



Oregon

Kate Brown, Governor

Department of Environmental Quality
Office of Compliance and Enforcement
700 NE Multnomah Street, Suite 600
Portland, OR 97232-4100
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April 4, 2024

CERTIFIED MAIL NO. 9859 0710 5270 0688 6529 87

Port of Morrow
c/o Lisa Mittelsdorf, Executive Director
P.O. Box 200
Boardman, OR 97818

Re: Final Order and Stipulated Penalty Demand Notice
Case No. WQ/I-ER-2023-162

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a Final Order and Stipulated Penalty Demand Notice (Order) in the amount of \$727,050 for violations of your Water Pollution Control Facilities permit.

As described in the Mutual Agreement and Final Order (MAO) you signed with DEQ on October 31, 2023, upon receipt of a written notice from DEQ for any violations of Schedule A, Conditions 7, 11 and 13(A)(ii) and (iii) of your wastewater permit you are required to pay stipulated penalties as prescribed in the MAO. This letter and the attached Order serve as notice you violated the permit's limits on land application of wastewater during the November 2023 through February 2024 non-growing season. These limits are intended to prevent overapplication of nitrogen that could cause groundwater contamination.

The MAO includes higher stipulated penalties for applying wastewater in excess of permit limits to fields near drinking water supplies (high-risk fields). There were no violations at high-risk farm fields during the November 2023 to February 2024 time period, 3% percent of the violations occurred in medium-risk fields and 97% percent at low-risk fields. The attached Order also cites five violations of the permit condition prohibiting wastewater effluent spills to the ground surface in areas not authorized for land application. The penalty for all violations cited in the Order is \$727,050 and is now due.

These violations occurred because you do not currently have the necessary wastewater treatment systems to operate in compliance with the permit. As of the date of this Order, you are on track with the MAO schedule to complete construction these systems by November 2025.

Please be advised that further violations of the permit or MAO are subject to additional civil penalties.

The MAO allows you to direct up to 80% of this \$727,050 penalty to the Oregon Health Authority Supplemental Environmental Project (SEP) incorporated into the MAO or to another DEQ-approved SEP. DEQ strongly encourages the use of these additional funds to help support projects that mitigate the harm from nitrate contamination of groundwater in the Lower Umatilla Basin Groundwater

Management Area. If you propose a new SEP, DEQ encourages you to conduct a public process to solicit community input into the identification and selection of a SEP project, consistent with DEQ's recently updated SEP policy.¹ DEQ can assist you in conducting such a public process.

Your right to appeal the Order is outlined in the enclosed document as well as in the MAO.

If you have any questions about the Order, please contact Jeff Bachman in DEQ's Office of Compliance and Enforcement at 503-229-5950. Questions about compliance with the permit and MAO should be directed to Justin Sterger at DEQ's at 541-633-2016.

Sincerely,



Becka Puskas, Interim Manager
Office of Compliance and Enforcement
Enclosure

cc: Michael Campbell, Attorney for Port of Morrow, Steel Rives LLP, 760 SW Ninth Avenue, Suite 3000, Portland, OR 97205
Justin Sterger, DEQ
Mike Hiatt, DEQ
Accounting, DEQ

¹ DEQ's SEP policy is available at <https://www.oregon.gov/deq/FilterDocs/imdSEPappG.pdf>

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

IN THE MATTER OF:) FINAL ORDER AND STIPULATED
PORT OF MORROW,) PENALTY DEMAND NOTICE
)
) CASE NO. WQ/I-ER-2023-162
Respondent.)

I. FINDINGS OF FACT AND CONCLUSIONS

1. On October 31, 2023, Respondent and the Department of Environmental Quality (Department) entered into Mutual Agreement and Order (MAO) No. WQ/I-ER-2021-106.

