



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 45

Oregon City Christian Church
c/o Jay Bettineski, Registered Agent
1179 S South End Rd
Oregon City, OR 97045

Re: Notice of Civil Penalty Assessment and Order
Case No. WQ-SW-NWR-2023-529

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$15,544 for violating your National Pollutant Discharge Elimination System Construction Stormwater General Permit No. 1200-C (the Permit) for the property located at 1179 South End Rd in Oregon City, Oregon.

DEQ issued this penalty because your failure to comply with the requirements of the Erosion and Sediment Control Plan (ESCP) and the monitoring requirements of the Permit posed a risk of harm to waters of the state. Compliance with your ESCP is essential to reducing sediment in stormwater discharges. Sediment carried in stormwater runoff from construction sites is considered pollution that poses a risk of harm to beneficial uses of state waters. Because you failed to implement proper controls, you created a risk that sediment would be carried into waters of the state. Additionally, compliance with monitoring requirements is an essential condition of the Permit. Monitoring may reveal the presence of harmful levels of pollutants, and it allows permit registrants and DEQ to gauge the effectiveness of stormwater controls and best management practices at reducing levels of pollutants in discharges.

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.

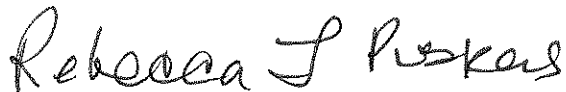
The attached Notice further details DEQ's reasons for issuing the penalty and provides further instructions for appealing the penalty. Please review and refer to it when discussing this case with DEQ.

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 Emily Knobbe at (971) 300-9770 or emily.knobbe@deq.oregon.gov.

Sincerely,



Becka Puskas, Interim Manager
Office of Compliance and Enforcement

Enclosures

cc: Michael Kennedy, Northwest Region
Benjamin Benninghoff, DEQ
Accounting, DEQ

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

3 IN THE MATTER OF:) NOTICE OF CIVIL PENALTY
4 OREGON CITY CHRISTIAN CHURCH,) ASSESSMENT AND ORDER
5 Respondent.) CASE NO. WQ-SW-NWR-2023-529

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 468B, ORS Chapter 183, and Oregon Administrative Rules (OAR) Chapter 340, Divisions
10 011, 012, and 045.

11 II. FINDINGS OF FACT

12 1. On February 3, 2022, DEQ issued Respondent coverage under the National Pollutant
13 Discharge Elimination System (NPDES) Construction Stormwater Discharge General Permit No. 1200-
14 C (the Permit), which authorizes Respondent to discharge stormwater only in conformance with the
15 Permit from the 3.5-acre project site located at 1179 South End Road in Oregon City, Oregon (the Site).

16 2. Pursuant to Schedule A.4 of the Permit, “the registrant must implement the [Erosion and
17 Sediment Control Plan (ESCP)] at all times. . . Failure to implement any of the control measures or
18 practices described in the ESCP is a permit violation.”

19 3. Respondent’s ESCP requires the following:

20 a. “Retain a copy of the ESCP and all revisions on site and make it available on request to
21 DEQ . . .” (4)

22 b. “The ESCP must be accurate and reflect site conditions.” (5)

23 c. “Install perimeter sediment control, including storm drain inlet protection as well as
24 sediment basins, traps, and barriers prior to land disturbance.” (13)

25 d. “Establish concrete truck and other concrete equipment washout areas before beginning
26 concrete work.” (16)

27 e. “Keep waste container lids closed when not in use and close lids at the end of the

business day for those containers that are actively used throughout the day. For waste

1 containers that do not have lids, provide [cover] to prevent exposure of wastes to
2 precipitation . . .” (19)

3 f. “Use BMPs [Best Management Practices] to prevent or minimize stormwater exposure
4 to pollutants . . . These pollutants include . . . paints, solvents, and curing compounds
5 and adhesives from construction operations.” (25)

6 g. “Temporarily stabilize soils at the end of the shift before holidays and weekends, if
7 needed. The registrant is responsible for ensuring that soils are stable during rain events
8 at all times of the year.” (33) “Do not remove temporary sediment control practices until
9 permanent vegetation or other cover of exposed areas is established.” (42)

10 h. Install sediment fences pursuant to page 6 figure 1 of the ESCP.

11 i. Install stormwater facilities, including the detention pond, pursuant to page 4-5 of the
12 ESCP.

