



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 9, 2023

CERTIFIED MAIL: 7016 2710 0000 4221 4308

Northwest Hardwoods, Inc.
c/o Corporation Service Company
1127 Broadway Street NE Suite 310
Salem, OR 97301

Re: Notice of Civil Penalty Assessment and Order
Case No. WQ-SW-NWR-2023-504

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued Northwest Hardwoods, Inc. a civil penalty of \$63,172 for violations of the National Pollutant Discharge Elimination System Industrial Stormwater General Permit No. 1200-Z (the Permit) assigned to its mill and timber products facility located at 202 S 7th Street in Garibaldi, Oregon. The violations were discovered during an inspection in December 2022. Specifically, for at least three years from December 2019 to December 2022, you failed to implement required maintenance and housekeeping measures under your stormwater pollution control plan (SWPCP) that are intended to reduce pollutants in your stormwater discharge to Tillamook Bay. In addition, you failed to conduct monthly facility inspections from March 2020 to December 2022, and failed to update your SWPCP as required by the Permit. The enclosed Notice also cites you, without penalty, for failing to complete Tier I corrective actions in response to benchmark exceedances for chemical oxygen demand (COD) and visual impairments including discoloration and floating debris.

DEQ issued this penalty because the requirements in the Permit are intended to reduce pollution to waters of the state from your industrial facility. The elevated levels of COD in the stormwater discharge, as well as the discoloration and floating debris, may adversely impact waters of the state. COD is a measure of how much oxygen is being consumed to decompose organics in water. Increased COD decreases the availability of oxygen for aquatic life and indicates the presence of organic pollution such as sawdust, bark dust or particulates, which must be addressed to minimize environmental impacts from the industrial activity. These environmental impacts could have been reduced had you conducted monthly facility inspections and implemented the maintenance and housekeeping measures required under the SWPCP and the permit.

Included in Section IV of the enclosed Notice is an order requiring you to:

- Within 90 days of the order becoming final by operation of law or on appeal:
 - Submit an updated SWPCP for the Facility to DEQ;

- Conduct at least two monthly inspections and complete required maintenance of the Facility's stormwater facilities and BMPs;
 - Conduct a thorough, Facility-wide housekeeping; and
 - Implement Tier I corrective action requirements for benchmark exceedances and visual impairments.
- By August 15, 2024, conduct annual maintenance of the Tier II Treatment at the Facility. The above is a summary of the order; you must consult Section IV of the enclosed Notice for the complete requirements.

\$53,172 of the civil penalty represents the economic benefit you gained by failing to implement the SWPCP for a period of three years (\$45,812), failing to conduct monthly facility inspections from March 2020 through December 2022 (\$2,610), failing to complete Tier I corrective actions (\$835), and failing to update the SWPCP as required by the permit (\$3,915). If you complete the Tier I corrective actions and the SWPCP update, DEQ will consider recalculating the cost of those items 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>.

Northwest Hardwoods, Inc.
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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 becka.puskas@deq.oregon.gov.

Sincerely,



Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Enclosures

cc: Robert Lane, Northwest Hardwoods, Inc., P.O. Box 217, Garibaldi, OR 97118
Michael Kennedy, DEQ
Benjamin Benninghoff, DEQ
Accounting, DEQ

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

3 IN THE MATTER OF:)
4 NORTHWEST HARDWOODS, INC.,) NOTICE OF CIVIL PENALTY
5 Respondent.) ASSESSMENT AND ORDER
6 CASE NO. WQ-SW-NWR-2023-504

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 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 is registered under the National Pollutant Discharge Elimination System
14 Industrial Stormwater Discharge General Permit No. 1200-Z (the Permit) for its mill and timber
15 products facility located at 202 S 7th Street in Garibaldi, Oregon (the Facility).¹
- 16 2. The Permit was in effect at all material times.
- 17 3. The Facility discharges industrial stormwater to Tillamook Bay.
- 18 4. In 2014, Respondent submitted to DEQ an amendment to its Stormwater Pollution
19 Control Plan (SWPCP) describing a project to construct a series of settling ponds to collect and treat
20 industrial stormwater at the northwest corner of the Facility prior to its discharge into Tillamook Bay
21 (the Tier II Treatment). The purpose of the Tier II Treatment was to reduce the discharge of Total
22 Suspended Solids (TSS) to Tillamook Bay.
- 23 5. Respondent constructed the Tier II Treatment in 2015.

