



Oregon

Tina Kotek, Governor

Department of Environmental Quality
Office of Compliance and Enforcement
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February 8, 2024

CERTIFIED MAIL: 9589 0710 5270 0688 6527 89

Tillamook County Public Works Department
c/o David McCall
503 Marolf Loop Rd.
Tillamook, OR 97141

Re: Notice of Civil Penalty Assessment and Order
Case No. WQ/SW-NWR-2023-568

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued the Tillamook County Public Works Department a civil penalty of \$55,451 for violations of the National Pollutant Discharge Elimination System (NPDES) 1200-Z General Permit for industrial stormwater discharges at the Tillamook Transfer Station located at 1315 Eckloff Road in Tillamook (the Facility). Specifically, Tillamook County Public Works Department (the County) has failed to substantially implement the Facility's Stormwater Pollution Control Plan (SWPCP), failed to conduct visual monitoring inspections, and failed to generate Tier 1 corrective action reports.

DEQ issued this penalty because the County's failure to implement the Facility's SWPCP and failure to conduct visual monitoring posed a risk of harm to water quality. The 1200-Z Permit requires implementation of the SWPCP as the primary mechanism to reduce pollutants in stormwater discharges from the Facility. In addition, the 1200-Z Permit requires the County to conduct monthly inspections of the control measures established in the SWPCP to ensure those measures are in proper working order. By failing to properly maintain and inspect the Facility, the County created a risk that stormwater discharges from the Facility contained pollutants. Additionally, the County was issued a Warning Letter with Opportunity to Correct in May 2017 for violations of the 1200-Z General Permit and the Facility's SWPCP. At the time of DEQ's inspection in September 2023, it was apparent that the Facility had not implemented many of the corrective actions it was directed to implement back in 2017 and that the Facility has been out-of-compliance with its SWPCP for a number of years.

Included in Section IV of the enclosed Notice is an order requiring you to submit an updated SWPCP to DEQ for review and approval that properly details the bioswale at the Facility and accounts for the auto dismantling activities and waste paint collection. Additionally, the order requires you to submit documentation to DEQ showing that you have completed a number of specific actions necessary to come into compliance with the Facility's SWPCP.

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.state.or.us

Via fax – 503-229-5100

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 Erin Saylor at 503-229-5422 or toll free in Oregon at 800-452-4011, extension 5422.

Sincerely,



Becca Puskas, Interim Manager
Office of Compliance and Enforcement

Enclosures

cc: Mike Kennedy, DEQ NWR
Accounting, DEQ

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

IN THE MATTER OF:

TILLAMOOK COUNTY PUBLIC
WORKS DEPARTMENT

Respondent.

NOTICE OF CIVIL PENALTY
ASSESSMENT AND ORDER

CASE NO. WQ/SW-NWR-2023-568

I. AUTHORITY

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

II. FINDINGS OF FACT

1. Respondent is the owner and operator of the Tillamook Transfer Station located at 1315 Eckloff Road in Tillamook, Oregon (the Facility).

2. The Facility has coverage under the National Pollutant Discharge Elimination System (NPDES) 1200-Z General Permit for industrial stormwater discharges (the Permit) under File No. 104057.

3. Drainage from the Facility discharges through a low vegetated swale area through a culvert and a series of ditches, ultimately to Beaver Creek. Beaver Creek is a water of the state pursuant to ORS 468B.005(10).

4. On September 12, 2023, DEQ conducted an inspection of the Facility.

5. Schedule A.1. of the Permit sets forth narrative technology-based effluent limits that permit registrants must meet. Pursuant to Schedules A.2 and A.8 of the Permit, Respondent must develop and implement a Stormwater Pollution Control Plan (SWPCP) that specifies how each of the narrative technology-based effluent limitations in Schedule A.1. of the Permit will be implemented.

6. Pursuant to Schedule A.1.a. of the Permit, Respondent must "[m]inimize exposure of manufacturing, processing, material storage areas, loading and unloading, disposal, cleaning,

1 maintenance and fixed fueling areas to rain, snow, snowmelt, and runoff.” Among other practices,
2 Respondent must locate materials and activities indoors or protect them with storm resistant covers if
3 stormwater from affected areas may discharge to surface waters; use grading, berming or curbing to
4 divert stormwater away from those areas to prevent stormwater contamination, locate materials,
5 equipment and activities in containment and diversion systems to prevent spills and leaks from
6 contaminating stormwater; and use drip pans or absorbents under or around leaking or leak-prone
7 vehicles/equipment or store indoors.

