



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

November 21, 2023

CERTIFIED MAIL: 9589 0710 5270 0110 6012 62

Mario Ruiz
d/b/a M R Pallets Co.
6732 NE 47th Ave
Portland, OR 97218

CERTIFIED MAIL: 9589 0710 5270 0110 6012 79

Mario Ruiz
d/b/a M R Pallets Co.
12707 NE Halsey Street
Portland, OR 97230

Re: Notice of Civil Penalty Assessment and Order
Case No. WQ-SW-NWR-2022-602

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$16,928 for conducting activity without the required National Pollutant Elimination Discharge Elimination System Industrial Stormwater Discharge General Permit No. 1200-Z (the 1200-Z Permit). Specifically, you have been conducting industrial activity at your pallets business located on three properties along NE 47th Avenue in Portland Oregon since at least May 2022, but as of the date of this Notice of Civil Penalty Assessment and Order (Notice), you have not applied for permit coverage despite repeated written notifications of the permit requirement from the City of Portland and DEQ. The industrial activity has the potential to discharge stormwater exposed to industrial pollutants to the nearby Columbia Slough.

DEQ issued this penalty because applying for coverage under a water quality permit is essential to minimizing pollution to waters of the state. Water quality permits limit the risk of harmful pollution to waters of the state and are tailored to the industrial operations conducted at a facility and the pollutants that they generate. By operating your facility without a permit, you have posed a risk of harm to the Columbia Slough.

Included in Section IV of the enclosed Notice is an order requiring you to apply for coverage under the 1200-Z Permit within 60 days of this order becoming final by operation of law or on appeal. Please review Section IV of the Notice for the order's complete requirements.

\$7,328 of the civil penalty represents the economic benefit you gained by failing to apply for and maintain coverage under the 1200-Z Permit since May 2022. If you apply for 1200-Z Permit coverage,

DEQ will consider recalculating some of the costs as delayed rather than avoided and will reduce the civil penalty accordingly.

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 Becka Puskas at 503-229-5058.

Sincerely,



Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Mario Ruiz, d/b/a M R Pallets Co.
Case No. WQ-SW-WR-2022-602
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Enclosures

cc: Stacy Hibbard, City of Portland Industrial Stormwater Program
(Stacy.Hibbard@portlandoregon.gov)
Richard Wanger, 13844 SE Happy Valley Ct, Happy Valley, OR 97086 (Owner, 6731 NE 47th
Ave)
David Glenn Salholm Liv Tr & Mary Beth Salholm Liv Tr, 4404 NE Cesar E Chavez Blvd,
Portland, OR 97211 (Owner, 6732 NE 47th Ave)
Bamboo Enterprises, LLC, 2172 SE Palmblad Rd, Gresham, OR 97080-9262 (Owner, 6820 NE
47th Ave)
Accounting, DEQ

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

2 OF THE STATE OF OREGON

3 IN THE MATTER OF:

4 MARIO RUIZ,
5 an individual,
6 d/b/a M R Pallets Co.

Respondent.)

) NOTICE OF CIVIL PENALTY
) ASSESSMENT AND ORDER
) CASE NO. WQ-SW-WR-2022-602

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

12 II. FINDINGS OF FACT

13 1. Respondent is an individual doing business as M R Pallets Co.

14 2. Respondent operates a business purchasing, repairing and reselling wood pallets located at
15 the following addresses in Portland, Oregon:

- 16 a. 6731 NE 47th Ave, Portland, OR, 97218;
- 17 b. 6732 NE 47th Ave, Portland, OR 97218; and
- 18 c. 6820 NE 47th Ave, Portland, OR 97218.

19 These three properties are described hereinafter as the "Facility."

20 3. Respondent's business at the Facility involves handling waste pallets and storing materials
21 including wood pallets.

22 4. The Facility is located near the Columbia Slough. During precipitation events, the industrial
23 activities at the Facility are exposed to stormwater and have the potential to discharge industrial
24 stormwater to the Columbia Slough. More specifically, the Facility discharges stormwater to catch
25 basins that discharge to the City of Portland stormwater system, which in turn discharges to the
26 Columbia Slough.

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1 5. On May 6, 2022, the City of Portland inspected the Facility and observed the following
2 industrial activity at 6732 NE 47th Ave: outdoor wood cutting with piles of sawdust throughout the site;
3 outdoor storage of chemical products, with evidence of spills; and outdoor storage of waste materials.
4 The City of Portland also observed industrial activity at the 6731 NE 47th Ave property.

5 6. On May 23, 2022, the City of Portland sent Respondent a letter notifying Respondent that
6 the City of Portland had determined that coverage was required under the National Pollutant Discharge
7 Elimination System Industrial Stormwater Discharge Permit No. 1200-Z (the 1200-Z Permit) for the
8 6732 NE 47th Ave. property. The City requested that Respondent apply 1200-Z Permit coverage by July
9 5, 2022.

10 7. On August 24, 2022, the City of Portland visited the Facility to remind Respondent of the
11 request to submit a 1200-Z Permit application.

12 8. On September 22, 2022, the City of Portland issued a Pre-Enforcement Notice, referring the
13 case to DEQ for formal enforcement and again notifying Respondent of the need for 1200-Z Permit
14 coverage and requesting that Respondent apply immediately.

15 9. On or before April 11, 2023, Respondent expanded its pallet business operations to 6820 NE
16 47th Ave.

17 10. On July 20, 2023, DEQ issued Expedited Enforcement Offer No. WQ-SW-NWR-2022-602
18 (EEO), citing Respondent for operating without a 1200-Z Permit, offering to resolve the violation for a
19 reduced civil penalty of \$1,600 and requiring a complete 1200-Z Permit application covering all of the
20 industrial activity at the Facility that may discharge stormwater to waters of the state. Respondent did
21 not respond to the EEO offer.