2. Paragraph 21 of the MAO states: "For violations of the soil nitrate and soil moisture requirements established in Schedule A, Conditions 13(A)(ii), (iii), and (iv) or the leaching prohibition in Schedule A, Condition 11 of the Permit during the non-growing seasons of 2023-2024 and 2024-2025, upon receipt of a written Penalty Demand Notice from DEQ, Respondent shall pay a civil penalty of:

a. \$750 for each violation occurring at an application site identified as low risk in Appendix A of the attached Compliance Plan,

b. \$3,750 for each violation occurring at an application site identified as medium risk in Appendix A of the attached Compliance Plan, and

c. \$7,500 for each violation occurring at an application site identified as high risk in Appendix A of the attached Compliance Plan."

3. Respondent violated the Permit referenced in the MAO as follows:

Site	Schedule A Permit Condition Violated	Site Risk Level	Dates of Violation	Number of Violations
Farm 3, Field 316	Condition 13(A)(ii)	Low	November 8-13, 2023	6
Farm 3, Field m319	Condition 13(A)(ii)	Low	November 8, 11-13, 2023	4
Farm 3, Field 330	Condition 13(A)(ii)	Low	November 10-11, 2023	2

1	Farm 3, Field 333b	Condition 13(A)(ii)	Low	November 21-22, 2023	2
2	Farm 3, Field m334	Condition 13(A)(ii)	Low	November 17-19, 2023	3
3	Farm 3, Field 312	Condition 13(A)(iii)	Low	November 7 and 11, 2023	2
4	Field 3, Farm 314	Condition 13(A)(iii)	Low	November 19, 2023	1
5	Farm 3, Field 317	Condition 13(A)(ii)	Low	November 2, 2023	1
6	Farm 3, Field 318	Condition 13(A)(iii)	Low	November 7, 11 and 19, 2023	3
7	Farm 3, Field m322	Condition 13(A)(ii)	Low	November 7 and 11, 2023	2
8	Farm 3, Field m322	Condition 13(A)(iii)	Low	November 7 and 11, 2023	2
9	Farm 3, Field 324	Condition 13(A)(iii)	Low	November 19, 2023	1
10	Farm 3, Field 326	Condition 13(A)(ii)	Low	November 19, 2023	1
11	Farm 3, Field 326	Condition 13(A)(iii)	Low	November 19, 2023	1
12	Farm 3, Field 326A	Condition 13(A)(iii)	Low	November 1-2 and 4-5, 2023	4
13	Farm 3, Field 326A	Condition 11	Low	November 1-2 and 4-5, 2023	4
14	Farm 3, Field 329	Condition 13(A)(ii)	Low	November 1-5, 2023	5
15	Farm 3, Field 329	Condition 13(A)(iii)	Low	November 1-5, 2023	5
16	Farm 3, Field 329(a)	Condition 13(A)(ii)	Low	November 7 and 11, 2023	2
17	Farm 3, Field 329(b)	Condition 13(A)(ii)	Low	November 2-3, 2023	2
18	Farm 3, Field 329(b)	Condition 13(A)(iii)	Low	November 2-3, 2023	2

1	Farm 3, Field 329(c)	Condition 13(A)(ii)	Low	November 7, 2023	1
2	Farm 3, Field 329(c)	Condition 13(A)(iii)	Low	November 7, 2023	1
3	Farm 3, Field 330	Condition 13(A)(ii)	Low	November 7, 2023	1
4	Farm 3, Field 333A	Condition 13(A)(ii)	Low	November 7, 2023	1
5	Farm 3, Field 333A	Condition 13(A)(iii)	Low	November 7 and 11, 2023	2
6	Farm 3, Field 334	Condition 13(A)(ii)	Low	November 1-2, 2023	2
7	Farm 3, Field 334	Condition 13(A)(iii)	Low	November 1-2, 2023	2
8	Farm 3, Field 333c	Condition 11	Low	November 14, 2023	1
9	Farm 3, Field 336	Condition 13(A)(iii)	Low	November 1-2, 2023	2
10	Farm 3, Field 338	Condition 13(A)(iii)	Low	November 7, 2023	1
11	Farm 3, Field 340	Condition 13(A)(ii)	Low	November 7 and 11, 2023	2
12	Farm 3, Field 340	Condition 13(A)(iii)	Low	November 7 and 11, 2023	2
13	Farm 3, Field 340	Condition 11	Low	November 7, 2023	1
14	Farm 3, Field m340	Condition 13(A)(iii)	Low	November 7, 2023	1
15	Farm 1, Field 138	Condition 13(A)(iii)	Low	December 27-29, 2023	3
16	Farm 1, Field 17	Condition 13(A)(ii)	Low	December 28-29, 2023	2
17	Farm 3, Field 312	Condition 13(A)(iii)	Low	December 21-22, 2023	2
18	Farm 3, Field 314	Condition 13(A)(iii)	Low	December 21-22, 2023	2

