



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
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TTY 711

September 9, 2026

CERTIFIED MAIL: 9589 0710 5270 0110 6043 48

City of Eugene
c/o Jenny Haruyama, City Manager
500 East 4th Avenue
Eugene, OR 97401

Re: Notice of Civil Penalty Assessment and Order
Case No. WQ/401-WR-2024-606

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$23,400 for causing pollution to Amazon Creek and for violations of the 401 Water Quality Certification (401 WQC) issued to you for the Amazon Creek Restoration Project. Specifically, you violated four conditions of the 401 WQC by conducting work that was inconsistent with the project description contained in the Temporary Water Management Plan, failing to install erosion and sediment controls, storing construction equipment in the active channel of the creek, and failing to isolate the in-water work area. Your failure to implement the requirements of the 401 WQC resulted in the discharge of pollution to Amazon Creek.

DEQ issued this penalty because your failure to follow the conditions set forth in the 401 WQC posed a risk of harm to the environment and resulted in the discharge of sediment and construction debris to Amazon Creek, a water of the state. Sediment is considered pollution that poses a risk of harm to beneficial uses of state waters, including the use of those waters as habitat for aquatic organisms. Sediment can degrade water quality and harm aquatic life by covering up food sources and smothering invertebrate organisms living in bodies of water.

DEQ appreciates your efforts to correct the violation by bringing the project site into compliance with the 401 WQC. DEQ considered these efforts when determining the amount of the civil penalty.

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.

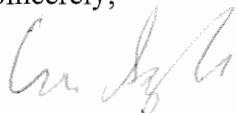
The attached Notice further details DEQ's reasons for issuing the penalty and provides further instructions for appealing the penalty. Please review and refer to it when discussing this case with DEQ.

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

Sincerely,



Erin Saylor, Manager
Office of Compliance and Enforcement

Enclosures

cc: Amber Clark, DEQ
Stephanie Page, DEQ
Accounting, DEQ

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

IN THE MATTER OF:
CITY OF EUGENE,

) NOTICE OF CIVIL PENALTY
) ASSESSMENT AND ORDER
)
Respondent.) CASE NO. WQ/401-WR-2024-606

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 Chapter 468B, ORS Chapter 183 and Oregon Administrative Rules (OAR) Chapter 340, Divisions 011, 012, 041, and 048.

II. FINDINGS OF FACT

1. Amazon Creek runs through Eugene, Oregon, from southeastern Eugene to west of the city, where it merges with Long Tom River and ultimately flows into the Willamette River.

2. At all relevant times, Respondent had coverage under Nationwide Permits No. 27 and 33 after submitting a Joint Permit Application (JPA) to the U.S. Army Corps of Engineers (USACE), Oregon Department of State Lands (DSL), and DEQ for removal of the concrete lining and restoration of the channel alignment for a portion of Amazon Creek that runs alongside Amazon Parkway from approximately E 24th Ave to E 19th Ave (hereafter “the project site”).

3. On September 20, 2022, DEQ issued 401 Water Quality Certification (WQC) No. 2022-00147 to Respondent for the Amazon Creek Restoration Project.

4. Pursuant to Condition 2 of the WQC, “[w]ork authorized by this 401 WQC is limited to the work described in the [Joint] Permit Application and additional application materials (hereafter ‘the permit application materials’) unless otherwise authorized by DEQ. If the project is operated in a manner not consistent with the project description contained in the permit application materials, the Applicant is not in compliance with this 401 WQC and may be subject to enforcement.”

5. Pursuant to Condition 8 of the WQC, “[d]uring construction, erosion control measures must be implemented to prevent or control movement of soil into waters of the state. . . . In addition,

1 the Applicant must . . . [i]nspect erosion control measures daily and maintain erosion control measures
2 as often as necessary to ensure the continued effectiveness of measures. Erosion control measures must
3 remain in place until all exposed soil is stabilized. If monitoring or inspection shows that the erosion
4 and sediment controls are ineffective, Applicant must mobilize immediately to make repairs, install
5 replacements, or install additional controls as necessary. . . . The tracking of sediment off site by
6 vehicles is prohibited.”

7 6. Pursuant to Condition 10 of the WQC, “[t]he Applicant must fuel, operate, maintain and
8 store vehicles, and must store construction materials, in areas that will not disturb habitat directly or
9 result in potential discharges.”

