



Oregon

Tina Kotek, Governor

Department of Environmental Quality
Office of Compliance and Enforcement
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November 4, 2025

CERTIFIED MAIL: 9589 0710 5270 3236 6720 62

Ash Grove Cement Company
c/o Corporation Service Company, Registered Agent
1127 Broadway Street NE, Ste. 310
Salem, OR 97301

Re: Notice of Civil Penalty Assessment and Order
Case No. WQ-SW-ER-2024-638

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$866,985 for stormwater violations at your cement plant and quarry located at 33060 Shirttail Creek Road in Durkee, Oregon. The attached Notice of Civil Penalty Assessment and Order (Notice) cites you for multiple violations of the National Pollutant Discharge Elimination System (NPDES) General Permit No. 1200A (1200A Permit). Most significantly, you failed to implement required erosion and sediment control measures at the facility, which are described in the facility's Stormwater Pollution Control Plan (SWPCP). This has resulted in a failure to prevent the discharge of significant amounts of sediment to surface waters, including Cottonwood Gulch and the Burnt River, which borders the facility. In addition, you have failed to monitor the stormwater discharge from one industrial area of the facility as required by the 1200A Permit.

DEQ issued this penalty because the requirements in the 1200A Permit are intended to reduce pollution from your facility to waters of the state. Industrial stormwater runoff from your facility contains significant amounts of sediment. DEQ and the Oregon Department of Geology and Mineral Industries (DOGAMI) evaluated your stormwater discharges from 2014 to the present, and your responses to those discharges. Despite some facility improvements, many of the facility's discharges have been orders of magnitude over permit benchmark concentrations for Total Suspended Solids (TSS) and Settleable Solids (SS), and well over the reference concentration for arsenic. Sediment is a waste that poses a risk of harm to Cottonwood Gulch and the Burnt River, especially by impacting habitat for aquatic organisms. The discharge of sediment laden stormwater can degrade water quality and harm aquatic life by covering up food sources and smothering invertebrate organisms. In addition, sediment from your facility carries high levels of arsenic, and the Burnt River is impaired for arsenic.

DEQ appreciates your efforts to engage a consultant to begin work on improved stormwater controls following DOGAMI's inspections in October 2024 and June 2025. However, that work has not been completed. Timely implementation of effective erosion and sediment controls at the facility is important to prevent additional impacts to waters of the state.

Included in Section IV of the enclosed Notice is an order requiring you to take the following corrective actions:

- By November 24, 2025, submit to DOGAMI:
 - Documentation of erosion and sediment control maintenance or improvements since DOGAMI's October 2024 inspection;
 - Updated monitoring forms;
 - A copy of the Tier 1 report for the August 21, 2023 benchmark and reference concentration exceedances; and
 - Data and analysis to support your request for a monitoring variance for the 2024-25 monitoring year.
- By December 31, 2025, submit an updated SWPCP to DOGAMI that includes erosion and sediment controls that meet 1200A permit requirements and a proposed timeline for implementation.

The above is a summary of the order. You must consult Section IV for the order's specific requirements.

\$815,185 of the civil penalty represents the economic benefit you gained by failing to implement required erosion and sediment controls at your facility, as well as the avoided cost of monitoring your stormwater discharge from Area 4 of the facility. If you complete the above requirements, DEQ will consider recalculating most of the economic benefit as delayed rather than avoided and will reduce the civil penalty accordingly.

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 Becka Puskas at 503-979-5421 or becka.puskas@deq.oregon.gov.

Sincerely,



Erin Saylor, Interim Manager
Office of Compliance and Enforcement

Enclosures

cc: Norma Job, Ash Grove Cement Company, P.O. Box 287, Durkee, OR 97905-0287
Arun Chandran, Ash Grove Cement Company, P.O. Box 287, Durkee, OR 97905-0287
Lisa Reinhart, DOGAMI
Accounting, DEQ

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

2 OF THE STATE OF OREGON

3 IN THE MATTER OF:) NOTICE OF CIVIL PENALTY
4 ASH GROVE CEMENT COMPANY) ASSESSMENT AND ORDER
5 Respondent.) WQ-SW-ER-2024-638

6 I. AUTHORITY

7 1. The Department of Environmental Quality (DEQ) issues this Notice of Civil Penalty
8 Assessment and Order (Notice) pursuant to Oregon Revised Statutes (ORS) 468.100, ORS 468.126
9 through 468.140, ORS 468B, ORS Chapter 183 and Oregon Administrative Rules (OAR) Chapter 340,
10 Divisions 011, 012, and 045.

11 2. Coverage under the National Pollutant Discharge Elimination System (NPDES)
12 Stormwater and Mine Dewatering Discharge Permit No. 1200-A (Permit) is required for facilities with
13 primary SIC code 14 (Mining and Quarrying of Nonmetallic Minerals, Except Fuels), that may discharge
14 stormwater or mine dewatering water from a point source to surface waters or conveyance systems that
15 discharge to surface waters. Also, asphalt mix batch plants and concrete batch plants, including mobile
16 operations of this type, are required to obtain coverage under the Permit.

17 3. Schedule A, Condition 1.a.i of the Permit includes a narrative technology based effluent
18 limit (TBEL) for erosion and sediment control. Specifically, Schedule A, Condition 1.a.i of the Permit
19 requires registrants to:

20 Stabilize exposed areas and contain runoff using structural and nonstructural controls to minimize
21 erosion of soil at the site and sedimentation.

- 22 1. Employ erosion control methods such as diverting stormwater around exposed
23 areas, using slopes or berms to contain and isolate stormwater, vegetating exposed
24 areas, or graveling or paving to minimize soil erosion at the site.
- 25 2. Employ sediment control methods such as detention facilities, vegetated filter
26 strips, bioswales, rock check dams, gravel or compost berms, flow velocity
27 dissipation devices or other effective control methods to minimize sediment loads
in stormwater discharges.
3. Annually evaluate exposed areas that can be revegetated to minimize the size of the
disturbed areas. Until vegetation is established, use mulching or other interim
erosion control practices such as soil tackifiers, compost blankets or erosion control
blankets/mats to minimize erosion.

1 4. Schedule A, Condition 2.a of the Permit requires permit registrants to “select, design,
2 install, implement and maintain control measures to meet the narrative technology based effluent limits in
3 Schedule A.1 and describe these measures in the SWPCP [Stormwater Pollution Control Plan].”

4 5. Schedule A, Condition 7.d of the Permit requires registrants to implement the SWPCP
5 and any revisions to the plan. Failure to implement any of the control measures or practices described
6 in the SWPCP is a violation of the Permit.

7 6. Schedule A, Condition 7.e of the Permit requires registrants to keep the SWPCP current
8 and updated as necessary to reflect any changes to the site. The SWPCP must be updated within 30
9 days of making any changes to the site.

10 7. Schedule A, Condition 10 of the Permit establishes benchmark concentrations for
11 stormwater water discharged from the site as follows:

Parameter	Benchmark
pH	5.5 – 9.0 SU
Total Suspended Solids (TSS)	100 mg/L
Settleable Solids (SS)	0.20 ml/L
Total Oil & Grease	10 mg/L

15 8. In addition, Schedule A, Condition 10 of the Permit provides that “DEQ or Agent will
16 establish reference concentrations for applicable impairment pollutants for each facility.”