1	Farm 3, Field 316	Condition 13(A)(ii)	Low	December 19-21 and 29-30, 2023	5
2	Farm 3, Field 316	Condition 13(A)(iii)	Low	December 19-21 and 29-30, 2023	5
3	Farm 3, Field m316	Condition 13(A)(iii)	Low	December 21-22, 2023	2
4	Farm 3, Field 319	Condition 13(A)(iii)	Low	December 21-22, 26-27 and 29-31, 2023	7
5	Farm 3 Field m319	Condition 13(A)(ii)	Low	December 8-11 and 26-31, 2023	10
6	Farm 3 Field m319	Condition 13(A)(iii)	Low	December 26-31, 2023	6
7	Farm 3, Field m321	Condition 13(A)(iii)	Low	December 11, 2023	1
8	Farm 3, Field 323	Condition 13(A)(iii)	Low	December 21-22 and 29-30, 2023	4
9	Farm 3, Field 324	Condition 13(A)(iii)	Low	December 21-22, 2023	2
10	Farm 3, Field 325	Condition 13(A)(iii)	Low	December 27-28, 2023	2
11	Farm 3, Field 327	Condition 13(A)(iii)	Low	December 7-10, 2023	4
12	Farm 3, Field m327	Condition 13(A)(ii)	Low	December 7-8, 2023	2
13	Farm 3, Field 329	Condition 13(A)(ii)	Low	December 27-28, 2023	2
14	Farm 3, Field 329a	Condition 13(A)(ii)	Low	December 8-9, 11, 27-28 and 30-31, 2023	7
15	Farm 3, Field 329a	Condition 13(A)(iii)	Low	December 27-28, 2023	2
16	Farm 3, Field 329b	Condition 13(A)(ii)	Low	December 8-9, 27-28 and 30-31, 2023	6
17	Farm 3, Field 329b	Condition 13(A)(iii)	Low	December 8-9, 27-28 and 30-31, 2023	6
18	Farm 3, Field 329c	Condition 13(A)(ii)	Low	December 7 and 9-10, 2023	3

1	Farm 3, Field 330	Condition 13(A)(ii)	Low	December 8-9, 2023	2
2	Farm 3, Field 330	Condition 13(A)(iii)	Low	December 8-9, 2023	2
3	Farm 3, Field 332	Condition 13(A)(iii)	Low	December 8-9 and 27-28, 2023	4
4	Farm 3, Field 333	Condition 13(A)(iii)	Low	December 8-11, 26-27 and 29-30, 2023.	8
5	Farm 3, Field 333A	Condition 13(A)(ii)	Low	December 7, 9 and 11, 2023	3
6	Farm 3, Field 333A	Condition 13(A)(iii)	Low	December 7, 9 and 11, 2023	3
7	Field 3, Field m334	Condition 13(A)(ii)	Low	December 8-9 and 11, 2023	3
8	Farm 3, Field 338	Condition 13(A)(iii)	Low	December 27-28, 2023	2
9	Farm 3, Field 353	Condition 13(A)(iii)	Low	December 26-28, 2023	3
10	Farm 3, Field m353	Condition 13(A)(ii)	Low	December 8-10, 26-27 and 29-30, 2023	7
11	Farm 3, Field m353	Condition 13(A)(iii)	Low	December 8-10, 26-27 and 29-30, 2023	7
12	Farm 3, Field m354	Condition 13(A)(iii)	Low	December 26, 2023.	1
13	Farm 4, Field 49	Condition 13(A)(iii)	Low	December 8-14, 2023	7
14	Farm 4, Field 99	Condition 13(A)(iii)	Low	December 26-28, 2023	3
15	Farm 4, Field 100	Condition 13(A)(iii)	Low	December 20-23, 2023	4
16	Farm 4, Field 108	Condition 13(A)(iii)	Low	December 13-19, 2023	7
17	Farm 4, Field 110	Condition 13(A)(iii)	Medium	December 13-23, 2023	11
18	Farm 4, Field 114	Condition 13(A)(iii)	Low	December 8-10 and 28-30, 2023	6