10 7. Pursuant to Condition 17 of the WQC, “[t]he Applicant must isolate in-water work areas
11 from the active flowing stream, unless otherwise authorized as part of the approved application, or
12 authorized by DEQ.”

13 8. On June 14, 2024, Respondent submitted a Temporary Water Management Plan.
14 Respondent’s Temporary Water Management Plan (TWMP) required the following:

15 a. Sandbag isolation dams constructed three feet tall with at least two layers of
16 plastic sheeting. One dam constructed upstream of the work area and one dam constructed downstream.
17 Additionally, secondary sandbag dams constructed inside the work area alongside the upstream and
18 downstream dams “if needed” to contain infiltration and prevent backflow;

19 b. “Water seeping through the primary dam and contained by the secondary dam
20 shall be returned to an area up stream of the sandbag dam to a temporary settling basin or other
21 approved location” (p. 15);

22 c. A rock-lined sediment control facility channel leading to the previously
23 completed channel;

24 d. Two sump pumps positioned on the upstream side of each isolation dam to pump
25 to the sediment control facility “as required”;

26 e. Fish screens installed at the base of each sump (p. 15); and

27 f. “Pump water shall be pumped through a sediment sock on the end of the hose

1 and directed back into the channel or to the sediment control facilities as shown on each plan sheet.”

2 9. On or about August 17, 2024, the bypass pipe at the project site failed, and water from
3 the creek inundated the work area, exposing the main channel to a significant amount of active flow.
4 There was an excavator parked in the center of the channel without secondary containment that was
5 directly exposed to active flow. There were two additional excavators parked on exposed soil on the
6 creek bed that also lacked secondary containment. The isolation dam was nonfunctional or missing.
7 The majority of the banks of the creek in the work area lacked erosion control measures and there were
8 uncovered stockpiles that were not stabilized. Several BMPs were insufficiently implemented,
9 including incomplete perimeter sediment controls and matting that was staked ineffectively and
10 becoming dislodged.

11 10. On August 23, 2024, the creek inundated the work area with active flow, washing loose
12 straw, debris, and sediment through the project site. Loose straw, debris, and sediment floated through
13 the main channel of the project site and discharged downstream of the project site. The stormwater
14 outfall pipe was discharging onto unstabilized ground, washing sediment into the channel. The isolation
15 dam was entirely submerged under water. Portions of the creek banks were missing BMPs. There was
16 matting floating in the main channel that had come loose, and there were bare soils exposed to active
17 flow.

18 11. On August 24, 2024, there was water ponded in the work area. The banks of the channel
19 had sloughed into creek. There were tire tracks visible in the creek bed with turbid water ponded in the
20 tracks. The tire tracks led up the bank to three excavators parked alongside the creek with no secondary
21 containment measures. There was track out onto the road next to the project site. Downstream of the
22 project site there was buildup of debris from the site in the creek including gravel and sediment
23 deposits in the creek bed and loose straw caught on a bridge pile.

24 12. On September 5, 2024, DEQ inspected the site. At the time of the inspection:

- 25 a. Portions of the creek banks were missing erosion control measures;
- 26 b. There was loose straw placed on top of bare ground without being mixed in or
27 matted to prevent displacement;

- c. There was loose matting on slopes that was not secured;
- d. There were bare stockpiles left uncovered;
- e. The isolation measures were not constructed in accordance with the TWMP:
 - i. There was one isolation dam that was not constructed to the height specified in the TWMP and lacked plastic sheeting. There was no upstream dam constructed and no secondary sandbag isolation dams constructed;
 - ii. Isolation measures were ineffective at keeping active flow out of the work area, and there was active flow present in the main channel;
 - iii. The sump pumps lacked fish screens; and
 - iv. The dewatering pipe lacked a sediment sock and was outfalling pumped water onto fabric.

13. On or about September 25, 2024, Respondent brought the project site into compliance with the requirements of the WQC and the TMWP.

III. CONCLUSIONS

1. Respondent violated Condition 2 of the WQC by operating in a manner not consistent with the project description. Specifically, from at least August 17 until about September 25, 2024, the isolation measures were not constructed consistent with the requirements of the TWMP, as described in Section II, Paragraphs 9-12, above. The isolation measures were ineffective and there was active flow in the main channel of the creek. There was only one isolation dam constructed with no secondary dam, it was not constructed to the height specified in the TWMP, and it lacked plastic sheeting. Additionally, the sump pumps lacked fish screens, and dewatering pipes were outfalling onto fabric. This is a Class I violation, according to OAR 340-012-0053(1)(a). DEQ hereby assesses a \$3,000 civil penalty for this violation.

