



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

April 4, 2024

CERTIFIED MAIL: 9589 0710 5270 0688 6530 07

Asante DBA Rogue Medical Center
c/o Dristen Roy, Registered Agent
2650 Siskiyou Blvd
Medford, OR 97504

Re: Notice of Civil Penalty Assessment and Order
Case No. AQ-GHG-HQ-2023-075

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$4,400 for failing to submit a complete greenhouse gas emissions data report to DEQ for the 2022 reporting year by the March 31, 2023 deadline. Specifically, you did not submit a supplemental reporting form that includes information about the natural gas supplier and the annual amount of natural gas delivered to your facility. DEQ issued this penalty because incomplete reporting undermines the Greenhouse Gas Reporting Program, an essential component of Oregon's efforts to track greenhouse gas emissions and combat climate change. 2022 was the second year of incomplete reporting for your facility.

DEQ appreciates your efforts to correct the violation by submitting the supplemental reporting form on June 16, 2023. DEQ considered these efforts when determining the amount of civil penalty.

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.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 portion of your 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 Tori Heroux at 971-808-7046 or toll free in Oregon at 800-452-4011, extension 2295269.

Sincerely,



Becca Puskas, Interim Manager
Office of Compliance and Enforcement

Enclosures

cc: Angela Grant, 2825 E Barnett Rd Medford, OR 97504-8332
Bill Brady, Portland Headquarters
Colin McConnaha, DEQ
Accounting, DEQ

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

3 IN THE MATTER OF:)
4 ASANTE DBA ROGUE)
MEDICAL CENTER,)
5 Respondent.) NOTICE OF CIVIL PENALTY
ASSESSMENT AND ORDER
CASE NO. AQ-GHG-HQ-2023-075

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 Chapter 183 and 468A, Oregon Administrative Rules (OAR) Chapter 340, Divisions 011, 012, and
10 215.

11 II. FINDINGS OF FACT

12 1. Respondent owns and operates a hospital at 2825 E Barnett Rd, Medford, Oregon
13 known as “Rogue Medical Center” (the Facility). The Facility includes boilers and electric power
14 generators that combust natural gas.

15 2. On March 23, 2018, the Department of Environmental Quality (DEQ) assigned
16 Respondent to General Air Contaminant Discharge Permit AQGP-011 (Permit) as source number 15-
17 0080. The Permit was in effect at all material times.

18 3. Condition 9.3 of the Permit requires Respondent to register and report its greenhouse gas
19 emissions to DEQ in accordance with Oregon Administrative Rule (OAR) Chapter 340, Division 215,
20 if the calendar year emission rate of greenhouse gases (in carbon dioxide equivalent or CO₂e) is greater
21 than or equal to 2,756 tons (2,500 metric tons).

22 4. According to OAR 340-215-0046(1)(a), annual greenhouse gas emissions data reports
23 are due by the due date for the annual report for the Permit or March 31, whichever is later. Pursuant to
24 Condition 9.2 of the Permit, the annual report for the Permit is due February 15. Thus, Respondent’s
25 annual greenhouse gas emissions data report is due March 31.

26 5. According to OAR 340-215-0105(9) [previously OAR 340-215-0105(8)], DEQ requires
27 all greenhouse gas reporting facilities that use natural gas to report information about the natural gas

1 supplier and the annual amount of natural gas delivered. In 2020, 2021 and 2022, DEQ required that
2 stationary sources submit supplemental reporting forms to meet this requirement.

3 6. On January 10, 2023, Respondent submitted its 2022 greenhouse gas emissions data
4 report to DEQ but it was missing the supplemental reporting form.

5 7. On May 26, 2023, DEQ issued Pre-Enforcement Notice No. 2023-PEN-8440, citing
6 Respondent for failing to submit a complete and accurate emissions data report by the March 31, 2023
7 deadline. The Pre-Enforcement Notice requested that Respondent submit the supplemental reporting
8 form to DEQ by June 9, 2023.