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25 ¹ The current version of the Permit was issued on March 25, 2021, with minor modifications on August
26 17, 2022, and July 20, 2023. Citations in this Notice to the “Permit” refer to the Permit in effect at the
27 time of DEQ’s December 2022 inspection of the Facility. The previous version of the Permit was in
effect from October 22, 2018 through March 24, 2021. Citations in this Notice to the “Previous Permit”
are to that previous version. Copies of the Permit and the Previous Permit are available on DEQ’s
website at <https://www.oregon.gov/deq/wq/wqpermits/pages/stormwater-industrial.aspx>.

1 6. On or about August 15, 2017, Respondent submitted an updated SWPCP to DEQ, which
2 incorporates the Tier II Treatment SWPCP Addendum described in Section II, paragraph 4, above.

3 7. In addition to the Tier II Treatment, the 2017 SWPCP describes the following Best
4 Management Practices (BMPs) used at the Facility to reduce pollutants in the stormwater discharge:

- 5 a. Sweeping the high traffic area of the log yard twice per week (p. 14);
- 6 b. Use of a biweekly vacuum service that cleans the outside traffic areas and the paved
7 log yard area (p. 14, 15);
- 8 c. Sweeping all basin areas every other day (p. 14);
- 9 d. Regular cleaning and maintenance of the stormwater system including areas
10 associated with the debarker (p. 15);²
- 11 e. Yearly cleaning of the settling pond that is part of the Tier II Treatment (p. 16);
- 12 f. Periodic cleaning of silt dikes along the debarker (p. 16); and
- 13 g. Response procedures including the cleanup of spills of significant materials
14 including gas, diesel, used oil or new petroleum products such as oil and grease (p.
15 16).

16 8. On December 20, 2022, DEQ inspected the Facility.

17 9. On December 20, 2022:

- 18 a. There was a significant amount of sawdust, bark, and other accumulated industrial
19 waste debris on the ground throughout the Facility, including under the debarker,
20 around the log deck, and on paved areas;
- 21 b. There was a hydraulic fluid spill in the vicinity of the debarker that had not been
22 cleaned up;
- 23 c. There was stormwater that had ponded along the northern edge of the Facility prior
24 to entering the Tier II Treatment; the ponded stormwater was turbid and contained
25 floating debris;

26 ² In that regard, the 2017 SWPCP states “In general, wood debris that collects in the debarker area and
27 the drainage structures in Basin 3 should be cleaned up as often as necessary to reduce the time that
storm water and wood debris are in contact.” (p. 15)

d. The stormwater treatment swale installed as part of the Tier II Treatment was partially filled in with debris and vegetation growth.

10. On December 20, 2022, DEQ requested Respondent's records documenting maintenance and repairs of Respondent's control measures and treatment systems at the Facility, including the Tier II Treatment. On December 20, 2022, Respondent did not have any records on site at the Facility documenting the sweeping or vacuum cleaning described in the 2017 SWPCP, nor did Respondent have records documenting cleaning of the silt dike associated with the debarker, the debarker area, or the settling pond that is part of the Tier II Treatment.

11. On December 20, 2022, the stormwater in the Tier II Treatment area that discharges at Monitoring Point 003 was discolored. Respondent stated that the discoloration was from the alder wood that Respondent processes at the Facility.

12. Between December 20, 2019 and December 20, 2022 (the date of DEQ's inspection), Respondent discharged stormwater at Monitoring Point 003 as described in the table below:

Date	Pollutant	Concentration (mg/L)	Benchmark (mg/L)
March 6, 2020	COD	390	120 ³
June 7, 2020	COD	300	120
December 8, 2020	COD	260	120
December 22, 2020	COD	190	120
March 5, 2021	COD	410	120
December 8, 2021	Zinc	0.13	0.086
	COD	430	120
December 22, 2021	COD	250	120
March 2, 2022	COD	140	120
April 13, 2022	COD	190	120

13. Respondent did not complete any Tier I corrective actions for the benchmark exceedances described in Section II, paragraph 12, and the table above, nor did Respondent complete any Tier I corrective actions in response to discoloration or floating solids observed in the stormwater at the Facility.

³ The COD benchmark monitoring concentration of 120 mg/L is included in the Sector-Specific Benchmarks for General Sawmills and Planing Mills (SIC 2421) in both the Permit and the Previous Permit. Respondent's primary SIC is 2421.

