



Oregon

Tina Kotek, Governor

Department of Environmental Quality

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May 22, 2024

Mr. Erick Watkins
Pacific Coast Producers, Inc.
P.O. Box 1600
Lodi, CA 95241-1600

RE: Pre-Enforcement Notice
Oregon Cherry Growers - Riverside
2024-PEN-9305
File #84108, NPDES Permit #100841
EPA Reference Number: OR000011-6
WQ- Wasco County

Dear Mr. Watkins:

The Pacific Coast Producers operate an industrial wastewater treatment plant with discharge to the Columbia River under National Pollutant Discharge Elimination System (NPDES) Permit #100841. The Department of Environmental Quality (DEQ) completed an audit of the discharge monitoring reports (DMRs) submitted by the Oregon Cherry Growers (Riverside) in accordance with National Pollution Discharge Elimination System (NPDES) permit #100841. Based on a review of submitted Discharge Monitoring Reports (DMRs) for the period of May 2020 through February 2024, DEQ has documented the following violations of the NPDES permit. Failure to comply with permit conditions violates Oregon Revised Statute 468B.025(2).

Management Plan Violations: Violating any management, monitoring, or operational plan established pursuant to a waste discharge permit unless otherwise classified, OAR 340-012-0055(2)(d). In accordance with DEQ's Enforcement Rules, violating any management, monitoring, or operational plan is a Class II violation.

As required by Schedule B, Table B1 of the company's permit, the following analyses are to be conducted at the specified frequencies:

Oregon Cherry Growers - Riverside

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Item or Parameter	Units	Time Period	Minimum Frequency	Sample Type/Required Action	Report Statistic
Effluent BOD ₅ (00310)	mg/L	Year-round	2/week	24-Hour Composite	1. Daily Values 2. Daily Maximum 3. Monthly Average 4. Annual Average
Effluent TSS (00530)	mg/L	Year-round	2/week	24-Hour Composite	1. Daily Values 2. Daily Maximum 3. Monthly Average 4. Annual Average
Effluent Ammonia-nitrogen	Mg/L	Year-round	1/Two Weeks	24-Hour Composite	1. Daily Values 2. Daily Maximum 3. Monthly Average

During the monitoring period of May 2022 through March 2024, the permittee conducted the required monitoring but failed to attain data in accordance with the Quality Assurance/Quality Control (QA/QC) Plan. There are 20 instances of QA/QC failures that resulted in data that was reported for permit compliance purposes but was flagged and was not verifiable data (see Table below, and notes a-n).

Missed Required Monitoring Parameter	Date	Total Events
Effluent BOD ₅ (00310)	<ol style="list-style-type: none"> 1. May 8th – 14th, 2022 (see note a.) 2. January 8th – 14th, 2023 (see note b.) 3. January 15th – 21st, 2023 (see note b.) 4. January 22nd – 28th, 2023 (see note b.) 	19 missed monitoring events

	<p>5. February 5th – 11th, 2023 (see note c.)</p> <p>6. February 12th – 19th, 2023 (see note c.)</p> <p>7. March 5-11th, 2023 (see note d.)</p> <p>8. April 9th – 15th, 2023 (see note e.)</p> <p>9. June 11th – 17th, 2023 (see note f.)</p> <p>10. October 1 – 7, 2023 (see note g.)</p> <p>11. October 15 – 21, 2023 (see note g.)</p> <p>12. October 29- November 4, 2023 (see note g.)</p> <p>13. November 19 – November 25, 2023 (see note h.)</p> <p>14. November 26 – December 1, 2023 (see note i.)</p> <p>15. December 24 – December 30, 2023 (see note j.)</p> <p>16. January 7 – 13, 2024 (see note k.)</p> <p>17. February 25- March 2, 2024 (see note l.)</p> <p>18. March 10-16, 2024 (see note m.)</p> <p>19. March 17 – 23, 2024 (see note m.)</p>	
Effluent TSS (00530)	1. July 2 nd - 8 th , 2023 (see note n.)	1 missed monitoring event
<p>Notes:</p> <p>a. Downtown and Riverside were collected 5/10/22 at 12:30 and 12:10. Due to shipment delays, they were received 5/12/22 at 14:20 with a cooler temperature of 10.8 degrees Celsius. This does not meet the regulatory requirements for holding time/sample preservation for BOD analysis. BOD Sample for 5/10 did not meet holding time requirements.</p> <p>b. BOD₅ 1-11-2023, 1-19-2023, 1-25-2023; result detected in unseeded control blank exceeds 0.2 mg/L. Results included in calculations but reported with qualifier "E". Lab reports attached, 1-11-2023 BOD₅ QC: Duplicate DPD exceeds limit, and one or both sample results are less than 5 times RL, and the absolute difference between results is < the upper reporting limits for both.</p> <p>c. 2-7-2023, 2-8-2023, 2-14-2023, 2-15-2023, 2-21-2023; BOD₅: Result detected in the unseeded control blank exceeds 0.2 mg/L; results included in calculations but reported in NetDMR with qualifier "E"</p>		