8 7. Pursuant to Schedule A.1.b. of the Permit, Respondent must employ oil/water
9 separators, booms, skimmers or other methods to eliminate or minimize oil and grease contamination in
10 stormwater discharges.

11 8. Pursuant to Section 6.1.3. of the Facility’s SWPCP, Respondent must “[c]over all
12 exposed significant materials such as oils, antifreeze, greasy automotive parts, contaminated soils,
13 waste, or recyclables that could contaminate stormwater” or move them under cover.

14 9. Pursuant to Section 6.2 of the Facility’s SWPCP, “all catch basins contributing
15 stormwater to the discharge point will be equipped with oil-absorbent pillows.”

16 10. Pursuant to Schedule A.1.c. of the Permit, Respondent must cover all waste contained in
17 bins or dumpsters where there is a potential for drainage of stormwater through the waste to prevent
18 stormwater from being exposed to pollutants.

19 11. Pursuant to Section 6.1.1. of the Facility’s SWPCP, “[s]torage containers for recyclables
20 shall be isolated or covered to reduce exposure to precipitation and to prevent leaks and spills from
21 entering stormwater runoff.”

22 12. Pursuant to Schedule A.1.g. of the Permit, Respondent must “[r]outinely clean all
23 exposed areas that may contribute pollutants to stormwater with measures such as sweeping at regular
24 intervals, litter pick-up, keeping materials orderly and labeled, promptly clean-up spills and leaks,
25 proper maintenance of vehicles and stowing materials in appropriate containers.”

26 13. Pursuant to Schedule A.1.h. of the Permit, Respondent must “[m]inimize the potential
27 for leaks, spills and other releases that may be exposed to stormwater and develop plans that include

1 methods for spill prevention and clean-up and notification procedures.” At a minimum, Respondent
2 must, among other measures, clean up spills and leaks promptly and store all hazardous substances,
3 petroleum/oil liquids, and other chemicals within berms or other secondary containment devices to
4 prevent leaks and spills.

5 14. At the time of the inspection, leaking equipment was widespread and unmanaged. No
6 berms or curbs were installed to prevent pollutants from commingling with stormwater and many catch
7 basins lacked oil-absorbent inserts. Unaddressed oil stains were apparent on the pavement throughout
8 the facility. Waste paint and other significant materials were left uncovered and exposed and lacked
9 secondary containment. Materials staged for recycling were haphazardly stored, including containers of
10 fluid, without controls to prevent leaks and spills from entering stormwater runoff. Large volumes of
11 materials were stored adjacent to stormwater catch basins with no secondary containment.

12 15. Pursuant to Schedule A.1.i. of the Permit, Respondent must “[r]egularly inspect, clean,
13 maintain, and repair all industrial equipment and systems and materials handling and storage areas that
14 are exposed to stormwater to avoid situations that may result in leaks, spills, and other potential
15 releases of pollutants discharged to receiving waters.” Additionally, Respondent must “[c]lean,
16 maintain and repair all control measures, including stormwater structures and temporary measures,
17 catch basins, and treatment facilities to ensure effective operation as designed and in a manner that
18 prevents the discharge of pollution.”

19 16. Pursuant to Section 6.4 of the Facility’s SWPCP, paved traffic and collection areas will
20 be swept monthly, and sediment that was transported to the site on trucks or in roll-off containers
21 “needs to be removed from paved outdoor surfaces as soon as it is noticed.” Additionally, the SWPCP
22 indicates that catch basins will be “inspected monthly and cleaned using shovel or vacuum hose when
23 sediment buildup reduces capacity or threatens to discharge.”

24 17. Pursuant to Section 6.5 of the Facility’s SWPCP, the Facility “implements a litter pickup
25 program and routine housekeeping in order to prevent debris from discharging in stormwater.”
26 Additionally, the SWPCP notes that “the site is inspected to note any debris that accumulates in
27 stormwater drainage structures such as catch basins, culverts, sumps, or pipes so that it can be removed

1 before it blocks the discharge or is carried by the flow of the discharge.”