2. Respondent violated Condition 8 of the WQC by failing to implement erosion control measures to prevent or control movement of soil into waters of the state. Specifically, from at least August 17 to September 25, 2024, the erosion control measures that Respondent implemented at the project site were insufficient to prevent movement of soil into waters of the state, as described in

1 Section II, Paragraphs 9-12, above. Respondent failed to stabilize the slopes of the creek, cover
2 stockpiles, prevent track out, and correctly install BMPs such as matting, straw, and perimeter fencing.
3 This is a Class I violation, according to OAR 340-012-0053(1)(a). DEQ hereby assesses a \$3,000 civil
4 penalty for this violation.

5 3. Respondent violated Condition 10 of the WQC by failing to store construction vehicles in
6 areas that will not result in potential discharges. Specifically, on at least August 17, 2024, there was an
7 excavator parked in the main channel of the creek that lacked secondary containment and was exposed
8 to active flow, as described in Section II, Paragraph 9, above. Additionally, there were two excavators
9 parked on the bank of the creek immediately adjacent to active flow without secondary containment
10 and on unstabilized soil. This is a Class I violation, according to OAR 340-012-0053(1)(a). DEQ hereby
11 assesses a \$2,400 civil penalty for this violation.

12 4. Respondent violated Condition 17 of the WQC by failing to isolate in-water work areas
13 from the active flowing stream. Specifically, from at least August 17 through at least September 25,
14 2024, the isolation measures were ineffective at preventing the active flowing stream from entering the
15 work area, as described in Section II, Paragraphs 9-12, above. This is a Class I violation, according to
16 OAR 340-012-0053(1)(a). DEQ hereby assesses a \$3,000 civil penalty for this violation.

17 5. Respondent violated ORS 468B.025(1)(a) by causing pollution to a water of the state.
18 Specifically, on at least August 17, 23, and 24, 2024, Respondent's failure to isolate the active flow of
19 the creek from the work area caused the discharge of sediment and debris downstream of the project
20 site, as described in Section II, Paragraph 9-11, above. Sediment and debris are "pollution," pursuant to
21 ORS 468B.005(5), because they alter the physical, chemical or biological properties of waters of the
22 state, which tends to render such waters harmful to beneficial uses, including the use of those waters as
23 aquatic habitat. Amazon Creek is a water of the state pursuant to ORS 468B.005(10). This is a Class I
24 violation, according to OAR 340-012-0055(1)(a). DEQ hereby assesses a \$12,000 civil penalty for this
25 violation.

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27 \\\

1 IV. ORDER TO PAY CIVIL PENALTY

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

4 1. Pay a total civil penalty of \$23,400. The determination of the civil penalties is attached as
5 Exhibits 1-5 and are incorporated as part of this Notice.

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

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

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

17 You have a right to a contested case hearing on this Notice, if you request one in writing. DEQ
18 must receive your request for hearing **within 20 calendar days** from the date you receive this Notice. If
19 you have any affirmative defenses or wish to dispute any allegations of fact in this Notice or attached
20 exhibits, you must do so in your request for hearing, as factual matters not denied will be considered
21 admitted, and failure to raise a defense will be a waiver of the defense. (See OAR 340-011-0530 for
22 further information about requests for hearing.) You must send your request to: **DEQ, Office of**
23 **Compliance and Enforcement, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232**, fax
24 it to **503-229-6762** or email it to DEQappeals@deq.oregon.gov. An administrative law judge
25 employed by the Office of Administrative Hearings will conduct the hearing, according to ORS
26 Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be
27 represented by an attorney at the hearing, however you are not required to be. If you 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 9/9/2020
21 Date

