



# 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

January 23, 2024

CERTIFIED MAIL: 9589 0710 5270 0688 6538 61

Willamette Egg Farms, LLC, A Limited Liability Company of Delaware  
c/o C.T. Corporation System, Registered Agent  
780 Commercial St., SE, Suite 100  
Salem, OR 97301

Re: Notice of Civil Penalty Assessment and Order  
Case No. WQ-SW-NWR-2023-571

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued Willamette Egg Farms, LLC a civil penalty of \$13,923 for failing to conduct stormwater discharge monitoring in accordance with the National Pollutant Discharge Elimination System Industrial Stormwater General Permit No. 1200-Z (the Permit) issued for the facility located at 31348 S. Hwy 170, in Canby, Oregon. In addition, DEQ cited you for failing to submit a discharge monitoring report during the 4<sup>th</sup> quarter of the 2021-2022 monitoring year.

DEQ issued this penalty because monitoring stormwater discharge is essential to determining whether the site poses a risk of harm to water quality. Monitoring may reveal the presence of harmful levels of pollutants that pose a threat to the beneficial uses of waters, including aquatic life. In addition, monitoring allows permittees and DEQ to gauge the effectiveness of stormwater controls and best management practices at reducing levels of pollutants in discharges.

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](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.

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 Courtney Brown at 503-229-6839 or toll free in Oregon at 800-452-4011, extension 6839.

Sincerely,



Kieran O'Donnell, Manager  
Office of Compliance and Enforcement

Enclosures

cc: Dann Barnard, Willamette Egg Farms LLC, 31348 Hwy 170, Canby, OR 97013  
Mike Kennedy, 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 WILLAMETTE EGG FARMS LLC, A ) ASSESSMENT AND ORDER  
5 LIMITED LIABILITY COMPANY OF )  
6 DELAWARE, )  
7 Respondent. ) CASE NO. WQ/SW-NWR-2023-571

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

11 II. FINDINGS OF FACT

12 1. Respondent is registered under the National Pollutant Discharge Elimination System Industrial  
13 Stormwater General Permit, No. 1200-Z (the Permit) for its facility located at 31348 S. Hwy 170, in  
14 Canby, Oregon (the Facility).

15 2. Schedule B, condition 7, Table 6 of the Permit requires permit registrants to perform grab  
16 sample monitoring for statewide benchmarks four times per monitoring year.

17 3. During the 2021-2022 monitoring year Respondent took only three out of the four required  
18 samples.

19 4. During the 2022-2023 monitoring year Respondent took only two out of the four required  
20 samples.

21 5. Schedule B, condition 14, table 7 requires permit registrants to submit all data by Discharge  
22 Monitoring Report (DMR) due dates established in Table 7. Table 7 requires that the 4<sup>th</sup> quarter DMR  
23 be submitted by August 15<sup>th</sup>.

24 6. Respondent has not submitted the 4<sup>th</sup> quarter DMR for the 2022-2023 monitoring year.

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1 III. CONCLUSIONS

2 1. Respondent has violated ORS 468B.025(2) and Schedule B, condition 7, Table 6 of the  
3 Permit by failing to perform four instances of grab sample monitoring during the 2021-2022 monitoring  
4 year. Specifically, Respondent took only three grab samples as described in Section II, paragraph 3,  
5 above. This is a class I violation pursuant to OAR 340-012-0055(1)(o). DEQ hereby assesses an \$6,514  
6 civil penalty for this violation.

7 2. Respondent has violated ORS 468B.025(2) and Schedule B, condition 7, Table 6 of the  
8 Permit by failing to perform four instances of grab sample monitoring during the 2022-2023 monitoring  
9 year. Specifically, Respondent took only two grab samples as described in Section II, paragraph 4, above.  
10 These are class I violations pursuant to OAR 340-012-0055(1)(o). DEQ hereby assesses an \$7,409 civil  
11 penalty for these violations.

12 3. Respondent has violated ORS 468B.025(2) and Schedule B, condition 14, Table 7 of the  
13 Permit by failing to submit a 4<sup>th</sup> quarter DMR, as described in Section II, paragraphs 5 and 6. This is a  
14 class II violation pursuant to OAR 340-012-0053(2). DEQ has not assessed a penalty for this violation.

15 IV. ORDER TO PAY CIVIL PENALTY

16 Based upon the foregoing FINDINGS OF FACTS AND CONCLUSIONS, Respondent is  
17 hereby ORDERED TO: Pay a total civil penalty of \$13,923. The determination of the civil penalties are  
18 attached as Exhibits No.1 and No.2 and are incorporated as part of this Notice.

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

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

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

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**. 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.

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

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9 1 / 23 / 2024  
10 Date

Kieran O'Donnell  
11 Kieran O'Donnell, Manager  
12 Office of Compliance and Enforcement  
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EXHIBIT No.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 violating Schedule B, condition 7, Table 6 of the Permit by failing to monitor during the 2021-2022 monitoring year.

