

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 78

Northwest Cascade Inc.
c/o Mark Perry, Registered Agent
1685 McGilchrist SE
Salem, OR 97302

Re: Notice of Civil Penalty Assessment and Order
Case No. WQ-SW-NWR-2023-514

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$4,800 for failing to manage your wash water in accordance with the National Pollutant Discharge Elimination System Industrial Stormwater General Permit No.1200-Z (the Permit) issued for the facility located at 9609 N. Rivergate Blvd., in Portland, Oregon.

DEQ issued this penalty because the failure to comply with the Permit poses a risk of harm to the quality of state waters. It is essential for permit registrants to contain and control wash water to ensure reduced pollutant concentrations in industrial stormwater discharge, as well as discharges to the sanitary sewer.

Included in Section IV of the enclosed Notice is an order requiring you to immediately implement additional site controls and submit documentation to Ellen Dorsey, City of Portland, Bureau of Environmental Services permit manager.

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 and note the case number on your check.

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 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: Ellen Dorsey, City of Portland, BES, ellen.dorsey@portlandoregon.gov
Jason Perry, Northwest Cascade, jasonperry@nwcascade.com
Accounting, DEQ

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

3 IN THE MATTER OF:) NOTICE OF CIVIL PENALTY
4 NORTHWEST CASCADE., an) ASSESSMENT AND ORDER
Oregon corporation,)
5 Respondent.) CASE NO. WQ/SW-NWR-2023-514
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8 I. AUTHORITY

9 The Department of Environmental Quality (DEQ) issues this Notice of Civil Penalty Assessment
10 and Order (Notice) pursuant to Oregon Revised Statutes (ORS) 468.100, ORS 468.126 through 468.140,
11 ORS 468B, ORS Chapter 183 and Oregon Administrative Rules (OAR) Chapter 340, Divisions 011, 012,
12 and 045.

13 II. FINDINGS OF FACT

14 1. On June 21, 2013, Respondent was assigned coverage under the National Pollutant Discharge
15 Elimination System Industrial Stormwater General Permit No. 1200-Z (the Permit) for stormwater
16 discharges from the facility located at 9609 N. Rivergate Blvd, in Portland, Oregon (the Facility). The
17 Permit was in effect at all material times.

18 2. Schedule A, condition 1.a.viii of the Permit requires that all wash water must be managed
19 indoors, under cover or in bermed areas that prevent runoff and run-on.

20 3. On June 5, 2019, wash water drag out was outside of the containment pad and wash water was
21 not managed indoors or within berms.

22 4. In correspondence dated July 1, 2019, Respondent stated that it was evaluating implementation
23 of a berm; none was implemented.

24 5. On January 25, 2023, there was overspray and wash water drag-out outside of the containment
25 pad that drains to the sanitary sewer at the Facility. In addition, the pavement at the Facility was wet
26 and had puddles of water that collected outside of the berm and on the pavement around the wash pad,
27 despite there not being a recent rain event.

1 III. CONCLUSION

2 Respondent has violated ORS 468B.025(2) and Schedule A, condition 1.a.viii of the Permit by
3 failing to manage wash water indoors or in bermed areas. Specifically, from on or before June 5, 2019,
4 on January 7, 2021, and from July 25, 2023, through the present, Respondent has failed to manage its
5 wash water to prevent runoff as described in Section II, paragraphs 2-5 above. This is a Class II
6 violation according to OAR 340-012-0053(2). DEQ hereby assesses a \$4,800 civil penalty for this
7 violation.

8 IV. ORDER TO PAY CIVIL PENALTY AND TO COMPLY

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

- 11 1. Pay a total civil penalty of \$4,800. The determination of the civil penalty is attached as
- 12 Exhibit No.1 and is incorporated as part of this Notice.
- 13 2. Immediately implement additional site controls to contain all wash water discharges to the
- 14 Facility’s sanitary sewer drainage area and submit documentation showing what controls were
- 15 implemented. Submit documentation to Ellen.Dorsey@portlandoregon.gov.

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

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

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

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

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

16 Active duty Service members have a right to stay proceedings under the federal Service
17 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-
18 452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed
19 Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military
20 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



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: Respondent has violated ORS 468B.025(2) and Schedule A, condition 1.a.viii of the Permit by failing to implement the SWPCP developed for the Facility.

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

"BP" is the base penalty, which is \$2,000 for a Class II, moderate magnitude violation in the matrix listed in OAR 340-012-0140 (3)(b)(B)(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 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 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. Washwater drag out and lack of berms or containment was first observed on June 5, 2019. The same conditions were observed again on January 7, 2021, and again on July 25, 2023. DEQ issued an Expedited Enforcement Offer on August 17, 2023, ordering corrective action. As of the date of this Notice and Order there has been no indication of any corrective action. Each day of violation is a separate occurrence.

"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. The Permit plainly requires registrants to manage its wash water indoors or in bermed areas and the City of Portland previously informed Respondent of the requirement to do so on July 1, 2019, February 8, 2021, March 23, 2022. By failing to manage wash water indoors or in bermed areas, Respondent consciously disregarded a substantial and unjustifiable risk that it would violate the Permit.

"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 \$0. The economic benefit Respondent gained is too speculative to estimate.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
 $= \$2,000 + [(0.1 \times \$2,000) \times (0 + 0 + 4 + 8 + 2)] + \0
 $= \$2,000 + (\$200 \times 14) + \$0$
 $= \$2,000 + \$2,800 + \$0$
 $= \$4,800$

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:	\$4,800.00

Account Name:	SDS - NORTHWEST CASCADE, INC., DBA HONEY BUCKET		
Account Type:	Vendor/Organization/Company	Reference Number:	CPGFD2400038
SubSystem ID:	210422	FIMS Acct. ID:	15132

Penalty Summary

Penalty Amount	Interest	Adjustment	Amount Paid	Total Penalty
\$ 9,600.00	\$ 0.00	(\$ 4,800.00)	\$ 0.00	\$ 4,800.00

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.	CPGFD2400038		
PAYCODE:	00401 7400 10040 74001 0500 000000 00		
FEE PROGRAM ID:	950	RESPONSE DATE:	April 2, 2024
FIMS ACCT. ID:	15132	TOTAL PENALTY DUE:	\$4800.00

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 0095000151327CPGFD240003800004800008



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	2023-514 WQ-SW-NWR-2023-514	\$9,600.00
1/23/2024	ADJUSTMENT - INCREASE OR DECREASE TO ORIGINAL PENALTY AMOUNT BASED ON NEW CALCULATIONS.	(\$4,800.00)

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://vdo.oregon.gov> to update your mailing address online or provide the following information:

Name _____
Address _____
City, State, Zip _____