17 9. According to Schedule B, Conditions 1 and 2 of the Permit, registrants must monitor the
18 stormwater discharge from the site at each outfall for benchmark pollutants four times per year, and
19 impairment pollutants two times per year, unless, pursuant to Schedule B, Condition 3 of the Permit, the
20 registrant requests a monitoring variance for missed samples due to no discharge from the site.

21 10. Schedule B, Condition 3 of the Permit provides three options for requesting a monitoring
22 variance: (i) state or federal authorities declared the year a drought year, (ii) demonstrate that rainfall in the
23 area where the permit registrant’s facility is located was 20% or more below the three-year average rainfall
24 for that area, or (iii) demonstrate to DEQ or DOGAMI’s satisfaction that a discharge did not occur due to:

25 1. infrequent storm events of sufficient magnitude to produce run-off during normal business hours or
26 under safe conditions, 2. an on-site retention system or treatment system was used to prevent any
27 discharge, or 3. stormwater discharge was controlled by pumps or valves and was contained on-site in

1 ponds. In each case, for each missed sample due to the above reasons, the permit registrant must report in
2 the Discharge Monitoring Report (DMR) form that no discharge occurred and include supporting data and
3 analysis demonstrating why the monitoring did not occur.

4 11. According to Schedule B, Condition 2.c of the Permit, the registrant must monitor each
5 outfall unless the outfall serves an area with no exposure of stormwater mine dewatering water to
6 industrial activity or the registrant has included an analysis in its SWPCP demonstrating that the discharge
7 is substantially similar to the discharge of another monitored outfall.

8 12. According to Schedule A, Condition 10 of the Permit, “A benchmark or reference
9 concentration exceedance is not a permit violation. Benchmarks and reference concentrations are designed
10 to assist the permit registrant in determining whether site controls are effectively reducing pollutant
11 concentrations in stormwater or mine dewatering water discharged from the site.”

12 13. According to Schedule A, Condition 12.a of the Permit, if sampling results exceed
13 applicable benchmarks or impairment pollutant reference concentrations, the registrant must take Tier I
14 corrective actions within 30 days of obtaining the monitoring results, including:

- 15 a. Investigate the cause of the elevated pollutant levels (Schedule A, Condition 12.a.i);
- 16 b. Review the SWPCP and the selection, design, installation and implementation of BMPs
17 [Best Management Practices] to ensure compliance with the permit. If permit registrant
18 determines that SWPCP revisions are necessary based on corrective action review,
19 submit the revised pages of the SWPCP to DEQ or agent, including a schedule for
20 implementing control measures (Schedule A, Condition 12.a.ii); and
- 21 c. Summarize the investigation, corrective actions, and SWPCP revisions in a Tier I
22 report (Schedule A, Condition 12.a.iii).

23 14. According to Schedule A, Condition 12.b of the Permit, the registrant must implement Tier
24 I corrective actions before the next storm event if possible, or as soon as practicable.

25 15. Schedule A, Condition 6.a of the Permit requires registrants to prevent the discharge of
26 significant amounts of sediment into surface waters or conveyance systems leading to surface waters.
27 Significant amounts of sediment result from the actions or inactions of the permit registrant at a site and

1 result in visual indications that sediment has left or is likely to leave the site. The following conditions
2 describe significant amounts of sediment, among others:

- 3 a. Sediment laden or turbid flows of stormwater ... that are not filtered or settled to
4 remove sediments or turbidity (Schedule A, Condition 6.a.iii); and
- 5 b. Deposits of sediment at the site in areas that drain to unprotected stormwater inlets
6 or catch basins that discharge to surface waters. Inlets and catch basins with failing
7 sediment controls due to lack of maintenance or inadequate design are considered
8 unprotected (Schedule A, Condition 6.a.iv).

9 16. According to Schedule B, Condition 7.a of the Permit, active sites must conduct weekly
10 inspections, when operating, of streams within 300 feet of an active seepage pond, unless the site is
11 inaccessible due to adverse weather conditions.

12 II. FINDINGS OF FACT

13 1. Respondent is registered under the Permit for its cement plant and supporting limestone
14 quarry located at 33060 Shirttail Creek Road in Durkee, Oregon (the Facility) (DEQ file #102507,
15 DOGAMI file # 01-0053).

16 2. The Permit was in effect at all material times.

17 3. The Facility is approximately 1,360 acres in size.

18 4. Most of the Facility is located on a hillside, which slopes down towards the east-
19 northeast and toward the cement plant and the Burnt River.

20 5. The Facility discharges stormwater to the Burnt River, and to Cottonwood Gulch, which
21 discharges to the Burnt River.

22 6. The Facility makes cement, which is exported by truck and rail. The Facility also
23 exports limestone.

24 7. The cement plant is located in the lower portion of the Facility, near the Burnt River.

25 8. The upper portion of the Facility includes a large quarry area. Respondent mines
26 limestone, which is crushed and used as an intermediate product for making cement. Respondent also
27 mines shale for silica and clay for aluminum, which are also both used for making cement.

1 9. Respondent stores materials in uncovered stockpiles at the Facility, including iron ore,
2 gypsum, coal, clinker, and crushed limestone.

3 10. Except for the main entrance road that extends into the entrance of the cement plant, the
4 Facility's roads are unpaved.

5 Violations 1-3

6 11. Respondent's most recent SWPCP submitted to the Oregon Department of Geology and
7 Mineral Industries (DOGAMI) in April 2022, describes drainage areas at the Facility, numbered 1
8 through 13 (hereinafter Areas 1 through 13). See Site Plan, Figure 1 from the April 2022 SWPCP,
9 which is attached and incorporated into this Notice as Exhibit 5.

10 12. The April 2022 SWPCP describes two outfalls where Respondent monitors its
11 stormwater discharge:

- 12 a. Outfall 003, which discharges industrial stormwater from Area 3 (which is further
13 divided into Areas 3a, 3b, and 3c in the SWPCP), via the upper retention pond and
14 the lower retention pond and through a culvert beneath Shirttail Creek Road. Outfall
15 003 discharges to Cottonwood Gulch, which discharges to the Burnt River.
- 16 b. Outfall 007, which discharges stormwater from Area 8 at the Facility, where
17 Respondent conducts clay mining. Outfall 007 discharges to Cottonwood Gulch,
18 which discharges to the Burnt River.

19 13. On November 8, 2013, DEQ reassigned Respondent coverage under the Permit for the
20 Facility. The assignment letter described the requirement to monitor for benchmark pollutants pH,
21 Total Suspended Solids (TSS), Settleable Solids (SS) and Total Oil & Grease four times per year, and
22 the requirement to monitor for Arsenic, an impairment pollutant, two times per year, because the Burnt
23 River is impaired for Arsenic. The assignment letter confirmed the reference concentration for Arsenic
24 of 0.0021 mg/L.

25 14. Since November 8, 2013, based on Respondent's DMRs, Respondent has discharged
26 stormwater from the Facility as described in the Table below. The values in red show discharges that
27 exceed the benchmarks for Total Suspended Solids (TSS) and Settleable Solids (SS) or the reference

concentration for Arsenic.