1	Farm 4, Field 115	Condition 13(A)(ii)	Low	December 11-23, 2023	13
2	Farm 4, Field 115	Condition 13(A)(iii)	Low	December 16-23, 2023	8
3	Farm 4, Field 116	Condition 13(A)(iii)	Low	December 8-14, 2023	7
4	Farm 4, Field 117	Condition 13(A)(iii)	Low	December 13-14 and 26-27, 2023	4
5	Farm 1, Field 138	Condition 13(A)(iii)	Low	January 3-5, 2024	3
6	Farm 1, Field 145	Condition 13(A)(iii)	Low	January 6-7 and 9-10, 2024	4
7	Farm 1, Field 147	Condition 13(A)(ii)	Low	January 3-4, 2024	2
8	Farm 1, Field 148	Condition 13(A)(iii)	Low	January 10-11, 2024	2
9	Farm 1, Field 149	Condition 13(A)(ii)	Low	January 4-5, 2024	2
10	Farm 1, Field 149	Condition 13(A)(iii)	Low	January 4-5, 2024	2
11	Farm 3, Field 312	Condition 13(A)(iii)	Low	January 1, 3-4 and 9-10, 2024	5
12	Farm 3, Field 315	Condition 13(A)(iii)	Low	January 9-10, 2024	2
13	Farm 3, Field 316	Condition 13(A)(ii)	Low	January 3-5 and 9-10, 2024	5
14	Farm 3, Field 316	Condition 13(A)(iii)	Low	January 3-5 and 9-10, 2024	5
15	Farm 3, Field m316	Condition 13(A)((iii)	Low	January 3, 2024	1
16	Farm 3, Field m318	Condition 13(A)(iii)	Low	January 3-4 and 9-10, 2024	4
17	Farm 3, Field 319	Condition 13(A)(iii)	Low	January 3 and 5, 2024	2
18	Farm 3, Field m319	Condition 13(A)(ii)	Low	January 3-5, 2024	3

1	Farm 3, Field m319	Condition 13(A)(iii)	Low	January 3-5, 2024	3
2	Farm 3, Field 320	Condition 13(A)(iii)	Low	January 3-4, 2024	2
3	Farm 3, Field m320	Condition 13(A)(iii)	Low	January 3-4, 2024	2
4	Farm 3, Field m321	Condition 13(A)(iii)	Low	January 3-4, 2024	2
5	Farm 3, Field 323	Condition 13(A)(iii)	Low	January 4-5, 2024	2
6	Farm 3, Field 325	Condition 13(A)(iii)	Low	January 2-3 and 9-10, 2024	4
7	Farm 3, Field 329	Condition 13(A)(ii)	Low	January 2-3, 2024	2
8	Farm 3, Field 332	Condition 13(A)(iii)	Low	January 2-3, 2024	2
9	Farm 3, Field 338	Condition 13(A)(iii)	Low	January 2-3, 2024	2
10	Farm 3, Field 353	Condition 13(A)(iii)	Low	January 9-11, 2024	3
11	Farm 4, Field 1	Condition 13(A)(ii)	Medium	January 9-11, 2024	3
12	Farm 4, Field 50	Condition 13(A)(ii)	Low	January 9-11, 2024	3
13	Farm 4, Field 99	Condition 13(A)(ii)	Low	January 3-4 and 6-10, 2024	7
14	Farm 4, Field 99	Condition 13(A)(iii)	Low	January 6-10, 2024	5
15	Farm 4, Field 100	Condition 13(A)(iii)	Low	January 2-3 and 6-11, 2024	8
16	Farm 4, Field 108	Condition 13(A)(iii)	Low	January 4-11, 2024	8
17	Farm 4, Field 110	Condition 13(A)(iii)	Medium	January 4-11, 2024	8
18	Farm 4, Field 115	Condition 13(A)(ii)	Low	January 2-4, 2024	3

