



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

August 29, 2023

CERTIFIED MAIL: 9589 0710 5270 0110 6007 91

Stimson Lumber Company
c/o CT Corporation System
780 Commercial St SE, Ste 100
Salem, Oregon 97301

Re: Notice of Civil Penalty Assessment and Order
Case No. WQ/I-NWR-2023-101

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued Stimson Lumber Company a civil penalty of \$5,200 for failing to complete Oil & Grease monitoring during the first quarter of 2023 as required by the facility's coverage under General Water Pollution Control Facilities Permit No. 1700-B (the Permit).

DEQ issued this penalty because permittees are required to sample and monitor their wash water discharges to ensure their discharges meet the effluent limits set forth in the Permit. Failure to meet the effluent limits may indicate the presence of harmful levels of pollutants. DEQ appreciates Stimson Lumber's efforts to correct the violation by collecting an additional sample during the second quarter of 2023, as well as the company's efforts to ensure the violation does not occur again in the future by providing additional training to the facility's personnel on the requirements of the Permit. DEQ considered these efforts in determining the amount of the 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 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 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" written in a more compact, stylized script and the last name "O'Donnell" written in a more legible, though still cursive, style.

Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Enclosures

cc: Quinn Burke-Anderson (via email at qburke@stimsonlumber.com)
Tim Ruby, DEQ NWR
Accounting, DEQ

1 procedures.

2 7. Pursuant to Schedule F, Section A.1. of the Permit, failure to comply with any permit
3 condition is a violation of ORS 468B.025.

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

6 III. CONCLUSIONS

7 1. Respondent violated ORS 468B.025(2) and Schedule B of the Permit by failing to complete
8 Oil & Grease monitoring during the first quarter of 2023. This is a Class I violation according to OAR
9 340-012-0055(1)(o). DEQ hereby assesses a \$5,200 civil penalty for this violation.

10 IV. ORDER TO PAY CIVIL PENALTY

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

13 1. Pay a total civil penalty of \$5,200. The determination of the civil penalty is attached as Exhibit
14 No. 1 and is incorporated as part of this Notice.

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

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

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

1 Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be
2 represented by an attorney at the hearing, however you are not required to be. If you are an individual,
3 you may represent yourself. If you are a corporation, partnership, limited liability company,
4 unincorporated association, trust or government body, you must be represented by an attorney or a duly
5 authorized representative, as set forth in OAR 137-003-0555.

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

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

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8/29/2023
Date



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 1: Respondent violated ORS 468B.025(2) and Schedule B of the Permit by failing to monitor for Oil & Grease during the first quarter of 2023.

CLASSIFICATION: This is a Class I violation 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 a WPCF General Permit.

"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). Respondent has one water quality PSA that included three Class I violations (Case No. WQ/SW-NWR-13-113) which would result in a PSA of 4; however the value of P is reduced by 4 because the PSA was issued more than five years before the date the current violation occurred.

"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.

"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. The Permit clearly sets forth the Oil & Grease sampling requirements; additionally, Respondent previously received a warning letter for monitoring violations.

"C" is Respondent's efforts to correct or mitigate the violation and receives a value of -1 according to OAR 340-012-0145(6)(e) because the Respondent made reasonable efforts to

ensure the violation will not be repeated by providing refresher training to Facility personnel on the sampling requirements of the Permit.

"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 according to OAR 340-012-0150(4) because Respondent collected an additional sample during the second quarter of 2023 to make up for the missed sample during the first quarter.

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

$$\begin{aligned} &= \$4,000 + [(0.1 \times \$4,000) \times (0 + 0 + 0 + 4 + -1)] + \$0 \\ &= \$4,000 + (\$400 \times 3) + \$0 \\ &= \$4,000 + \$1,200 + \$0 \\ &= \$5,200 \end{aligned}$$