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

May 21, 2024

CERTIFIED MAIL: 9589 0710 5270 0688 6531 99

Alsea Quarries 1, LLC
19331 South Fork Road
Alsea, OR 97324

Re: Notice of Civil Penalty Assessment and Order
Case No. WQ/SW-WR-2023-608

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of $7,727 for failing to conduct stormwater monitoring at Alsea Rock Quarry in Alsea during the 2022-2023 monitoring period, as required under your National Pollutant Discharge Elimination System Stormwater Discharge General Permit Number 1200-A (Permit). These are violations of your Permit and ORS 468B.025(2).

DEQ issued this penalty because permittees are required to sample and monitor their stormwater discharge to detect harmful levels of pollutants that pose a threat to waters of the state. Without monitoring information, DEQ and the public are unable to evaluate the effectiveness of your stormwater controls and best management practices at protecting water quality in South Fork Alsea River.

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 DEQ Environmental Law Specialist Esther Westbrook, at (503) 229-5374. You may call toll-free within Oregon at 1-800-452-4011, extension 5374.

Sincerely,

Rebecca L Puskas

Becka Puskas, Interim Manager
Office of Compliance and Enforcement

Enclosures

cc: Mackenzie Foster, Alsea Rock Quarry: foster.aqconstruction@gmail.com
Lisa Reinhart, DOGAMI
Heather Tugaw, Medford Office, DEQ
Accounting, DEQ

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

IN THE MATTER OF: ALSEA QUARRIES 1, LLC, an Oregon limited liability company, Respondent.	)))))	NOTICE OF CIVIL PENALTY ASSESSMENT AND ORDER CASE NO. WQ/SW-WR-2023-608

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 and 468.126 through 468.140, ORS Chapters 183 and 468B and Oregon Administrative Rules (OAR) Chapter 340, Divisions 011, 012 and 045.

II. FINDINGS OF FACT

1. Respondent operates a mining facility known as "Alsea Rock Quarry" located at 19331 South Fork Road in Alsea, Benton County, Oregon (the Facility).

2. On or about November 15, 2013, DEQ assigned coverage to Respondent under National Pollutant Discharge Elimination System Stormwater and Mine Dewatering Discharge Permit No. 1200-A (the Permit).

3. The Permit expired on June 30, 2017, but was administratively extended because Respondent submitted a timely renewal application.

4. Schedule B of the Permit requires Respondent to monitor its stormwater through grab sampling for various parameters. Specifically, Schedule B, Condition 2(e), Table 5 requires that permittees conduct monitoring for benchmark pollutants four times per year.

5. Schedule B, Condition 8(a) of the Permit requires permittees to submit a Discharge Monitoring Report (DMR) to DEQ or its agent by July 31st of each year for the previous monitoring year.

6. Respondent did not submit a DMR or any monitoring results to DEQ or its agent, DOGAMI, for the 2022-2023 monitoring year.

III. CONCLUSION

Respondent has violated Schedule B, Conditions 2(e) and 8(a) of the Permit and ORS 468B.025(2) by failing to conduct required stormwater monitoring during the 2022-2023 monitoring year, as described in Section II, Paragraphs 1-6 above. According to OAR 340-012-0055(1)(o), these are Class I violations. DEQ hereby assesses an $7,727 civil penalty for these violations.

IV. ORDER TO PAY CIVIL PENALTY

Based upon the foregoing FINDINGS OF FACTS AND CONCLUSION, Respondent is hereby ORDERED TO:

Pay a civil penalty of $7,727. The determination of the civil penalty is attached as Exhibit No. 1 and incorporated as part of this Notice.

If you do not file a request for hearing as set forth in Section V below, please pay the 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 Reference Number and FIMS 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.

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 exhibit, 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 **503-229-6762** or email it to **DEQappeals@deq.oregon.gov**. 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 withdraw your request, fail to attend the hearing, or notify DEQ that you will not be attending the hearing, DEQ will issue a final order by default pursuant to OAR 340-011-0535(3). DEQ designates the relevant portions of its files, including information submitted by you, as the record for purposes of proving a prima facie case.

