


RECOMMENDATION FOR ENFORCEMENT ACTION
WATER QUALITY PROGRAM

HQ, Program Development Services

Docket No. – 10877

Date: July 30, 2014

From: Charles Gilman
(Name of Investigator)


(Signature of Investigator)

Compliance Assurance and Enforcement
(Title of Investigator)

RECOMMEND ENFORCEMENT ACTION BE TAKEN:

- I. Against:
Pacific Coast Feather Co. Jim Harberg
(Company or Governmental Entity) (Responsible Official)
- II. Location (Address, City, State, Zip Code, Telephone Number):
Mailing Address: Site Address:
Pacific Coast Feather Co. 14524 40th Ave NE
1694 4th Ave S Marysville, WA
Marysville, WA 98134-1504 360-653-3696
360-653-3696
- III. Type of Action:
- ☒ A. Penalty, RCW 90.48.144
- ☐ B. Notice of Violation, RCW 90.48.120 (1)
- ☐ C. Follow-up Order, RCW 90.48.120(1)
- ☐ D. Immediate Action Order, RCW 90.48.120(2)
- ☐ E. Amendment of Action
- ☐ F. Other (specify authority) _____
- IV. Nature of Violation:
- ☐ 1) Unlawful Discharge of Polluting Matter into Waters of the State,
RCW 90.48.080.
- ☒ 2) Violation of the Terms of a Waste Discharge Permit Issued under RCW

90.48.160, 90.48.180 or 90.48.260 through 90.48.262. **Industrial Stormwater General Permit number WAR002152.**

- ☐ 3) Discharging Pollutants Without a Permit Authorized under RCW 90.48.160, 90.48.180, or 90.48.260 through 90.48.262.
- ☐ 4) Violation of the Terms of a Regulatory Order or other provisions of RCW 90.48.
- ☐ 5) Agricultural Discharges, RCW 90.48.450. Has consideration been given to the effect of the action on conversion of agricultural to nonagricultural uses? _____. If yes, what attempts have been made to minimize the possibility of such conversion? (Water Quality Program Policy #1-05)
- ☐ 6) Other

V. Name of Watercourse Involved: Unnamed Stream / Ground

VI. Narrative of Incident:

1. Summary of Permit Violations

- a. Pacific Coast Feather Co. is a business covered under the Industrial Stormwater General Permit, permit number WAR-002152. Pacific Coast Feather Co. violated the Industrial Stormwater General Permit Condition S9, Reporting and Recordkeeping. The violations occurred because Pacific Coast Feather Co. failed to submit Discharge Monitoring Reports (DMRs) for the 4th quarter 2012, 1st, 2nd, 3rd, & 4th quarters 2013, and the 1st quarter 2014.
- b. Pacific Coast Feather Co. also failed to submit annual reports for 2012 and 2013.

2. Chronology of Permit Violations

- a. Failed to submit 4th quarter 2012 DMR, due February 14th, 2013.
- b. Failed to submit 2012 annual report
 - i. Due May 15th, 2013.
 - ii. Non-compliance Notification sent via USPS on June 25, 2013.
- c. Failed to submit 1st quarter 2013 DMR.
 - i. Due May 15th, 2013
 - ii. Non-Compliance Notification sent via USPS on July 19th, 2013.
- d. Failed to submit 2nd quarter 2013 DMR.
 - i. Due August 14th, 2013.
 - ii. Non-Compliance Notification sent via certified mail on October 28, 2013.
- e. Failed to submit 3rd quarter 2013 DMR, due November 14th, 2013.
- f. Failed to submit 4th quarter 2013 DMR, due February 14th, 2014.
- g. Failed to submit 1st quarter 2014 DMR, due May 15th, 2014.
- h. Failed to submit 2011 annual report, due May 15th, 2012.
- i. Failed to submit 2013 annual report, due May 15th, 2014.

3. Relevant Background Information

- a. Pacific Coast Feather Co. received coverage under the Industrial Stormwater General Permit on January 3rd, 1995. On October 21st, 2009, Ecology reissued the Industrial Stormwater General Permit with an effective date of January 1st, 2010. Per Special Condition S9, the permit requires:

"The Permittee shall submit sampling results within 45 days of the end of each reporting period." (S9.A.2 p. 38).

"Upon permit coverage, the Permittee shall submit a DMR each reporting period whether or not the facility has discharged stormwater from the site." (S9.A.6 p. 38).

"The Permittee shall submit a complete and accurate Annual Report to the Department of *Ecology* no later than May 15th of each year (except 2010) using a form provided by or otherwise approved by *Ecology*." (S9.B.1 p. 38).

- b. On October 19th, 2009, Ecology mailed each site their coverage documents including; a copy of the permit, the site's coverage letter which outlined each site's specific monitoring requirements, and a site-specific, blank DMR.
- c. Subsequently, Ecology held public workshops, of which all permittees were notified, around the state in June and July of 2009 (four workshops), and in January and February of 2010 (10 workshops). These workshops emphasized the monitoring and reporting requirements of the permit, including the requirement to submit quarterly DMRs.
- d. Additional DMR-related public outreach by Ecology included a statewide news release stressing the importance of DMR submittal requirements on October 21st, 2009 and a monitoring and reporting focus sheet posted on Ecology's website on July 23rd, 2010.
- e. On May 16, 2012, Ecology issued the Modified Industrial Stormwater General Permit, with a modification effective date of July 12, 2012, and sent each site a copy of the modified permit and coverage documents.

