



Oregon

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April 17, 2024

Mr. Craig Mallon
Duckwall-Pooley Fruit Co.
PO Box 150
Odell, Oregon 97044

RE: **Pre-Enforcement Notice**
Duckwall-Pooley Fruit Co.
2024-PEN-9163
NPDES permit #100645 / File #25434
EPA ID #OR0026867
Hood River County

Dear Mr. Mallon:

The Duckwall-Pooley Fruit Co. Odell location operates an industrial wastewater treatment facility under National Pollution Discharge Elimination System (NPDES) permit #100645. The Department of Environmental Quality (DEQ) previously completed an audit of required reporting submitted by the facility in accordance with their NPDES permit. After the initial review, DEQ documented incomplete reporting and issued the facility a Warning Letter with Opportunity to Correct (2023-WLOTC-8319) on May 1st, 2023.

The WLOTC included corrective actions requiring the facility to submit amended discharge monitoring reports (DMRs) and supporting daily data for the monitoring periods of November 2019 through March 2023. In response to the WLOTC, the facility revised and resubmitted the required DMRs and spreadsheet attachments. Currently, there are no outstanding DMR corrections or spreadsheet attachments associated with the required corrective actions. All submitted documents have been reviewed and are complete.

During the initial compliance review, DEQ documented inaccurate flow reporting of both permitted features (Outfall 001-A / Non-contact Cooling Water & Outfall 002-A / Fruit Packing Wastewater) and the combined total flow reported as 001-C. The underreported flow data was due to an error in the formula used in Excel for unit conversion from gallons per day (GPD) to million gallons per day (MGD) and affected data calculations for other monitoring parameters required under Schedule B of the permit with Schedule A limits.

The discovery of the error prompted DEQ's issuance of the WLOTC to Duckwall-Pooley Fruit Co. with required corrective actions to submit amended DMRs and daily data spreadsheets for the monitoring periods reviewed. The request for amended DMRs and monitoring data was to

address the underreporting of parameters with Schedule A limitations which, when reported correctly resulted in violations of permit limits.

Further observation during DEQ’s initial file review highlighted the permit required weighted-total split for combined discharge (001-C) limits. Specifically, Schedule A, Table A3, Note a of the permit (image below) applies weighted-total calculation requirements of 10% to Outfall 001-A and 90% to Outfall 002-A to determine compliance of the combined outfall (001-C) discharge with Schedule A limits.

The facility responded to DEQ’s review and request for documentation stating that the assigned weighted percentages as written in the permit were reversed from the original intended 90% for outfall 001-A and 10% for outfall 002-A. The discrepancy and limit exceedances were not detected by the facility nor brought to the attention of DEQ throughout the continuation of monitoring over multiple years of facility operation. This resulted in documented noncompliance with permit limits.

Table A3: Combined Waste Discharge Limits for Outfalls 001 and 002

Parameter^a (Year-round)	Units	Monthly Average	Average Weekly	Daily Maximum
Excess Thermal Load ^b	Mkcal/day	Shall not exceed a 7-day moving average of the daily excess thermal loads of 0.2 million kilocalories per day.		
Effluent Flow ^c	MGD	N/A	N/A	0.25
Chlorine, Total Residual ^{d,e}	mg/L	0.01	N/A	0.02
Chlorine, Total Residual ^{d,e}	lbs./day	0.02	N/A	0.04
Total Dissolved Solids (TDS) ^e	mg/L	N/A	N/A	500
Dissolved Oxygen	mg/L	N/A	N/A	8.5
Biochemical Oxygen Demand	mg/L	N/A	N/A	30
Notes:				
<p>a. Limits are based upon combined discharges from Outfalls 001 and 002. Monitoring of individual contributions from each outfall shall be in accordance with Tables B1 and B2. Table B3 requires permittee to report weighted total of discharge from both outfalls. Weighted total based upon percentage of total discharge from each outfall: 10 percent for Outfall 001 and 90 percent for Outfall 002. The monitoring results reported in Table B3 shall be used for determining compliance with the limits in Table A3.</p> <p>b. Excess Thermal Load limit is a combined limit of the individual ETLs from Outfalls 001 and 002. Refer to Tables B1 and B2 for formulas to calculate the individual Excess Thermal Load.</p> <p>c. Combined flows from Outfalls 001 and 002 may not exceed 0.25 MGD. Permittee will be required to report individual flows from each outfall in accordance with Tables B1 and B2. Reporting of combined totals shall be in accordance with Table B3.</p> <p>d. Permittee to monitor for total residual chlorine from Outfall 001 during periods of pre-size wastewater discharges, when non-contact cooling water is obtained from the public water supply and when chlorine or chlorine compounds are added to the non-contact cooling water system for disinfection and cleaning.</p> <p>e. DEQ has established a minimum Quantitation Limit of 0.05 mg/L for Total Residual Chlorine. In cases where the average monthly or maximum daily limit for Total Residual Chlorine is lower than the Quantitation Limit, DEQ will use the reported Quantitation Limit as the compliance evaluation level.</p>				

