



Oregon

Tina Kotek, Governor

Department of Environmental Quality
Office of Compliance and Enforcement
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March 7, 2024

CERTIFIED MAIL: 9859 0710 5270 0688 6529 49

City of Dundee
c/o City Administrator
P.O. Box 220
Dundee, OR 97115

Re: Final Order and Stipulated Penalty Demand Notice
Case No. WQ/M-WR-2024-013

This letter is to inform you that the Department of Environmental Quality (DEQ) has accepted the final report describing the successful completion of the SEP, as required by the Mutual Agreement and Final Order (MAO) executed between DEQ and the City of Dundee on October 18, 2022. However, because the City has violated the January 1, 2024 deadline established in the MAO for adopting an ordinance, this letter also serves to inform you that DEQ has issued the City of Dundee a Final Order and Stipulated Penalty Demand Notice in the amount of \$1,200.

As described in the MAO, upon receipt of a written notice from DEQ for a violation of Section II, paragraph 2 of the MAO you are required to pay \$600 for *each day* the City of Dundee fails to adopt an ordinance to protect riparian, stream and wetland areas within its jurisdiction. In the MAO, the City of Dundee agreed to adopt an ordinance by January 1, 2024. As of the date of this letter, the City is more than 45 days past due in complying with the MAO deadline. This letter and the attached Order serve as notice that the violation occurred, that DEQ is assessing a civil penalty of \$1,200, which is due now.

Please be advised that ongoing delays in adopting the ordinance constitute violations of the existing MAO and are subject to additional civil penalties of up to \$600 per day.

Your right to appeal the Final Order and Stipulated Penalty Demand Notice is outlined in the enclosed document as well as in the MAO.

If you have any questions about the attached Order please contact Courtney Brown in DEQ's Office of Compliance and Enforcement at 503-229-6839. If you have questions regarding your obligations as a designated management agency under the TMDL, please contact Grace Goldrich-Middaugh at 541-972-5520.

Sincerely,

A handwritten signature in black ink that reads "Rebecca L. Puskas". The signature is written in a cursive style with a large initial 'R'.

Becka Puskas, Interim Manager
Office of Compliance and Enforcement

Enclosure

cc: Grace Goldrich-Middaugh, Eugene
Heather Tugaw, DEQ
Accounting, DEQ

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

IN THE MATTER OF:)	FINAL ORDER AND STIPULATED
CITY OF DUNDEE)	PENALTY DEMAND NOTICE
)	
Respondent.)	CASE NO. WQ/M-WR-2024-013

I. FINDINGS OF FACT AND CONCLUSIONS

1. Respondent is a Designated Management Agency (DMA) under Chapter 14 of the Willamette Basin Total Maximum Daily Load (the Willamette TMDL) Water Quality Management Plan.
2. Per Chapter 14 of the Willamette TMDL Respondent developed an Implementation Plan that included Measure 7, BMP#1 which proposed to “develop, implement and enforce an ordinance to limit the removal of trees and vegetation along streambanks and riparian areas and encourage replanting and restoration of riparian areas and habitat by 2010.”
3. On April 2, 2021, the Department of Environmental Quality (DEQ) issued a formal enforcement action, case no.: WQ/M-WR-2020-184 for Respondent’s failure to implement Measure 7, BMP#1.
4. On October 18, 2022, Respondent and DEQ entered into a Mutual Agreement and Final Order in case no. WQ/M-WR-2020-184 (the MAO), which resolved the alleged violation and extended the deadline for Respondent to implement Measure 7, BMP#1. Specifically, Section II, paragraph 2.a of the MAO requires Respondent to comply with the following schedule: “Adopt ordinance(s) to protect riparian, stream and wetland areas within Respondent’s jurisdiction by January 1, 2024.”
5. As of the date of this Final Order and Stipulated Penalty Demand Notice, Respondent has not adopted an ordinance to protect riparian, stream and wetland areas within Respondent’s jurisdiction.
6. As stated in Section I, Paragraph 8 of the MAO, of Respondent fails to satisfactorily complete the requirements contained in Section II, paragraph 2, Respondent is required to pay \$600 for each day of each violation of the MAO until such violation is corrected.
7. DEQ hereby assesses a \$1,200 civil penalty for Respondent’s failure to adopt an ordinance as

1 required in the MAO.

2 II. ORDER TO PAY CIVIL PENALTY

3 Based upon the foregoing FINDINGS OF FACT AND CONCLUSIONS, Respondent is
4 hereby ORDERED TO: Pay a total civil penalty of \$1,200.

5 If you do not file a request for hearing as set forth in Section III below, your check or money
6 order must be made payable to "**State Treasurer, State of Oregon**" and sent to the **DEQ,**
7 **Business Office, 700 NE Multnomah Street, Suite #600, Portland, Oregon 97232.**

8 III. NOTICE OF RIGHT TO REQUEST A CONTESTED CASE HEARING

9 You have a right to a contested case hearing on this Final Order and Stipulated Penalty
10 Demand Notice. **As described in Section I, paragraph 9 of the MAO, the issue shall be**
11 **limited to Respondent's compliance or non-compliance with the MAO.** DEQ must receive
12 the written request for hearing **within 20 calendar days** from the date you receive this Final
13 Order and Stipulated Penalty Demand Notice. If you have any affirmative defenses or wish to
14 dispute any allegations of fact in this Order, you must do so in your request for hearing, as
15 factual matters not denied will be considered admitted, and failure to raise a defense will be a
16 waiver of the defense. (See OAR 340-011-0530 for further information about requests for
17 hearing.) You must send your request to: **DEQ, Office of Compliance and Enforcement, 700**
18 **NE Multnomah Street, Suite 600, Portland, Oregon 97232,** fax it to **503-229-6762** or email it
19 to **DEQappeals@deq.oregon.gov**. An administrative law judge employed by the Office of
20 Administrative Hearings will conduct the hearing, according to ORS Chapter 183, OAR Chapter
21 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be represented by an
22 attorney at the hearing, however you are not required to be. If you are an individual, you may
23 represent yourself. If you are a corporation, partnership, limited liability company,
24 unincorporated association, trust or government body, you must be represented by an attorney or
25 a duly authorized representative, as set forth in OAR 137-003-0555.

1 Active duty Service members have a right to stay proceedings under the federal Service
2 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-
3 452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed
4 Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military
5 Department does not have a toll free telephone number.

6 If you fail to file a request for hearing in writing within 20 calendar days of receipt of this
7 Order, the Order will become a final order by default without further action by DEQ as per OAR
8 340-011-0535(5). DEQ designates the relevant portions of its files, including information
9 submitted by you, as the record for purposes of proving a prima facie case.

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13 3/7/2024
14 Date

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Rebecca J Puskas
Becka Puskas, Interim Manager
Office of Compliance and Enforcement