Table. Stormwater monitoring results, 2014-2025

Sample Date	Sample Point	Total Suspended Solids (TSS) Benchmark = 100 mg/L	Settleable Solids (SS) Benchmark = 0.20 ml/L	Arsenic Reference concentration = 0.0021 mg/L
February 12, 2014	003	484	<0.5	
April 24, 2014	003	3,160	11.5	0.028
December 23, 2014	003	1.5	0.25	0.05
July 13, 2015	003	37,000	115	0.32
November 9, 2015	003	13,100	91	0.123
March 14, 2016	003	76	0.5	0.0260
February 16, 2017	003	282	0.2	0.005
March 22, 2018	003	106	0.1	.00520
March 22, 2018	007	3,060	39	.031
February 5, 2019	003	8	<0.2	.0035
February 14, 2019	007	11,180	30	.047
February 26, 2019	003	<2	<0.2	.002
April 9, 2019	007	858	18	Not sampled
July 1, 2020 – June 30, 2023	No monitoring ¹			
August 21, 2023	003	280	0.4	0.0214
August 21, 2023	007	65,800	275	0.430
February 4, 2025	003	43	0.2	0.00410
February 4, 2025	007	156,000	600	0.64100
February 24, 2025	003	4	0.2	Not sampled

15. In July 2014, Respondent submitted a letter and Tier I report to DOGAMI regarding the TSS and Arsenic exceedances at monitoring point 003. The report stated:

These discharges were not from the industrial areas of the quarry, but were due to runoff from a county road that discharges through the facility's storm water monitoring point....Ash Grove will separately submit a revised Stormwater Pollution Control Plan that includes a relocated storm water discharge monitoring point. The relocated monitoring point will be at the pond discharge point prior to it discharging into the county road ditch, which contains runoff not associated with the quarry.

¹ Respondent did not monitor any stormwater discharges from the Facility from July 1, 2019, through June 30, 2023 (monitoring years 2019-20, 2020-21, 2021-22, and 2022-23). Instead, Respondent submitted a monitoring variance to DOGAMI stating that there was no stormwater discharge from the Facility during those years.

1 16. Following additional TSS, SS, and Arsenic exceedances as described in the Table above,
2 in July 2016, Respondent submitted an “Industrial Stormwater Permits action plan” form to DOGAMI,
3 which reiterated Respondent’s plan to move monitoring point 003.

4 17. On or before February 2018, Respondent relocated the monitoring point for Outfall 003,
5 and the change was documented in an updated SWPCP dated February 15, 2018, which was submitted
6 to DOGAMI (the February 2018 SWPCP).

7 18. In August 2019, DOGAMI issued a Warning Letter with Opportunity to Correct to
8 Respondent, citing Respondent for failing to submit a complete DMR for the 2018-19 monitoring year
9 and requesting that Respondent submit Tier I reports for TSS and SS exceedances in February and
10 April 2019.

11 19. Respondent subsequently submitted a Tier I report.

- 12 a. The report explained that the February 2019 exceedances at Outfall 007 had
13 occurred due to a culvert that was plugged due to “excessive rain and snowmelt that
14 was received on February 14, 2019” and stormwater going around the culvert rather
15 than into the stormwater pond. The report stated that the culvert and channel had
16 been cleaned out to prevent a reoccurrence.
- 17 b. The report explained that the April 2019 exceedances at Outfall 007 had occurred
18 due to a new channel being cut in the road by runoff and it went around the culvert,
19 where there was no pond prior to the discharge. No corrective actions related to this
20 discharge were included in the report.
- 21 c. The report explained that at Outfall 007 the Arsenic exceedances were likely due to
22 natural background concentrations in the soil and would be addressed by corrective
23 actions for TSS. For Outfall 003, the report explained that “because existing controls
24 for TSS and SS are effective-as demonstrated by the low TSS and SS discharge
25 concentrations measured at Outfall 003, no further corrective actions are feasible or
26 necessary in response to the arsenic exceedance at Outfall 003.”

27 20. In September 2019, DOGAMI issued a Warning Letter with Opportunity to Correct,

1 citing Respondent for violating the erosion and sediment control requirements in Schedule A.1.a.i of
2 the Permit. DOGAMI requested that Respondent implement any necessary treatment measures with the
3 goal of achieving the benchmark concentrations in the Permit.

4 21. On or before August 2020, Respondent implemented improvements to its stormwater
5 BMPs in the quarry area at the Facility. These improvements included:

- 6 a. Excavating the “lower retention pond,” which is sized to a 10-year, 24-hour storm;
- 7 b. Constructing a new “upper retention pond,” and sizing the new pond for a 10-year,
8 24-hour storm;
- 9 c. Directing water from higher elevations to the new upper retention pond; and
- 10 d. Improving ditches along the side of roads in the quarry area of the Facility by lining
11 them with rock and check dams.

12 22. On April 13, 2022, Respondent submitted a revised SWPCP to DOGAMI that
13 incorporated the 2020 BMP improvements (the April 2022 SWPCP).

- 14 a. The SWPCP identifies risks associated with the pollutant sources at the Facility that
15 are exposed to stormwater to include “Discharge of suspended and settleable solids”
16 and “Releases of total and dissolved metals such as arsenic, which is naturally
17 occurring in the regional geology.” (p. 4-1).
- 18 b. In describing the BMPs implemented at the Facility, the SWPCP states, “The
19 ultimate goal of the SWPCP and applicable BMPs is to maintain Site compliance
20 with stormwater discharge benchmarks.” (p. 8-1).
- 21 c. Respondent’s SWPCP states that “Ash Grove conducts stormwater monitoring to
22 assess the effectiveness of this SWPCP and the stormwater controls described
23 herein.” (p. 7-1).

24 23. The north and south stormwater retention ponds, located in the lower portion of the
25 Facility near the cement plant, are described in the April 2022 SWPCP as follows:

- 26 a. The “south retention pond” receives stormwater from Area 1, which is an 88-acre area
27 located in the lower portion of the Facility. Area 1 includes part of the cement plant, a

1 tire storage area, other storage areas, and oil and gasoline tanks. Regarding the south
2 retention pond, the SWPCP states that “The pond is capable of containing a storm event
3 with a depth of approximately 0.4 inches if runoff from the entire drainage area can
4 reach the pond (Appendix B). A 0.4-inch storm event is less than the two-year, 6-hour
5 event. Due to infiltration, capacity in the south retention pond has not historically been
6 exceeded and is not expected to be exceeded.” (p. 3-3).

7 b. The “north retention pond” receives stormwater from Area 2, which is a 65-acre area
8 just north of Area 1 and also located in the lower portion of the Facility. Area 2 includes
9 the rest of the cement plant, a gypsum stockpile, a coal stockpile, and oil and diesel
10 tanks. The SWPCP states that the north retention pond “has a capacity of approximately
11 1.9 acre-feet. This is approximately equal to a 40-year, 6 hour event (Appendix B).” (p.
12 3-3 and 3-4).

13 c. Regarding the north and south retention ponds, the SWPCP states: “Areas 1 and 2 direct
14 stormwater into the nondischarging north and south retention ponds. Note, if the north
15 and south discharge ponds were to discharge they would be monitored.” (p. 7-2).

16 24. Between July 1, 2020, and June 30, 2025, there were forty-four (44) days when rainfall
17 equaled or exceeded 0.4 inches near Ontario, Oregon, approximately fifty (50) miles southeast of the
18 Facility, and eleven (11) such days recorded at the Baker City Airport, approximately twenty-eight (28)
19 miles northwest of the Facility.

