



# Oregon

Tina Kotek, Governor

Department of Environmental Quality  
Office of Compliance and Enforcement  
700 NE Multnomah Street, Suite 600  
Portland, OR 97232-4100  
(503) 229-5696  
FAX (503) 229-5100  
TTY 711

September 5, 2024

CERTIFIED MAIL: 9589 0710 0688 6539 15

St. Charles Health System, Inc.  
dba St. Charles Medical Center - Redmond  
c/o C T Corporation System, LLC, Registered Agent  
780 Commercial Street SE, Suite 100  
Salem, OR 97301

Re: Notice of Civil Penalty Assessment and Order  
Case No. LQ/UST-ER-2023-121

This letter is to inform you that DEQ has issued you a total civil penalty of \$13,363 for underground storage tank (UST) violations at your facility in Redmond. DEQ documented several violations during its inspection on August 3, 2023. DEQ has cited you for failing to have adequate release detection equipment on the piping for the USTs serving your emergency generators and boilers, failing to conduct annual line tightness testing, and failing to initially test the spill prevention and overfill prevention equipment prior to October 1, 2020.

DEQ issued this penalty because having proper release detection equipment installed and performing testing of spill prevention and overfill prevention equipment is important to ensure that releases are discovered quickly before contamination spreads beyond the immediate area of the USTs and allows immediate response to any sign of a release. If a leak goes unnoticed due to unmaintained release detection equipment, the leaking fuel can have lasting harmful effects on the environment or human health.

Included in Section IV of the Notice is an order requiring you to perform the required testing and install release detection equipment. You are required to submit documentation demonstrating your compliance to DEQ within thirty (30) days of this Notice becoming final.

If you wish to appeal this matter, DEQ must receive a request for a hearing within 20 calendar days from your receipt of this letter. The hearing request must be in writing. Send your request to DEQ Office of Compliance and Enforcement:

Via mail – 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232

Via email – [DEQappeals@deq.oregon.gov](mailto:DEQappeals@deq.oregon.gov)

Via fax – 503-229-5100

Once DEQ receives your request, we will arrange to meet with you to discuss this matter. If DEQ does not receive a timely written hearing request, the penalty will become due. Alternatively, you can pay the penalty by sending a check or money order to the above address.

The attached Notice further details DEQ's reasons for issuing the penalty and provides further instructions for appealing the penalty. Please review and refer to it when discussing this case with DEQ.

DEQ may allow you to resolve part of your penalty through the completion of a Supplemental Environmental Project (SEP). SEPs are environmental improvement projects that you sponsor instead of paying a penalty. Further information is available by calling the number below or at <http://www.oregon.gov/deq/Regulations/Pages/SEP.aspx>.

DEQ's rules are available at <http://www.oregon.gov/deq/Regulations/Pages/Statutes.aspx> or by calling the number below.

If you have any questions, please contact Esther Westbrook at 503-229-5374 or toll free in Oregon at 800-452-4011, extension 5374.

Sincerely,

A handwritten signature in black ink that reads "Rebecca Puskas". The signature is written in a cursive, slightly slanted style.

Becka Puskas, Interim Manager  
Office of Compliance and Enforcement

Enclosures

cc: Max Heil, St. Charles Medical Center – Redmond: [jmheil@stcharleshealthcare.org](mailto:jmheil@stcharleshealthcare.org)  
Dylan Eckert, Eugene Office, DEQ  
Mark Drouin, Portland Office, DEQ



1 8. As of August 3, 2023, Respondent had not tested the spill and overfill prevention equipment  
2 at the Facility.

### 3 III. CONCLUSIONS

4 1. Respondent has violated OAR 340-150-0400(1)(a) by failing to provide a method of release  
5 detection that can detect a release from any portion of the UST and the underground piping that routinely  
6 contains a regulated substance, as alleged in Section II, Paragraph 6 above. This is a Class I violation  
7 according to OAR 340-012-0067(1)(e). DEQ hereby assesses a \$6,358 civil penalty for this violation.

8 2. Respondent has violated OAR 340-150-0410(3) by failing to conduct line tightness testing  
9 annually, as alleged in Section II, Paragraph 7 above. Since Respondent has not conducted testing since  
10 October 1, 2020, it has missed three annual tests. These are Class I violations according to OAR 340-  
11 012-0067(1)(j). DEQ hereby assesses a civil penalty of \$3,930 for these violations.

