



MINISTRY OF ENVIRONMENT AND PARKS
COMPLIANCE AND ENVIRONMENTAL ENFORCEMENT BRANCH

DETERMINATION OF ADMINISTRATIVE PENALTY

June 9, 2025

File: 2024-63
4237

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Hemlock Utility Services Ltd.
210, 8399 – 200th Street
Langley, BC V2Y 3C2

Attention: Hemlock Utility Services Ltd.

RE: Determination of Administrative Penalty

Further to the Notice Prior to Determination of Administrative Penalty issued to you on April 24, 2025, and your opportunity to be heard respecting the alleged contraventions, I have now made a Determination in this matter.

After reviewing the information available to me, I have concluded Hemlock Utility Services Ltd. has failed to comply with Permit 4237 Sections 2.12, 3.1, 3.2, and 3.7, in respect of which an administrative penalty is being imposed pursuant to Section 115 of the *Environmental Management Act* (“EMA”) and the Administrative Penalties (EMA) Regulation. The amount of the penalty, reasons for my decision, payment, and appeal information are provided in the attached decision document.

If you have any questions with regards to this Determination, please contact me at 250-420-6369 or Kelly.Mills@gov.bc.ca.

Sincerely,

Kelly Mills
for Director, *Environmental Management Act*

Attachments:

2025-04-24 2024-63 Penalty Assessment Form

cc: Michael Jeffery, Senior Environmental Protection Officer
Michael.Jeffery@gov.bc.ca

Kevin Vu, Environmental Protection Technician
Kevin.Vu@gov.bc.ca

Brady Nelles, Executive Director, Compliance & Environmental Enforcement
Brady.Nelles@gov.bc.ca

[COS Zone Mailbox](#)



DETERMINATION OF ADMINISTRATIVE PENALTY

FILE: 2024-63

Name of Party:

Hemlock Utility Services Ltd.

AMOUNT OF ADMINISTRATIVE PENALTY:

2024-63a: \$80,000	2024-63c: \$17,450
2024-63b: \$17,000	2024-63d: \$4,800

TOTAL: \$119,250

Contravention or Failure:

A. Failure to comply with Permit 4237 Section 2.12 (Facility Classification and Operator Certification):

The permittee shall have the works authorized by this permit classified (and the classification shall be maintained) by the Environmental Operators Certification Program Society (Society). The works shall be operated and maintained by persons certified within and according to the program provided by the Society. Certification must be completed to the satisfaction of the Director. In addition, the Regional Manager, Environmental Protection, shall be notified of the classification level of the facility and certification levels of the operators, and changes of operators and/or operator certification levels within 30 days of any change.

Alternatively, the works authorized by this permit shall be operated and maintained by persons who the permittee can demonstrate to the satisfaction of the Director, are qualified in the safe and proper operation of the facility for the protection of the environment

B. Failure to comply with Permit 4237 Section 3.1 (Flow Measurement):

The permittee shall install and maintain a suitable flow measuring device and record once per day the effluent volume discharged over a 24 hour period.

C. Failure to comply with Permit 4237 Section 3.2 (Grab Sampling):

A suitable sampling facility shall be installed and a grab sample of the effluent authorized by Section 1.1 shall be obtained once each month. Proper care should be taken in sampling, storing and transporting the samples to adequately control the temperature and avoid contamination, breakage, etc.

D. Failure to comply with Permit 4237 Section 3.7 (Reporting):

The permittee shall maintain data of analyses and flow measurement data in a form suitable for inspection by the Director and submit the data, suitably tabulated, to the Regional Manager, Environmental Protection, for the previous six months. The reporting periods end March 31 and September 30 of each year. All reports shall be submitted within 31 days of the end of the reporting period.

Each data submission shall include a statement outlining the number of reported values that were outside the permit limits. Clearly identify the dates of these occurrences in the data submission, include an explanation as to the cause of each occurrence and provide a description of the measures taken to rectify the situation. Should all submitted values be within the permit limits, a statement to this effect shall be included.