22 Erin Saylor
23 Erin Saylor, Manager
24 Office of Compliance and Enforcement
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: Violating Condition 2 of the WQC by operating in a manner not consistent with the project description.
- CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0053(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 \$1,500 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(4)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(4)(a)(H) because Respondent has a Clean Water Act Section 401 WQC for a Tier 1 dredge and fill project.
- "P" is whether Respondent has any prior significant actions, as defined in OAR 340-012-0030(19), in the same media as the violation at issue that occurred at a facility owned or operated by the same Respondent, and receives a value of 0 according to OAR 340-012-0145(2)(a)(A), because there are no prior significant actions.
- "H" is Respondent's history of correcting prior significant actions, and receives a value of 0 according to OAR 340-012-0145(3)(c) because there is no prior history.
- "O" is whether the violation was repeated or ongoing, and receives a value of 4 according to OAR 340-012-0145(4)(d) because there were more than 28 occurrences of the violation. Each day of violation is a separate occurrence. Respondent failed to operate in a manner consistent with the project description for at least 40 days, from at least August 17 to September 25, 2024.
- "M" is the mental state of the Respondent, and receives a value of 8 according to OAR 340-012-0145(5)(d) because Respondent acted or failed to act intentionally with actual knowledge of the requirement. For any violation where the findings support more than one mental state, the mental state with the highest value will apply. Respondent received an Administrative Compliance Order from the City of Eugene Erosion Prevention Program on August 20, 2024, which stated that the "contractor installed a TWMP that was not consistent with the DSL/DEQ/USACE approved plan. The contractor chose to not follow the phasing plan or TWMP approved by the DSL/USACE, and chose to expose most of the site all at the same

time.” Respondent was directed to bring the project site into compliance with the approved plan but neglected to do so. Therefore, Respondent had actual knowledge of the requirement and intentionally failed to act.

"C" is Respondent's efforts to correct or mitigate the violation, and receives a value of -2 according to OAR 340-012-0145(6)(d) because Respondent eventually made some efforts to correct the violation. Respondent brought the project site into compliance with the WQC and the TWMP on or about September 25, 2024.

"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 the amount Respondent gained was de minimis.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
= \$1,500 + [(0.1 x \$1,500) x (0 + 0 + 4 + 8 + -2)] + \$0
= \$1,500 + (\$150 x 10) + \$0
= \$1,500 + \$1,500 + \$0
= \$3,000

EXHIBIT 2

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

VIOLATION NO. 2: Violating Condition 8 of the WQC by failing to implement erosion control measures to prevent or control movement of soil into waters of the state.

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0053(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 \$1,500 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(4)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(4)(a)(H) because Respondent has a Clean Water Act Section 401 WQC for a Tier 1 dredge and fill project.

"P" is whether Respondent has any prior significant actions, as defined in OAR 340-012-0030(19), in the same media as the violation at issue that occurred at a facility owned or operated by the same Respondent, and receives a value of 0 according to OAR 340-012-0145(2)(a)(A), because there are no prior significant actions.

"H" is Respondent's history of correcting prior significant actions, and receives a value of 0 according to OAR 340-012-0145(3)(c) because there is no prior history.

"O" is whether the violation was repeated or ongoing, and receives a value of 4 according to OAR 340-012-0145(4)(d) because there were more than 28 occurrences of the violation. Each day of violation is a separate occurrence. Respondent failed to implement sufficient erosion control measures for at least 40 days, from at least August 17 to September 25, 2024.

"M" is the mental state of the Respondent, and receives a value of 8 according to OAR 340-012-0145(5)(d) because Respondent acted or failed to act intentionally with actual knowledge of the requirement. For any violation where the findings support more than one mental state, the mental state with the highest value will apply. Respondent received an Administrative Compliance Order from the City of Eugene Erosion Prevention Program on August 20, 2024, which stated: "The active work area had extensive exposed soils with no perimeter controls or soil coverage (secondary containment). . . . The permit holder and the contractor

were informed that they needed to apply cover over the site prior to the weekend storm event, but the permit holder did not direct the contractor to install the stabilization or perimeter sediment controls over the whole site. On Monday, August 19th during the weekly on-site meeting with the contractor, the City of Eugene Erosion Technical Specialist (City Inspector) again notified the permit holder and contractor that they needed to apply cover and sediment perimeter controls throughout the site before another forecasted storm event later that week.” The Administrative Compliance Order directed Respondent to apply soil stabilization and install sediment perimeter control by August 26, 2024, but Respondent failed to do so. Therefore, Respondent knew of the requirement and intentionally failed to act.

"C" is Respondent's efforts to correct or mitigate the violation, and receives a value of -2 according to OAR 340-012-0145(6)(d) because Respondent eventually made some efforts to correct the violation. Respondent brought the project site into compliance with the WQC on or about September 25, 2024.

