



# Oregon

Theodore R. Kulongoski, Governor

## Department of Environmental Quality

Western Region - Salem Office

750 Front St. NE, Ste. 120

Salem, OR 97301-1039

(503) 378-8240

(503) 378-3684 TTY

May 7, 2007

Frank Sinclair  
City of Woodburn  
2815 Molalla Rd  
Woodburn, OR 97071-3527

RE: Mutual Agreement and Order No. WQ/M-WR-07-082  
WQ - Woodburn POTW  
File No. 98815  
Marion County

Dear Mr. Sinclair:

Two copies of the final draft Mutual Agreement and Order (MAO) negotiated between the Department of Environmental Quality (Department) and the City of Woodburn are enclosed for signature.

After the documents are signed, please return them to: Department of Environmental Quality-Eugene Office, Attn: Dana Huddleston, 1102 Lincoln Street, Ste. 210, Eugene, Oregon, 97401. Keri Nelson, Division Administrator, will sign the MAO on behalf of the Department and the Environmental Quality Commission. A copy of the fully executed document will be sent to you when issued.

If you have any questions, please contact Raghu Namburi at (503) 378-4978.

Sincerely,

Alisa Zastoupil  
Water Quality Permit Coordinator  
Western Region – Salem Office

cc: Raghu Namburi, DEQ-Salem Office  
Dana Huddleston, DEQ-Eugene Office  
Enforcement Section, DEQ



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1 4. Condition 1 of Schedule A (Waste Discharge Limitations) of the Permit specifies certain  
2 effluent discharge limits for the Permittee's wastewater treatment facilities. On occasion, the Permittee  
3 has not been able to comply with the pH limits due to lack of adequate chemical adjustment facilities in  
4 the current treatment facilities and will likely continue to violate the pH limits until the chemical  
5 adjustment facilities are upgraded. The Permittee will incorporate the chemical adjustment facilities along  
6 with rest of the plant upgrades required to meet ammonia and temperature criteria.

7 5. Condition 1 (a) of Schedule A requires the Permittee to comply with the winter period  
8 ammonia limits and Excess Thermal Load limit upon completion of the compliance schedule in  
9 Schedule C, Condition 4. The Permittee will be required to meet the ammonia limits based upon the  
10 ammonia criterion that is in affect at that time.

11 6. Schedule C, Condition 4 of the permit requires the Permittee to complete necessary  
12 upgrades to the treatment plant and disposal facilities in accordance with the following schedule.

13  
14 **Schedule C, Condition 4.**

15 The permittee shall upgrade the treatment and disposal facilities as necessary to comply  
16 with the winter period ammonia limits and the Excess Thermal Load limit. Any  
17 necessary upgrades may be completed separately but at a minimum must be in  
18 accordance with the following schedule:

- 19 a. By no later than December 31, 2005, the permittee shall submit to the  
20 Department an evaluation of alternatives for necessary corrective actions.
- 21 b. By no later than December 31, 2006, the permittee shall submit to the  
22 Department for approval final engineering plans and specifications for any  
23 necessary improvements.
- 24 c. By no later than December 31, 2007, the permittee shall submit documentation to  
25 the Department that contracts for the construction of necessary improvements  
26 have been awarded.

1 d. By no later than December 31, 2008, the permittee shall submit a progress report  
2 on the construction of all necessary improvements.

3 e. By no later than October 31, 2009, the permittee shall complete construction of  
4 all necessary improvements and comply with the winter period ammonia limits  
5 and the Excess Thermal Load limit.

6 7. The Department and Permittee recognize that by proceeding with plant upgrades as per  
7 permit requirements without the final thermal waste load allocations established by the Pudding  
8 River TMDL, Permittee risks constructing either inadequate or unnecessary treatment facilities.  
9 Either situation could be costly for the Permittee. However, failing to proceed with plant upgrades  
10 would violate the permit.

