



Oregon

Tina Kotek, Governor

Department of Environmental Quality
Eastern Region Pendleton Office
800 SE Emigrant Avenue, Suite 330
Pendleton, OR 97801
(541) 276-4063
FAX (541) 278-0168
TTY 711

March 6, 2024

Mark Milne, Wastewater System Superintendent
City of Pendleton
500 Dorion Ave
Pendleton, Oregon 97801-1721

RE: **Revised - 2024-PEN-8901 Corrective
Action Failure**
City of Pendleton
NPDES permit #100982/ WQ file #68260
EPA OR ID# OR0026395
2024-PEN-8901
WQ – Umatilla County

Dear Mr. Milne:

This letter is a revision to the Corrective Actions Failure letter issued by DEQ on March 5, 2024 (Appendix 1).

On January 4, 2024, the Department of Environmental Quality issued a Pre-Enforcement Notice (2024-PEN-8901) to the City of Pendleton for violations related to the assigned National Pollution Discharge Elimination System Permit (NPDES Permit No. 100982). The PEN provided a corrective action for a DMR-QA Study 43 violation (Appendix 1), where the City failed to submit a passing proficiency test for the analytes required by the study as described below:

Required Corrective Action

The City must ensure compliance with the terms and conditions of the issued NPDES permit, including all Schedule A. effluent limits.

1. By **February 15, 2024**, the City must submit to DEQ a passing PT test for all the analytes required by DMR-QA Study 43. The packet for submittal must be filled out in its entirety and can be found at: [EPA Discharge Monitoring Report - Quality Assurance \(DMR-QA\) Study 43 \(2023\)](#). If the City is unable to provide a complete packet, a written request can be made detailing the circumstances by the deadline provided for DEQ approval.

On February 15, 2024, the City sent a copy of the study packet dated September 29, 2023 and “revised corrective actions” providing the explanation that the City had ordered new tests and received results on November 10, 2023. On February 15, 2024, Pendleton staff also resubmitted the study packet indicating that the following analytes had passed:

- E. coli
- Total Coliform
- 5-day Biochemical Oxygen Demand
- Alkalinity, total (CaCO₃)
- Ammonia as N
- Nitrate as N
- Nitrite as N
- Total Kjeldahl-Nitrogen
- pH
- Total Residual Chlorine (Low-Level)

The study packet resubmitted to DEQ provided corrective actions documentation, dated January 15, 2024, indicating that the following analytes have been resampled and submitted to an express PT study closing on March 9, 2024. These analytes are as follows:

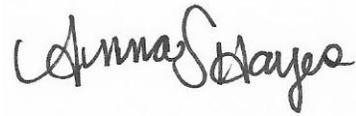
- Chemical Oxygen Demand
- Total Dissolved Solids
- Total Suspended Solids
- Total Solids

It is unknown at this time if the four analytes above have passed PT. As such, the City of Pendleton is requesting an extension to Corrective Action #1 (2024-PEN-8901, above) until April 15, 2024, to provide time for the results of the retesting to be received and reported appropriately to DEQ. This extension is approved via this letter, and Corrective Action #1 is now due April 15, 2024, unless otherwise approved in writing by DEQ. During the extension period the City is authorized to conduct sampling and analysis in accordance with 40 CFR Part 136 for the purposes of reporting permit compliance. Additionally, these analytes can be tested for facilities using the services of the City of Pendleton.

Further information regarding this matter can be provided to me by email or at the address shown at the top of this letter, and to DEQ’s data steward, George Cannon, at George.Cannon@deq.oregon.gov.

Sincerely,

The City of Pendleton
March 6, 2024
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A handwritten signature in black ink that reads "Anna Morgan-Hayes". The signature is written in a cursive style with a large initial 'A'.

Anna Morgan-Hayes
Water Quality Permit Writer and Compliance
Eastern Region, DEQ

cc: Jessica Schneider, City of Pendleton Laboratory
ec: Mike Hiatt, WQ Manager, Eastern Region, DEQ
George Cannon, HQ, DEQ
Oregon Records Management Solution

Appendix 1: 2024-PEN-8901 Corrective Action Failure, DEQ Letter, March 5, 2024



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Mark Milne, Wastewater System Superintendent
City of Pendleton
4255 SW 28th Drive
Pendleton, Oregon 97801-1721

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City of Pendleton
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Required Corrective Action

The City must ensure compliance with the terms and conditions of the issued NPDES permit, including all Schedule A. effluent limits.