20 25. Section 8.1.1 of the April 2022 SWPCP describes Respondent’s erosion and sediment
21 control BMPs for the Facility as follows:

22 Erosion control is provided in inactive mining areas by minimizing disturbance to vegetation
23 until necessary to begin mining. Unpaved quarry and cement plant roads are treated annually
24 with magnesium chloride for dust control.

25 Stormwater retention ponds in Areas 1, 2, 3a and 3b are used to capture stormwater containing
26 sediment. The native grasses in Drainage Area 8 capture sediment prior to Outfall Discharge
27 007. The flow path through the native grasses in Drainage Area 8 is up to approximately 1,400
linear feet long. Stormwater from the quarry entrance adjacent to the Outfall Discharge 003 is
directed into a grassy area to capture sediment prior to entering the stormwater channel at
Outfall Discharge 003. Storm water retention ponds are cleaned out annually, if needed, prior to

1 the wet season. Accumulations of sediment in stormwater conveyances are cleaned out, as
2 needed.

3 Additional controls include:

- 4 • Openings cut in the large berms located on the haul roads to allow water to drain from the
5 road into grassy areas along the roadway.
- 6 • Swales dug into the road located on the haul roads to allow water to cross the road into lined
7 ditches.
- 8 • The ditches are lined with rock and check dams or similar controls to reduce the speed of
9 the water flow. These controls are cleaned out after rain events that deposit sediment behind
10 the control structures.
- 11 • Additional small containment area to hold water in upper level of the quarry.
- 12 • Additional stormwater pond to assist in drainage and hold water in upper level of the quarry.
- 13 • Gravel is added to the roads as need.

14 When mining is complete, quarry areas will be reclaimed and planted with native vegetation to
15 provide erosion control.

16 26. On August 21, 2023, there was a large rainfall event at the Facility, which Respondent
17 reported as a 3-inch rainfall event. As described in the Table above, on August 21, 2023, the Facility's
18 stormwater discharge exceeded the benchmark and reference concentrations for TSS, SS, and Arsenic
19 at Outfalls 003 and 007.

20 27. Respondent's "daily quarry inspection" form for August 21, 2023, states: "Pond
21 overfilled, building dam around it. ... Cleaning and directing dikes as best as possible. ... Pond 1, 0'
22 freeboard, full. ... Pond 2, 0' freeboard, full."

23 28. With its DMR submittal for the 2023-24 monitoring year, Respondent reported two
24 monitoring events. Respondent reported to DOGAMI that the "first event [on August 21, 2023] was
25 due to the hurricane that passed through the area" and a subsequent event in January 2024, reported as
26 causing sheet flow off site "was a carry over from not completing some of the repairs in the plant after
27 the hurricane had caused some hillside failures that plugged some culverts that directed water to the
south pond in the plant."

28 29. On October 16, 2024, DOGAMI inspected the Facility.

29 30. On October 16, 2024, many ditches at the Facility were not lined with rock and/or check
dams to reduce the speed of water flow.

1 31. On October 16, 2024, many of the roads at the Facility were not adequately graveled to
2 minimize sedimentation.

3 32. On October 16, 2024, there were exposed areas in the quarry portion of the Facility
4 which had been disturbed by mining activity but were not being actively mined. These exposed areas
5 were not stabilized with erosion control measures such as mulch, vegetation, or other interim erosion
6 control practices to minimize erosion.

7 33. The main vehicle entrance to the Facility includes a bridge that crosses the Burnt River.

8 34. The roadways near the bridge are sloped such that stormwater drains towards the bridge
9 and the Burnt River.

10 35. On October 16, 2024, there were boulders and eco blocks that partially lined the road
11 near the bridge, with gaps in between the boulders and eco blocks where stormwater could drain
12 through to the Burnt River. There were deposits of sediment in and around the bridge, boulders and eco
13 blocks.

14 36. On October 16, 2024, there was an erosive rill forming along the bank of the Burnt
15 River near the bridge, indicating that stormwater had drained from the road into the river.

16 37. On February 4, 2025, there was a large rainfall event at the Facility. As described in the
17 Table above, on February 4, 2025, the Facility's stormwater discharge exceeded the reference
18 concentration for Arsenic at Outfall 003, benchmark concentrations for TSS and SS at Outfall 007, and
19 reference concentration for Arsenic at Outfall 007.

20 38. In a Tier I report for these exceedances, Respondent stated that "Due to heavy snowmelt,
21 the berm holding the water in the maintenance area breached and sent material down the draw into
22 outfall 007. The berm was repaired and the discharge stopped."

23 39. The maintenance area is located above a steep slope that drains to Cottonwood Gulch
24 and Outfall 007. The slope below the maintenance area has multiple rills, indicating erosion has
25 occurred on the side of the slope.

26 40. The berm in the maintenance area is not described as a stormwater BMP in the April
27 2022 SWPCP.

1 41. The April 2022 SWPCP does not describe any stormwater retention facilities in Area 8
2 of the Facility, which drains to Outfall 007.

3 Violation 4

4 42. Area 4, which is 33 acres in size, is located in the lower portion of the Facility, south of
5 Areas 1 and 2, and south of the cement plant. Area 4 contains some undeveloped areas, as well as a
6 disturbed area of approximately 4.2 acres containing structures, an iron ore stockpile, and other storage
7 areas used for stockpiling raw materials and equipment.

8 43. On or before March 2020, Respondent established an iron ore stockpile in Area 4.

9 44. The April 2022 SWPCP depicts the iron ore stockpile in Area 4 (Figure 1: Site Plan, See
10 Exhibit 5). The April 2022 SWPCP also states that “This area is not part of the industrial mining area
11 and consists primarily of undisturbed land. Stormwater flows down the western side of Shirttail Creek
12 Road, through a culvert under the entrance road and into the Burnt River.” (p. 3-5).

13 45. On June 11, 2025, DOGAMI inspected the Facility.

14 46. On June 11, 2025, there was an iron ore stockpile and a significant amount of equipment
15 being stored outdoors in Area 4 at the Facility.

16 47. Since at least April 2022, Respondent has not monitored the stormwater discharge from
17 Area 4.

18 Violation 5

19 48. Both the north and south retention ponds, described above in Section II, Paragraph 23,
20 are located within 100 feet of the Burnt River.

21 49. Respondent does not conduct visual monitoring of the Burnt River adjacent to the north
22 and south retention ponds. Specifically, both the February 2018 SWPCP and the April 2022 SWPCP
23 state that the requirement to monitor streams within 300 feet of seepage ponds is “NOT APPLICABLE,
24 NO SEEPAGE PONDS ON SITE.” (p. 7-5).

25 50. The north and south retention ponds at the Facility are unlined.

26 51. As described in the April 2022 SWPCP, the north and south retention ponds are
27 infiltration ponds.

1 Violation 6

2 52. At the time of the October 16, 2024, DOGAMI inspection, there were the following
3 inconsistencies or inaccuracies in the April 2022 SWPCP:

- 4 a. The disturbed areas at the Facility observed by DOGAMI on October 16, 2024 are not
5 accurately represented in the disturbed area estimates in Respondent's April 2022
6 SWPCP.
- 7 b. The April 2022 SWPCP shows some catch basins in Area 1 that drain directly to the
8 Burnt River. On October 16, 2024, Respondent's environmental manager explained to
9 DOGAMI that the SWPCP was inaccurate and the catch basins actually drain to a
10 stormwater retention pond.
- 11 c. The April 2022 SWPCP describes a year-round spring in Area 1, which is not shown on
12 any of the map figures in the April 2022 SWPCP.
- 13 d. Respondent's "daily quarry inspection" form lists three ponds labeled Pond 1, Pond 2,
14 and (New) Pond 3. These labels are inconsistent with the labels for four stormwater
15 ponds (north, south, upper and lower) in the April 2022 SWPCP.

