



Community Development Department
315 Kennel Avenue, PO Box 248, Molalla, Oregon 97038
Phone: (503) 759-0205

Website Posting

Sept 5, 2023

Based on information at the time of required posting, the City experienced no violations of the NPDES Permit conditions (as modified by the March 2021 MAO) for the month of August 2023.

August DEQ correspondence is Attached to this Posting.



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

June 6, 2023

CERTIFIED MAIL 7016 2710 0000 4221 2762

City of Molalla
c/o Dan Huff, City Manager
117 N. Molalla Ave.
Molalla, OR 97038

Re: Final Order and Stipulated Penalty Demand Notice
Case No. WQ/M-NWR-2022-092

This letter is to inform you that the Department of Environmental Quality (DEQ) has issued you a Final Order and Stipulated Penalty Demand Notice for violations of the Mutual Agreement and Final Order (MAO) you signed with DEQ on October 4, 2018.

As described in the MAO, upon receipt of a written notice from DEQ for any violation of the interim limits in Paragraph 8.B of the MAO you are required to pay \$75 for each day of violation where the exceedance is less than 20% of the limit. This letter and the attached Order serve as notice that the violations occurred, the penalty for the violations is \$150, and is now due.

Please be advised that further violations of the Permit or MAO are subject to additional civil penalties.

Your right to appeal the Order is outlined in the document as well as in the MAO.

If you have any questions about the attached Order, please contact Jeff Bachman in DEQ's Office of Compliance and Enforcement at 503-229-5950.

Sincerely,

Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Enclosure

cc: Mike Pinney, DEQ
Tiffany Yelton-Bram, DEQ
Accounting, DEQ

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

IN THE MATTER OF:)	FINAL ORDER AND STIPULATED
CITY OF MOLALLA,)	PENALTY DEMAND NOTICE
)	
Respondent.)	CASE NO. WQ/M-NWR-2022-092

I. FINDINGS OF FACT AND CONCLUSIONS

1. On October 4, 2018, Respondent and the Department of Environmental Quality (DEQ) entered into Mutual Agreement and Final Order (MAO) No. WQ/M-NWR-2016-246
2. On April 1, 2021, Respondent and DEQ amended Paragraph 8.B of the MAO to include interim effluent limits for biochemical oxygen demand (BOD₅).
3. Paragraph 8.B of the MAO limits BOD₅ in Respondent's effluent to a daily loading of 600 pounds.
4. On April 26, 2022, Respondent discharged effluent containing 615 pounds of BOD₅.
5. On April 27, 2022, Respondent discharged effluent containing 602 pounds of BOD₅.
6. Respondent violated the MAO by discharging effluent containing BOD₅ in excess of the daily maximum loading limit in Paragraph 8.B. These are a Class I violations according to OAR 340-012-0053(1)(a).
7. As stated in 8.F.3 of the MAO, Respondent is required to pay \$75 for each day of violation of an interim limit by less than 20% .
8. The penalty for Respondent's violations is \$150.

II. ORDER TO PAY CIVIL PENALTY

Based upon the foregoing FINDINGS OF FACT AND CONCLUSIONS, Respondent is hereby ORDERED TO: Pay a total civil penalty of \$75.

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

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1 III. NOTICE OF RIGHT TO REQUEST A CONTESTED CASE HEARING

2 You have a right to a contested case hearing on this Final Order and Stipulated Penalty
3 Demand Notice. **As described in paragraph 20 of the MAO, the issue shall be limited to**
4 **Respondent's compliance or non-compliance with the MAO.** DEQ must receive the written
5 request for hearing **within 20 calendar days** from the date you receive this Final Order and
6 Stipulated Penalty Demand Notice. If you have any affirmative defenses or wish to dispute any
7 allegations of fact in this Order, you must do so in your request for hearing, as factual matters not
8 denied will be considered admitted, and failure to raise a defense will be a waiver of the defense.
9 (See OAR 340-011-0530 for further information about requests for hearing.) You must send your
10 request to: **DEQ, Office of Compliance and Enforcement, 700 NE Multnomah Street, Suite**
11 **600, Portland, Oregon 97232**, fax it to **503-229-6762** or email it to
12 **DEQappeals@deq.oregon.gov**. An administrative law judge employed by the Office of
13 Administrative Hearings will conduct the hearing, according to ORS Chapter 183, OAR Chapter
14 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be represented by an
15 attorney at the hearing, however you are not required to be. If you are an individual, you may
16 represent yourself. If you are a corporation, partnership, limited liability company,
17 unincorporated association, trust or government body, you must be represented by an attorney or
18 a duly authorized representative, as set forth in OAR 137-003-0555.

19 Active duty Service members have a right to stay proceedings under the federal Service
20 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-
21 452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed
22 Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military
23 Department does not have a toll free telephone number.

24 If you fail to file a request for hearing in writing within 20 calendar days of receipt of this
25 Order, the Order will become a final order by default without further action by DEQ as per OAR
26
27

1 340-011-0535(5). DEQ designates the relevant portions of its files, including information
2 submitted by you, as the record for purposes of proving a prima facie case.
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6 6/6/2023

7 Date

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9 Kieran O'Donnell, Manager
10 Office of Compliance and Enforcement
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Mark P. Strandberg, Partner
Direct: 503-964-6725
Cell: 773-606-9467
mstrandberg@ringbenderlaw.com

920 SW Sixth Avenue, Suite 600
Portland, Oregon 97204

Assistant: Gabrielle Keizer
Direct: 503-964-6729

August 17, 2023

VIA US MAIL and EMAIL

Department of Environmental Quality
Office of Compliance and Enforcement
Northwest Regional Office
700 NE Multnomah Street, Suite 600
Portland, OR 97232
DEQAppeals@deq.state.or.us

Re: City of Molalla – Request for Hearing: Final Order and Stipulated Penalty Demand Notice Case No. WQ/M-NWR-2022-092

The City of Molalla (the “City”) hereby requests a contested case hearing in the above captioned matter. The City is requesting this hearing because it did not violate its Mutual Agreement and Order No. WQ/M-NWR-2016-246 (“MAO”) in the manner asserted in the Notice. The Notice incorrectly states that the daily loading limit for biochemical oxygen demand (“BOD”) is 600 lbs., per the April 2021 MAO Amendment and that the City violated this limit. This is incorrect. Under the Amendment, the *weekly* average for BOD is 600 lbs. while the *daily* maximum is 800 lbs. While a minimal exceedance of the weekly average occurred (by 1.5%), none of the discharges in April 2022 exceeded the MAO daily maximum.

In addition, finding #8 of the Notice calculates the penalty at \$150, but the first sentence under the Order to Pay Civil Penalty states that penalty is \$75.

We look forward to resolving this matter with DEQ.

Sincerely,


Mark P. Strandberg

MPS/gk

cc: Jeff Bachman (jeff.bachman@state.or.us)
Dan Huff (via email)
Mac Corthell (via email)