1	Farm 4, Field 115	Condition 13(A)(iii)	Low	January 2-4, 2024	3
2	Farm 4, Field 117	Condition 13(A)(iii)	Low	January 6-11, 2024	6
3	Farm 1, Field 138	Condition 13(A)(iii)	Low	February 11-13, 18-19 and 27-29, 2024	9
4	Farm 1, Field 139	Condition 13(A)(iii)	Low	February 7-10 and 16-17, 2024	6
5	Farm 1, Field 145	Condition 13(A)(iii)	Low	February 8-11 and 17-18, 2024	6
6	Farm 1, Field 147	Condition 13(A)(ii)	Low	February 5-7, 10-11, 16-17, 2024	7
7	Farm 1, Field 148	Condition 13(A)(iii)	Low	February 7-10 and 15-16, 2024	6
8	Farm 1, Field 150	Condition 13(A)(iii)	Low	February 15-16, 2024	2
9	Farm 3, Field 312	Condition 13(A)(iii)	Low	February 9-10, 15-16, 21-22, and 28-29, 2024	8
10	Farm 3, Field 314	Condition 13(A)(iii)	Low	February 13-14, 2024	2
11	Farm 3, Field 315	Condition 13(A)(iii)	Low	February 7-8, 2024	2
12	Farm 3, Field 316	Condition 13(A)(ii)	Low	February 5, 9-10, 15-16, 21-22 and 29, 2024	8
13	Farm 3, Field 316	Condition 13(A)(iii)	Low	February 5, 9-10, 15-16, 21-22 and 29, 2024	8
14	Farm 3, Field m316	Condition 13(A)(iii)	Low	February 9-10 and 15, 2024	3
15	Farm 3, Field 317	Condition 13(A)(ii)	Low	February 10, 12-15 and 26, 2024	6
16	Farm 3, Field 318	Condition 13(A)(iii)	Low	February 5-8 and 12-13, 2024	6
17	Farm 3, Field m318	Condition 13(A)(iii)	Low	February 5-6 and 26, 2024	3
18	Farm 3, Field 319	Condition 13(A)(iii)	Low	February 10-11, 2024	2

1	Farm 3, Field m319	Condition 13(A)(ii)	Low	February 12, 18-19, and 24-26, 2024	6
2	Farm 3, Field m319	Condition 13(A)(iii)	Low	February 12, 18-19, and 24-26, 2024	6
3	Farm 3, Field m320	Condition 13(A)(iii)	Low	February 6-10, 16-17, 21-22, and 29, 2024	10
4	Farm 3, Field m321	Condition 13(A)(iii)	Low	February 12-13, 15-16 and 22-23, 2024	6
5	Farm 3, Field m322	Condition 13(A)(ii)	Low	February 13, 19-20, and 23-24, 2024	5
6	Farm 3, Field m322	Condition 13(A)(iii)	Low	February 13, 19-20, and 23-24, 2024	5
7	Farm 3, Field 324	Condition 13(A)(iii)	Low	February 12-13, 15-16 and 22-23, 2024	6
8	Farm 3, Field 326A	Condition 13(A)(iii)	Low	February 26, 2024	1
9	Farm 3, Field 326B	Condition 13(A)(iii)	Low	February 5-7, 9-10, and 15, 2024.	6
10	Farm 3, Field 329	Condition 13(A)(ii)	Low	February 26, 2024	1
11	Farm 3, Field 329	Condition 13(A)(iii)	Low	February 26, 2024	1
12	Farm 3, Field 329a	Condition 13(A)(ii)	Low	February 5-8, 13-14, 16-17 and 22-23, 2024	10
13	Farm 3, Field 329a	Condition 13(A)(iii)	Low	February 5-8, 13-14, 16-17 and 22-23, 2024	10
14	Farm 3, Field 329b	Condition 13(A)(ii)	Low	February 13-14, 16-17, and 26-27, 2024	6
15	Farm 3, Field 329b	Condition 13(A)(iii)	Low	February 13-14, 16-17, and 26-27, 2024	6
16	Farm 3, Field 329c	Condition 13(A)(ii)	Low	February 8-9, 13-14, 17-18 and 26-27, 2024	8
17	Farm 3, Field 329c	Condition 13(A)(iii)	Low	February 8-9, 13-14, 17-18 and 26-27, 2024	8
18	Farm 3, Field 331	Condition 13(A)(iii)	Low	February 12-13, 20-21, and 26-27, 2024.	6