16 Follow up to October 2024 inspection

17 53. Following the October 2024 DOGAMI inspection of the Facility, on November 19,
18 2024, DOGAMI issued a Pre-Enforcement Notice to Respondent, citing Respondent for Permit
19 violations and noting deficiencies in the April 2022 SWPCP. In the corresponding inspection report,
20 DOGAMI requested that Respondent update the SWPCP with improved BMPs.

21 54. Subsequently, Respondent engaged a consultant and began mapping the Facility, and
22 began exploring options to improve BMPs at the Facility. On January 20, 2025, Respondent's
23 consultant notified DOGAMI via letter that Respondent was taking immediate action to address some
24 of the issues identified by DOGAMI in the inspection report and Pre-Enforcement notice resulting from
25 the October 2024 inspection, and that Respondent was working to develop BMP improvements for the
26 Facility. The letter indicated that Respondent would begin construction on stormwater improvements in
27 the summer of 2025 and would submit a revised SWPCP with BMP improvements by July 2025.

1 55. On June 11, 2025, DOGAMI conducted a follow up inspection at the Facility. As of that
2 date, Respondent reported it had completed new LiDAR imaging and was in the process of creating
3 new site maps of current conditions and existing stormwater controls. Respondent had not yet begun
4 constructing or implementing any new stormwater controls but indicated an intent to implement interim
5 stormwater improvements during the summer of 2025 in advance of the fall rainy season. At the time of
6 the inspection, Respondent agreed to provide a progress update, including updated site maps showing
7 BMP improvements aimed at preventing benchmark exceedances during the 2025-26 monitoring year,
8 to DOGAMI by October 1, 2025.

9 56. On October 2, 2025, Respondent submitted draft maps for an updated SWPCP for the
10 Facility to DOGAMI. Respondent also proposed updated stormwater treatment improvements,
11 including a series of stormwater retention ponds in Area 8 of the Facility near the “clay pit.”
12 Respondent’s submittal also stated that “Existing BMPs at the site have also been reviewed and
13 improved upon in preparation for the rain/winter season.” The existing BMPs described in
14 Respondent’s submittal included “installation and maintenance of graveled roadway ditches” and
15 “installation of v-notch style check dams on select roadways within the quarry to slow the velocity of
16 the flow along roadways.” However, the submittal did not include any specifics about where and when
17 these BMPs were improved in 2025 prior to the rain/winter season.

18 57. As of the date of this Notice, Respondent has not submitted an updated SWPCP to
19 DOGAMI.

20 Request for monitoring variance

21 58. On July 23, 2025, Respondent submitted its 2024-25 DMR to DOGAMI, covering July
22 1, 2024, through June 30, 2025.

23 59. The 2024-25 DMR states that there was no stormwater discharge from the Facility
24 during the July 1, 2024, through June 30, 2025, monitoring period, other than in February 2024, at
25 either Outfall 003 or Outfall 007.

26 60. The 2024-25 DMR included a Monitoring Variance Request form for Outfall 007 which
27 states “The rainfall was not enough to cause runoff to collect all required samples during the second

1 half of 2024 nor the first half of 2025. The runoff we did receive was directed into the storm water
2 ponds and not discharged off site. Because the ponds were low to empty in the July – December of
3 2024 and March – June of 2024, the rain events were contained in the storm water ponds. In February,
4 there was a rain event that was sampled.”

5 61. There are no stormwater retention ponds in Area 8, which drains to Outfall 007.

6 62. The DMR included a Monitoring Variance Request form for Outfall 003 which states
7 “The rainfall was not enough to cause runoff to collect all required samples during the second half of
8 2024 nor the first half of 2025. The runoff we did receive was directed into the storm water ponds and
9 not discharged off site. Because the ponds were low to empty in the July – December of 2024 and
10 March – June of 2024, the rain events were contained in the storm water ponds. In February, there were
11 two rain events that were sampled.”

12 63. There are two stormwater retention ponds in Area 3, which drains to Outfall 003.

13 64. On August 19, 2025, DOGAMI requested additional support documentation for the
14 monitoring variance requests. Specifically, DOGAMI requested “Additional support documentation for
15 the monitoring variance that more clearly evaluates the storm events at the facility over the year in
16 comparison to the capacity of the storage ponds.”

17 65. On September 24, 2025, Respondent submitted rainfall data from local weather stations
18 to DOGAMI, but did not provide additional data or supporting analysis.

19 66. As of the date of this Notice, Respondent has not submitted additional data or analysis
20 demonstrating that Facility did not discharge (except for the February 2025 discharges) during the rest
21 of the 2024-25 monitoring year.

22 III. CONCLUSIONS

23 1. Respondent violated ORS 468B.025(2) and Schedule A, Condition 7.d of the Permit by
24 failing to implement the April 2022 SWPCP. Specifically, as described in Section II, Paragraphs 25 and
25 29-32 above, as of October 16, 2024, Respondent failed to add gravel to Facility roads as needed, failed
26 to rock line its haul roads and ditches to minimize sedimentation, and failed to vegetate inactive quarry
27 areas by mulching, seeding or planting vegetation to provide erosion control. This is a Class I violation,

1 according to OAR 340-012-0055(1)(r). DEQ hereby assesses a \$812,299 civil penalty for this violation.

2 2. Respondent violated ORS 468B.025(2) and Schedule A, Condition 2.a of the Permit by failing
3 to select, design, install, implement and maintain control measures to meet the narrative technology based
4 effluent limits in Schedule A.1, as described in Section II, Paragraphs 11-41 and 53-57 above. The
5 narrative technology based effluent limits in Schedule A.1a.i of the Permit require Respondent to
6 “Stabilize exposed areas and contain runoff using structural and nonstructural controls to minimize erosion
7 of soil at the site and sedimentation.” The structural and non-structural controls described in Schedule
8 A.1.a.i include vegetating exposed areas, graveling and paving, berms and detention facilities, and rock
9 check dams, among other possible measures. As evidenced by the repeated benchmark and reference
10 concentration exceedances described in the Table in Section II above, despite Respondent’s Tier I
11 evaluations and corrective actions, and some BMP improvements implemented at the Facility from 2014
12 to the present, Respondent has not designed, installed, or implemented effective BMPs to consistently
13 control erosion and minimize sediment loads in the stormwater discharges from the Facility, especially
14 during large storm events. Based on the significant TSS and SS benchmark exceedances in the most recent
15 stormwater discharges from the Facility in August 2023 and February 2025, as described in the Table and
16 Section II, Paragraphs 26-28 and 37-41, Respondent’s current BMPs are not effective to minimize erosion
17 and to prevent high sediment loads in the Facility’s stormwater discharges during large rain events.
18 Specifically, as described in Section III, Paragraph 1, Respondent has not consistently implemented the
19 erosion and sediment control measures in the April 2022 SWPCP. In addition, as described in Section II,
20 Paragraphs 23-24, the south stormwater pond in Area 1 of the Facility, which receives stormwater from the
21 area surrounding the concrete plant, is undersized compared to the rainfall experienced by the Facility. As
22 described in Section II, Paragraph 41, as of the date of this Notice, there are no stormwater retention ponds
23 in Area 8 of the Facility, which discharges to Outfall 007. This is a Class II violation, according to OAR
24 340-012-0053(2). DEQ hereby assesses a \$4,200 for this violation.

