



Oregon

Tina Kotek, Governor

Department of Environmental Quality
Office of Compliance and Enforcement
700 NE Multnomah Street, Suite 600
Portland, OR 97232-4100
(503) 229-5696
FAX (503) 229-5100
TTY 711

April 2, 2026

CERTIFIED MAIL: 9589 0710 5270 0110 5986 85

Kenneth Ferguson
6260 SE Thomas Rd
Prineville OR 97754

Re: Notice of Civil Penalty Assessment and Order
Case No. LQ/SW-ER-2024-099

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$10,709 for operating a waste tire storage site without a permit at your property at 6260 SE Thomas Road in Prineville.

DEQ issued this penalty because despite issuing you a Warning Letter with Opportunity to Correct in July of 2023, you have not corrected the violation. Storing in excess of 100 waste tires without complying with the protections required by a waste tire storage permit poses a risk to human health and the environment, including the risk of fire. You have been storing several hundred waste tires at your property since at least the spring of this year.

Included in Section IV is an order requiring you to provide DEQ a plan for legally cleaning up the waste tires and implement the plan upon DEQ approval. \$2,709 of the civil penalty represents the economic benefit you gained by failing to properly dispose of the waste tires. If you complete these requirements, DEQ will consider recalculating the costs 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, or

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

If you have any questions, please contact Sarah Wheeler at 971-301-0622.

Sincerely,



Erin Saylor, Manager
Office of Compliance and Enforcement

Enclosures

cc: Eric Boone, DEQ
Louis Seals, Crook County Code Compliance Officer, Louis.Seals@crookcountyor.gov

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

3 IN THE MATTER OF:) NOTICE OF CIVIL PENALTY
4 KENNETH FERGUSON,) ASSESSMENT AND ORDER
5 Respondent.) CASE NO. LQ/SW-ER-2024-099

6 I. AUTHORITY

7 The Department of Environmental Quality (DEQ) issues this Notice of Civil Penalty Assessment
8 and Order (Notice) pursuant to Oregon Revised Statutes (ORS) 468.100, ORS 468.126 through 468.140,
9 ORS 459.995, ORS Chapter 183 and Oregon Administrative Rules (OAR) Chapter 340, Divisions 011,
10 012, and 093.

11 II. FINDINGS OF FACT

- 12 1. Respondent owns and controls real property at 6260 SE Thomas Road in Prineville,
13 Oregon (the Facility).
- 14 2. Since on or before July 20, 2023, Respondent has stored in excess of 100 tires that are
15 no longer suitable for use as tires due to wear, damage, and/or defect (waste tires) at the Facility.
- 16 3. DEQ has not issued a waste tire storage permit for the Facility.
- 17 4. As of the date of this Notice, Respondent continues to store in excess of 100 waste tires
18 at the Facility.

19 III. CONCLUSIONS

20 Respondent violated ORS 459.715(1) by storing in excess of 100 waste tires at the Facility
21 without a waste tire storage permit, as described in Section II above. ORS 459.705(11) and OAR 340-
22 093-0030(118) define a “waste tire” as a tire that is no longer suitable for its original intended purpose
23 because of wear, damage, or defect. This is a Class I violation, according to OAR 340-012-0066(1)(a).
24 DEQ hereby assesses a \$10,709 civil penalty for this violation.

25 IV. ORDER TO PAY CIVIL PENALTY AND TO COMPLY

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

1 1. Pay a total civil penalty of \$10,709. The determination of the civil penalty is attached as
2 Exhibit 1 and is incorporated as part of this Notice.

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

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

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

13 2. **Within 30 days** of the date this Notice becomes final by operation of law or on appeal,
14 provide DEQ with a plan that outlines how and when the waste tires will be removed from the Facility
15 and legally disposed of. Send the plan to Eric Boone at eric.boone@deq.oregon.gov.

16 3. **Upon receipt of written approval from DEQ of the plan**, implement the plan and
17 provide DEQ photo documentation and disposal receipts.