1	Farm 3, Field 332	Condition 13(A)(iii)	Low	February 6-7, 9-10, 13-14 and 18-19, 2024	8
2	Farm 3, Field 333A	Condition 13(A)(ii)	Low	February 6-7, 13-14 and 20-21, 2024	6
3	Farm 3, Field 333A	Condition 13(A)(iii)	Low	February 6-7, 13-14 and 20-21, 2024	6
4	Farm 3, Field m334	Condition 13(A)(ii)	Low	February 13-14 and 19-20, 2024	4
5	Farm 3, Field 338	Condition 13(A)(iii)	Low	February 8-9 and 13-14, 2024	4
6	Farm 3, Field m340	Condition 13(A)(iii)	Low	February 13-14, 19-20 and 27-28, 2024	6
7	Farm 3, Field 353	Condition 13(A)(iii)	Low	February 5-12, 16-18, and 24-26, 2024	14
8	Farm 3, Field m353	Condition 13(A)(ii)	Low	February 13-15 and 18-19, 2024	5
9	Farm 3, Field m353	Condition 13(A)(iii)	Low	February 13-15 and 18-19, 2024	5
10	Farm 3, Field m354	Condition 13(A)(iii)	Low	February 5-6, 9-10, 19-20, 22-23, and 29, 2024	9
11	Farm 3, Field 355	Condition 13(A)(iii)	Low	February 10-12, 19-21, 23-24, 2024	8
12	Farm 4, Field 2	Condition 13(A)(ii)	Low	February 9-15, 19-22 and 26-28, 2024	14
13	Farm 4, Field 2	Condition 13(A)(iii)	Low	February 9-15, 19-22 and 26-28, 2024	14
14	Farm 4, Field 49	Condition 13(A)(iii)	Low	February 12-13, 2024	2
15	Farm 4, Field 50	Condition 13(A)(ii)	Low	February 8-12 and 15-19, 2024	10
16	Farm 4, Field 50	Condition 13(A)(iii)	Low	February 8-12 and 15-19, 2024	10
17	Farm 4, Field 50	Condition 11	Low	February 10-12 and 15-19, 2024	8
18	Farm 4, Field 99	Condition 13(A)(ii)	Low	February 12-15, 22-24 and 27-28, 2024	10

1	Farm 4, Field 99	Condition 13(A)(iii)	Low	February 12-15, 22-24 and 27-28, 2024	10
2	Farm 4, Field 100	Condition 13(A)(iii)	Low	February 8-12, 15-22 and 24-26, 2024	16
3	Farm 4, Field 108	Condition 13(A)(iii)	Low	February 5-8 and 16-19, 2024	8
4	Farm 4, Field 109	Condition 13(A)(iii)	Low	February 8-12 and 19-22, 2024	9
5	Farm 4, Field 115	Condition 13(A)(ii)	Low	February 5-8, 16-22 and 24-25, 2024	13
6	Farm 4, Field 115	Condition 13(A)(iii)	Low	February 5-8, 16-22 and 24-25, 2024	13
7	Farm 4, Field 116	Condition 13(A)(iii)	Low	February 8-12 and 22-24, 2024	8
8	Farm 4, Field 117	Condition 13(A)(iii)	Low	February 24-28, 2024	5
9	Farm 4, Field 118	Condition 13(A)(iii)	Low	February 7-8, 12-16 and 22-25, 2024	11
10	Farm 4, Field 123	Condition 13(A)(ii)	Low	February 29, 2024	1
11	Farm 4, Field 140	Condition 13(A)(iii)	Low	February 29, 2024	1
12	Farm 5, Field 12	Condition 13(A)(ii)	Low	February 19-23, 2024	5
13	Farm 5, Field 16	Condition 13(A)(ii)	Low	February 12-14 and 18, 2024	4
14	Farm 5, Field 16	Condition 13(A)(iii)	Low	February 12-14 and 18, 2024	4
15	Farm 5, Field 18	Condition 13(A)(ii)	Low	February 14-18 and 25-27, 2024	8
16	Farm 5, Field 18	Condition 13(A)(iii)	Low	February 25-27, 2024	3
17	Farm 5, Field 22	Condition 13(A)(iii)	Low	February 14-18, 25-27 and 29, 2024	9
18	Farm 5, Field 26	Condition 13(A)(ii)	Low	February 12-14, 18-20 and 27-29, 2024	9

