

**Department of Environmental Quality - Enforcement Division
 Penalty Calculation Worksheet**

Responsible Party Name:	Mike Haggerty (Haggerty)
FID:	2317
Statute:	Water Quality Act (WQA)
Maximum Penalty Authority:	\$10,000.00
Date:	8/6/2014
Name of Employee Calculating Penalty:	Susan Bawden

Penalty Calculation #1	
Description of Violation:	
Haggerty violated Section 75-5-605(2)(b), MCA, ARM 17.30.1105(1)(a) and 17.30.1115(1) by conducting construction activity without a permit at the Property that will discharge storm water and sediment to Seven Mile Creek.	

I. BASE PENALTY

Nature

Explanation:	
Construction activity without a permit may result in an uncontrolled discharge of storm water to state waters that may cause an exceedance of water quality standards. Therefore the violation is one that poses the potential to harm human health and the environment.	
Potential to Harm Human Health or the Environment	X
Potential to Impact Administration	

Gravity and Extent

Gravity Explanation:	
Construction without a permit has a Major Gravity in accordance with ARM 17.4.303(5)(a).	
Extent Explanation:	
The size of the disturbed area is 2.5 acres; therefore the Department considers Extent to be Minor.	

Harm to Human Health or the Environment

Gravity

Extent	Major	Moderate	Minor	
Major	0.85	0.70	0.55	
Moderate	0.70	0.55	0.40	
Minor	0.55	0.40	0.25	Gravity and Extent Factor: 0.55

Impact to Administration

Gravity

Major	Moderate	Minor	
0.50	0.40	0.30	Gravity Factor:

BASE PENALTY (Maximum Penalty Authority x Gravity and Extent Factor): **\$5,500.00**

II. ADJUSTED BASE PENALTY

A. Circumstances (up to 30% added to Base Penalty)

Explanation:
Haggerty should have known that a permit was required for construction within this development. Haggerty was in complete control of obtaining a permit. Haggerty exhibited a moderate amount of culpability, therefore the base penalty is adjusted upward by 20% for Circumstances.

Circumstances Percent:	0.20
Circumstances Adjustment (Base Penalty x Circumstances Percent)	\$1,100.00

B. Good Faith and Cooperation (up to 10% subtracted from Base Penalty)

Explanation:
Haggerty obtained a permit and removed the culvert that discharged directly to Seven Mile Creek. Therefore the Department is calculating a 0.5% reduction for Good Faith and Cooperation.

Good Faith & Coop. Percent:	0.05
Good Faith & Coop Adjustment (Base Penalty x G F & Coop. Percent)	\$275.00

C. Amounts Voluntarily Expended (AVE) (up to 10% subtracted from Base Penalty)

Explanation:
The Department is unaware of any amounts expended above and beyond what is necessary to bring the Property into compliance. Therefore, there is no downward adjustment to the penalty for AVE.

AVE Percent:	0.00
Amounts Voluntarily Expended Adjustment (Base Penalty x AVE Percent)	\$0.00

ADJUSTED BASE PENALTY SUMMARY

Base Penalty	\$5,500.00
Circumstances	\$1,100.00
Good Faith & Cooperation	-\$275.00
Amt. Voluntarily Expended	\$0.00
ADJUSTED BASE PENALTY	\$6,325.00

III. DAYS OF VIOLATION

Explanation:
Haggerty conducted construction activity without a permit from at least June 23 through September 9, 2014, for a total of 66 days (11 weeks X 6 working days/week).

Number of Days:	66
ADJUSTED BASE PENALTY x NUMBER OF DAYS:	\$417,450.00

IV. OTHER MATTERS AS JUSTICE MAY REQUIRE

Explanation:
Calculating a penalty based upon the actual days of violation results in a penalty that is higher than the maximum \$100,000 administrative penalty allowed by law. Therefore the Department will calculate the penalty based on 2 days of violation.

OTHER MATTERS AS JUSTICE MAY REQUIRE TOTAL:	\$13,200.00
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V. ECONOMIC BENEFIT

Explanation:
By not obtaining permit coverage, Haggerty realized an economic benefit from delaying payment of applications fees and costs associated with preparing an NOI package including a SWPPP. The Property has been calculated to be 2.5 acres. The new permit application fee is \$900. Costs associated with initial preparation and compliance with the NOI and SWPPP are estimated to be \$3,200. Using EPA's economic benefit model, the Department calculated the economic benefit realized by Haggerty for delayed costs to be \$227.

ECONOMIC BENEFIT REALIZED:	\$227.00
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Responsible Party Name:	Mike Haggerty (Haggerty)
FID:	2317
Statute:	Water Quality Act (WQA)
Maximum Penalty Authority:	\$10,000.00

Penalty Calculation #2

Description of Violation:
Haggerty failed to develop and submit an adequate Storm Water Pollution Prevention Plan (SWPPP) in violation of Section 75-5-605(1)(b), MCA, ARM 17.30.1342(1), and Section 3.1 of the General Permit.

