1	BEFORE THE ENVIRONMENTAL QUALITY COMMISSION					
2	OF THE STATE OF OREGON					
3	IN THE MAT J.H. BAXTER	TTER OF R & CO., INC.,)	MUTUAL AGREEN AND FINAL ORDE		
5		Respondent.)	CASE NO. LQ/HW-	WR-2020-204	
6	WHEREAS:					
7	1.	On March 3, 2021, the Department of Environmental Quality (DEQ) issued a Notice				
8	of Civil Penalty Assessment and Order to Respondent (Notice), assessing a \$223,440 civil penalty					
9	for violations alleged in the Notice.					
10	2.	On March 24, 2021, Respondent filed a timely request for hearing.				
11	3.	On May 4, 2022, DEQ issued an Amended Notice of Civil Penalty Assessment and				
12	Order (Amended Notice) to Respondent. DEQ assessed a \$305,440 civil penalty against					
13	Respondent for violations alleged in the Amended Notice. The Amended Notice superseded the					
14	Notice issued in 2021.					
15	I. AGREEMENT					
16	Respondent and DEQ hereby agree that:					
17	1.	This Mutual Ag	reement and Fir	nal Order (MAO) shall be effe	ective upon the date	
18	fully executed	.				
19	2.	Pursuant to OA	R 340-012-0030	0(19) and OAR 340-012-0145	(2), the violations	
20	alleged in the Amended Notice will be treated as prior significant actions in the event a future					
21	violation occurs.					
22	3.	The civil penalt	y assessed for th	ne violations alleged in the An	nended Notice is	
23	\$305,440.					
24	4.	By agreeing to t	this settlement, l	Respondent does not admit to	the violations in the	
25	Amended Notice.					
26	5.	DEQ agrees to	consider new in	formation, should it be provid	ed in the future by	
27	Respondent, regarding DEQ's evaluation of Respondent's ability to pay the penalty. If evidence					

supports Respondent's lack of ability to pay the penalty in full or in part, DEQ may reconsider the penalty amount due.

- 6. Respondent waives any and all rights and objections Respondent may have to the form, content, manner of service and timeliness of the Amended Notice; to a contested case hearing and judicial review of the Amended Notice; and to service of a copy of this MAO.
- 7. This MAO resolves all civil penalty claims of DEQ, based upon the facts alleged, for the violations expressly alleged in the Amended Notice. This MAO is not intended to limit, in any way, DEQ's right to proceed against Respondent in any forum for any past or future violations not expressly settled herein, or for any relief other than a civil penalty, including but not limited to recovery of remedial action costs or other measures pursued under ORS 465.260.
- 8. Respondent releases and waives any and all claims of any kind, known or unknown, past or future, against the State of Oregon or its agencies, instrumentalities, employees, officers, or agents, arising out of the matters and events relating to the matter set out in the Amended Notice and this MAO. Any and all claims includes but is not limited to any claim under 42 USC § 1983 et seq., any claim under federal or state law for damages, declaratory, or equitable relief, and any claim for attorney's fees or costs.
- 9. This MAO shall be binding on Respondent and its respective successors, agents, and assigns. The undersigned representative of Respondent certifies that he or she is fully authorized to execute and bind Respondent to this MAO. No change in ownership, corporate or partnership status of Respondent, or change in the ownership of the properties or businesses affected by this MAO shall in any way alter Respondent's obligation under this MAO, unless otherwise approved in writing by DEQ through an amendment to this MAO, or as otherwise provided in this MAO.
- 10. Verifiable electronic, facsimile, or scanned signatures on this MAO shall be treated the same as original signatures.

II. FINAL ORDER

The Environmental Quality Commission hereby enters a final order:

1	1. Imposing upon Respondent a total civil penalty of \$305,440 for the violations				
2	alleged in the Amended Notice, which is due upon execution of this MAO.				
3	2. Requiring Respondent to comply with the following schedule and conditions:				
4	a. Within 30 days of the effective date of this MAO, provide documentation				
5	to DEQ that the alarm system for stormwater overflows was completely installed and is fully				
6	operational. Within 90 days of the effective date of this MAO, submit an engineered proposed				
7	plan, including a timetable for implementation, to evaluate and improve the stormwater treatment				
8	system such that the equalization tanks and pond can handle capacity of up to a 25-year, 24-hour				
9	storm. The plan must also include proposed interim activities to minimize overflow.				
10	Notwithstanding the foregoing, Respondent will not be required to submit the engineering plan if				
11	the site operator and owner is a party other than Respondent at the time the plan is due. All				
12	submittals required in this paragraph must be provided to Steve McMillan, DEQ, 165 East 7 th				
13	Avenue, Suite 100, Eugene, OR 97401, or at mcmillan.steve@deq.state.or.us.				
14	b. Within 30 days of the effective date of this MAO, provide results of analysis of				
15	representative samples of the liquid process waste at the Facility for 2,4,5-Trichlorophenol and				
16	2,4,6-Trichlorophenol, prior to any treatment, as well as post-treatment but prior to evaporation.				
17	The samples must be analyzed according to the procedures required by 40 CFR 261.24(a).				
18	Analytical results must be provided to Killian Condon, DEQ, 165 East 7th Avenue, Suite 100,				
19	Eugene, OR 97401, or at condon.killian@deq.state.or.us.				
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21	J.H. BAXTER & CO., INC. DEPARTMENT OF ENVIRONMENTAL QUALITY and ENVIRONMENTAL QUALITY COMMISSION				
22	Charge tolle				
23	Signature Baxter				
24	Name (print) Kieran O'Donnell, Manager Kompanya Manager				
25	Title (print) Office of Compliance and Enforcement on behalf of DEQ pursuant to OAR 340-012-0170				
26	on behalf of the EQC pursuant to OAR 340-011-0505 $7/14/2022$				
27	Date Date				

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