Recommendations:

Issue Pacific Coast Feather Co. a penalty for failure to submit DMRs and annual reports. The recommended penalty amount was determined using the Penalty Calculation Matrix.

VII. Technical Assistance Efforts to Resolve Violation:

VIII. Evidence Obtained:

- ☐ Samples, Lab. Report No.
- ☐ Pictures
- ☐ Video Tape
- ☐ Witness Statements
- ☒ Documents
- ☐ Maps
- ☐ Other: _____

IX. Penalty Calculation (fill out only if recommending a penalty, or if needed to adjust a penalty amount in response to an Application for Relief From Penalty)

TABLE 1
Gravity Criteria (see attached definitions)

	NO (0)	POSSIBLY (1)	PROBABLY (2)	DEFINITELY (3)
1. Public Health Risk?	<u>X</u>	—	—	—
2. Environmental Damage?	—	<u>X</u>	—	—
3. Willful or Knowing Violation?	—	—	—	<u>X</u>
4. Unresponsive in Correcting Violation?	—	—	—	<u>X</u>
5. Improper Operation or Maintenance?	—	<u>X</u>	—	—
6. Failure to Obtain Necessary Permits	<u>X</u>	—	—	—
7. Economic Benefit from Noncompliance?	—	—	<u>X</u>	—

Total Rating Points 10

See Addendum for guidance

TABLE 2
Gravity Component Penalty

Rating	1-2	3-4	5-8	9-11	12-14	15
Penalty	\$500	\$1000	\$2000	\$3000	\$4000	\$5000

Rating	16	17	18	19	20
Penalty	\$6000	\$7000	\$8000	\$9000	\$10000

For each violation multiply the penalty amount by the duration of violation, e.g., number of days, weeks, months, etc.

If the facility has a history of documented violations and previous penalties, apply a three times multiplier to the previous penalty (remember the maximum penalty for a violation is \$10,000.00 per day regardless of any previous violations).

TABLE 3
Economic Benefit Penalty

If the answer to question #7 in Table 1 is "Definitely," include the estimated dollar amount of economic benefit determined by the EPA BEN computer model or other appropriate method. Attach calculations.

X. Total Recommended Penalty Amount: **\$3000.00**

Based On: Matrix ☒ [X]

Economic Benefit ☐ []

Both ☐ []


XI. Additional Comments:

ENDORSEMENTS

The following actions are recommended to resolve this matter:


Issue Pacific Coast Feather Co. a \$3000 penalty for failure to submit DMRs and annual reports.

Dewey Weaver
Unit Supervisor


Date Aug. 5, 2014

Concurrence with recommended action:

Bill Moore, P.E.
Section Manager


Date 8/11/14

Revised April 2005

Gravity Criteria Definitions

1. Did the violation result in a public health risk?

- Answer “no” if there is no evidence to support a claim of public health risk.
- Answer “possibly” if a public health risk can be inferred from evidence and knowledge of the effects of the violation.
- Answer “probably” if evidence supports a claim of public health risk and there is a plausible connection between this violation and the health or effect.
- Answer “definitely” if there is direct evidence linking public health risk or adverse effects with the violation.

2. Did the violation result in environmental damage?

- Answer “no” if there is no evidence to support a claim of environmental damage or impairment of beneficial uses.
- Answer “possibly” if environmental damage or impairment of beneficial uses can be inferred from evidence or knowledge of the effects of the violation.
- Answer “probably” if there is evidence to support a claim of environmental damage or impairment of beneficial uses and there is a plausible connection between the violation and the damage/impairment.
- Answer “definitely” if there is direct evidence linking demonstrable environmental damage or impairment of the beneficial uses with the violation.

3. Was it a willful or knowing violation?

- Answer “no” if the violator obviously did not know that the action or inaction constituted a violation.
- Answer “possibly” if it is likely the violator knew.
- Answer “probably” if the violator should have known.
- Answer “definitely” if the violator clearly knew. If the answer is “definitely,” consider consulting with the environmental crimes unit.

4. Was the responsible person unresponsive in correcting the violation?

- Answer “no” if the violation was corrected as soon as the responsible person learned of it.
- Answer “possibly” if the violation was corrected in a less timely and cooperative fashion.
- Answer “probably” if the responsible person attempted to correct the problem but did not correct it.
- Answer “definitely” if the responsible person made no attempt to correct the violation.

5. Was the violation a result of improper operation or inadequate maintenance? (i.e., BMPs, pollution prevention plans, operation and maintenance (O&M) plans)

- Answer “no” if the violation was not the result of improper operation or inadequate maintenance.
- Answer “possibly” if the facility has an O&M plan, PPP, SWPPP, or BMP manual that is out of date or inadequate.
- Answer “probably” if there is no O&M plan, PPP, SWPPP, or BMPs developed for the facility.
- Answer “definitely” if the facility has no plans or is not following its plan AND the violation was clearly the result of improper operation or maintenance.

6. Did the facility fail to obtain all of the necessary permits, certifications, and approvals to operate at the time of the violation?

- Answer “no” if the paperwork was complete and appropriate for the job or task that caused the violation.
- Answer “definitely” if the facility did not have all the required permits and approvals for the job or task that caused the violation.

7. Did anyone benefit economically from non-compliance?

- Answer “no” if it is clear that no one obtained an economic benefit.
- Answer “possibly” if someone might have benefited.
- Answer “probably” if anyone benefited, but the benefit is not quantifiable.
- Answer “definitely” if the economic benefit is quantifiable.

Revised April 2005