

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

3 )  
4 IN THE MATTER OF )  
CITY OF MOLALLA, )

MUTUAL AGREEMENT  
AND FINAL ORDER

5 )  
6 Respondent. )

CASE NO. WQ/M-NWR-2020-086

7 WHEREAS:

8 1. On August 21, 2020, the Department of Environmental Quality (DEQ) issued Notice  
9 of Civil Penalty Assessment and Order (Notice) to Respondent. DEQ assessed a \$6,600 civil  
10 penalty against Respondent for violations alleged in the Notice.

11 2. Respondent filed a timely request for hearing.

12 I. AGREEMENT

13 Respondent and DEQ hereby agree that:

14 1. This Mutual Agreement and Final Order (MAO) shall be effective upon the date  
15 fully executed.

16 2. Exhibits 1 and 2 of the Notice are amended to reduce the value of the "M" factor in  
17 the civil penalty calculations from 4 to 2. This results in a change in the civil penalty for Violation  
18 No. 1 from \$3,900 to \$3,600 and for Violation No. 2 from \$2,100 to \$1,950.

19 3. The total civil penalty is reduced from \$6,000 to \$5,550.

20 4. Pursuant to OAR 340-012-0030(19) and OAR 340-012-0145(2), the violations  
21 alleged in the Notice and as amended by this MAO, will be treated as prior significant actions in the  
22 event a future violation occurs.

23 5. Respondent waives any and all rights and objections Respondent may have to the  
24 form, content, manner of service and timeliness of the Notice; to a contested case hearing and  
25 judicial review of the Notice; and to service of a copy of this MAO.

26 6. This MAO resolves all civil claims of DEQ, based upon the facts alleged, for the  
27 violations expressly alleged in the Notice as amended by the MAO. This MAO is not intended to

1 limit, in any way, DEQ's right to proceed against Respondent in any forum for any past or future  
2 violations not expressly settled herein.

3 7. Respondent releases and waives any and all claims of any kind, known or unknown,  
4 past or future, against the State of Oregon or its agencies, instrumentalities, employees, officers, or  
5 agents, arising out of the matters and events relating to the matter set out in the Notice and this  
6 MAO. Any and all claims includes but is not limited to any claim under 42 USC § 1983 et seq.,  
7 any claim under federal or state law for damages, declaratory, or equitable relief, and any claim for  
8 attorney's fees or costs.

9 8. This MAO shall be binding on Respondent and its respective successors, agents, and  
10 assigns. The undersigned representative of Respondent certifies that he or she is fully authorized to  
11 execute and bind Respondent to this MAO.

12 9. Facsimile or scanned signatures on this MAO shall be treated the same as original  
13 signatures.

14 II. FINAL ORDER

15 The Environmental Quality Commission hereby enters a final order: Imposing upon  
16 Respondent a total civil penalty of \$5,550 for the violations alleged in the Notice which is due when  
17 Respondent submits this MAO to DEQ for signature.

18 CITY OF MOLALLA

19  
20 03/04/2021

21 \_\_\_\_\_  
Date

Signature

22 DAN HUFF

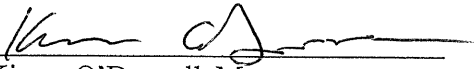
23 Name (print)

24 CITY MANAGER

25 Title (print)  
26  
27

DEPARTMENT OF ENVIRONMENTAL QUALITY and  
ENVIRONMENTAL QUALITY COMMISSION

1  
2  
3  
4 9/1/2021  
Date

  
Kieran O'Donnell, Manager  
Office of Compliance and Enforcement  
on behalf of DEQ pursuant to OAR 340-012-0170  
on behalf of the EQC pursuant to OAR 340-011-0505

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