



Oregon

Tina Kotek, Governor

Department of Environmental Quality
Northwest Region Portland Office/Water Quality
700 NE Multnomah Street, Suite 600
Portland, OR 97232
(503) 229-5263
FAX (503) 229-6945
TTY 711

CERTIFIED MAIL NO. 7018 1830 0001 5906 4838

October 6, 2023

Ryan Beckley
Winchester Water Control District
PO Box 661
Winchester, OR 97495

RE: Pre-Enforcement Notice
Winchester Water Control District (WWCD)
PEN - # 2023-PEN-7627
NO. WQ/2018-505-1
Douglas County

Dear Ryan Beckley:

On July 18, 2023, DEQ issued a Nationwide 401 Water Quality Certification to the WWCD for the Winchester Dam Repair Project (Project # 2018-505-1). On August 7 - 9, 2023, the Department of Environmental Quality (DEQ) began compliance inspections at the Winchester Dam on the North Umpqua River, in Douglas County, near Winchester, in order to monitor for potential water quality impacts caused by the work associated with the Winchester Dam Repair Project. DEQ returned to the site on August 15, 2023, and again on August 22, 2023, in response to citizen complaints received by DEQ.

Based upon the investigation of your project site, the Department has concluded that Winchester Water Control District is responsible for the following violations of Oregon environmental law:

Violations:

- (1) ORS 468B.025(1)(a): Causing pollution of any waters of the state or placing or causing to be placed any wastes in a location where such wastes are likely to escape or be carried into the waters of the state by any means. This is a Class I violation pursuant to OAR 340-012-0055(1)(a).
- (2) 401 Condition 2 (Work Authorized): Performing work that is not consistent with the project description contained in the permit application materials. This is a Class I violation pursuant to OAR 340-012-0053(1)(a).

- (3) 401 Condition 8 (Erosion and Sediment Controls): Improper implementation of erosion control measures to prevent or control movement of soil into waters of the state. This is a Class I violation pursuant to OAR 340-012-0053(1)(a).
- (4) 401 Condition 9 (Deleterious Waste Materials): Placement of biologically harmful materials and construction debris where they could enter waters of the state. This is a Class I violation pursuant to OAR 340-012-0053(1)(a).
- (5) 401 Condition 10 (Spill Prevention): Operating equipment in areas that disturb habitat directly or result in potential discharges. This is a Class I violation pursuant to OAR 340-012-0053(1)(a).
- (6) 401 Condition 11 (Spill & Incident Reporting): Failing to report discharges of deleterious materials to the Oregon Emergency Response System (OERS). This is a Class I violation pursuant to OAR 340-012-0053(1)(a).
- (7) 401 Condition 15 (Fish protection / Oregon Department of Fish and Wildlife timing): Failing to perform in-water work only within the ODFW preferred time window. This is a Class I violation pursuant to OAR 340-012-0053(1)(a).
- (8) 401 Condition 16 (Aquatic Life Movements): Failing to maintain unobstructed fish passage from August 28, 2023, through September 1, 2023. This is a Class I violation pursuant to OAR 340-012-0053(1)(a).
- (9) 401 Condition 17 (Isolation of In-Water Work Areas): Failing to isolate in-water work areas from the active stream. This is a Class I violation pursuant to OAR 340-012-0053(1)(a).
- (10) 401 Condition 19 (BMPs to Minimize In-Stream Turbidity): Failing to implement BMPs to minimize turbidity during in-water work. This is a Class I violation pursuant to OAR 340-012-0053(1)(a).

Class I violations are the most serious violations:

Environmental Consequences: The work performed during the Winchester Dam Repair project discharged untreated and contaminated water into the North Umpqua River. These discharges can pollute waters by introducing contaminants and increasing turbidity; and be detrimental to the survival of aquatic species and habitat. To protect state waters, the Department requires that best management practices (BMPs) are properly implemented to prevent untreated contaminated water from leaving the site. However, during the site visits, it was observed that WWCD failed to fully implement the BMPs and failed to prevent the discharge of pollutants into state waters.

Corrective Action(s) Required: No corrective actions are required as all work has been completed.

The violation(s) cited above caused significant environmental harm or posed the risk of significant environmental harm and the matter is being referred to the Department's Office of Compliance and

Enforcement for formal enforcement action. Formal enforcement action may result in assessment of civil penalties and/or a Department order. A formal enforcement action may include a civil penalty assessment for each day of violation.

If you believe any of the facts in this Pre-Enforcement Notice are in error, you may provide written information to me at 4026 Fairview Industrial Dr SE, Salem, OR 97302 . The Department will consider new information you submit and take appropriate action.

The Department endeavors to assist you in your compliance efforts. Should you have any questions about the content of this letter or desire any follow-up technical assistance, please feel free to contact me in writing or by phone at chance.plunk@deq.oregon.gov or 541-972-5463.

Sincerely,

Chance Plunk
401 WQC Project Manager – Western Region

Cc:

Melanie O'Meara: USACE
Lauren Stebbins: DSL
Diane Lloyd, DOJ
Erin Saylor: Office of Compliance and Enforcement, DEQ Headquarters