22 11. As of the date of this Notice, Respondent has not submitted a 1200-Z Permit application for
23 the Facility to the City of Portland.

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1 III. CONCLUSIONS

2 1. From at least May 6, 2022 to the date of this Notice, Respondent violated ORS
3 468B.050(1)(d), OAR 340-045-0015(2) and OAR 340-045-0033(6) by conducting an activity described in
4 the 1200-Z Permit without first applying for coverage under the 1200-Z Permit, as described in Section II,
5 paragraphs 1-11, above. Specifically, Respondent conducts industrial activity listed in Table 2 of the
6 Permit including materials storage and waste handling. The industrial activity at the Facility may discharge
7 industrial stormwater to the Columbia Slough, which is a waters of the state as defined in ORS
8 468B.05(10). Industrial stormwater is waste which may alter the physical, chemical or biological
9 properties of the Columbia Slough. As of the date of this Notice, Respondent does not have a 1200-Z
10 permit or any other water quality permit from DEQ authorizing the discharge of industrial stormwater
11 to the Columbia Slough. This is a Class I violation, according to OAR 340-012-0055(1)(d). DEQ
12 hereby assesses a \$16,928 civil penalty for this violation.

13 IV. ORDER TO PAY CIVIL PENALTY AND TO COMPLY

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

16 1. Pay a total civil penalty of \$16,928. The determination of the civil penalty is attached as
17 Exhibit 1 and incorporated as part of this Notice.

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

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

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

1 2. According to OAR 340-045-0033, within 60 days of this order becoming final by operation
2 of law or on appeal, submit to the City of Portland a complete application for coverage of industrial
3 activities at the Facility under the 1200-Z Permit. The application must include:

- 4 a. A 1200-Z Permit application form;
- 5 b. A Land Use Compatibility Statement;
- 6 c. A Stormwater Pollution Control Plan (SWPCP), and
- 7 d. An application fee.

8 The application must cover all industrial activity at the following addresses in Portland, Oregon
9 operated by Respondent, which may discharge industrial stormwater to waters of the state: 6731 NE
10 47th Ave, 6732 NE 47th Ave, and 6820 NE 47th Ave. If any of these addresses are not included in the
11 application, please include a written explanation why they are not included. The application must be
12 submitted to Stacy Hibbard, City of Portland Industrial Stormwater Program, at
13 Stacy.Hibbard@portlandoregon.gov.

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

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

1 authorized representative, as set forth in OAR 137-003-0555.

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

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

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11 / 21 / 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 Conducting an activity described in the 1200-Z Permit without first applying for coverage under the 1200-Z Permit, in violation of OAR 340-045-0015(2) and OAR 340-045-0033(6).

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0055(1)(d).

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(2)(a)(D) because Respondent should have applied for coverage under a 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 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 4 according to OAR 340-012-0145(4)(d) because there were more than 28 occurrences of the violation. Each day of violation is a separate occurrence. Respondent should have had coverage under a 1200-Z permit since at least May 6, 2022. As of the date of this Notice, Respondent has not applied for coverage under the 1200-Z Permit.

"M" is the mental state of the Respondent, and receives a value of 8 according to OAR 340-012-0145(5)(d) because Respondent acted or failed to act intentionally with actual knowledge of the requirement. Respondent was notified in writing by the City of Portland of the need for 1200-Z Permit coverage on two occasions, via letter on May 23, 2022, and a hand-delivered Pre-Enforcement Notice on September 22, 2022. In addition, Respondent was notified by DEQ in writing of the need for 1200-Z Permit coverage in the Expedited Enforcement Offer issued on July 20, 2023. However, as of the date of this Notice, Respondent has not

submitted a 1200-Z Permit application to DEQ. Thus, Respondent failed to act intentionally with actual knowledge of the requirement.

"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 \$7,328. Respondent should have applied for coverage under the 1200-Z permit on or before May 6, 2022. By avoiding an estimated \$5,000 for preparation of an SWPCP and \$2,734 for permit fees, Respondent benefited by an estimated \$5,724. In addition, Respondent should have conducted monitoring and inspections at its facility between May 2022 and June 2023. By avoiding an estimated \$2,153 in laboratory costs for four samples at two locations and \$240 in labor costs to conduct monthly inspections for a year, Respondent benefited by an estimated \$1,604. Thus, the total economic benefit is \$7,328. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

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

$$\begin{aligned} &= \$4,000 + [(0.1 \times \$4,000) \times (0 + 0 + 4 + 8 + 2)] + \$7,328 \\ &= \$4,000 + (\$400 \times 14) + \$7,328 \\ &= \$4,000 + \$5,600 + \$7,328 \\ &= \$16,928 \end{aligned}$$

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:	November 21, 2023
RESPONSE DATE :	January 30, 2024
TOTAL PENALTY:	\$16,928.00

Account Name:	M R PALLETS CO.		
Account Type:	Vendor/Organization/Company	Reference Number:	CPGFD2400024
SubSystem ID:	215120	FIMS Acct. ID:	12877

Penalty Summary

Penalty Amount	Interest	Adjustment	Amount Paid	Total Penalty
\$ 16,928.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 16,928.00

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.	CPGFD2400024		
PAYCODE:	00401 7400 10040 74001 0500 000000 00		
FEE PROGRAM ID:	950	RESPONSE DATE:	January 30, 2024
FIMS ACCT. ID:	12877	TOTAL PENALTY DUE:	\$16928.00

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 0095000128771CPGFD240002400016928000



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
11/20/2023	2022-602 WQ-SW-NWR-2022-602	\$16,928.00

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 _____