13 4. On April 26, 2023, DEQ inspected the Site. At the time of the inspection:

14 a. Respondent did not have a copy of the ESCP on site;

15 b. Respondent had not revised the ESCP to update the designated erosion and sediment
16 control inspector and to update the sediment basin design;

17 c. The stormwater outlet was unprotected;

18 d. The Site lacked a concrete equipment washout station. Workers were emptying concrete
19 wash water onto the pavement;

20 e. There was an open waste container located at the Site;

21 f. The Site lacked a disposal site for potential pollutants. Workers were disposing of paint
22 wash water onto the ground;

23 g. Portions of the Site were disturbed and lacked stabilization controls, including the area
24 around the newly constructed building, surrounding the detention pond, and within the
25 detention pond. There was no evidence at the Site that stabilization methods are being
26 implemented;

27 h. The sediment fence was installed in a manner that would not prevent increased sediment
load to the detention pond;

- i. Erosion from the slopes of the detention pond filled in the substrate of the pond; and
- j. Respondent had not revised the ESCP to update the design of the detention pond. The pond was not constructed consistent with the ESCP.

5. As of the date of this Notice, Respondent completed the final phase of construction and terminated Permit coverage.

6. Pursuant to Schedule B.6.2 of the Permit, the registrant must conduct and document a visual monitoring inspection of the project site on the initial date of construction activity, once every 14 calendar days, and within 24 hours of any storm event.

7. Schedule D.7.5.1.qq of the Permit defines “storm event” as a rainfall event with greater than 0.1 inch of rainfall and at least 72 hours from the previously measurable—greater than 0.1 inch of rainfall—storm event.

8. Pursuant to Schedule B.6.5 of the Permit, the registrant must complete a visual monitoring inspection report within 48 hours of all site inspections. Pursuant to Schedule B.6.5.p of the Permit, all inspection reports should be made available to DEQ upon request.

9. Respondent did not conduct any visual monitoring at the Site from June 2022, until at least April 26, 2023.

10. In June 2022, Respondent should have conducted an inspection on the date work began, June 22, 2022. In July, August, September, and October 2022, and in February 2023, there were nine periods of 14 calendar days from the previous inspection when Respondent should have conducted visual monitoring. In addition, there was more than 0.1 inch of rainfall on 32 additional days between June 2022 and April 26, 2023, which were at least 72 hours from the previously measurable—greater than 0.1 inch rainfall—storm event. The 42 instances of missed visual monitoring are described in the following Table.

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Month	Dates more than 14 calendar days apart	Additional dates with rainfall > 0.1 inch and more than 72 hours from previously measurable 0.1 inch event	Number of required inspection events
June 2022	June 22 (first day of work)		1
July 2022	July 6 and 20		2
August 2022	August 3, 17, and 31		3
September 2022	September 14 and 28		2
October 2022	October 12	October 22 and 26	3
November 2022		November 2, 6, 11, 22, and 28	5
December 2022		December 4, 8, 19, 25, and 29	5
January 2023		January 4, 10, 14, and 18	4
February 2023	February 1	February 3, 7, 14, 21, and 26	6
March 2023		March 2, 7, 12, 20, 24, and 28	6
April 2023		April 1, 6, 10, 16, and 20	5
Total			42

III. CONCLUSIONS

1. Respondent violated ORS 468B.025(2) and Schedule A.4 of the Permit by failing to implement the ESCP in accordance with the conditions of the Permit. Specifically, Respondent failed to maintain and update the ESCP, did not establish washout stations for concrete and other potential pollutants, and failed to properly install erosion control measures consistent with the ESCP, as described in Section II paragraphs 2-4 above. This is a Class I violation, according to OAR 340-012-0055(1)(r). DEQ hereby assesses a \$8,761 civil penalty for this violation.

2. Respondent violated ORS 468B.025(2) and Schedule B.6.2 of the Permit by failing to conduct the minimum number of visual monitoring inspections required by the Permit. Specifically, Respondent failed to conduct 42 visual monitoring inspections from June 2022 through April 26, 2023, as described in Section II paragraphs 5-9 above. These are Class I violations, according to OAR 340-012-0055(1)(o). DEQ hereby assesses a \$6,783 civil penalty for these violations.

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1 IV. ORDER TO PAY CIVIL PENALTY AND TO COMPLY

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

4 1. Pay a total civil penalty of \$15,544. The determination of the civil penalties are attached as
5 Exhibits 1-2 and are incorporated as part of this Notice.

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

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

13 Pay by check or money order: Make checks payable to "Department of Environmental
14 Quality" and mail to the address on the enclosed payment slip. Please make sure to include the payment
15 slip with your check or money order.