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

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 coverage under an 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 2 according to OAR 340-012-0145(2)(a)(C) because Respondent has one prior significant action, 2019-EEO-4912, that included one class I violation.

"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 0 according to OAR 340-012-0145(4)(a) because there was only one occurrence of the violation. Respondent failed to take one of the four required grab samples during the 2021-2022 monitoring year.

"M" is the mental state of the Respondent and receives a value of 4 according to OAR 340-012-0145(5)(c) because Respondent's conduct was negligent. According to OAR 340-012-0030(15), negligent means the respondent failed to take reasonable care to avoid a foreseeable risk of conduct constituting or resulting in a violation. Respondent is registered under the Permit which expressly requires four grab samples to be taken each monitoring year. By failing to do so, Respondent failed to take reasonable care to avoid a foreseeable risk of violating the Permit.

"C" is Respondent's efforts to correct or mitigate the violation and receives a value of 0 according to OAR 340-012-0145(6)(f) because the violation or the effects of the violation could not be corrected or minimized.

"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 \$114. This is the amount Respondent gained by avoiding spending \$160 for analytical costs for the missed samples. 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 x \$4,000) x (2 + 0 + 0 + 4 + 0)] + \$114  
= \$4,000 + (\$400 x 6) + \$114  
= \$4,000 + \$2,400 + \$114  
= \$6,514



## EXHIBIT No.2

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

- VIOLATION No.2: Violating ORS 468B.025(2) by violating Schedule B, condition 7, Table 6 of the Permit by failing to monitor during the 2022-2023 monitoring year.
- CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0055(1)(o).
- 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 coverage under an 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 2 according to OAR 340-012-0145(2)(a)(C) because Respondent has one prior significant action, 2019-EEO-4912, that included one class I violation.
- "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 2 according to OAR 340-012-0145(4)(b) because there was more than one but less than seven occurrences of the violation. Respondent failed to take two of the four required grab samples during the 2022-2023 monitoring year.
- "M" is the mental state of the Respondent and receives a value of 4 according to OAR 340-012-0145(5)(c) because Respondent's conduct was negligent. According to OAR 340-012-0030(15), negligent means the respondent failed to take reasonable care to avoid a foreseeable risk of conduct constituting or resulting in a violation. Respondent is registered under the Permit which expressly requires four grab samples to be taken each monitoring year. By failing to do so, Respondent failed to take reasonable care to avoid a foreseeable risk of violating the Permit.

"C" is Respondent's efforts to correct or mitigate the violation and receives a value of 0 according to OAR 340-012-0145(6)(f) because the violation or the effects of the violation could not be corrected or minimized.

"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 \$209. This is the amount Respondent gained by avoiding spending \$160 for analytical costs for each missed sample. 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 x \$4,000) x (2 + 0 + 2 + 4 + 0)] + \$209  
= \$4,000 + (\$400 x 8) + \$209  
= \$4,000 + \$3,200 + \$209  
= \$7,409

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:           | January 23, 2024 |
| RESPONSE DATE : | April 2, 2024    |
| TOTAL PENALTY:  | \$13,923.00      |

|               |  |                   |              |
|---------------|--|-------------------|--------------|
| Account Name: | MG WALDBAUM COMPANY <WILLAMETTE EGG FARMS> <96973> |                   |              |
| Account Type: | Vendor/Organization/Company                        | Reference Number: | CPGFD2400035 |
| SubSystem ID: | 190960   | FIMS Acct. ID:    | 2436         |

**Penalty Summary**

| Penalty Amount | Interest | Adjustment | Amount Paid | Total Penalty |
|----------------|----------|------------|-------------|---------------|
| \$ 13,923.00   | \$ 0.00  | \$ 0.00    | \$ 0.00     | \$ 13,923.00  |

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'



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PLEASE RETURN THIS PORTION WITH YOUR PAYMENT



|                 |                                       |                    |               |
|-----------------|---------------------------------------|--------------------|---------------|
| REFERENCE NO.   | CPGFD2400035                          |                    |               |
| PAYCODE:        | 00401 7400 10040 74001 0500 000000 00 |                    |               |
| FEE PROGRAM ID: | 950                                   | RESPONSE DATE:     | April 2, 2024 |
| FIMS ACCT. ID:  | 2436                                  | TOTAL PENALTY DUE: | \$13923.00    |

AMOUNT ENCLOSED:

MAKE CHECK PAYABLE TO: Department of Environmental Quality

☐ Check this box if updated address information has been provided on the back of the form.

DEQ FINANCIAL SERVICES - LBX4244  
PO BOX 4244  
PORTLAND OR 97208-4244

00401 7400 10040 74001 0500 000000 0095000024361CPGFD240003500013923005



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      |
|------------------|-----------------------------|-------------|
| 1/22/2024        | 2023-571 WQ-SW-NWR-2023-571 | \$13,923.00 |

### 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 \_\_\_\_\_