1 3. Respondent violated 468B.025(2) and Schedule B.1 i of the Permit [Schedule B.7 of the
2 Previous Permit] by failing complete required monthly inspections for 33 months from March 2020
3 through November 2022, as described in Section II, paragraph 14, above. These are Class II violations
4 according to OAR 340-012-0053(2). DEQ hereby assesses a \$2,610 civil penalty for these violations.

5 4. Respondent violated 468B.025(2) and Condition I.3.a of the Permit by failing to submit an
6 updated SWPCP for the Facility, as described in Section II, paragraphs 15-17, above. This is a Class II
7 violation according to OAR 340-012-0053(2). DEQ hereby assesses a \$3,915 civil penalty for this
8 violation.

9 IV. ORDER TO PAY CIVIL PENALTY AND TO COMPLY

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

12 1. Pay a total civil penalty of \$63,172. The determination of the civil penalties are attached as
13 Exhibits 1-4 and are incorporated as part of this Notice.

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

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

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

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- 1 2. Within 90 days of this order becoming final by operation of law or on appeal:
- 2 a. Submit an updated SWPCP for the Facility to DEQ that complies with the requirements
- 3 of Schedule A.10 and Schedule E.A.2 of the Permit;
- 4 b. Conduct at least two monthly inspections that comply with Schedule B.11 of the Permit,
- 5 complete required maintenance of the Facility's stormwater facilities and BMPs and submit
- 6 inspection and maintenance documentation to DEQ. The inspection documentation must
- 7 include a plan, including proposed timelines to address any maintenance needs that were
- 8 not addressed during the inspection (other than the Tier II maintenance addressed in
- 9 Section II, paragraph 3 below);
- 10 c. Conduct a thorough, Facility-wide housekeeping and submit before and after photographs
- 11 and any invoices to DEQ;
- 12 d. Implement Schedule A.11 Tier I corrective action requirements for: the benchmark
- 13 exceedances described in Section I, paragraph 13, above; any subsequent benchmark
- 14 exceedances; and visual impairment to the stormwater discharge (including discoloration
- 15 and floating debris) and submit the Tier I reports to DEQ.
- 16 3. By August 15, 2024, complete annual maintenance of the Tier II Treatment, and submit
- 17 before and after photos and any invoices to DEQ.
- 18 4. Written documentation demonstrating Respondent's compliance with Section IV,
- 19 paragraphs 3 and 4, above must be sent to Michael Kennedy, DEQ at
- 20 micheal.kennedy@deq.oregon.gov, with a copy to Becka Puskas, DEQ at
- 21 becka.puskas@deq.oregon.gov.

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 exhibits, 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
23
24 11/9/2023
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 Failure to implement a Stormwater Pollution Control Plan, in violation of ORS 468B.025(2) and Schedule A.8.d of the Permit [Schedule A.6.d of the Previous Permit].
- CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0055(1)(r).
- 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 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 1 according to OAR 340-012-0145(2)(a)(B), because Respondent has 1 Class II violation in Expedited Enforcement Offer No. 2017-EEO-2929, issued on September 18, 2017.
- "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 (3)(a) or (b).
- "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. According to OAR 340-012-0145(4), each day of a violation with a duration more than one day is a separate occurrence when determining the O factor. As described in Section III, paragraph 1 of the Notice, Respondent failed to implement the 2017 SWPCP from at least December 2019 through December 2022. Therefore, there are more than 28 occurrences of the violation.
- "M" is the mental state of the Respondent, and receives a value of 8 according to OAR 340-012-0145(5)(d) because Respondent's conduct was reckless. According to OAR 340-012-0030(20), reckless means the respondent consciously disregarded a substantial and unjustifiable risk that the result would occur or that the circumstance existed. The risk must

be of such a nature and degree that disregarding that risk constituted a gross deviation from the standard of care a reasonable person would observe in that situation. As a Permit registrant, Respondent is familiar with the requirements of the Permit, including the requirement to implement its SWPCP. The SWPCP contains distinct requirements such as annual maintenance of the Tier II Treatment, which was installed in 2015 to address benchmark exceedances for TSS, and regular (biweekly or more frequent) housekeeping requirements to address the buildup of bark and sawdust throughout the facility which the 2017 SWPCP describes as the “biggest challenge.” As explained in the 2017 SWPCP, “The ultimate goal of the SWPCP and applicable BMPs is to bring the facility into compliance with storm water discharge benchmarks and limits.” Despite the importance of complying with the SWPCP to reduce the discharge of excess pollutants to Tillamook Bay, Respondent consistently failed to implement these key SWPCP provisions for a period of at least three years. Thus, Respondent consciously disregarded a substantial and unjustifiable risk of failing to implement the SWPCP. Because implementing the SWPCP is fundamental to reducing the discharge of pollutants to waters of the state, the risk of failing to implement the SWPCP for such a long period of time constituted a gross deviation from the standard of care a reasonable person would observe in that situation.

