthly average BOD₅ concentration
13 of 41 mg/L.

14 b. In July 2022, Respondent discharged effluent with a monthly average BOD₅ concentration
15 of 64 mg/L.

16 c. In October 2022, Respondent discharged effluent with a monthly average BOD₅
17 concentration of 46 mg/L.

18 d. In June 2023, Respondent discharged effluent with a monthly average BOD₅ concentration
19 of 56 mg/L.

20 4. Paragraph 5 of the MAO establishes an interim effluent limit for weekly average biochemical
21 oxygen demand (BOD₅) concentration of 80 mg/L.

22 5. In the week of June 18, 2023, Respondent discharged effluent with a weekly average BOD₅
23 concentration of 91 mg/L.

24 6. Paragraph 5 of the MAO establishes that BOD₅ removal efficiency shall not be less than 65%
25 monthly average.

26 7. Respondent failed to achieve the minimum BOD₅ removal efficiency as follows:

27 a. In January 2020, Respondent achieved a monthly average removal BOD₅ efficiency of 48%.

1 b. In February 2023, Respondent achieved a monthly average removal BOD₅ efficiency of
2 58%.

3 c. In April 2023, Respondent achieved a monthly average removal BOD₅ efficiency of 58%.

4 8. Paragraph 5 of the MAO establishes that total suspended solids (TSS) removal efficiency shall
5 not be less than 65% monthly average.

6 9. Respondent failed to achieve the minimum TSS removal efficiency as follows:

7 a. In January 2020, Respondent achieved a monthly average TSS removal efficiency of 54%.

8 b. In April 2023, Respondent achieved a monthly average TSS removal efficiency of 59%.

9 10. As stated in Paragraph 8, Section D of the MAO, Respondent is required to pay \$500 for each
10 violation of a monthly average waste discharge limitation and \$100 for each violation of a weekly
11 average discharge limitation.

12 11. The penalty for Respondent's violations, as described in Section I, paragraphs 2-9 above, is
13 \$4,600.

14 II. ORDER TO PAY CIVIL PENALTY

15 Based upon the foregoing FINDINGS OF FACT AND CONCLUSIONS, Respondent is
16 hereby ORDERED TO: Pay a total civil penalty of \$4,600.

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

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

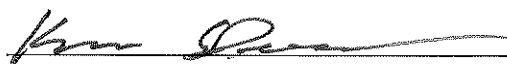
21 You have a right to a contested case hearing on this Final Order and Stipulated Penalty
22 Demand Notice. **As described in paragraph 17 of the MAO, the issue shall be limited to**
23 **Respondent's compliance or non-compliance with the MAO.** DEQ must receive the written
24 request for hearing **within 20 calendar days** from the date you receive this Final Order and
25 Stipulated Penalty Demand Notice. If you have any affirmative defenses or wish to dispute any
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1 allegations of fact in this Order, you must do so in your request for hearing, as factual matters not
2 denied will be considered admitted, and failure to raise a defense will be a waiver of the defense.
3 (See OAR 340-011-0530 for further information about requests for hearing.) You must send your
4 request to: **DEQ, Office of Compliance and Enforcement, 700 NE Multnomah Street, Suite**
5 **600, Portland, Oregon 97232**, fax it to **503-229-6762** or email it to
6 **DEQappeals@deq.oregon.gov**. An administrative law judge employed by the Office of
7 Administrative Hearings will conduct the hearing, according to ORS Chapter 183, OAR Chapter
8 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be represented by an
9 attorney at the hearing, however you are not required to be. If you are an individual, you may
10 represent yourself. If you are a corporation, partnership, limited liability company,
11 unincorporated association, trust or government body, you must be represented by an attorney or
12 a duly authorized representative, as set forth in OAR 137-003-0555.

13 Active duty Service members have a right to stay proceedings under the federal Service
14 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-
15 452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed
16 Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military
17 Department does not have a toll free telephone number.

18 If you fail to file a request for hearing in writing within 20 calendar days of receipt of this
19 Order, the Order will become a final order by default without further action by DEQ as per OAR
20 340-011-0535(5). DEQ designates the relevant portions of its files, including information
21 submitted by you, as the record for purposes of proving a prima facie case.
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24 8/11/2023
25 Date

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25 Kieran O'Donnell, Manager
26 Office of Compliance and Enforcement
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