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

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

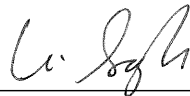
1 Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be
2 represented by an attorney at the hearing, however you are not required to be. If you request a hearing,
3 you will be notified of the time and place of the hearing and you will be given information on the
4 procedures, and other rights of parties relating to the conduct of the hearing before commencement of
5 the hearing. If you are an individual, you may represent yourself. If you are a corporation, partnership,
6 limited liability company, unincorporated association, trust or government body, you must be
7 represented by an attorney or a duly authorized representative, as set forth in OAR 137-003-0555.

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

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

19
20
21 4/2/2026

22 Date



23 Erin Saylor, Manager
24 Office of Compliance and Enforcement
25
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27

EXHIBIT 1

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

- VIOLATION NO. 1: Establishing or operating a waste tire storage site without first obtaining a permit, in violation of ORS 459.715(1).
- CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0066(1)(a).
- 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)(I)(i).
- "P" is whether Respondent has any prior significant actions, as defined in OAR 340-012-0030(19), in the same media as the violation at issue that occurred at a facility owned or operated by the same Respondent, and receives a value of 0 according to OAR 340-012-0145(2)(a)(A), because there are no prior significant actions.
- "H" is Respondent's history of correcting prior significant actions and receives a value of 0 according to OAR 340-012-0145(3)(c) because there is no prior history.
- "O" is whether the violation was repeated or ongoing and receives a value of 4 according to OAR 340-012-0145(4)(d) because there were more than 28 occurrences of the violation. Each day of a violation with a duration of more than one day is a separate occurrence when determining the "O" factor, pursuant to OAR 340-012-0145(4). The violation has been ongoing since at least July 20, 2023.
- "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, as defined in OAR 340-012-0030(15). On July 21, 2023, DEQ issued Respondent a Warning Letter with Opportunity to Correct, citing the violation and requesting that Respondent take corrective action. On June 18, 2024, DEQ issued Respondent a Pre-Enforcement Notice, again citing the violation and requesting action. As of the date of this Notice, Respondent has not taken the requested corrective action and continues to store hundreds of waste tires without a 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) and the facts do not support a finding under paragraph (6)(f). As of the date of this Notice, Respondent has not corrected the violation.

"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 \$2,709. This is the amount Respondent gained by avoiding spending \$2,437 to legally dispose of the waste tires at Respondent's property since at least July 20, 2023. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
= \$4,000 + [(0.1 x \$4,000) x (0 + 0 + 4 + 4 + 2)] + \$2,709
= \$4,000 + (\$400 x 10) + \$2,709
= \$4,000 + \$4,000 + \$2,709
= \$10,709

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



State of Oregon
Department of Environmental Quality

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

CIVIL PENALTY - ORS 468.135(2)

DATE:	April 2, 2026
RESPONSE DATE*:	June 11, 2026
TOTAL PENALTY:	\$10,709.00

Account Name:	KENNETH FERGUSON		
Account Type:	Vendor/Organization/Company	Reference Number:	CPGFD2600094
SubSystem ID:	303262	FIMS Acct. ID:	30892

Penalty Summary

Penalty Amount	Interest	Adjustment	Amount Paid	Total Penalty
\$ 10,709.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 10,709.00

*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.	CPGFD2600094		
PAYCODE:	00401 7400 10040 74001 0500 000000 00		
FEE PROGRAM ID:	950	RESPONSE DATE:	June 11, 2026
FIMS ACCT. ID:	30892	TOTAL PENALTY DUE:	\$10709.00

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 0095000308925CPGFD260009400010709000



State of Oregon
Department of
Environmental
Quality

State of Oregon Department of Environmental Quality

CIVIL PENALTY - ORS 468.135(2)

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

Penalty Detail

Transaction Date	Description	Amount
4/1/2026	2024-099 LQ-SW-ER-2024-099	\$10,709.00

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. LQ/SW-ER-2024-099 upon:

9589 0710 5270 0110 5986 85

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

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	\$ _____	
Postage		

Kenneth Ferguson
6260 SE Thomas Rd
Prineville, OR 97754

PS Form 3800, January 2023 PSN 7530 02-000-9047 See Reverse for Instructions

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 April 2, 2026

Isaac Griffith

Isaac Griffith, Case Coordinator

Office of Compliance & Enforcement

Department of Environmental Quality