2 18. Pursuant to Section 6.7 of the Facility’s SWPCP, to “help maintain good housekeeping
3 practices,” Respondent will “inspect areas of industrial activities throughout the workday, with
4 additional documented inspections occurring at least monthly Housekeeping needs are taken care
5 of routinely throughout the workday and are not allowed to get out of hand.”

6 19. At the time of the inspection, a general lack of regular housekeeping was evident across
7 the Facility. Debris was widespread, and accumulated sediment and debris were present in the
8 stormwater catch basins and trench drains.

9 20. Pursuant to Schedule B.12 of the Permit, on a monthly basis Respondent is required to
10 visually inspect areas where industrial materials or activities are exposed to stormwater and areas where
11 stormwater control measures, including infiltration devices, mass reduction measures, structures, catch
12 basins, and treatment facilities are located. These monthly inspections must be documented in an
13 inspection report that is retained on-site and submitted to DEQ upon request.

14 21. Pursuant to Schedule B.16 of the Permit, Respondent is required to retain and make
15 available to DEQ all records pertaining to Respondent’s compliance with the Permit, including Tier 1
16 reports and all inspection reports, for a period of at least three years. Specifically, Respondent must
17 retain and provide to DEQ “[d]ocumentation of maintenance and repairs of control measures, treatment
18 systems and mass reduction measures” and information pertaining to “[s]pills or leaks of significant
19 materials . . . that impacted or had the potential to impact stormwater or surface waters [including] the
20 corrective actions to clean up the spill or leak as well as measures to prevent future problems of the
21 same nature.”

22 22. To date, Respondent has not provided DEQ with any of the inspection reports
23 Respondent is required to generate and retain pursuant to Schedule B.12 and B.16 of the Permit. Nor
24 has Respondent produced any other documentation to show that visual inspections or any maintenance
25 activities, including regular sweeping and repairs of the control measures and treatment systems at the
26 Facility, occurred during the three years preceding the inspection. Aerial photos of the Facility dating
27 back to April 16, 2021, show conditions at the Facility were similar to those observed at the time of the

1 inspection, as described in Paragraphs 14 and 19 above.

2 23. Pursuant to Schedule A.1.j of the Permit, Respondent must “[d]evelop and maintain an
3 employee orientation and education program to inform personnel of the pertinent components and goals
4 of [the Permit] and [Stormwater Pollution Control Plan].” Respondent developed an employee
5 education program in Section 9.0 of the Facility’s SWPCP, which requires that applicable personnel be
6 trained within 30 calendar days of assuming their positions and at least annually thereafter. The
7 SWPCP requires that a log of all training dates be kept on-site.

8 24. To date, Respondent has not provided DEQ with copies of the training logs or any
9 records to show that employee education has occurred in the preceding three years, as required by the
10 SWPCP.

11 25. Pursuant to Schedule A.2.e. of the Permit, “[f]ailure to implement any narrative
12 technology-based effluent limits in Schedule A.1. and Schedule E, and other control measures or
13 operational practices described in the SWPCP is a permit violation.”

14 26. Pursuant to Schedule A.11 of the Permit, if any of the samples Respondent collects
15 pursuant to Schedule B of the Permit exceed any applicable statewide benchmarks, Respondent is
16 required to complete Tier 1 corrective actions, including the preparation of a Tier 1 report which must
17 be kept onsite and provided to DEQ upon request.