- d. 3-7-2023 BOD₅: Result detected in the unseeded control blank exceeds 0.2 mg/L; results included in calculations but reported in NetDMR with qualifier "E" 10-26-2023: Facility noted in their DMR that they edited DMR BOD₅ and TSS calculations due to the Waterlab data not being used in the calculations prior to this edit.
- e. Qualifier "E" included on all BOD calculations due to Waterlab Blank Dilution exceeding <0.2 mg/L depletion on 04-12-2023 dataset. 10-26-2023: Edited DMR BOD₅ calculations due to the Waterlab data not being used in the calculations prior to this edit.
- f. Qualifier "E" included on all BOD₅ calculations due to Waterlab Blank Dilution exceeding <0.2 mg/L depletion on 06-14-2023 dataset.
- g. BOD₅ monthly avg conc/load results reported using "E" qualifier in NetDMR *10-3-2023, 10-4-2023, 10-17-2023, 10-18-2023, 10-31-2023: BOD₅ QA, Analyte detected in an associated blank at a level above MRL.
- h. 11/20/2023- BOD₅ QA- B: Analyte detected in an associated blank at a level above the MRL. B-06: Oxygen drop for dilution water was above the acceptance limit and could contribute to a positive bias in the sample result.
- i. 11/28/2023- BOD₅ QA- B: Analyte detected in an associated blank at a level above the MRL. B-06: Oxygen drop for dilution water was above the acceptance limit and could contribute to a positive bias in the sample result.
- j. "12-28-2023: BOD₅ QA B, B06- Analyte detected in an associated blank at a level above mrl B-06- oxygen drop for dilution water was above the acceptance limit and could contribute to a positive bias in the sample result
- k. 1/10/2024 Apex Labs BOD (X) EST: Due to inclement weather, the read back of the 5-day Biochemical Oxygen Demand (BOD₅) analysis for the following sample occurred 1 hour and 20 minutes prior to the method specified incubation time of 5 days (plus or minus 6 hours). Data is reported as estimated and may contain a slight low bias. Effluent BOD₅ monthly avg conc/load values reported w/"E" qualifier in NetDMR due to January 10 sample QC failure, method incubation time not met.
- l. Effluent BOD₅ QC failure for February 27 sample, BOD₅ monthly avg conc/load values reported w/"E" qualifier in Net DMR *02-27-2024: BOD QA- B Analyte detected in an associated blank at a level above the MRL. BOD QA- B-06 Oxygen drop for dilution water was above the acceptance limit and could contribute to a positive bias in the sample result. BOD₅ monthly averages are estimated "E".
- m. Effluent BOD₅ QC failure for March 12, 19 samples, BOD₅ monthly avg conc/load values reported w/"E" qualifier in NetDMR *03/12/24 BOD₅ Estimated: B-Analyte detected in an associated blank at a level above the MRL. (See Notes and Conventions below.) B-06 Oxygen drop for dilution water was above the acceptance limit and could contribute to a positive bias in the sample result. 03/19/24 BOD₅ Estimated: B-Analyte detected in an associated blank at a level above the MRL. (See Notes and Conventions below.) B-06 Oxygen drop for dilution water was above the acceptance limit and could contribute to a positive bias in the sample result
- n. 001-A Effluent BOD/TSS minimum sampling frequency not met, missed July 4 sample

Monitoring Violations: Failure to collect monitoring data required in Schedule B of the permit, OAR 340-012-0055(1)(o). In accordance with DEQ’s Enforcement Rules, failure to monitor is a Class I violation.

