



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

November 25, 2025

CERTIFIED MAIL: 9589 0710 5270 3236 6721 23

Portland & Western Railroad, Inc.
c/o C T Corporation System, Inc.
780 Commercial St. SE, Suite 100
Salem, OR 97301

Re: Notice of Civil Penalty Assessment and Order
Case No. WQ/NP-WR-2025-687

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$81,600 for discharging waste into the Marys River following a trestle collapse and train derailment in Corvallis on January 4, 2025. The incident resulted in approximately 199.28 tons of urea being released into the river over a period of nine days.

DEQ issued this penalty because discharging waste into waters of the state without a permit is a serious violation of Oregon environmental law. Urea can pollute waters by introducing excessive nitrogen that promotes algal blooms, depletes dissolved oxygen, and disrupts aquatic ecosystems. When urea breaks down into ammonia, it can be toxic to aquatic organisms. To protect water quality, Oregon law prohibits any discharge of pollutants into state waters unless that discharge is authorized by a waste discharge permit.

Given the circumstances of this incident, DEQ is concerned about the condition and safety of Portland & Western, Inc.'s railroad crossings over water bodies. Included in Section IV is an order requiring you to submit a report to DEQ that identifies all wooden trestle bridges over water bodies in Oregon that are owned and maintained by you, and describes your process for evaluating and prioritizing repairs, modifications or replacement of wooden trestles.

DEQ appreciates your efforts to minimize the impacts of the violation by promptly initiating incident response and cleanup efforts and conducting water quality monitoring. DEQ considered these efforts when determining the amount of civil penalty.

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. Alternatively, you can pay the penalty by sending a check or money order to the above address.

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 <https://www.oregon.gov/deq/Regulations/Pages/Administrative-Rules.aspx> or by calling the number below.

If you have any questions, please contact Esther Westbrook at 503-229-5374 or toll free in Oregon at 800-452-4011, extension 5374.

Sincerely,



Erin Saylor, Interim Manager
Office of Compliance and Enforcement

Enclosures

cc: Scott Boyter, Portland & Western Railroad, Inc., 1200 Howard Drive SE, Albany, OR 97321
Chance Plunk, Salem Office, DEQ
Heather Tugaw, Medford Office, DEQ
Accounting, DEQ

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

IN THE MATTER OF:)	NOTICE OF CIVIL PENALTY
PORTLAND & WESTERN)	ASSESSMENT AND ORDER
RAILROAD, INC.)	
a New York corporation,)	CASE NO. WQ/NP-WR-2025-687
Respondent.)	

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, ORS 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 railroad with approximately 478 miles of track throughout Oregon.

2. On January 4, 2025, as a freight train operated by Respondent was travelling over a railroad bridge spanning the Marys River in Corvallis, Oregon, the trestle collapsed, sending four railcars off the bridge.

3. The bridge and trestle were owned and operated by Respondent's parent company, Genesee & Wyoming Inc.

4. The railcars were carrying urea pellets, which is an ingredient in fertilizer.

5. Three of the railcars spilled urea into the Marys River through January 12, 2025, when the railcars were removed from the river. The total amount of urea that was not recovered and was lost to the Marys River was approximately 199.28 tons.

6. Urea tends to cause "pollution" as defined in ORS 468B.005(5) by rendering waters of the state harmful to fish and aquatic life, and is therefore a "waste" under ORS 468B.005(9).

7. The Marys River is a "water of the state" under ORS 468B.005(10).

8. Respondent does not have a waste discharge permit from DEQ.

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III. CONCLUSION

From January 4, 2025, through January 12, 2025, Respondent violated ORS 468B.050(1)(a) by discharging urea, which is waste, into the Marys River, waters of the state, without holding a permit from DEQ. According to OAR 340-012-0055(1)(c), these are Class I violations. DEQ hereby assesses a civil penalty of \$81,600 for these violations.

IV. ORDER TO PAY CIVIL PENALTY AND TO COMPLY

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

1. Pay a civil penalty of \$81,600 The determination of the civil penalty is attached as Exhibit No. 1, which is incorporated as part of this Notice.

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

2. Within thirty (30) days of the date of this Notice, submit a report to DEQ that:

- a. Identifies all wooden trestle bridges over water bodies in Oregon that are owned and/or maintained by Respondent; and
- b. Describes Respondent's process for evaluating and prioritizing repairs, modifications or replacement of wooden trestles.

Submit the information above to Chance Plunk at DEQ via email at: chance.plunk@deq.oregon.gov.

