



# 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

September 6, 2023

CERTIFIED MAIL: 9589 0710 5270 0110 6007 60

River Country Transport, Inc.  
c/o WSCJ Business Services, Inc., Registered Agent  
805 SW Broadway Ste 2440  
Portland OR 97205

Re: Notice of Civil Penalty Assessment and Order  
Case No. LQ-SW-WR-2023-108

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$1,800 for disposing of solid waste at an unpermitted location in 2021. Specifically, one of your drivers who was supposed to be hauling leachate away from Riverbend Landfill for disposal, intentionally opened the valve and disposed of leachate on the ground at Riverbend, outside of the lined landfill area. After the falconer working at the landfill told your driver to stop, the driver repeated this illegal disposal in another unlined area of the landfill further down the road.

DEQ issued this penalty because the intentional dumping of leachate on the ground in an area without liner or other protections posed a threat to human health and the environment. Leachate from a landfill may contain a host of harmful pollutants, including total suspended solids (TSS), heavy metals, ammonia, arsenic, and bacteria. Discharging landfill leachate to the ground may cause offensive odors and poses a substantial threat to public health and the environment.

DEQ acknowledges the delay in issuing this civil penalty. Since the violation occurred in 2021, DEQ has investigated and now resolved a civil penalty, against Riverbend Landfill Co., for the violation of their permit due to this incident.

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. 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.

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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 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.

If you have any questions, please contact Sarah Wheeler at 971-301-0622.

Sincerely,

A handwritten signature in black ink, appearing to read "Kieran O'Donnell". The signature is fluid and cursive, with the first name being more prominent.

Kieran O'Donnell, Manager  
Office of Compliance and Enforcement

Enclosures

cc: Jim McCourt, DEQ  
Accounting, DEQ

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BEFORE THE ENVIRONMENTAL QUALITY COMMISSION  
OF THE STATE OF OREGON

IN THE MATTER OF: )  
RIVER COUNTRY TRANSPORT, INC., )  
Respondent. ) NOTICE OF CIVIL PENALTY  
ASSESSMENT AND ORDER  
CASE NO. LQ-SW-WR-2023-108

I. AUTHORITY

The Department of Environmental Quality (DEQ) issues this Notice of Civil Penalty Assessment and Order (Notice) pursuant to Oregon Revised Statutes (ORS) 468.100, ORS 468.126 through 468.140, ORS 459.995, ORS Chapter 183 and Oregon Administrative Rules (OAR) Chapter 340, Divisions 011, 012, and 93.

II. FINDINGS OF FACT

1. Respondent operates a company that transports and disposes of liquid waste.
2. Riverbend Landfill Company (Riverbend) operates a solid waste landfill at 13469 SW Highway 18, in McMinnville, Oregon (the Facility).
3. Riverbend hired Respondent to transport leachate away from the Facility for disposal.
4. On or about June 3, 2021, after collecting leachate from the Facility into Respondent’s tanker truck, Respondent’s driver stopped at the edge of the load-out area of the Facility, opened the drain valve, and discharged leachate to the ground.
5. The falconer working at the Facility told Respondent’s driver to stop discharging the leachate on the ground. Respondent’s driver then drove to an area of the Facility near the Mechanically Stabilized Earthen Berm (MSE) and opened the valve again, discharging more leachate to the ground.
6. Both areas where Respondent’s driver discharged the leachate are outside the boundary of the lined landfill at the Facility, and not permitted for disposal of leachate.
7. Respondent disposed a total of approximately 5,000 gallons of leachate to the ground during the activities described above.

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1 III. CONCLUSIONS

2 On or about June 3, 2021, Respondent violated OAR 340-093-0040(1) by twice disposing of  
3 solid waste at an unpermitted location, as described in Section II above. Leachate is solid waste, as  
4 defined in ORS 459.005(25), because it is useless and discarded material. According to OAR 340-012-  
5 0065(1)(c), these are Class I violations. DEQ hereby assesses an \$1,800 civil penalty for these violations.