Farm 5, Field 26	Condition 13(A)(iii)	Low	February 12-14, 18-20 and 27-29, 2024	9
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4. Paragraph 22 of the MAO states: "For violations of Schedule A, Condition 7 of the Permit resulting from the discharge of wastewater from Respondent's pipelines to the ground surface occurring from the effective date of this MAO until November 1, 2025, upon receipt of a written Penalty Demand Notice from DEQ, Respondent shall pay a civil penalty of

a. \$0 for discharges of less than 400 gallons where Respondent has promptly notified DEQ and cleaned up the discharge.

b. \$600 for discharges under 5,000 gallons.

c. \$1,200 for discharges of 5,000 gallons or more but less than 50,000 gallons.

d. \$2,400 for discharges of 50,000 gallons or more."

5. Respondent violated Schedule A, Condition 7 of the Permit as follows:

a. On March 13, 2024, Respondent discharged 3,000 gallons of wastewater to ground surface at Circle 329 approximately 3,500 feet north of the intersection of Lewis & Clark Drive and US Highway 730, Boardman, Oregon.

b. On March 10, 2024, Respondent discharged 20,000 gallons of wastewater to ground surface at Circle 144 approximately 1,800 feet east of the intersection of Columbia Boulevard and Gar Swanson Drive, Boardman, Oregon.

c. On March 9, 2024, Respondent discharged 2,500 gallons of wastewater to ground surface at Circle 146 approximately 100 feet south of Lewis & Clark Drive, Boardman, Oregon.

d. On February 12, 2024, Respondent discharged 20,000 gallons of wastewater to ground surface at Circle 147 approximately 2,000 feet northeast of the intersection of Columbia Boulevard and Lewis and Clark Drive, Boardman, Oregon.

e. On January 16, 2024, Respondent discharged 30,000 gallons of wastewater to ground surface at Circle 140 approximately 3,300 feet northeast of Gar Swanson and Columbia Boulevard, Boardman, Oregon.

6. The penalty for Respondent's violations cited in Paragraph 3, above, is \$722,250.

7. The penalty for Respondent's violations cited in Paragraph 4, above is \$4,800.

8. Respondent's total civil penalty is \$727,050.

II. ORDER TO PAY CIVIL PENALTY

Based upon the foregoing FINDINGS OF FACTS and CONCLUSIONS, Respondent is hereby ORDERED TO: Pay a total civil penalty of \$727,050.

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

III. NOTICE OF RIGHT TO REQUEST A CONTESTED CASE HEARING

You have a right to a contested case hearing on this Order and Demand for Payment of Stipulated Penalty. **As described in paragraph 23 of the MAO, the issue shall be limited to Respondent's compliance or non-compliance with the MAO.** DEQ must receive the written request for hearing **within 20 calendar days** from the date you receive this Final Order and Stipulated Penalty Demand Notice. If you have any affirmative defenses or wish to dispute any allegations of fact in this Order, 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@deg.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.

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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12 4/4/2024
13 Date

14 Rebecca J Puskas
15 Becca Puskas, Interim Manager
16 Office of Compliance and Enforcement
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