Additionally, the initial compliance review documented language included in Schedule A, Table A3 of the permit that was inaccurate regarding the combined (001-C) weighted-total limit for dissolved oxygen (DO). As written, the Schedule A limit in the permit for DO is listed as a daily maximum of 8.5mg/L but when referenced in the permit fact sheet is correctly listed as an 8.5mg/L daily minimum requirement. The violations for exceedance of the DO 8.5mg/L daily minimum limit included below are based upon the correct writing in the fact sheet and in consult with permit development.

In May 2022, the facility made operational changes to outfall 002-A by diverting fruit packing wastewater discharge to the city of Odell municipal wastewater treatment facility. The discontinuation of discharge from outfall 002-A reduced the occurrence of documented permit limit violations. Early detection and prompt notification to DEQ of the calculation error and weighted-total percentage and parameter limit language discrepancies would have allowed for a necessary permit modification request to appropriately correct permit language and help the facility to ensure accurate data reporting.

Due to the noted discrepancies between Table A3 of the permit and the permit factsheet regarding Schedule A limitations based on weighted-total requirements for combined discharge reported as 001-C, violations have been separated into two categories. **Category I** for documented violations attributable to exceedances based on weighted totals for combined outfalls as written in the permit factsheet (Outfall 001 – 90%, Outfall 002 – 10%) which is considered to be the correct weighting. **Category II** for documented violations attributable to exceedances based on weighted totals for combined outfalls as written in Table A3 of the permit (Outfall 001 – 10%, Outfall 002 90%) which has been confirmed as an error during permit development. DEQ will consider the permit writing discrepancy in accordance with agency enforcement procedures.

Based on review of the amended DMRs and correspondence with the facility, DEQ has concluded that Duckwall-Pooley Fruit Co. is responsible for the following violations of its permit and Oregon environmental law ORS 468B.025(2):

Violations: Effluent Limit Exceedances for Biochemical Oxygen Demand (BOD)

Table 1: Category I violations – combined discharge (001-C)

Effluent Limit (Combined weighted limit – Outfalls 001 and 002)	Reported Result (% exceedance)	Violation Date	Violation Class
Combined BOD Daily Max Concentration Limit: 30mg/L	47.2mg/L (57%)	04/15/2020	I

Table 2: Category II violations – combined discharge (001-C)

Effluent Limit (Combined weighted limit – Outfalls 001 and 002)	Reported Result (% exceedance)	Violation Date	Violation Class
Combined BOD Daily Max Concentration Limit: 30mg/L	37.17mg/L (24%)	09/05/2019	II
	51.93mg/L (73%)	10/02/2019	I
	69.3mg/L (131%)	11/20/2019	I
	94.5mg/L (215%)	12/11/2019	I
	126mg/L (320%)	01/20/2020	I
	117mg/L (290%)	03/04/2020	I
	170.58mg/L (469%)	04/15/2020	I
	153mg/L (410%)	05/06/2020	I
	33.39mg/L (11%)	09/02/2020	III
	49.23mg/L (64%)	10/07/2020	I
	99mg/L (230%)	11/04/2020	I
	84.78mg/L (183%)	12/02/2020	I
	55.62mg/L (85%)	01/06/2021	I
	170.1mg/L (467%)	02/04/2021	I
	38.57mg/L (29%)	03/04/2021	II
	173.7mg/L (479%)	04/07/2021	I
	48.46mg/L (62%)	08/11/2021	I
	69.3mg/L (131%)	09/08/2021	I
	47.95mg/L (60%)	10/05/2021	I
	128.22mg/L (327%)	11/10/2021	I
	35.94mg/L (20%)	12/08/2021	II
	67.86mg/L (126%)	02/09/2022	I
	129.6mg/L (332%)	03/09/2022	I
175.86mg/L (486%)	04/07/2022	I	