5/21/2024
Date

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

EXHIBIT NO. 1

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

VIOLATION: Failure to conduct monitoring in violation of Schedule B, Conditions 2(e) and 8(a) of NPDES Permit No. 1200-A and ORS 468B.025(2).

CLASSIFICATION: These are Class I violations 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 $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 an NPDES general permit.

"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 2 according to OAR 340-012-0145(2)(a)(C). Respondent had one Class I violation in Case No. EEO-2020-172.

"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 insufficient information on which to base a finding under paragraphs (4)(b) through (4)(d).

"O" is whether the violation was repeated or ongoing and receives a value of 2 according to OAR 340-012-0145(4)(b), because there were four occurrences of the violation. Respondent failed to collect all four required samples during the 2022-2023 monitoring year.

"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. Respondent holds an NPDES 1200-A Permit, which specifically requires that it collect and analyze stormwater samples according to the conditions in Schedule B of the Permit. Additionally, Respondent previously received a penalty for failing to conduct monitoring in Case No. EEO-2020-172. When Respondent failed to collect any of the required samples during the 2022-2023 monitoring year, it failed to take reasonable care to avoid a foreseeable risk that it would violate the Permit and Oregon environmental law.

"C" is Respondent's efforts to correct or mitigate the violation and receives a value of 0 according to OAR 340-012-0145(6)(a)(D), 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 $527. This is the amount Respondent gained by avoiding spending $784 in monitoring costs for the 2022-2023 monitoring year. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

PENALTY CALCULATION: Penalty = BP + [(0.1 x BP) x (P + H + O + M + C)] + EB
= $4,000 + [(0.1 x $4,000) x (2 + 0 + 2 + 4 + 0)] + $527
= $4,000 + [$400 x 8] + $527
= $4,000 + $3,200 + $527
= $7,727

Oregon Department of Environmental Quality
700 NE Multnomah Street, Suite 600
Portland, OR 97232-4100

State of Oregon
DEQ Department of Environmental Quality

Phone: 503-229-5437
Fax: 503-229-5850

CIVIL PENALTY - ORS 468.135(2)

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DATE:	May 21, 2024
RESPONSE DATE :	July 30, 2024
TOTAL PENALTY:	$7,727.00

Account Name:	ALSEA QUARRIES I, LLC <ALSEA QUARRIES> <110087>		
Account Type:	Vendor/Organization/Company	Reference Number:	**CPGFD2400066**
SubSystem ID:	179210	FIMS Acct. ID:	4533

Penalty Summary

Penalty Amount	Interest	Adjustment	Amount Paid	Total Penalty
$ 7,727.00	$ 0.00	$ 0.00	$ 0.00	$ 7,727.00

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

DEQ

REFERENCE NO.	CPGFD2400066		
PAYCODE:	00401 7400 10040 74001 0500 000000 00		
FEE PROGRAM ID:	950	RESPONSE DATE:	July 30, 2024
FIMS ACCT. ID:	4533	TOTAL PENALTY DUE:	$7727.00

AMOUNT ENCLOSED: ____

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☐ Check this box if updated address information has been provided on the back of the form.

MAKE CHECK PAYABLE TO: Department of Environmental Quality

DEQ FINANCIAL SERVICES - LBX4244
PO BOX 4244
PORTLAND OR 97208-4244

00401 7400 10040 74001 0500 000000 00950000045339CPGFD2400066000007727006

State of Oregon Department of Environmental Quality

CIVIL PENALTY - ORS 468.135(2)

State of Oregon
Department of Environmental Quality

700 NE Multnomah Street, Suite 600
Portland, OR 97232-4100
Phone: 503-229-5437
Fax: 503-229-5850

Penalty Detail

Transaction Date	Description	Amount
5/20/2024	2023-608 WQ-SW-WR-2023-608	$7,727.00

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 _____