6 IV. ORDER TO PAY CIVIL PENALTY

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

9 Pay a total civil penalty of \$1,800. The determination of the civil penalty is attached as Exhibit  
10 1, which is incorporated as part of this Notice. If you do not file a request for hearing as set forth in Section  
11 V below, your check or money order must be made payable to "State Treasurer, State of Oregon" and  
12 sent to the **DEQ, Business Office, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232.**

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

14 You have a right to a contested case hearing on this Notice, if you request one in writing. DEQ  
15 must receive your request for hearing **within 20 calendar days** from the date you receive this Notice. If  
16 you have any affirmative defenses or wish to dispute any allegations of fact in this Notice or attached  
17 exhibit, you must do so in your request for hearing, as factual matters not denied will be considered  
18 admitted, and failure to raise a defense will be a waiver of the defense. (See OAR 340-011-0530 for  
19 further information about requests for hearing.) You must send your request to: **DEQ, Office of**  
20 **Compliance and Enforcement, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232**, fax  
21 it to **503-229-5100** or email it to [DEQappeals@deq.state.or.us](mailto:DEQappeals@deq.state.or.us). An administrative law judge  
22 employed by the Office of Administrative Hearings will conduct the hearing, according to ORS  
23 Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be  
24 represented by an attorney at the hearing, however you are not required to be. If you are an individual,  
25 you may represent yourself. If you are a corporation, partnership, limited liability company,  
26 unincorporated association, trust or government body, you must be represented by an attorney or a duly  
27 authorized representative, as set forth in OAR 137-003-0555.

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

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

12  
13 9/6/2023  
14 Date

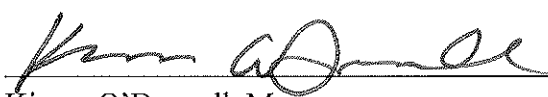
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Kieran O'Donnell, Manager  
Office of Compliance and Enforcement

EXHIBIT 1

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

VIOLATION NO. 1 Disposing of solid waste at an unpermitted location, in violation of OAR 340-093-0040(1).

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0065(1)(c).

MAGNITUDE: The magnitude of the violation is minor pursuant to OAR 340-012-0135(3)(a)(C), because Respondent disposed of an estimated 5,000 gallons (approximately 24 cubic yards) of solid waste at an unpermitted location.

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 \$750 for a Class I, minor magnitude violation in the matrix listed in OAR 340-012-0140(4)(b)(A)(iii) and applicable pursuant to OAR 340-012-0140(4)(a)(A) because Respondent is not listed in 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 were two occurrences of the violation. Respondent's driver opened the valve and discharged leachate to an unpermitted location on two separate occasions on June 3, 2021.

"M" is the mental state of the Respondent, and receives a value of 10 according to OAR 340-012-0145(5)(e) because Respondent's employee's conduct was flagrant, as defined in OAR 340-012-0030(11). As a professional hired to transport leachate away from the Facility for disposal at an authorized location, and who again disposed of leachate in an unlined area of the Facility after being told to stop, Respondent's driver had actual knowledge that the conduct was unlawful and consciously set out to commit the violation. Pursuant to OAR 340-011-0520, the mental state of an employee can be imputed to the employer.

"C" is Respondent's efforts to correct or mitigate the violation, and receives a value of 2 according to OAR 340-012-0145(6)(g) because Respondent did not address the violation as

described in paragraphs (6)(a) through (6)(e) and the facts do not support a finding under paragraph (6)(f).

"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 because DEQ does not have sufficient information on which to base an estimate of economic benefit gained as a result of the violation.

PENALTY CALCULATION:  $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$   
 $= \$750 + [(0.1 \times \$750) \times (0 + 0 + 2 + 10 + 2)] + \$0$   
 $= \$750 + (\$75 \times 14) + \$0$   
 $= \$750 + \$1,050 + \$0$   
 $= \$1,800$