



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

October 5, 2023

CERTIFIED MAIL: 9589 0710 5270 0110 6011 56

Boring Auto Wrecking LLC
dba B & R Auto Wrecking
c/o George B. Heilig, Registered Agent
310 NW 7th Street, Suite 100
Corvallis, OR 97330

Re: Notice of Civil Penalty Assessment and Order
Case No. WQ/SW-NWR-2022-641

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$9,931 for stormwater violations at your facility in Boring. For the 2021-2022 and 2022-2023 monitoring years, you failed to collect the stormwater discharge samples required under the National Pollutant Discharge Elimination System Industrial Stormwater Discharge General Permit Number 1200-Z (Permit). This is a violation of your Permit and ORS 468B.025(2).

DEQ issued this penalty because permit registrants are required to monitor their stormwater discharge to ensure their discharges meet the water quality benchmarks in the Permit. Without this information, DEQ and the public are unable to evaluate the effectiveness of your stormwater controls in protecting water quality.

You may pay the civil penalty as follows:

Pay online with e-check (ACH) or Credit Card. Go to Your DEQ Online here: <https://ydo.oregon.gov>. Select Register Account or Login, then select Pay Invoices/Fees on your account dashboard. Enter the Invoice number and Account ID included on the attached payment slip. Note: US Bank charges a 2.3% convenience charge for credit card transactions. ACH payments have no additional charges.

Pay by check or money order: Make checks payable to "Department of Environmental Quality" and mail to the address on the enclosed payment slip. Please make sure to include the payment slip with your check or money order.

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.

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 DEQ Environmental Law Specialist Esther Westbrook, at (503) 229-5374. You may call toll-free within Oregon at 1-800-452-4011, extension 5374.

Sincerely,



Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Enclosures

cc: Nick Brown, Boring Auto Wrecking LLC: Nick.Brown@autowrecking.com
Michael Kennedy, Portland Office, DEQ
Benjamin Benninghoff, Portland Office, DEQ
Accounting, DEQ

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

2 OF THE STATE OF OREGON

3 IN THE MATTER OF:)
4 BORING AUTO WRECKING LLC,) NOTICE OF CIVIL PENALTY
an Oregon limited liability company,) ASSESSMENT AND ORDER
5 doing business as)
B & R AUTO WRECKING,) CASE NO. WQ/SW-NWR-2022-641
6 Respondent.)

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 and 468.126 through 468.140,
10 ORS Chapters 183 and 468B and Oregon Administrative Rules (OAR) Chapter 340, Divisions 011, 012
11 and 045.

12 II. FINDINGS OF FACT

13 1. Respondent operates a motor vehicle dismantling and used parts business located at 30545
14 Highway 212 in Boring, Clackamas County, Oregon (the Facility).

15 2. On or about April 19, 2018, DEQ assigned coverage to Respondent under the National
16 Pollutant Discharge Elimination System Industrial Stormwater Discharge Permit No. 1200-Z (the
17 Permit). Respondent had coverage under the Permit at all material times.

18 3. The Permit authorizes Respondent to construct, install, modify, or operate stormwater
19 treatment and control facilities, and to discharge stormwater to surface waters or to conveyance systems
20 that discharge to waters of the state in conformance with all the conditions in the Permit.

21 4. Schedule B of the Permit requires Respondent to monitor its stormwater through grab
22 sampling for various parameters. Specifically, Schedule B, Condition 2 of the Permit requires
23 Respondent to monitor for the statewide benchmark pollutants identified in Table 4. Schedule B,
24 Condition 2.f of the Permit, which references Table 6, four times per year.

25 5. For the 2021-2022 monitoring year, Respondent failed to collect and analyze all of the four
26 required samples for statewide benchmark pollutants.

27 ///

1 exhibit, you must do so in your request for hearing, as factual matters not denied will be considered
2 admitted, and failure to raise a defense will be a waiver of the defense. (See OAR 340-011-0530 for
3 further information about requests for hearing.) You must send your request to: **DEQ, Office of**
4 **Compliance and Enforcement, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232**, fax
5 it to **503-229-6762** or email it to DEQappeals@deq.oregon.gov. An administrative law judge
6 employed by the Office of Administrative Hearings will conduct the hearing, according to ORS
7 Chapter 183, OAR Chapter 340, Division 011, and OAR 137-003-0501 to 0700. You have a right to be
8 represented by an attorney at the hearing, however you are not required to be. If you are an individual,
9 you may represent yourself. If you are a corporation, partnership, limited liability company,
10 unincorporated association, trust, or government body, you must be represented by an attorney or a
11 duly authorized representative, as set forth in OAR 137-003-0555.

