

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION  
OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY	)	STIPULATION AND
OF THE STATE OF OREGON,	)	FINAL ORDER
	)	No. AQP-CR-92-143
Department,	)	KLAMATH COUNTY
v.	)	
	)	
DONALD V. COMBS, dba/NU-MIX CONCRETE,	)	
	)	
Respondent.	)	

I.

Whereas:

1. On June 22, 1992, the Department of Environmental Quality (Department) issued Notice of Assessment of Civil Penalty No. AQP-CR-92-143 (Notice) to Donald V. Combs, dba/Nu-Mix Concrete (Respondent). The Notice assessed a \$1600 civil penalty against the Respondent for violation(s) alleged in the Notice.

2. By letter dated August 7, 1992, the Respondent filed a request for hearing and an Answer to the Notice.

3. The parties wish to compromise and settle this contested case on the following terms.

II.

Stipulations:

1. Respondent hereby waives any and all rights and objections Respondent may have to the form, content, manner of service and timeliness of the Notice; to a contested case hearing and judicial review of the Notice; and to service of a copy of

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1 this Stipulation and Final Order, which shall be effective when  
2 signed by the Director on behalf of the Environmental Quality  
3 Commission (Commission).

4 2. Respondent admits the violation alleged in Notice  
5 No. AQP-CR-92-143.

6 3. Based upon new information submitted by Respondent, the  
7 Department agrees to amend Exhibit 1 of the Notice to change "R"  
8 (causation) in the formula from a value of +6 (intentional) to +2  
9 (negligent). This results in a change in the civil penalty for  
10 Violation No. 1 from \$1600 to \$1200.

11 4. The Department and Respondent agree that the total  
12 civil penalty should be reduced from \$1600 to \$1200.

13 5. Respondent agrees to pay \$600 toward the mitigated  
14 \$1200 civil penalty before the Order is signed and to pay the  
15 remaining balance of \$600 as shown in Exhibit 1, attached hereto  
16 and incorporated herein, in six monthly payments to be sent to  
17 the Department's Business Office through May 31, 1993, with each  
18 due by the last day of each calendar month beginning with the  
19 month of December 1992. If Respondent defaults by failing to  
20 make any monthly payment on time, the balance of the total  
21 remaining civil penalty and interest shall be immediately due and  
22 payable and may be filed as a lien with the County and turned  
23 over to the Oregon Department of Revenue for collection.

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## III.

The Commission shall enter a final order:

1. Imposing upon Respondent a total civil penalty of \$1200 for the violation(s) alleged in the Notice plus interest from December 1, 1992, until paid in full.

2. Finding that the Department and Commission have satisfied all the requirements of law and that mitigation of the civil penalty is consistent with public health and safety, and is in the public interest.

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## RESPONDENT

1  
2 11/23/92  
3 Date

Donald V. Lomba  
Name  
Title owner

## DEPARTMENT OF ENVIRONMENTAL QUALITY

6  
7 DEC 9 1992  
8 Date

Fred Hansen  
Fred Hansen  
Director

## FINAL ORDER

15 IT IS SO ORDERED:

## ENVIRONMENTAL QUALITY COMMISSION

18 DEC 9 1992  
19 Date

Fred Hansen  
Fred Hansen, Director  
Pursuant to OAR 340-11-136(1) and  
OAR 340-12-047

10400

EXHIBIT 1  
DONALD V. COMBS  
dba/NU-MIX CONCRETE  
Case No. AQP-CR-92-143  
PAYMENT SCHEDULE

11/03/92

\$1200.00 Civil Penalty, Payment at 9% Simple Interest.  
Interest to begin on 12/01/92.

PAYMENT DUE BY 5:00pm	DATE PAID	PAYMENT	UNPAID PRINCIPAL	INTEREST SINCE LAST PAYMENT	TOTAL INTEREST DUE
Beginning Balance			\$1,200.00		
Payment returned with signed Order		\$600.00			
Balance @ December 1, 1992			\$600.00		
12/31/92		50.00	550.00	\$4.44	\$4.44
01/31/93		50.00	500.00	4.20	8.64
02/28/93		50.00	450.00	3.45	12.09
03/31/93		150.00	300.00	3.44	15.53
04/30/93		150.00	150.00	2.22	17.75
05/31/93		168.90	0.00	1.15	18.90
TOTALS:		\$1,218.90		\$18.90	

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Dept. of Environmental Quality the 10th day  
of May A.D., 19 93 at 2:56 o'clock P M., and duly recorded in Vol. M93  
of Co. Lien Docket on Page 10396

Evelyn Biehn - County Clerk

FEE \$25.00

By Caroline Mendenhall