25 3. Respondent violated ORS 468B.025(2) and Schedule A, Condition 6 of the Permit by
26 failing to prevent the discharge of significant amounts of sediment to surface waters or conveyance
27 systems leading to surface waters. As evidenced by the repeated TSS and SS benchmark exceedances at

1 Outfalls 003 and 007 described in the Table in Section II, Paragraph 14 above, Respondent has discharged
2 significant amounts of sediment to Cottonwood Gulch, a conveyance system leading to the Burnt River. In
3 addition, as described above in Section I, Paragraphs 33-36, on October 16, 2024, there were visual
4 indications that sediment has left or is likely to leave the Facility and discharge directly into the Burnt
5 River. Specifically, there were deposits of sediment in and around the boulders and eco blocks near the
6 bridge, and rills along the bank of the river, indicating a concentrated flow of stormwater. These are Class
7 II violations, according to OAR 340-012-0053(2). DEQ hereby assesses a \$30,400 civil penalty for these
8 violations.

9 4. Respondent violated ORS 468B.025(2) and Schedule B, Condition 2.c of the Permit by
10 failing to monitor each outfall at the Facility, as described in Section II, Paragraphs 42-47, above.
11 Specifically, since at least March 2020, Respondent failed to monitor the stormwater discharge from
12 Area 4, which drains to the Burnt River. Area 4 has industrial activity, including an iron ore stockpile
13 and other storage areas used for stockpiling raw materials and equipment. These are Class I violations,
14 according to OAR 340-012-0055(1)(o). DEQ hereby assesses a \$20,086 civil penalty for these violations.

15 5. Respondent violated ORS 468B.025(2) and Schedule B, Condition 7.a of the Permit by failing
16 to conduct weekly inspections of the Burnt River, adjacent to the north retention pond and the south
17 retention pond, as described in Section II, Paragraphs 48-51, above. The north retention pond and the south
18 retention pond are seepage ponds because they are unlined infiltration ponds, both of which are within 300
19 feet of the Burnt River. Respondent has not conducted weekly inspections of the Burnt River adjacent to
20 these ponds since at least November 2018. These are Class II violations, according to OAR 340-012-
21 0053(2). DEQ has not assessed a civil penalty for these violations.

22 6. Respondent violated ORS 468B.025(2) and Schedule A, Condition 7.e of the Permit by failing
23 to maintain an updated SWPCP that reflects changes to the Facility as described in Section II, Paragraph
24 52 above. This is a Class II violation, according to OAR 340-012-0053(2). DEQ has not assessed a civil
25 penalty for this violation.

26 \\\

27 \\\

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 \$866,985. The determination of the civil penalties are attached as
5 Exhibits 1-4 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
10 account dashboard. Enter the Reference Number and FIMS Account ID included on the attached
11 payment slip. Note: US Bank charges a 2.3% convenience charge for credit card transactions. ACH
12 payments have no additional 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
15 payment slip with your check or money order.

16 2. By November 24, 2025, submit to DOGAMI:

- 17 a. Documentation of BMP maintenance or improvements that have been implemented at the
18 Facility since DOGAMI’s October 2024 inspection. The documentation must include
19 photographs, the date and location of the BMP improvements, and any related invoices.
- 20 b. An updated daily monitoring form that includes labels for the Facility’s stormwater
21 retention ponds that are consistent with the April 2022 SWPCP.
- 22 c. An updated monitoring form that includes weekly monitoring for turbid seepage to the
23 Burnt River in the locations adjacent to the north and south stormwater retention ponds.
- 24 d. A copy of the Tier 1 report for the August 21, 2023, benchmark and reference
25 concentration exceedances at Outfalls 003 and 007.
- 26 e. Data and analysis, as required in Schedule B.3 of the Permit, to demonstrate why
27 monitoring did not occur due to no discharge during the 2024-25 monitoring year at Outfall

003 and Outfall 007 except for February 4, 2025.

3. By December 31, 2025, submit a revised SWPCP to DOGAMI that meets the requirements of the Permit. The revised SWPCP must include:

- a. Proposed erosion and sediment controls to meet the narrative technology based effluent limits for stormwater discharges in Schedule A, Condition 1.a.i of the Permit. According to Schedule A, Condition 2.b of the Permit, the SWPCP must describe why the proposed control measures will minimize erosion and prevent significant discharges of sediment from the Facility to surface waters, based on control measures that are technologically achievable and economically practicable and achievable in light of best industry practice. The proposed control measures must be reviewed for adequacy by a Licensed Professional Engineer or a Certified Engineering Geologist, and any designs for stormwater retention or treatment facilities must be stamped by that professional.
- b. A proposed timeline for implementation of the updated control measures.
- c. Updated, accurate site maps that meet the requirements of the Permit; and
- d. Updates to address the deficiencies identified in Section II, Paragraphs 52 of the Notice.

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 exhibits, 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 request a hearing,

1 you will be notified of the time and place of the hearing and you will be given information on the
2 procedures, and other rights of parties relating to the conduct of the hearing before commencement of
3 the hearing. If you are an individual, you may represent yourself. If you are a corporation, partnership,
4 limited liability company, unincorporated association, trust or government body, you must be
5 represented by an attorney or a duly authorized representative, as set forth in OAR 137-003-0555.

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

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

17
18
19
20 11/4/2025
21 Date

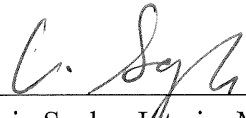

21 Erin Saylor, Interim Manager
22 Office of Compliance and Enforcement
23
24
25
26
27

EXHIBIT 1

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

VIOLATION NO. 1 Failing to implement a Stormwater Pollution Control Plan in violation of ORS 468B.025(2) and Schedule A, Condition 7.d of the Permit.

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 \$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 a 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 3 because Respondent had one Class I violation and one Class II violation in Case No. WQ/I-NWR-2019-137, issued on April 17, 2020, and one Class I violation in Case No. WQ/SW-NWR-2018-197, issued on February 4, 2019. According to OAR 340-012-0145(2)(d)(A)(i), this amount is reduced by 2 because all the formal enforcement actions in which prior significant actions were cited were issued more than three years before the date the current violation occurred on or before October 2024. Therefore, the "P" value is 1.

"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 (3)(a) or (b).

"O" is whether the violation was repeated or ongoing, and receives a value of 4 according to OAR 340-012-0145(4)(c), because there were more than 28 occurrences of the violation. According to OAR 340-012-0145(4), each day of a violation is a separate occurrence when determining the O factor. As described in the Notice, as of October 16, 2024, Respondent failed add gravel to Facility roads as needed, failed to rock line its haul roads and ditches to minimize sedimentation, and failed to mulch or vegetate inactive quarry areas to provide erosion control. As of the date of this Notice, DEQ and DOGAMI have not

received documentation demonstrating that these SWPCP requirements have been implemented. Therefore, there are more than 28 occurrences of the violation.

