



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

January 16, 2025

CERTIFIED MAIL: 9589 0710 5270 0688 6501 50

Purcell Tire NW, Inc.
c/o Corporation Service Company, Registered Agent
1127 Broadway St, NE
Suite 310
Salem, OR 97301

Re: Notice of Civil Penalty Assessment and Order
Case No. WQ/SW-NWR-2023-575

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$5,916 for failing to monitor your stormwater for benchmark and impairment pollutants as required by your 1200-Z National Pollutant Discharge Elimination System General Permit. Purcell conducted only one instead of the two required rounds of monitoring at its facility located at 19004 NE San Rafael Street, Portland, Oregon, during the period July 1 to December 31, 2022.

By failing to conduct the monitoring you deprived DEQ and the public of information necessary to determine whether you are complying with the pollutant limits of your permit and whether you need to take action to prevent your stormwater from adversely affecting water quality.

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.

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 <http://www.oregon.gov/deq/Regulations/Pages/Statutes.aspx> or by calling the number below.

If you have any questions, please contact Jeff Bachman at 503-229-5950 or toll free in Oregon at 800-452-4011, extension 5950.

Sincerely,

A handwritten signature in black ink that reads "Becka Puskas". The signature is written in a cursive, slightly slanted style.

Becka Puskas, Interim Manager
Office of Compliance and Enforcement

Enclosures

cc: Michael Kennedy, DEQ
Benjamin Benninghoff, DEQ
Accounting, DEQ

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

IN THE MATTER OF:)	
PURCELL TIRE NW, INC,)	NOTICE OF CIVIL PENALTY
a Nevada corporation,)	ASSESSMENT AND ORDER
Respondent.)	CASE NO. WQ/SW-NWR-2023-575

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 and 012.

II. FINDINGS OF FACT

1. At all relevant times, Respondent was assigned coverage under National Pollutant Discharge Elimination System General Permit No. 1200-Z for its facility located at 19004 NE San Rafael Street, Portland, Oregon.

2. The Permit authorizes Respondent to construct, install, modify, or operate stormwater treatment or control facilities, and to discharge stormwater and nonstormwater discharges specifically authorized by the permit to surface waters of the state in conformance with all the requirements, limitations, and conditions of the Permit.

3. Respondent discharges stormwater to Osburn Creek in the Columbia Slough georegion.

4. Schedule B, Condition 2 of the Permit states that Respondent must monitor its stormwater discharge for the benchmark pollutants total copper, total lead, total zinc, pH, total suspended solids (TSS), biochemical oxygen demand (BOD₅), total phosphorous and *E. coli* bacteria.

5. Schedule B, Table 6 states that Respondent must monitor its stormwater effluent for applicable benchmark pollutants four times per year with two samples collected between January 1 and June 30, and two samples collected between July 1 and December 31.

6. During the period July 1 to December 31, 2022, Respondent monitored for the applicable benchmark pollutants only once.

7. Schedule B, Condition 4 of the Permit requires permittees discharging to receiving waters listed on the Category 5, 303(d) list as impaired for total iron to monitor for total iron.

8. Osburn Creek is listed on the Category 5, 303(d) list as impaired for total iron.

9. Schedule B, Table 6 states that Respondent must monitor its stormwater effluent for the applicable impairment pollutants four times per year with two samples collected between January 1 and June 30, and two samples collected between July 1 and December 31.

10. During the period July 1 to December 31, 2022, Respondent monitored for total iron only once.

III. CONCLUSION

Respondent violated ORS 468B.025(2) by failing to conduct benchmark and impairment pollutant monitoring required by Schedule B of the Permit, as described in Section II, Paragraphs 3 through 10. These are Class I violations pursuant to OAR 340-012-0055(1)(o). DEQ hereby assesses a \$5,916 civil penalty for these violations.

IV. ORDER TO PAY CIVIL PENALTY

Based upon the foregoing FINDINGS OF FACTS AND CONCLUSIONS, Respondent is hereby ORDERED TO: Pay a total civil penalty of \$5,916. The determination of the civil penalty is attached as Exhibit 1 and is incorporated as part of this Notice.

If you do not file a request for hearing as set forth in Section V below, please pay the 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 Reference Number and FIMS 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.

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.

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

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

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

23 If you fail to file a timely request for hearing, the Notice will become a final order by default
24 without further action by DEQ, as per OAR 340-011-0535(1). If you do request a hearing but later
25 withdraw your request, fail to attend the hearing or notify DEQ that you will not be attending the
26 hearing, DEQ will issue a final order by default pursuant to OAR 340-011-0535(3). DEQ designates
27 ///

1 the relevant portions of its files, including information submitted by you, as the record for purposes of
2 proving a prima facie case.

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6 1/16/2025
7 Date

Rebecca A Puskas
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Becka Puskas, Interim Manager
Office of Compliance and Enforcement

EXHIBIT 1

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

VIOLATION NO. 1 Failure to conduct stormwater monitoring required by Schedule B of the Permit in violation of ORS 468B.025(2).

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0055(1)(o).

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)(E)(iii) because Respondent has coverage under a NPDES general 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 0 according to OAR 340-012-0145(4)(a) because there was a single occurrence of the violation.

"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. The monitoring conditions are an express condition of Respondent's Permit. In failing to take the action necessary to ensure that monitoring was completed, Respondent failed to take reasonable care to avoid the foreseeable risk of committing the violation.

"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 \$316. This is the amount Respondent gained by avoiding spending \$344 in analytical costs necessary to comply with the monitoring requirements. 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 + 0 + 4 + 0)] + \$316
= \$4,000 + (\$400 x 4) + \$316
= \$4,000 + \$1,600 + \$316
= \$5,916

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



DEQ State of Oregon
Department of Environmental Quality

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

CIVIL PENALTY - ORS 468.135(2)

DATE:	January 16, 2025
RESPONSE DATE :	March 27, 2025
TOTAL PENALTY:	\$5,916.00

Account Name:	PURCELL TIRE NW, INC <PURCELL TIRE> <111262>		
Account Type:	Vendor/Organization/Company	Reference Number:	CPGFD2500030
SubSystem ID:	179679	FIMS Acct. ID:	4895

Penalty Summary

Penalty Amount	Interest	Adjustment	Amount Paid	Total Penalty
\$ 5,916.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 5,916.00

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.	CPGFD2500030		
PAYCODE:	00401 7400 10040 74001 0500 000000 00		
FEE PROGRAM ID:	950	RESPONSE DATE:	March 27, 2025
FIMS ACCT. ID:	4895	TOTAL PENALTY DUE:	\$5916.00

AMOUNT ENCLOSED:

MAKE CHECK PAYABLE TO: Department of Environmental Quality

☐

Check this box if updated address information has been provided on the back of the form.

DEQ FINANCIAL SERVICES - LBX4244
PO BOX 4244
PORTLAND OR 97208-4244

00401 7400 10040 74001 0500 000000 00950000048956(CPGF)250003000005916001



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
1/16/2025	2023-575 WQ-SW-NWR-2023-575	\$5,916.00

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/SW-NWR-2023-575 upon:

9589 0710 5270 0688 6501 50

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	
Purcell Tire NW, Inc. c/o Corporation Service Company, Registered Agent 1127 Broadway St, NE Suite 310 Salem, OR 97301	
Sent To	
Street and Apt. No., or PO Box No.	
City, State, ZIP+4®	
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 1/16/2025

Osae Smith

Office of Compliance and Enforcement
Department of Environmental Quality