18 27. Discharge Monitoring Reports (DMRs) submitted by Respondent indicated the
19 following exceedances of applicable statewide benchmarks:

Date	Monitoring Point	Parameter	Benchmark	Sample Result
11/13/20	001	Total Magnesium	.064 mg/L	1.7 mg/L
11/13/20	002	Total Magnesium	.064 mg/L	1 mg/L
12/21/20	001	Total Magnesium	.064 mg/L	2.2 mg/L
12/21/20	002	Total Magnesium	.064 mg/L	1.6 mg/L
1/13/21	001	Total Magnesium	.064 mg/L	2 mg/L
1/13/21	002	Total Magnesium	.064 mg/L	1.3 mg/L
2/2/21	001	Total Magnesium	.064 mg/L	1.6 mg/L

1	2/2/21	002	Total Magnesium	.064 mg/L	1.4 mg/L
2	10/26/21	001	<i>E. coli</i>	406 org./100 mL	2420 org./100 mL
3	10/26/21	002	<i>E. coli</i>	406 org./100 mL	2420 org./100 mL
4	11/15/21	001	<i>E. coli</i>	406 org./100 mL	2420 org./100 mL
5	11/15/21	002	<i>E. coli</i>	406 org./100 mL	2420 org./100 mL
6	2/14/22	001	Total Copper	.017 mg/L	.063 mg/L
7	2/14/22	002	Total Copper	.017 mg/L	.063 mg/L
8	2/14/22	001	Total Lead	.039 mg/L	.045 mg/L
9	2/14/22	002	Total Lead	.039 mg/L	.046 mg/L
10	2/14/22	001	TSS	100 mg/L	280 mg/L
11	2/14/22	002	TSS	100 mg/L	150 mg/L
12	2/14/22	001	Total Zinc	.086 mg/L	.21 mg/L
13	2/14/22	002	Total Zinc	.086 mg/L	.27 mg/L
14	2/14/22	001	<i>E. coli</i>	406 org./100 mL	579 org./100 mL
15	2/14/22	002	<i>E. coli</i>	406 org./100 mL	1414 org./100 mL
16	3/2/22	002	<i>E. coli</i>	406 org./100 mL	1733 org./100 mL
17	11/29/22	001	<i>E. coli</i>	406 org./100 mL	1120 org./100 mL
18	11/29/22	002	<i>E. coli</i>	406 org./100 mL	548 org./100 mL
19	12/20/22	001	<i>E. coli</i>	406 org./100 mL	1120 org./100 mL
20	12/20/22	001	Total Copper	.017 mg/L	.042 mg/L
21	12/20/22	002	Total Copper	.017 mg/L	.058 mg/L
22	12/20/22	001	TSS	100 mg/L	120 mg/L
23	12/20/22	002	TSS	100 mg/L	110 mg/L
24	12/20/22	001	Total Zinc	.086 mg/L	.19 mg/L
25	12/20/22	002	Total Zinc	.086 mg/L	.18 mg/L

At the time of the inspection, DEQ requested copies of the Tier 1 reports for the above exceedances, which, to date, Respondent has not provided.

1 28. Pursuant to Schedule F, Section A1. of the Permit, failure to comply with any permit
2 condition is a violation of ORS 468B.025.

3 29. Pursuant to ORS 468B.025(2), no person shall violate the conditions of any waste
4 discharge permit issued under ORS 468B.050.

5 III. CONCLUSIONS

6 1. Respondent violated ORS 468B.025(2) and Schedule A of the Permit by failing to substantially
7 implement the Facility's SWPCP, as described in Section II, Paragraphs 5 through 25 above. This is a
8 Class I violation pursuant to OAR 340-012-0055(1)(r). DEQ hereby assesses a \$42,961 civil penalty for
9 this violation.

10 2. Respondent violated ORS 468B.025(2) and Schedule B of the Permit by failing to conduct
11 visual monitoring inspections in the preceding three years, as described in Section II, Paragraphs 21-22
12 above. These are Class II violations pursuant to OAR 340-012-0055(2)(d). DEQ hereby assesses a
13 \$6,392 civil penalty for these violations.

14 3. Respondent violated ORS 468B.025(2) and Schedule A of the Permit by failing to generate and
15 retain Tier 1 reports for 32 benchmark exceedances in the preceding three years, as described in Section II,
16 Paragraphs 21, 26, and 27 above. These are Class II violations pursuant to OAR 340-012-0055(2)(b). DEQ
17 hereby assesses a \$6,098 civil penalty for these violations.

18 IV. ORDER TO PAY CIVIL PENALTY AND TO COMPLY

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

21 1. Pay a civil penalty of \$55,451. The determination of the civil penalty is attached as Exhibit
22 Nos. 1-3 and is incorporated as part of this Notice.