Date of Contravention or Failure:

A. Section 2.12: May 5, 2023 to October 22, 2024 (537 days)

B. Section 3.1: July 1, 2023 to October 31, 2024 (489 days)

C. Section 3.2:

- October 2023
- December 2023
- February 2024
- June 2024
- August 2024
- September 2024
- October 2024

D. Section 3.7:

- October 31, 2023
- May 1, 2024
- October 31, 2024

Directors Summary:

1. Hemlock Utility Services Ltd. (“HUS”) is a private utility company that provides hydro, water, and sanitation services.
2. HUS operates a sewage treatment facility (“Facility”) that treats sewage from Sasquatch Mountain Resort (“SMR”).
3. SMR is a ski resort and winter recreation area located in the Hemlock Valley, approximately 65 km west of Chilliwack, British Columbia (“BC”).
4. This Administrative Penalty (“AMP”) assessment is for May 5, 2023 to October 31, 2024, when HUS failed to comply with Sections 2.12, 3.1, 3.2, and 3.7 of Permit 4237.
5. The provincial regulatory authorization governing the discharge of effluent from SMR is Permit 4237 (“Permit”) issued pursuant to the *Environmental Management Act*, S.B.C. 2003, c. 53 (“EMA”).
6. The Permit authorizes the discharge of effluent to surface water from a recreational resort located in Hemlock Valley, BC.
7. This AMP applies to the March 5, 2010, version of the Permit.

8. On November 20, 2024, the Ministry issued Inspection Report (“IR”) 234399 and found HUS out of compliance with Sections 2.12, 3.1, 3.2, and 3.4 of the Permit. The compliance outcome was determined to be a Referral for an AMP.
9. On April 24, 2025, the Ministry issued a Notice Prior to Determination of Administrative Penalty (“Notice”) and accompanying Penalty Assessment Form (“PAF”) to HUS via email. The Notice recommended four penalties:
 - AMP 2024-63a for \$80,000 for failure to comply with Section 2.12
 - AMP 2024-63b for \$17,000 for failure to comply with Section 3.1
 - AMP 2024-63c for \$18,450 for failure to comply with Section 3.2
 - AMP 2024-63d for \$4,800 for failure to comply with Section 3.4
10. In the Notice, HUS was offered an Opportunity to be Heard (“OTBH”) and given thirty (30) days to request an OTBH.
11. On April 24, 2025, HUS confirmed receipt of the Notice and PAF via email.
12. On April 24, 2025, HUS requested an OTBH.
13. On May 13, 2025, HUS provided the OTBH submission (“OTBH Submission”) to the Ministry. After a request by the Ministry for more information, HUS submitted supporting information on June 4, 2025.

Reasons for Decision:

14. In making this Determination of Administrative Penalty (“Determination”), I have considered all of the information available to me, including the OTBH Submission provided by HUS. In reaching this Determination, I have carefully considered all the arguments, relevant documents, evidence, and submissions before me, whether or not they are specifically referred to. My reasons for decision include a consideration of the failures as well as the matters listed in Section 7(1) of the Administrative Penalties (EMA) Regulation (“APR”), as applicable.
15. The “Ministry of Environment and Climate Change Strategy, Administrative Penalties Handbook – *Environmental Management Act* and *Integrated Pest Management Act*” (“AMP Handbook”) provides high level guidance to Ministry staff considering the assignment of administrative penalties. Statutory Decision Makers consider, and decisions are informed by, this document. I have considered the AMP Handbook in making this Determination.
16. Considering the AMP Handbook in making my Determination is consistent with the Environmental Appeal Board’s (EAB) findings in *United Concrete & Gravel Ltd. v Director, Environmental Management Act* (Decision No. EAB-EMA-21-A005(a), September 27, 2021)¹ (United Concrete), at para. 72:

¹ [EAB-EMA-21-A005a.pdf \(bceab.ca\)](https://www.bceab.ca/EAB-EMA-21-A005a.pdf)

“Throughout my reasons, I have referred to the Handbook. After having reviewed the Handbook, I find it to be a reasonable guide for determining the appropriate quantum of an administrative penalty under the Act. It fosters consistency and predictability in decision-making. No other resources or authorities were provided to me. For these reasons, I have found the Handbook persuasive in my reasoning.”

