



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 70

PacifiCorp
c/o CT Corporation System, Registered Agent
780 Commercial Street SE Ste 100
Salem OR 97301

Re: Notice of Civil Penalty Assessment and Order
Case No. LQ-HW-WR-2022-624

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$1,600 for failing to characterize waste generated at your North Umpqua Hydroelectric Project as hazardous waste.

DEQ issued this penalty because the debris generated from a truck fire at the facility contained hazardous levels of lead, which if not properly managed and disposed, could pose a risk to human health and the environment. As the generator of that waste, PacifiCorp was responsible for accurately determining whether the waste was hazardous when it was generated.

DEQ appreciates your efforts in response to the violation, in particular to revise procedures, clarify roles with your contractor, and train your staff to ensure that the violation will not be repeated. DEQ considered these efforts when determining the amount of civil penalty.

You may pay the civil penalty as follows:

Pay online with e-check (ACH) or Credit Card. Go to Your DsEQ 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 Sarah Wheeler at 971-301-0622.

Sincerely,



Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Enclosures

cc: Killian Condon, DEQ
Bob Roach, roach.robort@pacificorp.com
Jeff Phillips, jeff.phillips@pacificorp.com

1 determine if Respondent's residue (as defined in OAR 340-100-0010(2)(hh) and 40 CFR 261.2) was
2 hazardous waste upon generation, as described in Section II above. The fire debris was a solid waste
3 according to 40 CFR 261.2(a)(1), 261.2(a)(2)(i)(A), and 261.2(b)(1), because it was disposed of. The fire
4 debris was hazardous waste identified by EPA Hazardous Waste Number D008, pursuant to 40 CFR
5 261.24. This is a Class I violation, according to OAR 340-012-0068(1)(a). DEQ hereby assesses a \$1,600
6 civil penalty for this violation.

7 IV. ORDER TO PAY CIVIL PENALTY

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

10 Pay a total civil penalty of \$1,600. The determination of the civil penalty is attached as Exhibit
11 1, which is incorporated as part of this Notice.

12 If you do not file a request for hearing as set forth in Section V below, please pay the penalty as
13 follows:

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

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

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

23 You have a right to a contested case hearing on this Notice, if you request one in writing. DEQ
24 must receive your request for hearing **within 20 calendar days** from the date you receive this Notice. If
25 you have any affirmative defenses or wish to dispute any allegations of fact in this Notice or attached
26 exhibit, you must do so in your request for hearing, as factual matters not denied will be considered
27 admitted, and failure to raise a defense will be a waiver of the defense. (See OAR 340-011-0530 for

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

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

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

21
22 10/5/2023
23 Date

22 
23 Kieran O'Donnell, Manager
24 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: Failing to accurately determine if Respondent's residues (as defined in OAR 340-100-0010(2)(hh) and 40 CFR 261.2) were hazardous waste, in violation of 40 CFR 262.11 and OAR 340-102-0011(2).
- CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0068(1)(a).
- MAGNITUDE: The magnitude of the violation is minor pursuant to OAR 340-012-0135(4)(a)(C) because Respondent failed to make a hazardous waste determination on one waste stream.
- 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 \$2,000 for a Class I, minor magnitude violation in the matrix listed in OAR 340-012-0140(3)(b)(A)(iii) and applicable pursuant to OAR 340-012-0140(3)(a)(J) because at the time of the violation, Respondent was a small quantity generator of hazardous waste and violated a hazardous waste rule.
- "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 within the past 10 years per OAR 340-012-0145(2)(d)(B), 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 0 of 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 one occurrence of the violation, on or about May 1, 2022, when the waste was generated.
- "M" is the mental state of the Respondent and receives a value of 2 according to OAR 340-012-0145(5)(b), because Respondent, as a highly-regulated and sophisticated electric utility company, reasonably should have known of the requirement to determine whether fire debris wastes were hazardous wastes.
- "C" is Respondent's efforts to correct or mitigate the violation and receives a value of -4 according to OAR 340-012-0145(6)(b), because Respondent made extraordinary efforts to ensure the violation would not be repeated. Within approximately two weeks of learning of the violation, Respondent conducted an all-hands "Stand Down" training on July 13,

2022, to review the incident and procedures for compliance. Respondent also distributed to staff a revised guide for spill response and waste management in compliance with regulations. Additionally, Respondent implemented a new procedure for decision making about characterizing waste prior to transport, and clarified with their contractor that all waste must be characterized before transporting it off site.

"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, as DEQ has determined that any economic benefit resulting from this violation was de minimis.

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

$$\begin{aligned} &= \$2,000 + [(0.1 \times \$2,000) \times (0 + 0 + 0 + 2 + (-4))] + \$0 \\ &= \$2,000 [\$200 \times (-2)] + \$0 \\ &= \$2,000 + (-\$400) + \$0 \\ &= \$1,600 \end{aligned}$$

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:	\$1,600.00

Account Name:	PACIFICORP - NORTH UMPQUA		
Account Type:	Vendor/Organization/Company	Reference Number:	CPGFD2400012
SubSystem ID:	200534	FIMS Acct. ID:	963

Penalty Summary

Penalty Amount	Interest	Adjustment	Amount Paid	Total Penalty
\$ 1,600.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 1,600.00

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://ydo.oregon.gov> and select 'Register Account'



 PLEASE RETURN THIS PORTION WITH YOUR PAYMENT



REFERENCE NO.	CPGFD2400012		
PAYCODE:	00401 7400 10040 74001 0500 000000 00		
FEE PROGRAM ID:	950	RESPONSE DATE:	December 14, 2023
FIMS ACCT. ID:	963	TOTAL PENALTY DUE:	\$1600.00

AMOUNT ENCLOSED:

MAKE CHECK PAYABLE TO: Department of Environmental Quality

DEQ FINANCIAL SERVICES - LBX4244
 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 0095000009639(CPGF)240001200001600000



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

Penalty Detail

Transaction Date	Description	Amount
10/4/2023	2022-624 LQ-HW-WR-2022-624	\$1,600.00

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 _____