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

17 You have a right to a contested case hearing on this Notice, if you request one in writing. DEQ
18 must receive your request for hearing **within 20 calendar days** from the date you receive this Notice. If
19 you have any affirmative defenses or wish to dispute any allegations of fact in this Notice or attached
20 exhibits, you must do so in your request for hearing, as factual matters not denied will be considered
21 admitted, and failure to raise a defense will be a waiver of the defense. (See OAR 340-011-0530 for
22 further information about requests for hearing.) You must send your request to: **DEQ, Office of**
23 **Compliance and Enforcement, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232**, fax
24 it to **503-229-6762** or email it to DEQappeals@deq.oregon.gov. An administrative law judge
25 employed by the Office of Administrative Hearings will conduct the hearing, according to ORS
26 Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be
27 represented by an attorney at the hearing, however you are not required to be. If you are an individual,

1 you may represent yourself. If you are a corporation, partnership, limited liability company,
2 unincorporated association, trust or government body, you must be represented by an attorney or a duly
3 authorized representative, as set forth in OAR 137-003-0555.

4 Active duty Service members have a right to stay proceedings under the federal Service
5 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-
6 452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed
7 Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military
8 Department does not have a toll free telephone number.

9 If you fail to file a timely request for hearing, the Notice will become a final order by default
10 without further action by DEQ, as per OAR 340-011-0535(1). If you do request a hearing but later
11 withdraw your request, fail to attend the hearing or notify DEQ that you will not be attending the
12 hearing, DEQ will issue a final order by default pursuant to OAR 340-011-0535(3). DEQ designates
13 the relevant portions of its files, including information submitted by you, as the record for purposes of
14 proving a prima facie case.

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18 4/4/2024
19 Date

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Rebecca I 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: Violated ORS 468B.025(2) and Schedule A.4 of the Permit by failing to substantially implement the Erosion and Sediment Control Plan (ESCP).

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 \$1,500 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(4)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(4)(a)(F)(ii) because Respondent had Permit coverage for a 3.5-acre project site.

"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 no prior history.

"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 at least one occurrence of the violation. DEQ inspected the Site on April 26, 2023. As of the date of this Notice, Respondent has not provided any information that the Permit violations were corrected.

"M" is the mental state of the Respondent, and receives a value of 2 according to OAR 340-012-0145(5)(b) because Respondent had constructive knowledge (reasonably should have known) of the requirement. As a permittee, Respondent is responsible for knowing the requirements of the Permit, which are clearly stated in the Permit, including the requirement to implement the ESCP. Therefore, Respondent reasonably should have known of the requirements set by the ESCP.

"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 \$6,661. This is the amount Respondent gained by avoiding spending \$6,429 to properly implement the ESCP. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
= \$1,500 + [(0.1 x \$1,500) x (0 + 0 + 0 + 2 + 2)] + \$6,661
= \$1,500 + (\$150 x 4) + \$6,661
= \$1,500 + \$600 + \$6,661
= \$8,761

EXHIBIT 2

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

VIOLATION NO. 2: Violated ORS 468B.025(2) and Schedule B.6.2 of the Permit by failing to comply with monitoring requirements of the Permit.

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0055(1)(o).

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 \$1,500 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(4)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(4)(a)(F)(ii) because Respondent had Permit coverage for a 3.5-acre project site.

"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 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. Respondent missed 42 visual monitoring inspections from June 2022 to April 26, 2023.

"M" is the mental state of the Respondent, and receives a value of 2 according to OAR 340-012-0145(5)(b) because Respondent had constructive knowledge (reasonably should have known) of the requirement. As a permittee, Respondent is responsible for knowing the requirements of the Permit, which are clearly stated in the Permit. Therefore, Respondent reasonably should have known of the monitoring requirements set 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 or the effects of the violation could not be corrected or minimized.

"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 \$4,383. This is the amount Respondent gained by avoiding spending \$4,200 to conduct 42 visual monitoring inspections from June 2022 to April 26, 2023. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
 $= \$1,500 + [(0.1 \times \$1,500) \times (0 + 0 + 4 + 2 + 0)] + \$4,383$
 $= \$1,500 + (\$150 \times 6) + \$4,383$
 $= \$1,500 + \$900 + \$4,383$
 $= \$6,783$

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:	April 4, 2024
RESPONSE DATE :	June 13, 2024
TOTAL PENALTY:	\$15,544.00

Account Name:	OREGON CITY CHRISTIAN CHURCH		
Account Type:	Vendor/Organization/Company	Reference Number:	CPGFD2400055
SubSystem ID:	180038	FIMS Acct. ID:	9563

Penalty Summary

Penalty Amount	Interest	Adjustment	Amount Paid	Total Penalty
\$ 15,544.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 15,544.00

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.	CPGFD2400055		
PAYCODE:	00401 7400 10040 74001 0500 000000 00		
FEE PROGRAM ID:	950	RESPONSE DATE:	June 13, 2024
FIMS ACCT. ID:	9563	TOTAL PENALTY DUE:	\$15544.00

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 0095000095631CPGFD240005500015544009



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
4/3/2024	2023-529 WQ-SW-NWR-2023-529	\$15,544.00

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 _____