



# 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 23

Martha Willis  
General Delivery  
Roseburg OR 97470

CERTIFIED MAIL: 9589 0710 5270 0688 6538 30

Martha Willis  
596 Raleigh Drive  
Winston, OR 97496

Re: Notice of Civil Penalty Assessment and Order  
Case No. LQ-SW-WR-2023-145

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$4,903 for disposing or allowing disposal of solid waste at your property in Winston.

DEQ issued this penalty because you have not responded to the Warning Letter with Opportunity to Correct that DEQ sent you in January of 2023, and because the waste tires, appliances, vehicle parts, and household garbage disposed on your property pose a risk to the environment and public health.

Included in Section IV is an order requiring you to submit a plan to DEQ for cleaning up the property. \$1,903 of the civil penalty represents the economic benefit you gained by failing to legally dispose of the estimated 100 cubic yards of solid waste. If you complete these requirements, DEQ will consider recalculating the costs as delayed rather than avoided and will reduce the civil penalty accordingly.

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. 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 Sarah Wheeler at 971-301-0622.

Sincerely,



Kieran O'Donnell, Manager  
Office of Compliance and Enforcement

Enclosures

cc: Jason Zanni, DEQ  
Jennifer Carlock, Douglas County, [jxcarloc@co.douglas.or.us](mailto:jxcarloc@co.douglas.or.us)

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

2 OF THE STATE OF OREGON

3 IN THE MATTER OF:  
4 MARTHA WILLIS,

) NOTICE OF CIVIL PENALTY  
) ASSESSMENT AND ORDER  
)  
5 Respondent. ) CASE NO. LQ-SW-WR-2023-145

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, ORS 459.995, ORS Chapter 183 and Oregon Administrative Rules (OAR) Chapter  
10 340, Divisions 011, 012, and 093.

11 II. FINDINGS OF FACT

- 12 1. Respondent owns real property at 596 Raleigh Drive in Winston, Oregon (the Property).  
13 2. On and since at least December 21, 2022, Respondent disposed or allowed disposal of  
14 approximately 100 cubic yards of useless and discarded vehicles, vehicle parts, tires, furniture,  
15 appliances, and household garbage at the Property.  
16 3. Respondent has not been issued a solid waste disposal site permit by DEQ for the  
17 Property.

18 III. CONCLUSIONS

19 Respondent has violated OAR 340-093-0040(1) by disposing of or allowing disposal of  
20 solid waste, as defined in OAR 340-093-0030(94), at an unpermitted location, as described in Section II  
21 above. This is a Class I violation, according to OAR 340-012-0065(1)(c). DEQ hereby assesses a \$4,903  
22 civil penalty for this violation.

23 IV. ORDER TO PAY CIVIL PENALTY AND TO COMPLY

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

- 26 1. Pay a total civil penalty of \$4,903. The determination of the civil penalty is attached as Exhibit  
27 1 and is incorporated as part of this Notice.

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

4 2. Within 30 days of this order becoming final by operation of law or on appeal, submit a plan  
5 for properly disposing or recycling all of the solid waste at the Property, including timelines and  
6 progress reporting, to Jason Zanni, DEQ, at [jason.zanni@deq.oregon.gov](mailto:jason.zanni@deq.oregon.gov) or at DEQ, 221 Stewart  
7 Avenue, Suite 201, Medford OR 97501. Upon DEQ approval of the plan, implement the plan as  
8 approved.

9 1. V. NOTICE OF RIGHT TO REQUEST A CONTESTED CASE HEARING

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

24 Active duty Service members have a right to stay proceedings under the federal Service  
25 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-  
26 452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed  
27 Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military

1 Department does not have a toll free telephone number.

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

8  
9 1/23/2024  
10 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. 1: Disposing of or authorizing the disposal of solid waste at an unpermitted location, in violation of OAR 340-093-0040(1).
- CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0065(1)(c).
- MAGNITUDE: The magnitude of the violation is moderate pursuant to OAR 340-012-0135(3)(a)(B) because Respondent illegally disposed or allowed the disposal of an estimated 100 cubic yards of solid waste.
- 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 \$1,500 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(4)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(4)(a)(A).
- "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 a violation with a duration of more than one day is a separate occurrence when determining the "O" factor, according to OAR 340-012-0145(4). The violation has been ongoing since at least December 22, 2022.
- "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. DEQ sent Respondent a Warning Letter with Opportunity to Correct on January 6, 2023, and when Respondent did not address the violation, DEQ sent Respondent a Pre-Enforcement Notice on April 5, 2023. As of the date of this Notice, Respondent has not addressed the violation.
- "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). As of the date of this Notice, Respondent has not cleaned up the solid waste.

"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 \$1,903. This is the amount Respondent gained by avoiding spending \$1,807 to properly dispose of solid waste, since at least December 22, 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:  $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$   
 $= \$1,500 + [(0.1 \times \$1,500) \times (0 + 0 + 4 + 4 + 2)] + \$1,903$   
 $= \$1,500 + (\$150 \times 10) + \$1,903$   
 $= \$1,500 + \$1,500 + \$1,903$   
 $= \$4,903$