Exceedance of a technology-based effluent limitation (TBEL), including BOD, in an NPDES permit by 50% or more is a Class I violation (OAR 340-012-0055(1)(k)). Exceedance of a TBEL by 20% or more but less than 50% is a Class II violation (OAR 340-012-0055(2)(a)).

Exceedance of a TBEL by less than 20% is a Class III violation (OAR 340-012-0055(3)(b)).

Class I violations are considered to be the most serious and Class III violations are considered to be the least serious.

Violations: Effluent Limit Exceedances for Dissolved Oxygen (DO), Excess Thermal Load (ETL), Total Dissolved Solids (TDS), and Turbidity

Table 3: Category I violations – combined discharge (001-C)

Effluent Limit (Combined weighted limit – Outfalls 001 and 002)	Reported Result (% exceedance)	Violation Date	Violation Class
Combined DO Daily Min Concentration Limit: 8.5mg/L	6.7mg/L (21%)	10/07/2019	I
	4.7mg/L (45%)	04/27/2020	I
	8.3mg/L (2%)	07/13/2020	I
	5.2mg/L (39%)	07/10/2023	I
Combined ETL Max 7D Average Limit: 0.2Mkcal/day	0.26Mkcal/day (30%)	08/15/2021	I

Table 4: Violations not subject to weighted-total criteria

Effluent Limit (Outfall 002 only)	Reported Result (% exceedance)	Violation Date	Background Turbidity +10% (NTU)	Violation Class
Effluent Turbidity Over Background Limit: 10%	62.2NTU (13%)	07/01/2020	54.9NTU	I
	32.3NTU (188%)	05/17/2021	11.2NTU	I
	13.8NTU (142%)	05/27/2021	5.7NTU	I
	16.3NTU (36%)	08/14/2021	12.0NTU	I
	14.5NTU (99%)	08/15/2021	7.3NTU	I
	60.9NTU (263%)	08/16/2021	16.8NTU	I
	10.7NTU (118%)	08/25/2021	4.9NTU	I
	6.4NTU (33%)	01/14/2022	4.8NTU	I
	21.3NTU (213%)	01/28/2022	6.8NTU	I
	12.6NTU (133%)	03/09/2022	5.4NTU	I
	32.7NTU (263%)	03/10/2022	9.0NTU	I
	14.6NTU (33%)	03/11/2022	11.0NTU	I

Table 5: Category II violations – combined discharge (001-C)

Effluent Limit (Combined weighted limit – Outfalls 001 and 002)	Reported Result (% exceedance)	Violation Date	Violation Class
Combined DO Daily Min Concentration Limit: 8.5mg/L	3.9mg/L (54%)	10/28/2019	I
	3.4mg/L (60%)	11/18/2019	I
	2.8mg/L (67%)	02/10/2020	I
	2.7mg/L (68%)	04/06/2020	I
	3.9mg/L (54%)	05/04/2020	I
	3.3mg/L (61%)	07/27/2020	I
	3.6mg/L (58%)	09/21/2020	I
	3.7mg/L (56%)	11/23/2020	I
	4.6mg/L (46%)	12/28/2020	I
	5.2mg/L (39%)	01/18/2021	I
3.5mg/L (59%)	03/01/2021	I	
Combined ETL Max 7D Average Limit: 0.2Mkcal/day	1.5Mkcal/day (650%)	08/10/2020	I
	0.58Mkcal/day (190%)	09/01/2020	I
	2.17Mkcal/day (985%)	08/22/2021	I
	1.02Mkcal/day (410%)	09/01/2021	I
Combined TDS Daily Max Concentration Limit: 500mg/L	537.6mg/L (8%)	12/11/2019	I
	510.0mg/L (2%)	02/04/2021	I
	693.6mg/L (39%)	03/09/2022	I