"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. As a Permit registrant, Respondent should be familiar with the requirements of the Permit, including the requirement to implement its SWPCP. Section 8.1.1 of Respondent's April 2022 SWPCP expressly includes erosion and sediment control BMPs including graveling roads, rock lining ditches, and reclaiming areas that are no longer actively mined by planting native vegetation. However, as of DOGAMI's October 2024 inspection, those BMPs had not been implemented. Thus, Respondent failed to take reasonable care to avoid a foreseeable risk of conduct constituting or resulting in a violation of failing to implement the SWPCP.

"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). As of the date of this Notice, Respondent has not submitted documentation to DOGAMI demonstrating that these BMPs have been implemented throughout the Facility.

"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 \$803,899. This is the amount Respondent gained by avoiding spending \$90,035 to add gravel to Facility roads, \$192,544 to install rock check dams along ditches and stormwater conveyances at the Facility, and \$725,000 to provide erosion control by hydroseeding 145 acres of quarry area where mining is inactive. Respondent should have incurred these costs on or before the date of DOGAMI's inspection on of October 16, 2024. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

PENALTY CALCULATION: $Penalty = BP + [(0.1 \times BP) \times (P + H + O + M + C)] + EB$
= $\$4,000 + [(0.1 \times \$4,000) \times (1 + 0 + 4 + 4 + 2)] + \$803,899$
= $\$4,000 + (\$400 \times 11) + \$803,899$
= $\$4,000 + \$4,400 + \$803,899$
= $\$812,299$

EXHIBIT 2

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

VIOLATION NO. 2 Failing to select, design, install, implement and maintain control measures to meet the narrative technology based effluent limits in Schedule A.1 of the Permit, in violation of ORS 468B.025(2) and Schedule A, Condition 2.a of the Permit.

CLASSIFICATION: This is a Class II violation pursuant to OAR 340-012-0053(2).

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 \$2,000 for a Class II, moderate magnitude violation in the matrix listed in OAR 340-012-0140(3)(b)(B)(ii) and applicable pursuant to OAR 340-012-0140(3)(a)(E)(iii) because Respondent has a 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 3 because Respondent had one Class I violation and one Class II violation in Case No. WQ/I-NWR-2019-137, issued on April 17, 2020, and one Class I violation in Case No. WQ/SW-NWR-2018-197, issued on February 4, 2019. According to OAR 340-012-0145(2)(d)(A)(i), this amount is reduced by 2 because all the formal enforcement actions in which prior significant actions were cited were issued more than three years before the date the current violation occurred on or before August 2023. Therefore, the "P" value is 1.

"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 (3)(a) or (b).

"O" is whether the violation was repeated or ongoing, and receives a value of 4 according to OAR 340-012-0145(4)(c), because there were more than 28 occurrences of the violation. According to OAR 340-012-0145(4), each day of a violation is a separate occurrence when determining the O factor. Following the October 2024 DOGAMI inspection of the Facility, on November 19, 2024, DOGAMI issued a Pre-Enforcement Notice to Respondent, citing Respondent for Permit violations and noting deficiencies in the April 2022 SWPCP. In the corresponding inspection report, DOGAMI requested that

Respondent update the SWPCP with improved BMPs. As of the date of this Notice, Respondent has not submitted documentation of improved stormwater BMPs or an updated SWPCP to DOGAMI. Therefore, there are more than 28 occurrences of the violation.

"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. As described in Section II, Paragraph 22 of the Notice, Respondent's April 2022 SWPCP identifies the pollution risks of the Facility to include discharges of TSS, SS and Arsenic and states that the ultimate goal of the SWPCP is to maintain site compliance with stormwater discharge benchmarks. However, Respondent has not responded adequately to improve Facility BMPs despite a pattern of continued significant exceedances of TSS and SS benchmarks during storm events. The high sediment loads have also been associated with significant exceedances of the reference concentration for Arsenic, an impairment pollutant. Therefore, by failing to select, design, install, implement and maintain control measures to minimize sediment discharges, Respondent failed to take reasonable care to avoid a foreseeable risk of conduct constituting or resulting in a violation.

"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). As of the date of this Notice, Respondent has not submitted documentation of improved stormwater BMPs or an updated SWPCP to DOGAMI.

"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 estimate an economic benefit for this violation.

PENALTY CALCULATION: $Penalty = BP + [(0.1 \times BP) \times (P + H + O + M + C)] + EB$
 $= \$2,000 + [(0.1 \times \$2,000) \times (1 + 0 + 4 + 4 + 2)] + \0
 $= \$2,000 + (\$200 \times 11) + \$0$
 $= \$2,000 + \$2,200 + \$0$
 $= \$4,200$

EXHIBIT 3

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

VIOLATION NO. 3 Failing to prevent the discharge of significant amounts of sediment to surface waters or conveyance systems leading to surface waters in violation of ORS 468B.025(2) and Schedule A, Condition 6 of the Permit.

CLASSIFICATION: This is a Class II violation pursuant to OAR 340-012-0053(2).

MAGNITUDE: The magnitude of the violation is major pursuant to OAR 340-012-0130(3), as there is no selected magnitude specified in OAR 340-012-0135 applicable to this violation and DEQ finds that the violation had a significant adverse impact on human health or the environment. In making this finding, DEQ considered that Respondent has discharged stormwater from its Facility at a concentration that exceeds the TSS benchmark of 100 mg/L, the SS benchmark of 0.20 ml/L and the Arsenic reference concentration of 0.0021 mg/L by a significant margin—often by an order of magnitude or more—on multiple occasions since 2014. A TSS concentration over 1,000 (an order of magnitude over the benchmark), which has occurred seven times since 2014 and twice in recent years, and a SS concentration of over 2.0 ml/L (an order of magnitude over the benchmark), which has occurred eight times since 2014 and twice in recent years, means that the stormwater discharged from the Facility was carrying high sediment loads that are detrimental for aquatic organisms. In addition, the high sediment loads in the Facility's stormwater discharge are associated with high levels of Arsenic, and the Burnt River is impaired for Arsenic.

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 II, major magnitude violation in the matrix listed in OAR 340-012-0140(3)(b)(B)(i) and applicable pursuant to OAR 340-012-0140(3)(a)(E)(iii) because Respondent has a 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 3 because Respondent had one Class I violation and one Class II violation in Case No. WQ/I-NWR-2019-137, issued on April 17, 2020, and one Class I violation in Case No. WQ/SW-NWR-2018-197, issued on February 4, 2019.

- "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 (3)(a) or (b).
- "O" is whether the violation was repeated or ongoing and receives a value of 0 according to OAR 340-012-0145(4)(e). DEQ is assessing one civil penalty for the significant discharges of sediment described in the Table in Section II, Paragraph 14 of the Notice prior to Respondent's 2020 BMP improvements, which Respondent implemented in response to DEQ's 2019 Warning Letter. DEQ is assessing an additional separate penalty for each significant discharge of sediment described in the Table after the 2020 BMP improvements (August 21, 2023, discharge at Outfall 003; August 21, 2023, discharge at Outfall 007; and February 4, 2025, discharge at Outfall 007).
- "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. The Permit expressly states that registrants must prevent the discharge of significant amounts of sediment, however Respondent has allowed repeated significant discharges to occur from the Facility. By failing to take actions to design and implement BMPs to ensure that significant amounts of sediment were not discharged from the Facility into surface waters, Respondent failed to take reasonable care to avoid the foreseeable risk of violating the Permit.
- "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). As of the date of this Notice, Respondent has not implemented BMPs at the Facility to prevent significant discharges of sediment from Facility during large storm events.
- "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 estimate an economic benefit associated with this violation.