17. The detailed reasons for decision are provided in the penalty calculation(s) below.

PENALTY CALCULATION

FILE: 2024-63a

Section 2.12 (Facility Classification and Operator Certification)

The Contravention or Failure:

18. Under Section 2.12, HUS must ensure that the authorized works are classified by the EOCP, as well as operated and maintained by persons with the appropriate certification through the EOCP.
19. Between May 5, 2023 to October 22, 2024, HUS failed to ensure that the Facility at SMR was operated and maintained by persons with the appropriate certification through the EOCP, as required by Section 2.12.
20. My reasons for decision will address each factor individually. My considerations under Section 7(1) of the APR are as follows:

Factor a): Nature of Contravention or Failure

21. The PAF shared at Notice proposed that the failure was moderate. AMP Handbook, a "moderate" contravention or failure includes *failure to comply with operational requirements that at a minimum create a risk of harm to the environment or human health and safety. It includes failure to perform required tasks or actions such as...meeting operational standards or requirements*".
22. The Facility has a classification of WWT III; however, the Facility was not operated and maintained by a Chief Operator that was certified by the EOCP for a facility classified as WWT III. Operators, certified by the EOCP for the required facility classification, ensure the safe and continuous operation and maintenance of wastewater systems. Failure to comply with the operator certification operational requirement created, at a minimum, a risk of harm to the environment or human health and safety and best meets the AMP Handbook definition of a moderate contravention.
23. This factor was not disputed in the OTBH Submission.
24. After considering the relevant information above, I confirm the failure is moderate.

Factor b): Real or Potential Adverse Effects

25. Section 7(1)(b) of the APR requires that I must consider the real **or potential** adverse effect of the failure. A finding of potential adverse effect of the failure is enough to apply this factor.

26. The PAF shared at Notice proposed that the failure was low to none. Low to none actual or potential adverse effects are described in the AMP Handbook. Included in the AMP Handbook description of “low to none” is *“the contravention does not result in an adverse effect or interfere with the Ministry’s capacity to protect the environment or human health, or the potential to do so is low.”*.
27. Failing to ensure that the Facility at SMR was operated and maintained by persons with the required certification through the EOCP is considered as having a low to none actual or potential for adverse effect.
28. This factor was not disputed in the OTBH Submission.
29. After considering the relevant information above, I confirm that the failure is low to none.
30. The base penalty is therefore confirmed at \$5,000 as proposed at Notice.
31. I will now address the application of the penalty adjustment factors that reflect the unique circumstances of this file, including what happened before, during, and after the failure, and the OTBH Submission from HUS.

Factor c): Previous contraventions or failures, penalties imposed, or orders issued:

32. I am guided by the AMP Handbook for this factor, to consider HUS’ compliance history. This factor could increase or decrease the penalty.
33. In 2024, HUS was previously issued AMP 2023-57c for \$40,000 for continuously failing to comply with Section 2.12. From July 1, 2022 to May 4, 2023, HUS failed to ensure that the Facility at SMR was operated and maintained by persons with the appropriate certification through the EOCP.
34. The PAF shared at Notice proposed an increase of forty percent of the base penalty (+ \$2,000) for the previous failures.
35. This factor was not disputed in the OTBH Submission.
36. After considering the relevant information above, I confirm an increase an increase of forty percent of the base penalty (+ \$2,000) for this factor.

Factor d): Whether contravention or failure was repeated or continuous

37. I am guided by the AMP Handbook for this factor, to consider whether there is any evidence indicating that the repeated or continuing nature of the failure should have alerted HUS to the failure and the need to take action. If I am persuaded that HUS failed to take action, this factor could increase the penalty.
38. The PAF shared at Notice proposed no adjustment for this factor.
39. This factor was not disputed in the OTBH Submission.
40. After considering the relevant information above, I confirm no adjustment for this factor.

Factor e): Whether contravention or failure was deliberate

41. I am guided by the AMP Handbook for this factor, to consider whether there is any evidence indicating that HUS deliberately failed to have the Facility at SMR classified by the EOCP and failing to ensure the Facility was operated by persons with the required certification. If I am persuaded that HUS deliberately failed to have the Facility at SMR classified by the EOCP and failing to ensure the Facility was operated by persons with the required certification, this factor could increase the penalty.
42. In 2022 and 2023, HUS was previously found out of compliance with Section 2.12, for failing to have the Facility at SMR classified by the EOCP and failing to ensure the Facility was operated by persons with the required certification.
43. In 2022 and 2023, HUS was reminded to contact the EOCP to have the Facility at SMR classified and ensure that it is operated and maintained by someone who is certified, to the required level. Despite HUS' long awareness of the ongoing non-compliance, HUS failed to take action to comply with this requirement.
44. The PAF shared at Notice proposed an increase of twenty percent of the base penalty (+ \$1,000) for the deliberate nature of the failures.
45. This factor was not disputed in the OTBH Submission.
46. After considering the relevant information above, I confirm an increase of twenty percent of the base penalty (+ \$1,000) for this factor.