9 8. Respondent submitted the supplemental reporting form for the 2022 greenhouse gas
10 emissions data report to DEQ on June 16, 2023.

11 III. CONCLUSIONS

12 1. Respondent violated Permit Condition 9.3, OAR 340-215-0105(9) [previously OAR 340-
13 215-0105(8)] and OAR 340-215-0046(1)(a) by failing to submit a complete emissions data report to DEQ
14 by the reporting deadline as described in Section II above. Specifically, for the 2022 reporting year,
15 Respondent did not timely submit the supplemental form with information about the natural gas
16 supplier and the annual amount of natural gas delivered to the Facility. This is a Class I violation,
17 according to OAR 340-012-0054(1)(ii). DEQ hereby assesses a \$4,400 civil penalty for this violation.

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 total civil penalty of \$4,400. The determination of the civil penalty is attached as Exhibit
22 1 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
24 follows:

25 Pay online with e-check (ACH) or Credit Card. Go to Your DEQ Online here:

26 <https://ydo.oregon.gov>. Select Register Account or Login, then select Pay Invoices/Fees on your
27 account dashboard. Enter the Reference Number and FIMS Account ID included on the attached

1 payment slip. Note: US Bank charges a 2.3% convenience charge for credit card transactions. ACH
2 payments have no additional charges. OR

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

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

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

21 Active duty Service members have a right to stay proceedings under the federal Service
22 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-
23 452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed
24 Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military
25 Department does not have a toll free telephone number.

26 If you fail to file a timely request for hearing, the Notice will become a final order by default
27 without further action by DEQ, as per OAR 340-011-0535(1). If you do request a hearing but later
withdraw your request, fail to attend the hearing or notify DEQ that you will not be attending the

1 hearing, DEQ will issue a final order by default pursuant to OAR 340-011-0535(3). DEQ designates
2 the relevant portions of its files, including information submitted by you, as the record for purposes of
3 proving a prima facie case.
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7 4/4/2024
8 Date

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Rebecca L Puskas
Becka Puskas, Interim 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 Failure to submit a complete emissions data report by the reporting deadline, in violation of Permit Condition 9.3, OAR 340-215-0105(9) [previously OAR 340-215-0105(8)] and OAR 340-215-0046(1)(a).

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0054(1)(ii).

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)(M) because this is greenhouse gas reporting program violation by a person with greenhouse gas emissions less than 25,000 metric tons per year but greater than or equal to 5,000 metric tons per year.

"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 Respondent no prior violations in the same media.

"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 Respondent did not have any prior violations cited as prior significant actions.

"O" is whether the violation was repeated or ongoing, and receives a value of 0 according to OAR 340-012-0145(4)(a) because there was only one occurrence of the violation. Respondent failed to submit a complete 2022 emissions data report to DEQ.

"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. Respondent received individual emailed notice of GHG reporting requirements in 2021 and 2022, including

information regarding the supplemental reporting form. In addition, DEQ issued Respondent a Warning Letter on June 29, 2022 regarding the failure to submit the supplemental reporting form for the 2021 reporting year. Respondent also received a Pre-Enforcement Notice on May 26, 2023, for failure to submit the supplemental reporting form for the 2022 reporting year. Despite these notifications from DEQ, Respondent failed to submit a complete 2022 emissions data report. Thus, Respondent failed to take reasonable care to avoid a foreseeable risk of conduct constituting or resulting in a greenhouse gas reporting violation.

"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 Respondent made reasonable efforts to correct the violation. Respondent submitted the supplemental reporting form for the 2022 greenhouse gas emissions data report to DEQ on June 15, 2023.

"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 because DEQ has insufficient information to calculate an economic benefit for this violation.

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 + 0 + 4 + -3)] + \$0
= \$4,000 + (\$400 x 1) + \$0
= \$4,000 + \$400 + \$0
= \$4,400