1. By **February 15, 2024**, the City must submit to DEQ a passing PT test for all the analytes required by DMR-QA Study 43. The packet for submittal must be filled out in its entirety and can be found at: [EPA Discharge Monitoring Report - Quality Assurance \(DMR-QA\) Study 43 \(2023\)](#). If the City is unable to provide a complete packet, a written request can be made detailing the circumstances by the deadline provided for DEQ approval.

The City of Pendleton
March 5, 2024
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On February 15, 2024, the City sent a copy of the study packet dated September 29, 2023 and “revised corrective actions” providing the explanation that the City had ordered new tests. A passing proficiency test has not been submitted as required. Based on review of this information, it has been determined that the City has failed to complete the required corrective action by the timeline provided.

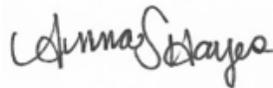
Analysis for the following list of analytes must not be conducted by the City of Pendleton for the wastewater treatment facility, or for other facilities that utilize analytical services of the City of Pendleton to report compliance with DEQ assigned wastewater permits:

- *E. coli*
- Total coliform
- 5-day Biochemical Oxygen Demand
- Chemical Oxygen Demand
- Alkalinity, Total Dissolved Solids
- Ammonia, Nitrate as N
- Nitrite as N
- Total Kjeldahl Nitrogen
- Total Suspended Solids
- pH
- Total residual Chlorine (low-level)

The City of Pendleton must provide notice to any facilities using the services of the City’s lab to report compliance with their assigned permits that their services cannot be used until such time that a passing proficiency test is submitted to DEQ for the respective analytes. Analytes which have holding times of 15 minutes (to include pH and chlorine) must be performed by a consultant on-site.

Further information regarding this matter can be provided to me by email or at the address shown at the top of this letter, and to George Cannon, DEQ at George.Cannon@deq.oregon.gov.

Sincerely,



Anna Morgan-Hayes
Water Quality Permit Writer and Compliance
Eastern Region, DEQ

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The City of Pendleton
March 5, 2024
Page 3 of 4

cc: Jessica Schneider, City of Pendleton Laboratory
~~cc:~~ Mike Hiatt, WQ Manager, Eastern Region, DEQ
George Cannon, HQ, DEQ
Oregon Records Management Solution

Appendix 1: DMR-QA Study 43 Violation (2024-PEN-8901)
DMR-QA Study Violation:

NPDES Major and select Minor permit holders are required by the Environmental Protection Agency (EPA) to participate in the DMR-QA Study 43 under Clean Water Act (CWA) Section 308. As the permittee for the City of Pendleton, the City is responsible for ensuring that results of DMR-QA Study tests, performed by in-house and/or contract laboratories, are graded by an accredited Proficiency Testing (PT) Provider. If any graded results are "Not Acceptable", the City must follow up with the laboratory to determine the cause of the deficiency and ensure corrective action is taken to prevent future occurrences. While performing tests and analyses, the City must ensure that the test methods/procedures follow 40 CFR part 136 regulations and applicable guidance.

Additionally, the City's NPDES permit, is regulated under Chapter 340, Division 45 of Oregon Administrative Rules (OAR). OAR 340-045-0015(5)(c) states that each person required by sections (1) and (2) of the rule to obtain a permit must comply with applicable federal and state requirements, effluent standards, and limitations including but not limited to those contained in or established under sections 204, 301, 302, 304, 306, 307, 308, 402, and 403 of the Federal Act and applicable federal and state water quality standards.

According to EPA's DMR-QA Study 43 Announcement, the timeline for submittal of the DMR-QA 43 results was September 29, 2023. DEQ State DMR-QA Coordinator, George Cannon reviewed the City's DMR-QA Study 43 submitted on September 29, 2023. At that time, the study reported a non-passing PT test for the analytes required by the study. Following the submittal, the City was provided with a corrective action letter requirement on October 31, 2023, to resubmit a passing PT test for the required analytes by the deadline of November 9, 2023.

Please see the DMR-QA Study 43 Announcement on EPA's webpage at: [2023 Discharge Monitoring Report - Quality Assurance \(DMR-QA\) Study 43 | US EPA](#) for more information. DEQ has concluded that the City of Pendleton is responsible for the following violation of Oregon environmental law:

Violation: DMR-QA Study

Date	Violation	Violation Class
November 9, 2023	Violating any otherwise classified requirement (OAR 340-045-012-0053(2)).	II