Factor f): Economic benefit derived by the party from the contravention or failure

47. I am guided by the AMP Handbook for this factor, to consider whether is any evidence indicating that HUS obtained an economic benefit from the failure. If I am persuaded that HUS obtained an economic benefit from the failure, this could increase the penalty.
48. HUS derived economic benefit by avoiding costs associated with paying for a Level III certified wastewater treatment operator.
49. The PAF shared at Notice proposed an increase of \$122,600 for economic benefit from avoided costs.
50. This factor was not disputed in the OTBH Submission.
51. After considering the relevant information above, I confirm the \$122,600 is added to this penalty calculation to account for the economic benefit of the avoided costs.

Factor g): Exercise of due diligence to prevent the contravention or failure

52. I am guided by the AMP Handbook for this factor, to consider whether there is any evidence that HUS took **all** reasonable measures to prevent the failure. If I am persuaded that HUS took all reasonable measures to prevent the failure, this factor could decrease the penalty.
53. The PAF shared at Notice proposed no adjustment for this factor.

54. This factor was not disputed in the OTBH Submission.
55. After considering the relevant information above, I confirm no adjustment for this factor.

Factor h): Efforts to correct the contravention or failure

56. I am guided by the AMP Handbook for this factor, to consider what HUS did **after** the failure to restore compliance or reverse or mitigate the impacts. If I am persuaded that HUS did take actions after the failure to restore compliance or reverse or mitigate the impacts, this factor could decrease the penalty.
57. The PAF shared at Notice proposed no adjustment for this factor.
58. This factor was not disputed in the OTBH Submission.
59. After considering the relevant information above, I confirm no adjustment for this factor.

Factor i): Efforts to prevent reoccurrence of the contravention or failure

60. I am guided by the AMP Handbook for this factor, to consider whether HUS has taken any action to avoid the failure happening again in the future. If I am persuaded that HUS has taken any action to avoid the failure happening again in the future, this factor could decrease the penalty.
61. The PAF shared at Notice proposed no adjustment for this factor.
62. In the OTBH Submission, HUS submitted that a HUS employee is in the process of obtaining a EOCP certification to operate the Facility. HUS states:

“Hemlock Valley Utilities’ manager is currently enrolled in the Environmental Operators Certification Program and has begun the curriculum associated with it. He has completed the Waste Water Collection Certification portion of the program, and it is expected he will be completed the entire Level 1 Certification by December 2025. The intention is to then proceed with further levels as required. This is part of our broader effort to ensure compliance and demonstrate that we are working on changing for the better.”

63. While HUS has taken action towards achieving compliance with this requirement, the [EOCP website](#) describes the WWT I course as

“This initial course introduces operators to key concepts in the field of wastewater treatment, and provides operators with the basic knowledge of wastewater treatment plant components and treatment methods used with varying degrees of complexity.”

And,

“You should take this course if you are...In a role that requires an understanding of how wastewater treatment processes work, or maintaining a facility classified as a wastewater treatment (WWT1) facility”

64. Wastewater treatment systems are classified by the EOCP on a scale from I to IV, with each level indicating the increasing size and complexity of the facility. The HUS Facility is classified as WWT III, which denotes a larger size and complexity. Consequently, even if the HUS manager completes the WWT 1 certification by December 2025, this certification will not be adequate for operating and maintaining a WWT III facility. Therefore, HUS will remain out of compliance. HUS failed to provide details of any other measures, such as hiring a qualified contractor, to ensure compliance with this requirement while the manager completes the training and certification processes.
65. After considering the relevant information above, I apply a five percent reduction of the base penalty (- \$250) for this factor.

Factor j): Other

66. I am guided by the AMP Handbook for this factor, to consider any additional factors which could increase or decrease the penalty. Such factors could include self-reporting, cost to government, cooperation, remorse and accountability, ability to pay, and financial impact of other obligations.
67. The PAF shared at Notice proposed no adjustment for this factor.
68. This factor was not disputed in the OTBH Submission.
69. After considering the relevant information above, I confirm no adjustment for this factor.

Total Penalty after base penalty determination and Factors c) to j) considered:

70. After determining a base penalty of \$5,000 for this failure and applying the mitigating and aggravating factors (\$125,350) discussed above, the penalty is established at \$40,000, prior to determining the application of the daily multiplier.

