



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: 7014 2120 0001 8302 9682

Meadow Utilities, LLC
c/o Matthew B Drake, Registered Agent
30634 E Skibowl Way #161
Government Camp, OR 97028

Re: Notice of Civil Penalty Assessment and Order
Case No. WQ-M-ER-2022-007

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$1,125 for failing to collect monitoring data as required by the National Pollutant Discharge Elimination System Permit for the domestic wastewater treatment plant that serves the Mount Hood Meadows Ski Resort located at 14040 Highway 35, Mount Hood, OR 97401. The attached Notice also cites you, without penalty, for exceeding the permit's flow limit and for submitting incomplete Discharge Monitoring Reports.

DEQ issued this penalty because the receiving stream flow monitoring required under the permit is necessary to calculate dilution values. The receiving stream flow monitoring triggers a no discharge requirement when dilution in the receiving stream is low. The dilution values also determine the concentration of other conventional pollutants that can be discharged by the facility.

DEQ appreciates your efforts to ensure that monitoring violations would not be repeated by instituting new protocols to regularly check your monitoring data. DEQ considered these efforts when determining the amount of civil penalty.

Included in Section IV of the enclosed Notice is an order requiring you to submit updated Discharge Monitoring Reports to correct errors identified in DEQ's report review.

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. 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 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 or toll free in Oregon at 800-452-4011, extension 5058.

Sincerely,



Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Enclosures

cc: Patricio Ramos, Meadows Utilities, LLC, P.O. Box 470, Parkdale, OR 97041
Kent Fellows, Meadows Utilities, LLC, P.O. Box 470, Parkdale, OR 97041
Justin Sterger, DEQ
Mike Hiatt, 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 MEADOWS UTILITIES LLC,) ASSESSMENT AND ORDER
5 Respondent.) CASE NO. WQ-ER-M-2022-007

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 Meadows Utilities LLC owns and operates a domestic wastewater treatment
13 plant that serves the Mount Hood Meadows Ski Resort and is located at 14040 Highway 35, Mount
14 Hood, OR 97401 (the Facility).

15 2. Effective June 1, 2020, the Department of Environmental Quality (DEQ) issued
16 National Pollutant Discharge Elimination System (NPDES) Waste Discharge Permit Number 100681
17 to Respondent (the Permit).

18 3. The Permit authorizes Respondent to: 1) operate a wastewater collection, treatment,
19 control and disposal system; and 2) discharge treated wastewater to waters of the state only from the
20 authorized discharge point or points in Schedule A in conformance with the requirements, limits, and
21 conditions set forth in this permit.

22 4. The Permit was in effect at all material times.

23 5. Under the Permit, Respondent is authorized to discharge treated domestic wastewater to
24 the East Fork of Hood River at Outfall 001.

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1 6. Schedule A, Condition 1.a of the Permit establishes effluent flow limits for
2 Respondent's discharge from the Facility at Outfall 001. From May 1 through October 31, the flow
3 limit that applies depends on the dilution value (Q_r divided by Q_e), where Q_r is the daily receiving
4 stream flow divided by daily effluent flow. Specifically:

- 5 a. When the dilution value is greater than or equal to 20, the flow limit is 0.01875
6 million gallons per day (MGD);
7 b. When the dilution value is greater than or equal to 10 but less than 20, the flow limit
8 is 0.0375 MGD; and
9 c. When the dilution value is less than 10, a discharge is prohibited.

10 7. Schedule B.3.c, Table B4 of the Permit requires Respondent to monitor the flow of the
11 receiving stream (East Fork Hood River) daily. The receiving stream flow data (Q_r) is necessary to
12 perform the dilution calculation described above in Section II, paragraph 6.

13 8. Respondent discharged effluent from the Facility at Outfall 001 as follows:

Date	Flow (MGD)	Dilution	Applicable Flow Limit (MGD)	Percent over limit
May 1, 2021	0.021493	240.1	0.01875	14.6%
May 5, 2021	0.019543	195.0	0.01875	4.2%
May 13, 2021	0.021279	Not reported	0.01875	13.5%
May 25, 2021	0.025425	Not reported	0.01875	35.6%
June 16, 2021	0.020965	212.4	0.01875	11.8%
May 9, 2023	0.020012	246	0.01875	6.7%
May 17, 2023	0.019956	192	0.01875	6.4%
May 23, 2023	0.025935	271.9	0.01875	38.3%

14 9. Based on the receiving stream flow and the dilution values in the range of 200 reported
15 before and after May 13, 2021 and May 25, 2021, the dilution values on those dates were very likely
16 greater than 20.
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18 10. In addition to the daily flow monitoring requirement described in Section II, paragraph
19 7, above, Schedule B.3.c., Table B4 of the Permit requires Respondent to monitor receiving water
20 temperature daily and to monitor receiving water monthly for pH.
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11. Respondent failed to monitor as follows:

Month(s)	Missed monitoring
February 2021	Receiving stream flow from February 22, 2021 through February 28, 2021 (7 days)
May 2021 – June 2021	Receiving stream flow from May 12, 2021 to June 10, 2021 (30 days)
May 2021 – June 2021	Receiving stream temperature from May 12, 2021 to June 10, 2021 (30 days)
April 2021	Receiving stream pH (1 month)
December 2021 – January 2022	Receiving stream flow from December 8, 2021 through January 17, 2022 (41 days)
December 2021 – January 2022	Receiving stream temperature on December 8, December 10-15 th , December 17-22, December 24-31, January 1-5, January 7-17, 2022 (37 days)

12. Respondent's Discharge Monitoring Reports (DMRs) for July 2021 through June 2023 include a number of reporting errors including inappropriate No Data Indicator (NODI) codes, entries on the wrong lines of the DMR, and values that do not correspond to Respondent's monitoring spreadsheet, as described in an email summary sent by DEQ to Respondent on October 31, 2023.

III. CONCLUSIONS

1. Respondent violated ORS 468B.025(2) and Schedule A, Condition 1.a of the Permit by exceeding the applicable flow limit in the Permit on five days in May and June 2021 and on three days in May 2023, as described in Section II, paragraphs 6 and 8, above. These are five Class II violations according to OAR 340-012-0055(2)(a)(A) and three Class III violations according to OAR 340-012-0055(3)(b)(A). DEQ has not assessed a civil penalty for these violations.

2. Respondent violated ORS 468B.025(2) and Schedule B.3.c. of the Permit by failing to monitor receiving stream flow as described in Section II, paragraphs 7 and 10-11, above. These are Class I violations according to OAR 340-012-0055(1)(o). DEQ hereby assesses a \$1,125 civil penalty for these violations.

3. Respondent violated ORS 468.025(2) and Schedule B.1 and B.2 of the Permit by failing to submit complete DMRs as described in Section II, paragraphs 12, above. These are Class III violations according to OAR 340-012-0055(3)(a). DEQ has not assessed a civil penalty for these violations.

∞

1 IV. ORDER TO PAY CIVIL PENALTY AND TO COMPLY

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

4 1. Pay a total civil penalty of \$1,125. The determination of the civil penalty is attached as Exhibit
5 1 and is incorporated as part of this Notice.

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

9 2. By November 30, 2023 or within 15 days of this order becoming final by operation of law or
10 on appeal, whichever is later, submit corrected DMRs for July 2021 through June 2023, to correct all
11 errors identified in DEQ's DMR review email dated October 31, 2023.

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

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

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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-
3 452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed
4 Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military
5 Department does not 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.

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15 11/21/2023
16 Date

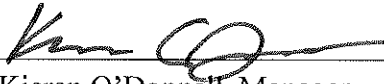
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Kieran O'Donnell, Manager
Office of Compliance and Enforcement

EXHIBIT 1

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

VIOLATION NO. 2 Failing to monitor receiving stream flow, in violation of ORS 468B.025(2) and Schedule B.3.c. of the Permit.

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

MAGNITUDE: The magnitude of the violation is minor pursuant to OAR 340-012-0130(4) as there is no selected magnitude specified in OAR 340-012-0135 applicable to this violation and DEQ finds that the violation had no more than a de minimis adverse impact on human health or the environment, and posed no more than a de minimis threat to human health and the environment. In making this finding, DEQ considered the following reasonably available information: The dilution in the receiving stream before and after the missed flow monitoring events was well in excess of 20, so there was no risk of violating the no discharge prohibition in the Permit that applies during low dilution conditions. In addition, BOD and TSS loads discharged during the missed flow monitoring events were well below the permitted limits of 20 mg/L, so the missed receiving stream flow monitoring is not expected to have resulted in exceedances of allowed pollutant loads to the receiving 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 \$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)(F)(i) because Respondent has a NPDES permit for a private wastewater treatment facility with a permitted flow of less than two million gallons per day.
- "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. As described in Section II, paragraph 11 of

the Notice, Respondent failed to monitor stream flow on 78 days, stream temperature on 67 days and pH during one month. Thus, there were 148 occurrences of the violation.

"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 reasonably should have known of the monitoring requirements in the Permit.

"C" is Respondent's efforts to correct or mitigate the violation, and receives a value of -1 according to OAR 340-012-0145(6)(e) because Respondent made reasonable efforts to ensure the violation would not be repeated.

0 according to OAR 340-012-0145(6)(f) because there is insufficient information to make a finding under paragraphs (6)(a) through (6)(e), or (6)(g). After DEQ notified Respondent of the monitoring violations, Respondent instituted a system to check its data logging systems each morning to ensure that logging occurred overnight, plus a routine check during the day. Respondent also made upgrades to the building where logging equipment is stored.

"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 calculate an economic benefit for these violations.

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 x \$750) x (0 + 0 + 4 + 2 + -1)] + \$0
= \$750 + (\$75 x 5) + \$0
= \$750 + \$375 + \$0
= \$1,125