There are 17 instances of Failure to Monitor Violations that resulted in data that was not able to be reported for permit compliance purposes (see Table below, and notes a-h).

In accordance with a March 30, 2022 Request for Supplemental information (Appendix A), DEQ required the permittee to collect Copper Biotic Ligand Model and Aluminum data monthly until 24 months.

The permittee was unable to collect Copper BLM data during the month of December 2022 due to freezing weather making it difficult to sample.

The permittee also failed to collect ammonia samples once every 2 weeks from May 2020 through October 2021 (see Table below).

Item or Parameter	Units	Time Period	Minimum Frequency	Sample Type/Required Action	Report Statistic
Effluent Ammonia-nitrogen	Mg/L	Year-round	1/Two Weeks	24-Hour Composite	1. Daily Values 2. Daily Maximum 3. Monthly Average
Effluent BOD ₅ (00310)	mg/L	Year-round	2/week	24-Hour Composite	1. Daily Values 2. Daily Maximum 3. Monthly Average 4. Annual Average

Missed Required Monitoring Parameter	Date	Total Events
Effluent Ammonia-nitrogen	1. May 2020 (see note a.) 2. January 2021 (see note a.)	5 missed monitoring events

	3. April 2021 (see note a.) 4. July 2021 (see note a.) 5. October 2021 (see note a.)	
Effluent BOD ₅ (00310)	1. October 9th – 15th, 2022 (see note b.) 2. October 16th – 22nd, 2022 (see note b.) 3. November 13th - 19th, 2022 (see note c.) 4. February 19-25th, 2023 (see note d.) 5. February 26th – March 4th, 2023 (see note d.) 6. July 2nd - 8th, 2023 (see note e.) 7. August 13th-19th, 2023 (see note f.) 8. December 24 – December 30, 2023 (see note g.) 9. February 19th-25th, 2024 (see note h.) 10. February 26th- March 4th, 2024 (see note h.)	10 missed monitoring events
Effluent TSS (00530)	1. July 2nd - 8th, 2023 (see note e.)	1 missed monitoring event
Notes: <ul style="list-style-type: none"> a. The ammonia samples were conducted during the first two weeks of the month with no sample during the second two weeks of the month. b. BOD₅ sample from 10/12/2022 received outside of holding time BOD₅ from samples from 10/18/2022 and 10/19/2022 LCS/LCSD outside acceptance limits- high biased; result detected in unseeded control blank Sample results are listed at bottom of spreadsheet, but are not included in calculations. c. 11-15-2022, 11-16-2022: result detected in unseeded control blank for BOD₅ tests; results are listed at bottom of DMR spreadsheet but not included in calculations. d. 2-22-2023, 2-28-2023 BOD₅: LCS and/or LCSD is outside acceptance limits, high biased. Results are listed below but not included in calculations. e. Samples were received over temperature. f. Samples were received outside the 48-hour hold time. g. 12-27-2023: BOD₅ QA Q-42- Matrix spike and/or duplicate analysis was performed on this sample. % recovery or RPD for this analyte is outside laboratory control limits. h. 2-22-2024, 2-28-2024 BOD₅: LCS and/or LCSD is outside acceptance limits, high biased. Results are listed below but not included in calculations. 		

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

Summary

Fulfilling the mandatory reporting requirements in your permit is an important obligation. Without timely submittal of required data and reports, the company, DEQ, and the public are unable to promptly evaluate compliance. Analytical data from laboratories are used to determine compliance with effluent limitations. Without accurate data, the company, DEQ, and the public are unable to evaluate the effectiveness of the company's wastewater treatment system. An ineffective treatment system can cause water quality impairments and/or public health hazards.

The company must ensure compliance with the terms and conditions of the issued NPDES permit including conducting all monitoring and reporting requirements in Schedule B.

Required Corrective Actions

1. The facility must complete the Copper BLM resampling by July 31st, 2024.

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-Enforcement Notice are in error, you may provide 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 (541) 714-0035.

Sincerely,

Stuart Blois

Stuart Blois, Water Quality Permit Writer
Eastern Region

cc: Shane Cossel, WQ Compliance, Eastern Region, DEQ
Justin Sterger, Permit Writer, Eastern Region, DEQ
Mike Hiatt, WQ Permitting Manager, DEQ
Oregon Records Management Solution

**Appendix A: Request for Supplemental Information. March
30, 2022**