



Oregon

Tina Kotek, Governor

Department of Environmental Quality
Eastern Region Bend Office
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November 15th, 2024

Swen Petterson
Black Butte Ranch Corporation
P.O. Box 8000
Black Butte Ranch, OR 97759

RE: Warning Letter with Opportunity to Correct
Black Butte Ranch Corporation
2024-WLOTC-9696
File #11364, NPDES Permit #102218
Deschutes County

Dear Mr. Petterson:

Black Butte Ranch (BBR) owns and operates a domestic wastewater treatment plant with discharge to Indian Ford Creek under National Pollutant Discharge Elimination System (NPDES) Permit #102218. On October 18th, 2024, the consultant working for BBR (Jim Frost, Parametrix) submitted an email to DEQ to request extension to the outfall relocation requirement required by the permit because it was determined by BBR that the relocation could not be completed by the required deadline.

Failure to meet a required permit deadline is a violation although the facility has provided DEQ with regular updates on the issues encountered that were causing delay to the project. The written notice was submitted in advance of the permit due date for completion of the outfall relocation.

As a result of BBR failing to complete the outfall relocation by November 1, 2024, the facility failed to comply with the terms and conditions of NPDES Permit #102218, which is a violation of ORS 468B.025(2).

Violation: Failing to timely submit a report or plan as required by permit

The facility failed to complete and submit a report documenting the outfall pipe relocation to move the winter effluent discharge from Big Meadow. Schedule D, Condition 10, of the assigned NPDES permit requires the following:

10. Relocation of Outfall Pipe

By June 30, 2023, the permittee must submit plans/specs for the proposed relocation of the effluent discharge pipe to DEQ for approval in accordance with OAR 340-052.

By November 1, 2024, the permittee must move the winter effluent discharge outfall pipe from Big Meadow and submit a report with the new outfall location to DEQ. The report must include the coordinates and description of the new location.

The facility submitted the required plans/specs by the June 30, 2023 deadline.

In the email submitted to DEQ on 10-18-2024 (see Appendix I), the facility noted several delays encountered regarding the required land use approval and Division of State Lands (DSL) permitting.

Per DEQ's enforcement guidance, failing to timely submit a report or plan as required by your permit is a Class II violation (OAR 340-012-0055(2)(b)). Class I violations are considered to be the most serious violations; Class III violations are the least serious.

Corrective Action Required

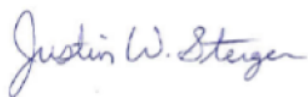
- 1) By **November 1, 2025**, the facility must complete the Outfall Pipe Relocation and provide DEQ a written report as required by Schedule D, Condition 10 of NPDES Permit #102218.

Summary

This notice is a warning letter. DEQ does not intend to take formal enforcement action at this time, however, should you repeat any of these violations or fail to complete the required corrective actions by the due dates provided above, the matter may be referred to DEQ's Office of Compliance and Enforcement for formal enforcement action, including assessment of civil penalties and/or a DEQ order. Civil penalties can be assessed for each day of violation.

If you believe any of the facts in this Warning Letter 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) 714-0206 or by email at justin.sterger@deq.oregon.gov.

Sincerely,



Justin W. Sterger
Senior Water Quality Permit Writer
Water Quality - Eastern Region

cc: Mike Hiatt, DEQ Regional Permitting Manager
Carl Makepeace, DEQ Land Application Specialist
Kyle Cummings, Black Butte Ranch
Bob Gulick, Black Butte Ranch
Joe Mitzel, Parametrix
DEQ Office of Compliance and Enforcement
Water Quality Data Team

Appendix I: October 18th, 2024 Email:

Black Butte Ranch (BBR) submitted Outfall Relocation plans to DEQ before June 2023, meeting the DEQ submittal deadline.

The next DEQ deadline is November 1, 2024 for Construction completion of the Outfall Relocation.

Delays beyond our control:

- County did not consider the Outfall Relocation as a qualifying Land Use Exemption under DCC 18.110.020(B)(3). This code section lists “Utility Facility” as exempt and allowed use for Black Butte Ranch, and defines wastewater disposal piping as a “Utility Facility” in the definition section.
- The County Land use process required Division of State Lands (DSL) permit for installation of the pipe.
- BBR completed the ORAP and SFAM work required for the permit after spring “greenup”, and submitted the JPA to DSL August 2024
- DSL estimates this Permit will be granted November 2024.

Then BBR can submit the prepared County Land Use application December 2024, and obtain County Land Use Permit by June 2025 (estimate 6 months for County approval).

We have selected four contractors to bid the Outfall Relocation Project, and have a prebid site walk scheduled for 10/22/24. We will obtain bids, and have a contractor ready to build the Outfall this summer/fall.

We plan to have the Relocated Outfall completed and operational by November 1, 2025.

BBR respectfully requests extension of the Outfall Relocation (operational) to November 1, 2025, and extension of the Outfall Relocation Inspection to March 15, 2026.

Thanks,
Jim

Parametrix

Jim Frost
Senior Consultant
[541-550-7688](tel:541-550-7688) | direct
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