

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
2 OF THE STATE OF OREGON

3 IN THE MATTER OF) MUTUAL AGREEMENT
4 GRIMM'S FUEL CO.,) AND FINAL ORDER
5 Respondent.) CASE NO. LQ/SW-NWR-2018-057

6 WHEREAS:

7 1. On July 12, 2018, DEQ issued Notice of Civil Penalty Assessment and Order
8 (Notice) to Respondent. DEQ assessed a \$10,800 civil penalty against Respondent for violations
9 alleged in the Notice.

10 2. Respondent filed a timely request for hearing.

11 I. AGREEMENT

12 Respondent and DEQ hereby agree that:

13 1. Based upon new information submitted by Respondent, DEQ agrees to amend
14 Exhibit 1 of the Notice by reducing the M factor from 2 to 0 and reducing the C factor from -3 to -4.
15 This results in a change in the civil penalty for Violation No. 1 from \$5,400 to \$3,600.

16 2. Based upon new information submitted by Respondent, DEQ agrees to amend
17 Section II of the Notice by deleting paragraph 10 and amending paragraphs 9 and 11 as follows:

18 9. On the following dates, Respondent collected three samples of each of its
19 active composting cells and analyzed the samples for oxygen and temperature: September 8,
20 2017; October 6, 2017; November 10, 2017; December 15, 2017; January 5, 2018; and February
21 6, 2018.

22 11. Respondent collected samples and analyzed for moisture content in only
23 one composting cell on the following dates: September 8, 2017; October 6, 2017; November 10,
24 2017; and December 15, 2017.

25 3. Based upon the findings set forth in paragraph 2 of this Section, DEQ agrees to
26 amend Exhibit 2 of the Notice by reducing the O factor from 4 to 2. This results in a change in the
27 civil penalty for Violation No. 2 from \$5,400 to \$4,800.

1 4. Based upon new information submitted by Respondent, DEQ agrees to amend
2 Section II, paragraph 4 of the Notice as follows:

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4 Respondent violated OAR 340-096-0070(9) by allowing cells of compost and yard
5 debris to exceed the limits in Oregon Fire Code Section 2808.3. According to OAR 340-096-
6 0070(9), all composting facilities must comply with all other applicable laws. Oregon Fire Code
7 Section 2808.3 states that cells used to store and process compost and raw product produced
8 from yard waste and debris cannot exceed 25 feet in height. On May 2, 2018, Tualatin Valley
9 Fire & Rescue reversed its earlier decision regarding the pile height applicable to Respondent's
10 facility and informed Respondent that Section 2808.3 would apply to its facility. This is a Class II
11 violation according to OAR 340-012-0065(2)(f). DEQ did not assess a civil penalty for this
12 violation.

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14 5. DEQ and Respondent agree that the total civil penalty is reduced from \$10,800 to
15 \$8,400.

16 6. Pursuant to OAR 340-012-0030(19) and OAR 340-012-0145(2), the violations
17 alleged in the Notice and as amended by this Mutual Agreement and Final Order (MAO), will be
18 treated as prior significant actions in the event a future violation occurs.

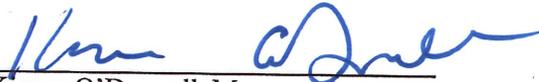
19 7. Respondent agrees to waive any and all rights and objections Respondent may have
20 to the form, content, manner of service and timeliness of the Notice; to a contested case hearing and
21 judicial review of the Notice; and to service of a copy of this MAO, which shall be effective when
22 signed by DEQ.

23 8. This MAO is not intended to limit, in any way, DEQ's right to proceed against
24 Respondent in any forum for any past or future violations not expressly settled herein.

25 9. Respondent agrees that this MAO shall be binding on Respondent and its respective
26 successors, agents, and assigns. The undersigned representative of Respondent certifies that he or
27 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.

DEPARTMENT OF ENVIRONMENTAL QUALITY and
ENVIRONMENTAL QUALITY COMMISSION

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4 4/11/19
Date


Kieran O'Donnell, Manager
Office of Compliance and Enforcement
on behalf of DEQ pursuant to OAR 340-012-0170
on behalf of the EQC pursuant to OAR 340-011-0505

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