"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 the amount Respondent gained is de minimis.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
= \$1,500 + [(0.1 x \$1,500) x (0 + 0 + 4 + 8 + -2)] + \$0
= \$1,500 + (\$150 x 10) + \$0
= \$1,500 + \$1,500 + \$0
= \$3,000

EXHIBIT 3

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

VIOLATION NO. 3: Violating Condition 10 of the WQC by failing to store construction vehicles in areas that will not result in potential discharges.

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0053(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 \$1,500 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(4)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(4)(a)(H) because Respondent has a Clean Water Act Section 401 WQC for a Tier 1 dredge and fill project.

"P" is whether Respondent has any prior significant actions, as defined in OAR 340-012-0030(19), in the same media as the violation at issue that occurred at a facility owned or operated by the same Respondent, and receives a value of 0 according to OAR 340-012-0145(2)(a)(A), because there are no prior significant actions.

"H" is Respondent's history of correcting prior significant actions, and receives a value of 0 according to OAR 340-012-0145(3)(c) because there is no prior history.

"O" is whether the violation was repeated or ongoing, and receives a value of 0 according to OAR 340-012-0145(4)(a) because there was one occurrence of the violation. There was one excavator parked in the main channel of the creek and exposed to active flow on at least one day, August 17, 2024.

"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. According to OAR 340-012-0030(20), reckless means the respondent consciously disregarded a substantial and unjustifiable risk that the result would occur or that the circumstance existed. The risk must be of such a nature and degree that disregarding that risk constituted a gross deviation from the standard of care a reasonable person would observe in that situation. Respondent parked a construction vehicle without secondary containment in the main channel of a creek when there was rainfall predicted and when Respondent had not constructed isolation measures to specifications. Respondent consciously disregarded a substantial and unjustifiable risk that

the construction vehicle would become exposed to active flow, thereby risking potential discharges. This 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 -2 according to OAR 340-012-0145(6)(d) because Respondent eventually made some efforts to correct the violation. Respondent removed the excavator from the main channel of the creek between August 17 and August 23, 2024.

"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 the amount Respondent gained is de minimis.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$

$$\begin{aligned} &= \$1,500 + [(0.1 \times \$1,500) \times (0 + 0 + 0 + 8 + -2)] + \$0 \\ &= \$1,500 + (\$150 \times 6) + \$0 \\ &= \$1,500 + \$900 + \$0 \\ &= \$2,400 \end{aligned}$$

EXHIBIT 4

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

VIOLATION NO. 4: Violating Condition 17 of the WQC by failing to isolate in-water work areas from the active flowing stream.

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0053(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 \$1,500 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(4)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(4)(a)(H) because Respondent has a Clean Water Act Section 401 WQC for a Tier 1 dredge and fill project.

"P" is whether Respondent has any prior significant actions, as defined in OAR 340-012-0030(19), in the same media as the violation at issue that occurred at a facility owned or operated by the same Respondent, and receives a value of 0 according to OAR 340-012-0145(2)(a)(A), because there are no prior significant actions.

"H" is Respondent's history of correcting prior significant actions, and receives a value of 0 according to OAR 340-012-0145(3)(c) because there is no prior history.

"O" is whether the violation was repeated or ongoing, and receives a value of 4 according to OAR 340-012-0145(4)(d) because there were more than 28 occurrences of the violation. Each day of violation is a separate occurrence. Respondent's measures to isolate the work area from active flow were ineffective for at least 40 days, from at least August 17 to September 25, 2024.

"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. According to OAR 340-012-0030(20), reckless means the respondent consciously disregarded a substantial and unjustifiable risk that the result would occur or that the circumstance existed. The risk must be of such a nature and degree that disregarding that risk constituted a gross deviation from the standard of care a reasonable person would observe in that situation. For any violation where the findings support more than one mental state, the mental state with the highest value will apply. A 401 Water Quality Certification is required for a project that may result

in a discharge to waters of the United States to ensure that a project meets state water quality standards. A reasonable person conducting in-water work observes a higher standard of care than for work conducted out of water because of the higher likelihood that pollutants will enter waters of the state or of the United States if they leave the work area. However, in Respondent's case, the work area was inundated multiple times over at least 40 days because of failed isolation measures. Each time, Respondent failed to restore the isolation measures sufficiently to prevent the work area from becoming flooded again, until September 25, 2024, when Respondent eventually brought the project site into compliance with the WQC. By allowing so many recurrences of the violation, Respondent consciously disregarded a substantial and unjustifiable risk that the result would occur. As the holder of a 401 WQC, this 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 -2 according to OAR 340-012-0145(6)(d) because Respondent eventually made some efforts to correct the violation. Respondent brought the project site into compliance with the WQC and the TWMP on or about September 25, 2024.