PENALTY CALCULATION: $Penalty = BP + [(0.1 \times BP) \times (P + H + O + M + C)] + EB$
 $= \$4,000 + [(0.1 \times \$4,000) \times (3 + 0 + 0 + 4 + 2)] + \0
 $= \$4,000 + (\$400 \times 9) + \$0$
 $= \$4,000 + \$3,600 + \$0$
 $= \$7,600$

According to ORS 468.140(2), each day of violation constitutes a separate offense and is subject to a civil penalty up to \$25,000 per day. DEQ is assessing one civil penalty for the significant discharges of sediment described in the Table in Section II, Paragraph 14 of the Notice prior to

Respondent's 2020 BMP improvements, which Respondent implemented in response to DEQ's 2019 Warning Letter. DEQ is assessing an additional separate penalty for each significant discharge of sediment described in the Table after the 2020 BMP improvements: August 21, 2023, discharge at Outfall 003; August 21, 2023, discharge at Outfall 007; and February 4, 2025, discharge at Outfall 007. Thus, DEQ is assessing four separate penalties for these violations.

$\$7,600 \times 4 = \$30,400$

EXHIBIT 4

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

VIOLATION NO. 4 Failing to monitor each outfall at the Facility, in violation of ORS 468B.025(2) and Schedule B, Condition 2.c 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 \$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 a 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 3 because Respondent had one Class I violation and one Class II violation in Case No. WQ/I-NWR-2019-137, issued on April 17, 2020, and one Class I violation in Case No. WQ/SW-NWR-2018-197, issued on February 4, 2019.

"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 (3)(a) or (b).

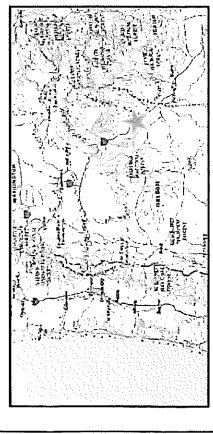
"O" is whether the violation was repeated or ongoing, and receives a value of 3 according to OAR 340-012-0145(4)(c) because there was more than one but less than seven occurrences of the violation. Respondent has failed to monitor the stormwater discharge from Area 4 since on or before March 2020, when an iron ore stockpile was established in that Area. Permit registrants are required to monitor four times per year, when the Facility is discharging. There are no stormwater retention ponds in Area 4. Therefore, it is more likely than not that Area 4 discharged to conveyance systems that lead to the Burnt River at least twice per year since March 2020. Therefore, Respondent missed at least 10 monitoring events between March 2020 and the date of this Notice at the outfall from Area 4.

"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's SWPCP states that "Transport and storage of off-site materials such as iron ore" is an industrial activity conducted at the Facility. (p. 3-3). Respondent has maintained an iron ore stockpile in Area 4 since at least March 2020 and has also stored equipment in that area. Thus, by failing to conduct stormwater monitoring of the discharge from Area 4, Respondent failed to take reasonable care to avoid the foreseeable risk of a monitoring violation.

"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). As of the date of this Notice, Respondent has not amended its SWPCP and has not begun monitoring the Facility's stormwater discharge from Area 4.

"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 \$11,286. This is the amount Respondent gained by avoiding spending \$2,590 in labor and lab costs to analyze 2 samples each monitoring year since March 2020. These costs should have been incurred on or before June 30 of each year starting in 2021. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

PENALTY CALCULATION: $Penalty = BP + [(0.1 \times BP) \times (P + H + O + M + C)] + EB$
= \$4,000 + [(0.1 x \$4,000) x (3 + 0 + 3 + 4 + 2)] + \$11,286
= \$4,000 + (\$400 x 12) + \$11,286
= \$4,000 + \$4,800 + \$11,286
= \$20,086



Notes

1. Data Sources: Adapted from Design Drawings by McMillen Jacobs
2. Background: Maxar, USGS The National Map; National Boundaries Dataset, National Elevation Dataset, Geographic Names Information System, National Hydrography Dataset, National Land Cover Database, National Structures Dataset, and National Transportation Dataset; U.S. Census Bureau - TIGER/Line; HERE Road Data

Legend

- Areas of Outdoor Storage
- Stormwater Retention Ponds
- Infiltration
- Drainage Areas
- Groundwater Well
- Stormwater Outfall-Leaving Property
- Stormwater Containment Ditch
- Drainage Flow in Areas without Industrial Processes
- Drainage Flow in Areas with Industrial Processes

**Ash Grove Cement Company
Stormwater Pollution Control Plan**

Figure 1: Site Plan
February 2022

**McMILLEN
JACOBS
ASSOCIATES**

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:	November 4, 2025
RESPONSE DATE*:	January 13, 2026
TOTAL PENALTY:	\$866,985.00

Account Name:	ASH GROVE CEMENT COMPANY		
Account Type:	Vendor/Organization/Company	Reference Number:	CPGFD2600038
SubSystem ID:	216644	FIMS Acct. ID:	14626

Penalty Summary

Penalty Amount	Interest	Adjustment	Amount Paid	Total Penalty
\$ 866,985.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 866,985.00

*This is the date the penalty is due if you do not exercise your right to appeal the attached order. 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.	CPGFD2600038		
PAYCODE:	00401 7400 10040 74001 0500 000000 00		
FEE PROGRAM ID:	950	RESPONSE DATE:	January 13, 2026
FIMS ACCT. ID:	14626	TOTAL PENALTY DUE:	\$866985.00

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 0095000146263CPGFD260003800866985005



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
11/3/2025	2024-638 WQ-SW-ER-2024-638	\$866,985.00

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 _____

CERTIFICATE OF MAILING

I hereby certify that I served DEQ Case No. WQ-SW-ER-2024-638 upon:

9589 0710 5270 3236 6720 62

U.S. Postal Service™ CERTIFIED MAIL® RECEIPT <i>Domestic Mail Only</i>	
For delivery information, visit our website at www.usps.com	
OFFICIAL USE	
Certified Mail Fee \$ _____	Postmark Here
Extra Services & Fees (<i>check box, add fee as appropriate</i>)	
<input type="checkbox"/> Return Receipt (hardcopy) \$ _____	
<input type="checkbox"/> Return Receipt (electronic) \$ _____	
<input type="checkbox"/> Certified Mail Restricted Delivery \$ _____	
<input type="checkbox"/> Adult Signature Required \$ _____	
<input type="checkbox"/> Adult Signature Restricted Delivery \$ _____	
Postage	
Ash Grove Cement Company c/o Corporation Service Company, Registered Agent 1127 Broadway Street NE, Ste. 310 Salem, OR 97301	
PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions	

Norma Job
Ash Grove Cement Company
PO Box 287
Durkee, OR 97905-0287

Arun Chandran
Ash Grove Cement Company
PO Box 287
Durkee, OR 97905-0287

By mailing a true copy of the above by placing it in a sealed envelope, with postage prepaid at the DEQ/DAS mail services in Portland, Oregon on November 4, 2025

Isaac Griffith

Isaac Griffith, Case Coordinator
Office of Compliance & Enforcement
Department of Environmental Quality