I. BASE PENALTY

Nature

Explanation:	
By failing to develop an adequate SWPPP, Haggerty adversely impacted the Department's ability to administer the WQA by eliminating the Department's ability to evaluate the pollution prevention plan and ensure that any allowable discharge meets water quality standards.	
Potential to Harm Human Health or the Environment	
Potential to Impact Administration	X

Gravity and Extent

Gravity Explanation:
A SWPPP was developed, but because it was inadequate, the erosion controls may not be effective. Therefore, the gravity is moderate per ARM 17.4.304(5)(a).
Extent Explanation:
Not applicable.

Harm to Human Health or the Environment

Gravity

Extent	Major	Moderate	Minor	
Major	0.85	0.70	0.55	
Moderate	0.70	0.55	0.40	
Minor	0.55	0.40	0.25	Gravity and Extent Factor: 0.00

Impact to Administration

Gravity

	Major	Moderate	Minor	
	0.50	0.40	0.30	Gravity Factor: 0.40

BASE PENALTY (Maximum Penalty Authority x Gravity Factor): **\$4,000.00**

II. ADJUSTED BASE PENALTY

A. Circumstances (up to 30% added to Base Penalty)

Explanation:	
Haggerty should have known that an adequate SWPPP was required for construction activities within this development. Haggerty was in control of SWPPP development. Haggerty exhibited a moderate amount of culpability, therefore the base penalty is adjusted upward by 20% for Circumstances.	
Circumstances Percent:	0.20
Circumstances Adjustment (Base Penalty x Circumstances Percent)	\$800.00

B. Good Faith and Cooperation (up to 10% subtracted from Base Penalty)

Explanation:	
The Department is unaware of any good faith and cooperation by Haggerty.	
Good Faith & Coop. Percent:	0.00
Good Faith & Coop Adjustment (Base Penalty x G F & Coop. Percent)	\$0.00

C. Amounts Voluntarily Expended (AVE) (up to 10% subtracted from Base Penalty)

Explanation:	
The Department is unaware of any AVE by Haggerty above and beyond what was necessary to bring the site into compliance, therefore there is no downward adjustment to the penalty for AVE.	
AVE Percent:	0.00
Amounts Voluntarily Expended Adjustment (Base Penalty x AVE Percent)	\$0.00

ADJUSTED BASE PENALTY SUMMARY

Base Penalty	\$4,000.00
Circumstances	\$800.00
Good Faith & Cooperation	\$0.00
Amt. Voluntarily Expended	\$0.00
ADJUSTED BASE PENALTY	\$4,800.00

III. DAYS OF VIOLATION

Explanation:	
The failure to develop and submit an adequate SWPPP is one day of violation.	
Number of Days:	1
ADJUSTED BASE PENALTY x NUMBER OF DAYS:	\$4,800.00

IV. OTHER MATTERS AS JUSTICE MAY REQUIRE

Explanation:	
Not applicable.	
OTHER MATTERS AS JUSTICE MAY REQUIRE TOTAL:	\$0.00

V. ECONOMIC BENEFIT

Explanation:	
The Department believes the economic benefit for this violation was captured in the BEN calculation for violation #1.	
ECONOMIC BENEFIT REALIZED:	\$0.00

**Department of Environmental Quality - Enforcement Division
Penalty Calculation Summary**

Responsible Party Name:	Mike Haggerty (Haggerty)
FID:	2317
Statute:	Water Quality Act (WQA)
Maximum Penalty Authority:	\$10,000.00
Date:	1/21/2015
Signature of Employee Calculating Penalty:	Susan Bowden 

Penalty #1 Penalty #2

I. Base Penalty (Maximum Penalty Authority x Matrix Factor)			
Maximum Penalty Authority:	\$10,000.00	\$10,000.00	
Percent Harm - Gravity and Extent:	0.55	0.00	
Percent Impact - Gravity:	0.00	0.40	
Base Penalty:	\$5,500.00	\$4,000.00	
II. Adjusted Base Penalty			
Base Penalty:	\$5,500.00	\$4,000.00	
Circumstances:	\$1,100.00	\$800.00	
Good Faith and Cooperation:	-\$275.00	\$0.00	
Amount Voluntarily Expended:	\$0.00	\$0.00	
Adjusted Base Penalty:	\$6,325.00	\$4,800.00	
III. Days of Violation or			
Number of Occurrences	66	1	
Total Adjusted Penalty:	\$417,450.00	\$4,800.00	\$448,200.00
Statutory Maximum			\$100,000.00
IV. Other Matters as Justice			
May Require	\$13,200.00	\$0.00	
V. Economic Benefit			
	\$227.00	\$0.00	
Subtotal(s)	\$13,427.00	\$4,800.00	\$18,227.00
Total calculated penalty:			\$18,227.00