12 3. Respondent has violated OAR 340-150-0310(10) by failing to initially test its spill  
13 prevention and overfill prevention equipment prior to October 1, 2020, as alleged in Section II,  
14 Paragraph 8 above. This is a Class I violation according to OAR 340-012-0067(1)(j). DEQ hereby  
15 assesses a \$3,075 civil penalty for this violation.

### 16 IV. ORDER TO PAY CIVIL PENALTY AND TO COMPLY

17 Based upon the foregoing FINDINGS OF FACTS AND CONCLUSIONS, Respondent is  
18 hereby ORDERED TO:

19 1. Pay a total civil penalty of \$13,363. The determination of the civil penalties is attached as  
20 Exhibits 1 - 3, which are incorporated as part of this Notice.

21 If you do not file a request for hearing as set forth in Section V below, your check or money  
22 order must be made payable to "**Department of Environmental Quality**" and sent to: **DEQ - Business**  
23 **Office, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232.**

24 2. Comply with Oregon law by taking the following actions within thirty (30) days of this  
25 Notice becoming final by operation of law or on appeal:

26 a. Install line leak detectors for the UST system and submit a completed  
27 Modification Checklist to DEQ;

- b. Complete line tightness testing and submit the results to DEQ; and
- c. Complete testing of the spill and overfill prevention equipment and submit the results to DEQ.

Documents should be sent to Inspector Dylan Eckert via email at [Dylan.Eckert@deq.oregon.gov](mailto:Dylan.Eckert@deq.oregon.gov).

#### V. NOTICE OF RIGHT TO REQUEST A CONTESTED CASE HEARING

You have a right to a contested case hearing on this Notice, if you request one in writing. DEQ must receive your request for hearing **within 20 calendar days** from the date you receive this Notice. If you have any affirmative defenses or wish to dispute any allegations of fact in this Notice or attached exhibits, you must do so in your request for hearing, as factual matters not denied will be considered admitted, and failure to raise a defense will be a waiver of the defense. (See OAR 340-011-0530 for further information about requests for hearing.) You must send your request to: **DEQ, Office of Compliance and Enforcement, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232**, fax it to **503-229-6762** or email it to [DEQappeals@deq.oregon.gov](mailto:DEQappeals@deq.oregon.gov). An administrative law judge employed by the Office of Administrative Hearings will conduct the hearing, according to ORS Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be represented by an attorney at the hearing, however you are not required to be. If you are an individual, you may represent yourself. If you are a corporation, partnership, limited liability company, unincorporated association, trust, or government body, you must be represented by an attorney or a duly authorized representative, as set forth in OAR 137-003-0555.

Active-duty Service members have a right to stay proceedings under the federal Service Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll-free telephone number.

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1 If you fail to file a timely request for hearing, the Notice will become a final order by default  
2 without further action by DEQ, as per OAR 340-011-0535(1). If you do request a hearing but later  
3 withdraw your request, fail to attend the hearing or notify DEQ that you will not be attending the  
4 hearing, DEQ will issue a final order by default pursuant to OAR 340-011-0535(3). DEQ designates  
5 the relevant portions of its files, including information submitted by you, as the record for purposes of  
6 proving a prima facie case.

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9/5/2024  
Date

Becka Puska  
Becka Puska, Interim Manager  
Office of Compliance and Enforcement

EXHIBIT 1

FINDINGS AND DETERMINATION OF RESPONDENT'S CIVIL PENALTY  
PURSUANT TO OREGON ADMINISTRATIVE RULE (OAR) 340-012-0045

VIOLATION NO. 1 Failing to provide a method of release detection that can detect a release from any portion of the UST and the underground piping that routinely contains a regulated substance, in violation of OAR 340-150-0400(1)(a).

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0067(1)(e).

MAGNITUDE: The magnitude of the violation is moderate, pursuant to OAR 340-012-0130(1), as there is no selected magnitude specified in OAR 340-012-0135 for this violation, and the information reasonably available to DEQ does not indicate a minor or major magnitude.

CIVIL PENALTY FORMULA: The formula for determining the amount of penalty of each violation is:  $BP + [(0.1 \times BP) \times (P + H + O + M + C)] + EB$

"BP" is the base penalty, which is \$1,500 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(4)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(4)(a)(I). Respondent is the owner or permittee of two UST facilities.