Multiplier Application:

71. The PAF shared at Notice proposed the application of the multiplier on yearly basis. A daily multiplier is applied for each of the two calendar years over which this failure occurred.
72. The application of a daily multiplier was not disputed in the OTBH Submission.
73. The final penalty calculations are summarized in the table below:

Factors to be considered in penalty calculation	Notice	Final Determination
a) Nature of contravention or failure	moderate	moderate
b) Real or potential adverse effect	low to none	low to none
Base Penalty:	\$5,000	\$5,000

c) Previous contraventions or failures, penalties imposed, or orders issued	+ \$2,000	+ \$2,000
d) Whether contravention or failure was repeated or continuous	+ \$0	+ \$0
e) Whether contravention or failure was deliberate	+ \$1,000	+ \$1,000
f) Economic benefit derived by the party from the contravention or failure	+ \$122,600	+ \$122,600
g) Exercise of due diligence to prevent the contravention or failure	- \$0	- \$0
h) Efforts to correct the contravention or failure	- \$0	- \$0
i) Efforts to prevent reoccurrence of the contravention or failure	- \$0	- \$250
j) Additional relevant factors	\$0	\$0
<i>(add factors (c) to (j) Total Penalty Adjustments:</i>	+ \$125,600	+ \$125,350
Penalty after considering all factors: <i>(base penalty plus penalty adjustments)</i>	\$130,600 <i>The APR prescribes \$40,000 as the maximum daily penalty for this contravention or failure. Accordingly, the calculated penalty has been adjusted from \$130,600 to \$40,000.</i>	\$130,350 <i>The APR prescribes \$40,000 as the maximum daily penalty for this contravention or failure. Accordingly, the calculated penalty has been adjusted from \$130,350 to \$40,000.</i>
Application of multiplier: Yes	2 x \$40,000	2 x \$40,000
Final Penalty:	\$80,000	\$80,000

PENALTY CALCULATION

FILE: 2024-63b

Section 3.1 (Flow Measurement)

The Contravention or Failure:

74. Under Section 3.1, HUS must install and maintain a suitable flow measuring device, as well as record once per day the effluent volume discharged over a 24-hour period.
75. During the inspection, it was observed that HUS had installed a flow measuring device; however, the flow device was not operational as it was unable to record accurate flow volume.
76. From July 1, 2023 to October 31, 2024 (489 days) HUS failed to install and maintain a suitable flow measuring device and record once per day the effluent volume discharged over a 24 hour period
77. My reasons for decision will address each factor individually. My considerations under Section 7(1) of the APR are as follows:

Factor a): Nature of Contravention or Failure

78. The PAF shared at Notice proposed that the failure was moderate. In the AMP Handbook, a "moderate" contravention or failure includes *"failure to perform required tasks or actions such as... properly installing or maintaining equipment...; failure to undertake required monitoring"*.
79. The failure to carry out operational requirements such as installation of flow meters and undertaking the required monitoring set out in the Permit created, at a minimum, a risk of harm to the environment or human health and safety and best meets the AMP Handbook definition of a moderate contravention.
80. This factor was not disputed in the OTBH Submission.
81. After considering the relevant information above, I confirm the failure is moderate.

Factor b): Real or Potential Adverse Effects

82. Section 7(1)(b) of the APR requires that I must consider the real **or potential** adverse effect of the failure. A finding of potential adverse effect of the failure is enough to apply this factor.
83. The PAF shared at Notice proposed that the failure was medium. Medium actual or potential adverse effects are described in the AMP Handbook. Included in the AMP Handbook's description of "Medium" is *"the contravention interferes with the Ministry's capacity to protect the environment or human health, or has the potential to do so, but does not result in a significant adverse effect or the potential to do so is moderate. Any effect is localized, short-term and can be mitigated or damage repaired within a reasonable timeframe."*.
84. The failures to comply regarding the installation and maintenance of flow meters, along with the omission of monthly recording of effluent volume discharged from each sub-system is considered as a medium potential for adverse effects on the environment, including aquatic life. The maximum rate of discharge as well as concentrations of CBOD5 and TSS in the discharge were limited in the Permit and failing to collect this information poses a threat to the environment and interferes with the Ministry's capacity to protect the environment. The Ministry's mandate is to prevent harm to the environment and human health – not wait to act until something bad has happened. .
85. This factor was not disputed in the OTBH Submission.
86. After considering the relevant information above, I confirm that the failure is medium.
87. The base penalty is therefore confirmed at \$10,000 as proposed at Notice.
88. I will now address the application of the penalty adjustment factors that reflect the unique circumstances of this file, including what happened before, during, and after the failure, and the OTBH Submission from HUS.