11 8. The Department and Permittee recognize that the Environmental Quality Commission has  
12 the power to impose a civil penalty and to issue an abatement order for violations of conditions of the  
13 Permit. Therefore, pursuant to ORS 183.415(5), the Department and Permittee wish to limit and  
14 resolve the future violations referred to in Paragraphs 4 and 7 in advance by this Mutual Agreement  
15 and Order (MAO).

16 9. This MAO is not intended to settle any violation of any interim effluent limitations set  
17 forth in Paragraph 10.B(1), (2) and (4). Furthermore, this MAO is not intended to limit, in any way,  
18 the Department's right to proceed against Permittee in any forum for any past or future violations not  
19 expressly settled herein.

20 NOW THEREFORE, it is stipulated and agreed that:

21 10. The Environmental Quality Commission shall issue a final order:

22 A. Requiring Permittee to upgrade the treatment and disposal facilities, as necessary to  
23 comply with the winter period ammonia limits and the Excess Thermal Load limit, in accordance  
24 with the following schedule:

25 a. By no later than four (4) months after establishment and approval of a  
26 Temperature TMDL for the Pudding River, the Permittee shall submit to the

1 Department for approval an evaluation report which specifies whether or not the  
2 present treatment facilities can comply with the final thermal wasteload  
3 allocation and final ammonia limits. If the current facilities cannot comply, the  
4 report must include an evaluation of alternatives and identification of necessary  
5 corrective actions and improvements.

6 b. By no later than one (1) year after Department approval of the evaluation report  
7 and necessary corrective actions, the Permittee shall submit to the Department for  
8 approval final engineering plans and specifications for the necessary corrective  
9 actions and improvements.

10 c. By no later than four (4) months after the Department approval of the final  
11 engineering plans, the Permittee shall submit documentation to the Department  
12 that contracts for the construction of necessary corrective actions and  
13 improvements have been awarded.

14 d. By no later than one (1) year after the contracts for construction have been  
15 awarded, the Permittee shall submit to the Department a progress report on the  
16 construction of all necessary improvements.

17 e. By no later than two (2) years after the contracts for constructions have been  
18 awarded, the Permittee shall complete all necessary corrective actions and  
19 construction of all necessary improvements, and comply with the winter period  
20 ammonia limits and the Excess Thermal Load limit based upon Waste Load  
21 Allocation contained in the TMDL.

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24 B. Requiring Permittee, to meet the following interim ammonia and pH effluent  
25 limitation which shall be effective until completion of corrective actions as required by the  
26 schedule specified in Paragraph 10.A:

1 (1) The effluent ammonia concentration must not exceed 20 mg/l on a monthly  
2 average and 45 mg/l on a daily maximum basis during the months (November 1 through May  
3 31) when monthly average stream flow is less than 200 CFS.

4 (2) The effluent ammonia concentration must not exceed 27 mg/l on a monthly  
5 average and 60 mg/l on a daily maximum basis during the months (November 1 through May  
6 31) when monthly average stream flow is equal to or greater than 200 CFS but less than 360  
7 CFS.

8 (3) No winter ammonia limit applies to the effluent when the monthly average flow  
9 is equal or greater than 360 CFS.

10 (4) The effluent pH must be within the range of 6.0 to 9.0.

11 C. Requiring Permittee, upon receipt of a written Penalty Demand Notice from the  
12 Department, to pay the following civil penalties:

13 (1) \$250 for each day of each violation of the compliance schedule set forth in  
14 Paragraph 10.A.

15 (2) \$100 for each violation of each daily ammonia concentration and pH limitation  
16 set forth in Paragraph 10.B.(1), (2) and (4).

17 (3) \$500 for each violation of each monthly average ammonia concentration  
18 limitation set forth in Paragraph 10.B.(1) & (2).