Exceedance of a water quality based effluent limitation (WQBEL), including DO, ETL, TDS, and Turbidity, in an NPDES permit is a Class I violation (OAR 340-012-0055(1)(l)). Class I violations are considered to be the most serious, Class III violations are considered to be the least serious.

Violations: Failure to Monitor as required by Schedule B of the Permit

Table 6: Violations not subject to weighted-total criteria

Outfall / Parameter	Schedule B Monitoring Frequency / # of missed occurrences	Monitoring Period	Violation Class
001-A / pH	2 times per week / 3	September 2019	I
002-A / pH	2 times per week / 3	September 2019	I
001-A / pH	2 times per week / 1	December 2019	I
002-A / pH	2 times per week / 1	December 2019	I
001-A / pH	2 times per week / 2	December 2021	I
002-A / pH	2 times per week / 2	December 2021	I
001-A / pH	2 times per week / 4	January 2022	I
002-A / pH	2 times per week / 4	January 2022	I

Outfall / Parameter	Schedule B Monitoring Frequency / # of missed occurrences	Monitoring Period	Violation Class
001-A / pH	2 times per week / 4	May 2022	I
001-A / pH	2 times per week / 4	June 2022	I
001-A / pH	2 times per week / 4	July 2022	I
001-A / pH	2 times per week / 4	August 2022	I
001-A / pH	2 times per week / 2	November 2022	I

Failing to collect monitoring data as required in Schedule B of the permit is a Class I violation (OAR 340-012-0055(1)(o)). Class I violations are considered to be the most serious, Class III violations are considered to be the least serious.

Environmental Impact of Violations

Exceeding concentration limits for biochemical oxygen demand (BOD) can have negative impacts on the receiving stream and aquatic species by reducing instream dissolved oxygen concentrations. Low dissolved oxygen in the effluent can decrease the dissolved oxygen levels in small receiving streams. Aquatic organisms require dissolved oxygen to sustain life and salmonid eggs are particularly sensitive to low dissolved oxygen.

NPDES permits contain thermal load limits to ensure that the cumulative effects of heated discharges do not impair aquatic organisms that require cool water, such as salmonids. Exceeding the thermal load limit can have negative effect on these organisms.

Fulfilling the mandatory monitoring and reporting requirements is an important obligation. Without timely submittal of accurate reports, the facility, DEQ, and the public are unable to promptly evaluate compliance with your permit. Analytical data from laboratories are used to determine compliance with effluent limitations. Without accurate data and quality assurance and quality control procedures, the facility, DEQ, and the public are unable to evaluate the effectiveness of the wastewater system.

Required Corrective Action

The facility must ensure compliance with the terms and conditions of the issued NPDES permit, including all Schedule B monitoring and reporting requirements. In order to renew coverage and correct the permitting discrepancies noted in this letter, DEQ has issued an NPDES permit renewal with effective date of May 1st, 2024 for the facility.

Referral for DEQ Formal Enforcement Action

This matter is being referred to DEQ’s Office of Compliance and Enforcement for formal enforcement action, including assessment of potential civil penalties and/or a DEQ order. Civil penalties may be assessed for each day of violation. If you believe any of the facts in this Pre-

Duckwall-Pooley Odell

April 17, 2024

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Enforcement Notice are in error, you may provide written information to me at the office at the address shown at the top of this letter. DEQ will consider new information you submit and take appropriate action. DEQ 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 contact me at (971) 263-1095.

Sincerely,

A handwritten signature in black ink, appearing to read 'SC', with a stylized flourish at the end.

Shane Cossel
Water Quality Compliance Specialist

cc: Justin Sterger, DEQ
Stuart Blois, DEQ
Mike Hiatt, DEQ
WQ Data Team, DEQ
Oregon Records Management System