"P" is whether Respondent has any prior significant actions, as defined in OAR 340-012-0030(19), in the same media as the violation at issue that occurred at a facility owned or operated by the same Respondent, and receives a value of 4 according to OAR 340-012-0145(2)(a)(C) and (D), because Respondent had three Class I violations and one Class II violation in Case No. LQ/UST-ER-2022-132.

"H" is Respondent's history of correcting prior significant actions and receives a value of -1 according to OAR 340-012-0145(3)(b), because the violations were uncorrectable, and Respondent took reasonable efforts to minimize the effects of the violations.

"O" is whether the violation was repeated or ongoing, and receives a value of 4 according to OAR 340-012-0145(4)(d) because the violation has been ongoing for more than 28 days. Respondent was required to install release detection for the USTs serving its emergency generator by October 1, 2020. As of the date of this Notice, Respondent has not completed installation of this equipment, which is a duration of more than three years.

"M" is the mental state of Respondent, and receives a value of 2 according to OAR 340-012-0145(5)(b) because Respondent had constructive knowledge (reasonably should have known) of the requirement. In 2018, DEQ adopted the regulation requiring release detection for emergency generator tanks by October 1, 2020, and provided extensive outreach to the regulated community. Respondent reasonably should have known of the requirement to install release detection for its emergency generator tank prior to October 1, 2020.

"C" is Respondent's efforts to correct or mitigate the violation, and receives a value of 2 according to OAR 340-012-0145(6)(g) because Respondent did not address the violation as described in paragraphs (6)(a) through (6)(e) and the facts do not support a finding under paragraph (6)(f). As of the date of this Notice, Respondent has not completed installation of release detection equipment.

"EB" is the approximate dollar value of the benefit gained and the costs avoided or delayed as a result of Respondent's noncompliance. It is designed to "level the playing field" by taking away any economic advantage the entity gained and to deter potential violators from deciding it is cheaper to violate and pay the penalty than to pay the costs of compliance. In this case, "EB" receives a value of \$3,208. This is the amount Respondent gained by avoiding spending \$3,672 to install mechanical line leak detectors on four lines. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

PENALTY CALCULATION:  $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$   
 $= \$1,500 + [(0.1 \times \$1,500) \times (4 - 1 + 4 + 2 + 2)] + \$3,208$   
 $= \$1,500 + (\$150 \times 11) + \$3,208$   
 $= \$1,500 + \$1,650 + \$3,208$   
 $= \$6,358$



EXHIBIT 2

FINDINGS AND DETERMINATION OF RESPONDENT'S CIVIL PENALTY  
PURSUANT TO OREGON ADMINISTRATIVE RULE (OAR) 340-012-0045

VIOLATION NO. 2 Failing to conduct annual line tightness testing, in violation of OAR 340-150-0410(3).

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0067(1)(j).

MAGNITUDE: The magnitude of the violation is moderate, pursuant to OAR 340-012-0130(1), as there is no selected magnitude specified in OAR 340-012-0135 for this violation, and the information reasonably available to DEQ does not indicate a minor or major magnitude.

CIVIL PENALTY FORMULA: The formula for determining the amount of penalty of each violation is:  $BP + [(0.1 \times BP) \times (P + H + O + M + C)] + EB$

"BP" is the base penalty, which is \$1,500 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(4)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(4)(a)(I). Respondent is the owner or permittee of two UST facilities.

"P" is whether Respondent has any prior significant actions, as defined in OAR 340-012-0030(19), in the same media as the violation at issue that occurred at a facility owned or operated by the same Respondent, and receives a value of 4 according to OAR 340-012-0145(2)(a)(C) and (D), because Respondent had three Class I violations and one Class II violation in Case No. LQ/UST-ER-2022-132.

"H" is Respondent's history of correcting prior significant actions and receives a value of -1 according to OAR 340-012-0145(3)(b), because the violations were uncorrectable, and Respondent took reasonable efforts to minimize the effects of the violations.

"O" is whether the violation was repeated or ongoing, and receives a value of 2 according to OAR 340-012-0145(4)(b) because there were more than one but less than seven occurrences of the violation. Respondent failed to conduct annual testing for three years, 2020 – 2022, which is three occurrences of the violation.

"M" is the mental state of the Respondent and receives a value of 4 according to OAR 340-012-0145(5)(c) because Respondent's conduct was negligent. By failing to conduct line tightness testing for three years, Respondent failed to take reasonable care to avoid a foreseeable risk that it would violate UST requirements.