"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 \$45,812. This is the amount Respondent gained by avoiding spending \$63,000 in annual maintenance cost (\$21,000 per year) at the Facility between December 2019 and December 2022. This is made up of \$8,000 per year to maintain the Tier II Treatment and \$13,000 per year for biweekly sweeping and vacuuming (26 sweeping events per year at a cost of approximately \$500 each). This “EB” was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

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

$$= \$4,000 + [(0.1 \times \$4,000) \times (1 + 0 + 4 + 8 + 2)] + \$45,812$$

$$= \$4,000 + (\$400 \times 15) + \$45,812$$

$$= \$4,000 + \$6,000 + \$45,812$$

$$= \$55,812$$

EXHIBIT 2

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

VIOLATION NO. 2 Failure to take Tier I corrective actions, in violation of 468B.025(2) and Schedule A.11 of the Permit [Schedule A.10 of the Previous Permit].

CLASSIFICATION: This is a Class II violation pursuant to OAR 340-012-0053(2).

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: $BP + [(0.1 \times BP) \times (P + H + O + M + C)] + EB$

According to OAR 340-012-0150(5), in this case, DEQ is using its enforcement discretion to assess a civil penalty for economic benefit only:

"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 \$835. This is the amount Respondent gained by avoiding spending \$1,000 (\$100 for each of 10 Tier I corrective action responses missed, as described in Section II, paragraph 12 of the Notice). This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

PENALTY CALCULATION: Penalty = EB = \$835

EXHIBIT 3

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

VIOLATION NO. 3 Failure to complete required monthly inspections in violation of 468B.025(2) and Schedule B.11 of the Permit [Schedule B.7 of the Previous Permit].

CLASSIFICATION: This is a Class II violation pursuant to OAR 340-012-0053(2).

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: $BP + [(0.1 \times BP) \times (P + H + O + M + C)] + EB$

According to OAR 340-012-0150(5), in this case, DEQ is using its enforcement discretion to assess a civil penalty for economic benefit only:

"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 \$2,610. This is the amount Respondent gained by avoiding spending \$3,300 (\$100 per inspection for 33 monthly inspections) from March 2020 through November 2022. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

PENALTY CALCULATION: Penalty = EB = \$2,610

EXHIBIT 4

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

VIOLATION NO. 4 Failure to submit an updated SWPCP to DEQ, in violation of 468B.025(2) and Condition I.3.a the Permit.

CLASSIFICATION: This is a Class II violation pursuant to OAR 340-012-0053(2).

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: $BP + [(0.1 \times BP) \times (P + H + O + M + C)] + EB$

According to OAR 340-012-0150(5), in this case, DEQ is using its enforcement discretion to assess a civil penalty for economic benefit only:

"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 \$3,915. This is the amount Respondent gained by avoiding spending approximately \$5,000 in consultant costs to prepare an updated SWPCP that complies with Schedule A.10 and Schedule E.A.2 of the Permit. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

PENALTY CALCULATION: Penalty = EB = \$3,915

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 9, 2023
RESPONSE DATE :	January 18, 2024
TOTAL PENALTY:	\$63,172.00

Account Name:	NORTHWEST HARDWOODS, INC. <NORTHWEST HARDWOODS, INC.- GARIBALDI> <107165>		
Account Type:	Vendor/Organization/Company	Reference Number:	CPGFD2400021
SubSystem ID:	179385	FIMS Acct. ID:	4667

Penalty Summary

Penalty Amount	Interest	Adjustment	Amount Paid	Total Penalty
\$ 63,172.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 63,172.00

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.:	CPGFD2400021		
PAYCODE:	00401 7400 10040 74001 0500 000000 00		
FEE PROGRAM ID:	950	RESPONSE DATE:	January 18, 2024
FIMS ACCT. ID:	4667	TOTAL PENALTY DUE:	\$63172.00

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 00950000046670<PGF>240002100063172001



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
11/8/2023	2023-504 WQ-SW-NWR-2023-504	\$63,172.00

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 _____