19 11. If any event occurs that is beyond Permittee's reasonable control and that causes or may  
20 cause a delay or deviation in performance of the requirements of this MAO, Permittee shall  
21 immediately notify the Department verbally of the cause of delay or deviation and its anticipated  
22 duration, the measures that have been or will be taken to prevent or minimize the delay or deviation,  
23 and the timetable by which Permittee proposes to carry out such measures. Permittee shall confirm  
24 in writing this information within five (5) working days of the onset of the event. It is Permittee's  
25 responsibility in the written notification to demonstrate to the Department's satisfaction that the delay  
26 or deviation has been or will be caused by circumstances beyond the control and despite due

1 diligence of Permittee. If Permittee so demonstrates, the Department shall extend times of  
2 performance of related activities under this MAO as appropriate. Circumstances or events beyond  
3 Permittee's control include, but are not limited to acts of nature, unforeseen strikes, work stoppages,  
4 fires, explosion, riot, sabotage, or war. Increased cost of performance or consultant's failure to  
5 provide timely reports may not be considered circumstances beyond Permittee's control.

6 12. Regarding the future violations set forth in Paragraphs 4 and 7 above, which are  
7 expressly settled herein without penalty, Permittee and the Department hereby waive any and all of  
8 their rights to any and all notices, hearing, judicial review, and to service of a copy of the final MAO  
9 herein. The Department reserves the right to enforce this MAO through appropriate administrative  
10 and judicial proceedings.

11 13. Regarding the schedule set forth in Paragraph 10.A. above, Permittee acknowledges that  
12 Permittee is responsible for complying with that schedule regardless of the availability of any federal  
13 or state grant monies.

14 14. The terms of this MAO may be amended by the mutual agreement of the Department and  
15 Permittee.

16 15. The Department may amend the compliance schedule and conditions in this MAO upon  
17 finding that such modification is necessary because of changed circumstances or to protect public  
18 health and the environment. The Department shall provide Permittee a minimum of thirty (30) days  
19 written notice prior to issuing an Amended Order modifying any compliance schedules or conditions.  
20 If Permittee contests the Amended Order, the applicable procedures for conduct of contested cases  
21 in such matters shall apply.

22 16. This MAO shall be binding on the parties and their respective successors, agents, and  
23 assigns. The undersigned representative of each party certifies that he or she is fully authorized to  
24 execute and bind such party to this MAO. No change in ownership or corporate or partnership status  
25 relating to the facility shall in any way alter Permittee's obligations under this MAO, unless  
26 otherwise approved in writing by DEQ.

1 17. All reports, notices and other communications required under or relating to this MAO  
2 should be directed to Raghu Namburi, DEQ Salem Regional Office, 750 Front Street NE, Suite 120,  
3 Salem, Oregon 97301, phone number 503-378-4978. The contact person for Permittee shall be Mr.  
4 Frank Sinclair, City of Woodburn, Phone number: (503) 982-5280.

5 18. Permittee acknowledges that it has actual notice of the contents and requirements of the  
6 MAO and that failure to fulfill any of the requirements hereof would constitute a violation of this  
7 MAO and subject Permittee to payment of civil penalties pursuant to Paragraph 10.C. above.

8 19. Any stipulated civil penalty imposed pursuant to Paragraph 10.C., shall be due upon  
9 written demand. Stipulated civil penalties shall be paid by check or money order made payable to  
10 the "Oregon State Treasurer" and sent to: Business Office, Department of Environmental Quality,  
11 811 S.W. Sixth Avenue, Portland, Oregon 97204. Within 21 days of receipt of a "Demand for  
12 Payment of Stipulated Civil Penalty" Notice from the Department, Permittee may request a hearing  
13 to contest the Demand Notice. At any such hearing, the issue shall be limited to Permittee's  
14 compliance or non-compliance with this MAO. The amount of each stipulated civil penalty for each  
15 violation and/or day of violation is established in advance by this MAO and shall not be a contestable  
16 issue.

17 20. Providing Permittee has paid in full all stipulated civil penalties pursuant to Paragraph  
18 19 above, this MAO shall terminate 60 days after Permittee demonstrates full compliance with the  
19 requirements of the schedule set forth in Paragraph 10.A., above.

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