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

1 it to **503-229-6762** or email it to **DEQappeals@deq.oregon.gov**. An administrative law judge
2 employed by the Office of Administrative Hearings will conduct the hearing, according to ORS
3 Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. If you request a
4 hearing, you will be notified of the time and place of the hearing and you will be given information on
5 the procedures, and other rights of parties relating to the conduct of the hearing before commencement
6 of the hearing. You have a right to be represented by an attorney at the hearing, however you are not
7 required to be. If you are an individual, you may represent yourself. If you are a corporation,
8 partnership, limited liability company, unincorporated association, trust or government body, you must
9 be represented by an attorney or a duly authorized representative, as set forth in OAR 137-003-0555.

10 Active-duty Service members have a right to stay proceedings under the federal Service
11 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-
12 452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed
13 Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military
14 Department does not have a toll-free telephone number.

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

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24 11/25/2025
25 Date

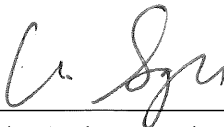
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27 Erin Saylor, Interim Manager
Office of Compliance and Enforcement

EXHIBIT NO. 1

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

VIOLATION: Discharging waste into waters of the state, either without a waste discharge permit or from a discharge point not authorized by a waste discharge permit, in violation of ORS 468B.050(1)(a).

CLASSIFICATION: These are Class I violations pursuant to OAR 340-012- 0055(1)(b).

MAGNITUDE: The magnitude of the violation is major pursuant to OAR 340-012-0130(3) because DEQ finds that the violation had a significant adverse impact on human health or the environment. In making this finding, DEQ considered the following reasonably available information: the volume of urea released to the Marys River was very large—approximately 199.28 tons. Urea harms water quality by introducing excessive nitrogen that promotes algal blooms, depletes dissolved oxygen, and disrupts aquatic ecosystems. When urea breaks down into ammonia, it can be toxic to aquatic organisms.

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 \$12,000 for a Class I, major magnitude violation in the matrix listed in OAR 340-012-0140(2)(b)(A)(i) and applicable pursuant to OAR 340-012-0140(2)(a)(D) because Respondent violated ORS 468B.025(1)(b) and does not hold a National Pollutant Discharge Elimination System 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 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 2 according to OAR 340-012-0145(4)(b). The initial release of urea into the Marys River occurred on January 4, 2025, when the railroad bridge collapsed and one railcar containing urea was submerged in the river. The railcars continued releasing urea through January 12, 2025, when the railcars were removed from the river. Therefore, there were nine occurrences of the violation. Pursuant to OAR 340-012-0145(4)(e), DEQ is assessing a separate penalty for four of the violations. To arrive at "O," DEQ divides the total number of violations (9) by

the number of violations penalized (4). Therefore, each assessed penalty represents 2.25 occurrences for an “O” factor of 2.

"M" is the mental state of the Respondent and receives a value of 8 according to OAR 340-012-0145(5)(d) because Respondent's conduct was reckless. Respondent owns and operates a railroad and is responsible for ensuring the safety of its operations, including ensuring that its infrastructure is in proper operating condition. In May 2022, the rail bridge that collapsed in the current incident caught on fire, damaging the bridge deck and the wooden trestle. Respondent's subsequent inspections noted serious deficiencies with the bridge deck and trestle, with many components receiving C and D condition ratings, but rather than replacing the damaged structure, Respondent made minor repairs and continued running freight trains over it. By continuing to operate freight trains over an unsafe structure, Respondent consciously disregarded a substantial and unjustifiable risk that an accident would occur. Given the threats to human health, safety and the environment posed by a train accident involving freight such as chemicals, disregarding that risk constituted a gross deviation from the standard of care a reasonable person would observe in that situation.

"C" is Respondent's efforts to correct or mitigate the violation and receives a value of -3 according to OAR 340-012-0145(6)(c), because Respondent made reasonable efforts to minimize the effects of the violation. Respondent promptly initiated incident response and cleanup efforts and conducted water quality monitoring.

"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 evidence on which to base a finding that Respondent received an economic benefit from the violation.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
= \$12,000 + [(0.1 x \$12,000) x (0 + 0 + 2 + 8 - 3)] + \$0
= \$12,000 + [\$1,200 x 7] + \$0
= \$12,000 + \$8,400 + \$0
= \$20,400

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. Although the discharge of urea into the Marys River occurred on nine days, DEQ is exercising its discretion to assess four separate civil penalties.

$\$20,400 \times 4 = \$81,600$

CERTIFICATE OF MAILING

I hereby certify that I served DEQ Case No. WQ/NP-WR-2025-687 upon:

9589 0710 5270 3236 6721 23

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 (check box, add fee as appropriate)	
<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 \$	
Portland & Western Railroad, Inc. c/o C T Corporation System, Inc. 780 Commercial St. SE, Suite 100 Salem, OR 97301	
PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions	

Scott Boyter
Portland & Western Railroad, Inc.
1200 Howard Drive SE
Albany, OR 97321

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 25, 2025

Isaac Griffith

Isaac Griffith, Case Coordinator

Office of Compliance & Enforcement

Department of Environmental Quality