"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 the amount Respondent gained is de minimis.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
= \$1,500 + [(0.1 x \$1,500) x (0 + 0 + 4 + 8 + -2)] + \$0
= \$1,500 + (\$150 x 10) + \$0
= \$1,500 + \$1,500 + \$0
= \$3,000

EXHIBIT 5

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

- VIOLATION NO. 5: Violating ORS 468B.025(1)(a) by causing pollution to Amazon Creek, a water of the state.
- CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012- 0055(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 \$6,000 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(2)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(2)(a)(D).
- "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) because there was more than one but less than seven occurrences of the violation. Each day of violation is a separate occurrence. Respondent caused pollution to Amazon Creek on at least three occasions: August 17, 23, and 24, 2024.
- "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. According to OAR 340-012-0030(20), reckless means the respondent consciously disregarded a substantial and unjustifiable risk that the result would occur or that the circumstance existed. The risk must be of such a nature and degree that disregarding that risk constituted a gross deviation from the standard of care a reasonable person would observe in that situation. For any violation where the findings support more than one mental state, the mental state with the highest value will apply. A 401 Water Quality Certification is required for a project that may result in a discharge to waters of the United States to ensure that a project meets state water quality standards. A reasonable person conducting in-water work observes a higher standard of care

than for work conducted out of water because of the higher likelihood that pollutants will enter waters of the state or of the United States if they leave the work area. On August 23, 2024, Respondent had reason to expect that a storm event would cause inundation of the work area and subsequent escape of sediment and debris from the project site because it had happened less than a week before on August 17. The risk was substantial since Respondent had not brought the project site into compliance with the WQC or the TWMP. Yet Respondent consciously disregarded the risk. Based on the high standard of care observed by a reasonable person conducting in-water work, this 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 0 according to OAR 340-012-0145(6)(f) because the violation or the effects of the violation could not be corrected or minimized.

"EB" is the approximate dollar value of the benefit gained and the costs avoided or delayed as a result of the Respondent's noncompliance. It is designed to "level the playing field" by taking away any economic advantage the entity gained and to deter potential violators from deciding it is cheaper to violate and pay the penalty than to pay the costs of compliance. In this case, "EB" receives a value of \$0 because the amount Respondent gained is de minimis.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
= \$6,000 + [(0.1 x \$6,000) x (0 + 0 + 2 + 8 + 0)] + \$0
= \$6,000 + (\$600 x 10) + \$0
= \$6,000 + \$6,000 + \$0
= \$12,000

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:	September 9, 2026
RESPONSE DATE*:	November 18, 2026
TOTAL PENALTY:	\$23,400.00

Account Name:	AMAZON PARKWAY EAST 24TH AVE		
Account Type:	Vendor/Organization/Company	Reference Number:	CPGFD2700022
SubSystem ID:	206661	FIMS Acct. ID:	8575

Penalty Summary

Penalty Amount	Interest	Adjustment	Amount Paid	Total Penalty
\$ 23,400.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 23,400.00

*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.	CPGFD2700022		
PAYCODE:	00401 7400 10040 74001 0500 000000 00		
FEE PROGRAM ID:	950	RESPONSE DATE:	November 18, 2026
FIMS ACCT. ID:	8575	TOTAL PENALTY DUE:	\$23400.00

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 0095000085751CPGFD270002200023400005



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
9/9/2026	2024-606 WQ-401-WR-2024-606	\$23,400.00

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/401-WR-2024-606 upon:

9589 0710 5270 0110 6043 48

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	\$
Extra Services & Fees (check box, add fee as appropriate)	
☐ Return Receipt (hardcopy)	\$
☐ Return Receipt (electronic)	\$
☐ Certified Mail Restricted Delivery	\$
☐ Adult Signature Required	\$
☐ Adult Signature Restricted Delivery	\$
Postmark Here	
City of Eugene c/o Jenny Haruyama, City Manager 500 East 4th Avenue Eugene, OR 97401	
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 September 9, 2026

Isaac Griffith

Isaac Griffith, Case Coordinator

Office of Compliance & Enforcement

Department of Environmental Quality