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

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

23
24
25 10/5/2023
26 Date



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

EXHIBIT NO. 1

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

VIOLATION: Failure to conduct monitoring in violation of Schedule B, Condition 2 of NPDES Permit No. 1200-Z and ORS 468B.025(2).

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 an NPDES general permit.

"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 one Class I violation in Case No. WQ/SW-NWR-2020-188.

"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 (4)(b) through (4)(d).

"O" is whether the violation was repeated or ongoing and receives a value of 3 according to OAR 340-012-0145(4)(c), because there were from seven occurrences to 28 of the violation. Each missed sampling event from each discharge point is a separate occurrence. During the 2021-2022 and 2022-2023 monitoring periods, Respondent failed to conduct required monitoring of its stormwater discharge on a total of eight occasions.

"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. Respondent holds an NPDES 1200-Z Permit, which specifically requires that it collect and analyze stormwater samples according to the conditions in Schedule B. Additionally, Respondent received a penalty for the same violation for the 2019-2020 monitoring year. Although Respondent has claimed there is no stormwater discharge from the site, it has not provided sufficient data for DEQ to grant a variance. When Respondent failed to collect all four of the required stormwater

samples during the 2021-2022 and 2022-2023 monitoring years, it failed to take reasonable care to avoid a foreseeable risk that it would violate the Permit and Oregon environmental law.

"C" is Respondent's efforts to correct or mitigate the violation and receives a value of 0 according to OAR 340-012-0145(6)(a)(D), 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 \$2,331. This is the amount Respondent gained by avoiding spending a total of \$2,440 to collect and analyze eight stormwater samples. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

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

$$\begin{aligned} &= \$4,000 + [(0.1 \times \$4,000) \times (2 + 0 + 3 + 4 + 0)] + \$2,331 \\ &= \$4,000 + [\$400 \times 9] + \$2,331 \\ &= \$4,000 + \$3,600 + \$2,331 \\ &= \$9,931 \end{aligned}$$

Oregon Department of Environmental Quality
 700 NE Multnomah Street, Suite 600
 Portland, OR 97232-4100



State of Oregon
 Department of Environmental Quality

Phone: 503-229-5437
 Fax: 503-229-5850

CIVIL PENALTY - ORS 468.135(2)

DATE:	October 5, 2023
RESPONSE DATE :	December 14, 2023
TOTAL PENALTY:	\$9,931.00

Account Name:	BORING AUTO WRECKING LLC <B AND R AUTO WRECKING> <125209>		
Account Type:	Vendor/Organization/Company	Reference Number:	CPGFD2400009
SubSystem ID:	193112	FIMS Acct. ID:	3083

Penalty Summary

Penalty Amount	Interest	Adjustment	Amount Paid	Total Penalty
\$ 9,931.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 9,931.00

Payment of this penalty is subject to the exercise of your options or right to appeal as described in the enclosed enforcement documents.

To Pay Online with ACH or Credit Card Visit <https://vdo.oregon.gov> and select 'Register Account'



 PLEASE RETURN THIS PORTION WITH YOUR PAYMENT



REFERENCE NO.	CPGFD2400009		
PAYCODE:	00401 7400 10040 74001 0500 000000 00		
FEE PROGRAM ID:	950	RESPONSE DATE:	December 14, 2023
FIMS ACCT. ID:	3083	TOTAL PENALTY DUE:	\$9931.00

AMOUNT ENCLOSED:

MAKE CHECK PAYABLE TO: Department of Environmental Quality

DEQ FINANCIAL SERVICES - L BX4244
 PO BOX 4244
 PORTLAND OR 97208-4244

Check this box if updated address information has been provided on the back of the form.

00401 7400 10040 74001 0500 000000 0095000030831CPGFD240000900009931002



State of Oregon
Department of
Environmental
Quality

State of Oregon Department of Environmental Quality

CIVIL PENALTY - ORS 468.135(2)

700 NE Multnomah Street, Suite 600
Portland, OR 97232-4100
Phone: 503-229-5437
Fax: 503-229-5850

Penalty Detail

Transaction Date	Description	Amount
10/4/2023	2022-641 WQ-SW-NWR-2022-641	\$9,931.00

SFMS Agencies Use:

Trans Code	Treasury Fund	SFMS	Index	PCA (5)	Agency Object	Project #	Phase
723	00401	7400	10040	74001	0500	00000	00

Address Changes

Please visit <https://ydo.oregon.gov> to update your mailing address online or provide the following information:

Name _____
Address _____
City, State, Zip _____