"C" is Respondent's efforts to correct or mitigate the violation and receives a value of 0 according to OAR 340-012-0145(6)(f) because the violation or the effects of the violation could not be corrected or minimized.

"EB" is the approximate dollar value of the benefit gained and the costs avoided or delayed as a result of the Respondent's noncompliance. It is designed to "level the playing field" by taking away any economic advantage the entity gained and to deter potential violators from deciding it is cheaper to violate and pay the penalty than to pay the costs of compliance. In this case, "EB" receives a value of \$1,080. This is the amount Respondent gained by avoiding spending \$350 per year to conduct annual line tightness testing for three years. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

PENALTY CALCULATION:  $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$

$$\begin{aligned} &= \$1,500 + [(0.1 \times \$1,500) \times (4 - 1 + 2 + 4 + 0)] + \$1,080 \\ &= \$1,500 + (\$150 \times 9) + \$1,080 \\ &= \$1,500 + \$1,350 + \$1,080 \\ &= \$3,930 \end{aligned}$$

### EXHIBIT 3

#### FINDINGS AND DETERMINATION OF RESPONDENT'S CIVIL PENALTY PURSUANT TO OREGON ADMINISTRATIVE RULE (OAR) 340-012-0045

- VIOLATION NO. 3                      Failing to initially test spill prevention and overfill prevention equipment by October 1, 2020, in violation of OAR 340-150-0310(10).
- CLASSIFICATION:                      This is a Class I violation pursuant to OAR 340-012-0067(1)(j).
- MAGNITUDE:                              The magnitude of the violation is moderate, pursuant to OAR 340-012-0130(1), as there is no selected magnitude specified in OAR 340-012-0135 for this violation, and the information reasonably available to DEQ does not indicate a minor or major magnitude.
- CIVIL PENALTY FORMULA:              The formula for determining the amount of penalty of each violation is:  $BP + [(0.1 \times BP) \times (P + H + O + M + C)] + EB$
- "BP" is the base penalty, which is \$1,500 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(4)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(4)(a)(I). Respondent is the owner or permittee of two UST facilities.
- "P" is whether Respondent has any prior significant actions, as defined in OAR 340-012-0030(19), in the same media as the violation at issue that occurred at a facility owned or operated by the same Respondent, and receives a value of 4 according to OAR 340-012-0145(2)(a)(C) and (D), because Respondent had three Class I violations and one Class II violation in Case No. LQ/UST-ER-2022-132.
- "H" is Respondent's history of correcting prior significant actions and receives a value of -1 according to OAR 340-012-0145(3)(b), because the violations were uncorrectable, and Respondent took reasonable efforts to minimize the effects of the violations.
- "O" is whether the violation was repeated or ongoing, and receives a value of 0 according to OAR 340-012-0145(4)(a) because there was only one occurrence of the violation. Respondent failed to conduct testing by a specific date, October 1, 2020.
- "M" is the mental state of the Respondent and receives a value of 2 according to OAR 340-012-0145(5)(b) because Respondent had constructive knowledge (reasonably should have known) of the requirement. In 2018, DEQ adopted the regulation requiring that the testing be completed prior to October 1, 2020, and provided extensive outreach to the regulated community on the requirement to conduct the testing prior to that date. Respondent reasonably should have known of the requirement to conduct the testing prior to October 1, 2020.

"C" is Respondent's efforts to correct or mitigate the violation and receives a value of 2 according to OAR 340-012-0145(6)(g) because Respondent did not address the violation as described in paragraphs (6)(a) through (6)(e) and the facts do not support a finding under paragraph (6)(f). As of the date of this Notice, Respondent has not completed the testing.

"EB" is the approximate dollar value of the benefit gained and the costs avoided or delayed as a result of Respondent's noncompliance. It is designed to "level the playing field" by taking away any economic advantage the entity gained and to deter potential violators from deciding it is cheaper to violate and pay the penalty than to pay the costs of compliance. In this case, "EB" receives a value of \$525. This is the amount Respondent gained by avoiding spending \$600 to test its spill prevention and overfill prevention equipment. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

PENALTY CALCULATION:  $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$   
= \$1,500 + [(0.1 x \$1,500) x (4 - 1 + 0 + 2 + 2)] + \$525  
= \$1,500 + (\$150 x 7) + \$525  
= \$1,500 + \$1,050 + \$525  
= \$3,075