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

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

1 charges.

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

5 2. Within 30 days of this order becoming final by operation of law or on appeal:

6 a. Submit to DEQ for review and approval an updated SWPCP that reflects proper
7 controls related to auto dismantling and management of paint wastes at the Facility
8 and provides detail for the bioswale, as required by Schedule A.10.e of the Permit.

9 b. Submit to DEQ documentation and photos showing that the following corrective
10 actions have occurred:

11 i. All significant materials must be in secondary containment, including waste
12 paint;

13 ii. Implement ground controls to fully isolate the auto dismantling process
14 from the stormwater system;

15 iii. Implement controls that would prevent the flow of contaminants from the
16 Public/Franchiser Drop-Off Building from commingling with stormwater
17 and discharging to surface waters;

18 iv. Install an intercept drain in the East Bailing Building to prevent the track
19 out of contaminated water from inside the facility.

20 v. Develop and implement a way to store processed recyclables to prevent
21 wastes from leaching from bundled materials into the stormwater collection
22 system;

23 vi. Implement facility-wide housekeeping, including, but not limited to: clean
24 all spills and stains, collect all debris, sweep all paved areas, clean all
25 overfills. You must provide documentation to show that any wastewater
26 generated from pressure cleaning pavement stains and spills was captured
27 and properly disposed of.

- vii. Repair or remove leaking equipment that cannot be repaired, or store such equipment inside a building where leaks are contained and not exposed to stormwater;
- viii. Remove and properly dispose of all soils that are saturated with petroleum products from leaking equipment.

V. NOTICE OF RIGHT TO REQUEST A CONTESTED CASE HEARING

You have a right to a contested case hearing on this Notice, if you request one in writing. DEQ must receive your request for hearing **within 20 calendar days** from the date you receive this Notice. If you have any affirmative defenses or wish to dispute any allegations of fact in this Notice or attached exhibits, you must do so in your request for hearing, as factual matters not denied will be considered admitted, and failure to raise a defense will be a waiver of the defense. (See OAR 340-011-0530 for further information about requests for hearing.) You must send your request to: **DEQ, Office of Compliance and Enforcement, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232**, fax it to **503-229-5100** or email it to DEQappeals@deq.state.or.us. An administrative law judge employed by the Office of Administrative Hearings will conduct the hearing, according to ORS Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be represented by an attorney at the hearing, however you are not required to be. If you are an individual, you may represent yourself. If you are a corporation, partnership, limited liability company, unincorporated association, trust or government body, you must be represented by an attorney or a duly authorized representative, as set forth in OAR 137-003-0555.

Active duty Service members have a right to stay proceedings under the federal Service Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

If you fail to file a timely request for hearing, the Notice will become a final order by default without further action by DEQ, as per OAR 340-011-0535(1). If you do request a hearing but later

1 withdraw your request, fail to attend the hearing or notify DEQ that you will not be attending the
2 hearing, DEQ will issue a final order by default pursuant to OAR 340-011-0535(3). DEQ designates
3 the relevant portions of its files, including information submitted by you, as the record for purposes of
4 proving a prima facie case.
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7

8 2/8/2024

9 Date

Rebecca J Puskas

Becka Puskas, Interim Manager
Office of Compliance and Enforcement

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EXHIBIT 1

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

VIOLATION: Respondent violated ORS 468B.025(2) and Schedule A of the Permit by failing to substantially implement the SWPCP for the Facility.

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 coverage under the NPDES 1200-Z General Permit.

"P" is whether Respondent has any prior significant actions (PSAs), 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) because the Respondent has no prior enforcement history.

"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. The condition of the site at the time of the inspection indicated that the requirements of the SWPCP had not been followed for a significant period of time. Respondent's inability to produce records documenting any maintenance or housekeeping activities in the preceding three years as well as aerial photographs of the site from April 16, 2021, indicate that Respondent has failed to implement the SWPCP for at least 2 years and 5 months.

"M" is the mental state of the Respondent and receives a value of 8 according to OAR 340-012-0145(5)(d) because Respondent failed to implement the SWPCP with actual knowledge of the requirements. Respondent received a Warning Letter with Opportunity to Correct on May 3, 2017, documenting in detail many of the same deficiencies that remained unaddressed at the time of the September 12, 2023, inspection.

