



# 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 17, 2023

CERTIFIED MAIL: 7016 2710 0000 4221 4230

Hull-Oakes Lumber Co.  
Amy Nystrom, Registered Agent  
23837 Dawson Rd.  
Monroe, OR 97456

Re: Notice of Civil Penalty Assessment and Order  
Case No. WQ-I-WR-2022-011

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$7,200 for exceeding a Total Suspended Solids (TSS) limit in the water quality permit for your sawmill at 23837 Dawson Road in Monroe, Oregon.

DEQ issued this penalty because exceeding permitted limits may adversely impact water quality in the receiving stream, Miller Creek. Suspended solids can impact aquatic life by blocking light from reaching submerged vegetation, reducing photosynthesis and dissolved oxygen. Suspended solids decrease water clarity, which can affect the foraging ability of fish. High levels of suspended solids can also clog fish gills, reduce growth rates, decrease disease resistance and prevent egg and larval development.

DEQ appreciates your efforts to change your standard operating procedures to more thoroughly investigate the cause of any future TSS exceedances. 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](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.

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

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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 Becka Puskas at 503-229-5058.

Sincerely,



Kieran O'Donnell, Manager  
Office of Compliance and Enforcement

Enclosures

cc: Andy Ulrich, DEQ  
Ranei Nomura, DEQ  
Accounting, DEQ

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

3 IN THE MATTER OF: ) NOTICE OF CIVIL PENALTY  
4 HULL-OAKES LUMBER CO., ) ASSESSMENT AND ORDER  
5 Respondent. ) CASE NO. WQ-I-WR-2022-011

6 I. AUTHORITY

7 The Department of Environmental Quality (DEQ) issues this Notice of Civil Penalty Assessment  
8 and Order (Notice) pursuant to Oregon Revised Statutes (ORS) 468.100, ORS 468.126 through 468.140,  
9 ORS Chapters 183 AND 468B and Oregon Administrative Rules (OAR) Chapter 340, Divisions 011, 012,  
10 and 045.

11 II. FINDINGS OF FACT

- 12 1. Respondent Hull-Oakes Lumber Co. owns and operates a sawmill and planer at 23837  
13 Dawson Road, Monroe, Oregon, 97456 (the Facility).
- 14 2. On January 10, 2007, the Department of Environmental Quality (DEQ) issued National  
15 Pollutant Discharge Elimination System (NPDES) Waste Discharge Permit Number 100466 to  
16 Respondent (the Permit).
- 17 3. The Permit authorizes Respondent to construct, install, modify or operate a wastewater  
18 collection, treatment, control and disposal system and discharge to public waters adequately treated  
19 wastewaters only from the authorized discharge point or points established in Schedule A and only in  
20 conformance with all the requirements, limitations, and conditions set forth in the Permit.
- 21 4. The Permit was in effect at all material times.
- 22 5. Under the Permit, Respondent is authorized to discharge log pond overflow to Miller  
23 Creek at Outfall 001.
- 24 6. Schedule A, Condition 1 of the Permit establishes an effluent limit of 100 milligrams per  
25 liter (mg/l) for Total Suspended Solids (TSS) at Outfall 001.

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

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

5 You have a right to a contested case hearing on this Notice, if you request one in writing. DEQ  
6 must receive your request for hearing **within 20 calendar days** from the date you receive this Notice. If  
7 you have any affirmative defenses or wish to dispute any allegations of fact in this Notice or attached  
8 exhibit, you must do so in your request for hearing, as factual matters not denied will be considered  
9 admitted, and failure to raise a defense will be a waiver of the defense. (See OAR 340-011-0530 for  
10 further information about requests for hearing.) You must send your request to: **DEQ, Office of**  
11 **Compliance and Enforcement, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232,** fax  
12 it to **503-229-6762** or email it to [DEQappeals@deq.oregon.gov](mailto:DEQappeals@deq.oregon.gov). An administrative law judge  
13 employed by the Office of Administrative Hearings will conduct the hearing, according to ORS  
14 Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be  
15 represented by an attorney at the hearing, however you are not required to be. If you are an individual,  
16 you may represent yourself. If you are a corporation, partnership, limited liability company,  
17 unincorporated association, trust or government body, you must be represented by an attorney or a duly  
18 authorized representative, as set forth in OAR 137-003-0555.

19 Active duty Service members have a right to stay proceedings under the federal Service  
20 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-  
21 452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed  
22 Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military  
23 Department does not have a toll free telephone number.

24 If you fail to file a timely request for hearing, the Notice will become a final order by default  
25 without further action by DEQ, as per OAR 340-011-0535(1). If you do request a hearing but later  
26 withdraw your request, fail to attend the hearing or notify DEQ that you will not be attending the  
27 hearing, DEQ will issue a final order by default pursuant to OAR 340-011-0535(3). DEQ designates

1 the relevant portions of its files, including information submitted by you, as the record for purposes of  
2 proving a prima facie case.

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10/17/2023  
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 NO. 1 Violating ORS 468B.025(2) by failing to comply with the TSS effluent limit in Schedule A, Condition 1 of the Permit.
- CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0055(1)(k)(A).
- MAGNITUDE: The magnitude of the violation is major pursuant to OAR 340-012-0135(2)(a)(A)(i) because the dilution of the technology based effluent limitation exceedance was less than two.
- 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 \$8,000 for a Class I, major magnitude violation in the matrix listed in OAR 340-012-0140(3)(b)(A)(i) and applicable pursuant to OAR 340-012-0140(3)(a)(E)(ii) because Respondent has a Tier 2 industrial source NPDES 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 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 0 according to OAR 340-012-0145(4)(a) because there was only one occurrence of the violation. Respondent violated the TSS limit in November 2020.
- "M" is the mental state of the Respondent, and receives a value of 2 according to OAR 340-012-0145(5)(b) because Respondent had constructive knowledge (reasonably should have known) of the requirement. As a permittee, Respondent has constructive knowledge of the TSS limit in the Permit.
- "C" is Respondent's efforts to correct or mitigate the violation, and receives a value of -3 according to OAR 340-012-0145(6)(c) because Respondent took reasonable affirmative efforts to minimize the effects of the violation. Respondent changed its operating procedures to include sampling upstream of the log pond and Outfall 001 in the case of high rain events, to better understand the possible causes of any future TSS exceedances.

"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 has insufficient information to estimate an economic benefit for this violation. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

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

$$\begin{aligned} &= \$8,000 + [(0.1 \times \$8,000) \times (0 + 0 + 0 + 2 + -3)] + \$0 \\ &= \$8,000 + (\$800 \times -1) + \$0 \\ &= \$8,000 + -\$800 + \$0 \\ &= \$7,200 \end{aligned}$$