2016-010087 Klamath County, Oregon



09/23/2016 08:40:24 AM

Fee: \$52.00

## Cover Page for Lien Record

Name and address of agency that issued the order: Oregon Department of Environmental Quality, 811 SW 6th Avenue, Portland, OR 97204

Name and address of entity subject to order: Gregory Michael Kackstetter doing business as Freedom Bros. Fuel Co., 109320 Hwy 97, Chemult, Oregon 97731

DEQ Case No. **LQ/UST-ER-15-021** 

Type of instrument: Final Order by Default

Appropriate record in which to record: lien record

Amount of monetary obligation imposed by the order: \$6,458 penalty plus interest at 9% per annum

Return recorded document to:

Office of Compliance and Enforcement Department of Environmental Quality 811 SW Sixth Avenue Portland OR 97204-1390

Recording information here:

1	BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
2	OF THE STATE OF OREGON
3 4 5	IN THE MATTER OF: GREGORY MICHAEL KACKSTETTER, dba FREEDOM BROS. FUEL CO.  ) FINAL ORDER BY DEFAULT NO. LQ/UST-ER-15-021
6	Respondent. )
7	Pursuant to Oregon Administrative Rules (OAR) 340-011-0535(3), the Environmental
8	Quality Commission hereby issues this Final Order by Default because Respondent withdrew his
9	request for a contested case hearing. This Final Order by Default incorporates all of the Findings of
10	Fact and Conclusions set forth in the attached Notice of Civil Penalty Assessment and Order No.
11	LQ/UST-ER-15-021, including Exhibits (Notice).
12	FINDINGS OF FACT
13	1. On March 26, 2015, the Department of Environmental Quality (DEQ) perfected
14	service, by certified mail, of the Notice on Respondent.
15	2. The Notice offered Respondent 20 days to request a hearing.
16	3. The Notice designated the relevant portions of DEQ's file as the record for purposes
17	of proving a prima facie case.
18	4. On April 7, 2015, Respondent filed a timely request for hearing with DEQ.
19	5. On September 23, 2015, Respondent was served with notice of a contested case
20	hearing, scheduled for November 30, 2015.
21	6. During the November 30, 2015, contested case hearing, Respondent withdrew his
22	request for a contested case hearing.
23	CONCLUSIONS
24	1. Respondent's request for hearing is dismissed.
25	2. The Notice, attached and incorporated herein, is now a final order by default.
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27	

FINAL ORDER 1 IT IS HEREBY ORDERED that Respondent pay the \$6,458 civil penalty plus interest 2 pursuant to Oregon Revised Statute (ORS) 82.010. In addition, by no later than December 30, 3 2015, Respondent must submit to DEQ either an application for change in service or permanent 4 closure, an application to return the USTs to operational status, or a application to extend the 5 expiration date of the temporary closure certificate. 6 ENVIRONMENTAL QUALITY COMMISSION 7 8 Seah K. Jeldon 9 Leah K. Feldon, Manager Date 10 Office of Compliance and Enforcement Department of Environmental Quality 11 Pursuant to OAR 340-011-0505 12 Appeal Rights: You are entitled to judicial review of this Final Order in accordance with ORS 13 183.480. You may request judicial review by filing a petition with the Court of Appeals in Salem, Oregon within 60 days from the date of service of this Final Order. Appeal of this Final Order does 14 not stay any of the compliance requirements set forth in the Order section of this Final Order unless you request and the Department issues a stay. 15 16 Notice regarding payment of the civil penalty: If the civil penalty remains unpaid for more than 10 days from the date the civil penalty becomes due, the civil penalty will be recorded and filed 17 with county clerks as liens against any property owned by you. The civil penalty becomes due either at the end of the statutory appeal period (60 days) or if appealed, when an order is issued by 18 the Court of Appeals. 19 20 21 22 23 24 25 26 27