"C" is Respondent's efforts to correct or mitigate the violation and receives a value of -3 according to OAR 340-012-0145(6)(c) because the Respondent made reasonable efforts to correct the violation by vacuuming the catch basins and lines, moving waste materials into covered receptables, and installing berms.

"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 \$35,361. By failing to implement the SWPCP for at least 29 months, Respondent avoided spending \$14,500 on monthly sweeping, \$18,850 on monthly catch basin cleaning; and \$2,000 on oil-water separator cleaning. Additionally, Respondent avoided spending \$5,000 to update the SWPCP to account for auto-dismantling activities. 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 (0 + 0 + 4 + 8 + -3)] + \$35,361
= \$4,000 + [\$400 x 9] + \$35,361
= \$4,000 + \$3,600 + \$35,361
= \$42,961

EXHIBIT 2

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

VIOLATION: Respondent violated ORS 468B.025(2) and Schedule B of the Permit by failing to conduct visual monitoring inspections.

CLASSIFICATION: This is a Class II violation pursuant to OAR 340-012-0055(2)(b).

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 the NPDES 1200-Z General Permit.

"P" is whether Respondent has any prior significant actions (PSAs), 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) because the Respondent has no prior enforcement history.

"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. Respondent failed to complete 36 visual inspections over the three years preceding the inspection.

"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. Schedule B of the Permit clearly sets forth the inspection frequency required by 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 cannot be corrected.

"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 \$2,792. By failing to complete 36 visual inspections, Respondent avoided spending approximately \$3,600 (36 missed inspections x \$100 per missed event). This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
= \$2,000 + [(0.1 x \$2,000) x (0 + 0 + 4 + 4 + 0)] + \$2,792
= \$2,000 + [\$200 x 8] + \$2,792
= \$2,000 + \$1,600 + \$2,792
= \$6,392

EXHIBIT 3

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

VIOLATION: Respondent violated ORS 468B.025(2) and Schedule A of the Permit by failing to generate Tier 1 reports for 32 benchmark exceedances.

CLASSIFICATION: This is a Class II violation pursuant to OAR 340-012-0055(2)(b).

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 the NPDES 1200-Z General Permit.

"P" is whether Respondent has any prior significant actions (PSAs), 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) because the Respondent has no prior enforcement history.

"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. Respondent failed to complete 32 Tier I reports.

"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. Schedule A of the Permit clearly sets forth the requirement to complete a Tier 1 report whenever the sampling conducted by the Facility indicates an applicable statewide benchmark was exceeded.

"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 there is insufficient information to make a finding under paragraphs (6)(a) through (6)(e), or (6)(g).

"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 \$2,498. By failing to generate 32 Tier 1 reports, Respondent avoided spending approximately \$3,200 (32 missed reports x \$100 per missed event). This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
= \$2,000 + [(0.1 x \$2,000) x (0 + 0 + 4 + 4 + 0)] + \$2,498
= \$2,000 + [\$200 x 8] + \$2,498
= \$2,000 + \$1,600 + \$2,498
= \$6,098

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:	February 8, 2024
RESPONSE DATE :	April 18, 2024
TOTAL PENALTY:	\$55,451.00

Account Name:	TILLAMOOK COUNTY PUBLIC WORKS DEPARTMENT <TILLAMOOK TRANSFER STATION> <104057>		
Account Type:	Government Local	Reference Number:	CPGFD2400039
SubSystem ID:	179441	FIMS Acct. ID:	4711

Penalty Summary

Penalty Amount	Interest	Adjustment	Amount Paid	Total Penalty
\$ 55,451.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 55,451.00

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.	CPGFD2400039		
PAYCODE:	00401 7400 10040 74001 0500 000000 00		
FEE PROGRAM ID:	950	RESPONSE DATE:	April 18, 2024
FIMS ACCT. ID:	4711	TOTAL PENALTY DUE:	\$55451.00

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 00950000471111CPGFD240003900055451003



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
2/7/2024	2023-568 WQ-SW-NWR-2023-568	\$55,451.00

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 _____