Factor c): Previous contraventions or failures, penalties imposed, or orders issued:

- 89. I am guided by the AMP Handbook for this factor, to consider HUS' compliance history. This factor could increase or decrease the penalty.
- 90. On July 25, 2024, HUS was previously issued AMP 2023-57d for \$12,860 for continuously failing to comply with Section 3.1 and 3.2.
- 91. The PAF shared at Notice proposed an increase of forty percent of the base penalty (+ \$4,000) for the previous failures.
- 92. This factor was not disputed in the OTBH Submission.
- 93. After considering the relevant information above, I confirm an increase of forty percent of the base penalty (+ \$4,000) for this factor.

Factor d): Whether contravention or failure was repeated or continuous

- 94. I am guided by the AMP Handbook for this factor, to consider whether there is any evidence indicating that the repeated or continuing nature of the failure should have alerted HUS to the failure and the need to take action. If I am persuaded that HUS failed to take action, this factor could increase the penalty.
- 95. The failure was continuous from July 1, 2023 to October 31, 2024 (489 days).
- 96. The PAF shared at Notice proposed an increase of thirty percent of the base penalty (+ \$3,000) for the repeated or continuous nature of the failure.
- 97. This factor was not disputed in the OTBH Submission.
- 98. After considering the relevant information above, I confirm an increase of thirty percent of the base penalty (+ \$3,000) for this factor.

Factor e): Whether contravention or failure was deliberate

- 99. I am guided by the AMP Handbook for this factor, to consider whether there is any evidence indicating that HUS deliberately failed to have a suitable flow measuring device for the effluent being discharged. If I am persuaded that HUS failed to deliberately have a suitable flow measuring device for the effluent being discharged, this factor could increase the penalty.
- 100. The PAF shared at Notice proposed no adjustment for this factor.
- 101. This factor was not disputed in the OTBH Submission.
- 102. After considering the relevant information above, I confirm no adjustment for this factor.

Factor f): Economic benefit derived by the party from the contravention or failure

103. I am guided by the AMP Handbook for this factor, to consider whether is any evidence indicating that HUS obtained an economic benefit from the failure. If I am persuaded that HUS obtained an economic benefit from the failure, this could increase the penalty.

104. The PAF shared at Notice proposed no increase is applied for this factor.

105. This factor was not disputed in the OTBH Submission.

106. After considering the relevant information above, I confirm no increase is applied for this factor.

Factor g): Exercise of due diligence to prevent the contravention or failure

107. I am guided by the AMP Handbook for this factor, to consider whether there is any evidence that HUS took **all** reasonable measures to prevent the failure. If I am persuaded that HUS took all reasonable measures to prevent the failure, this factor could decrease the penalty.

108. The PAF shared at Notice proposed no adjustment for this factor.

109. This factor was not disputed in the OTBH Submission.

110. After considering the relevant information above, I confirm no adjustment for this factor.

Factor h): Efforts to correct the contravention or failure

111. I am guided by the AMP Handbook for this factor, to consider what HUS did **after** the failure to restore compliance or reverse or mitigate the impacts. If I am persuaded that HUS did take actions after the failure to restore compliance or reverse or mitigate the impacts, this factor could decrease the penalty.

112. The PAF shared at Notice proposed no adjustment for this factor.

113. This factor was not disputed in the OTBH Submission.

114. After considering the relevant information above, I confirm no adjustment for this factor.

Factor i): Efforts to prevent reoccurrence of the contravention or failure

115. I am guided by the AMP Handbook for this factor, to consider whether HUS has taken any action to avoid the failure happening again in the future. If I am persuaded that HUS has taken any action to avoid the failure happening again in the future, this factor could decrease the penalty.

116. The PAF shared at Notice proposed no adjustment for this factor.

117. When responding to HUS' request for OTBH and confirming the submission deadline, the Ministry stated:

“It is important that you submit supporting evidence (emails, receipts, contracts, plans, etc.) to support any statements you wish me to consider.”

118. In the OTBH Submission, HUS submit that it has repaired its flow meter device and has begun recording discharge flow once per day. In the OTBH Submission HUS states:

“Hemlock Valley Utilities is currently taking and recording flow meter readings once daily as per the permit requirements. The Utilities team records the readings which are available for review when requested or required. The flow meter device has been repaired to ensure accuracy and compliance.”

However, HUS did not provide any evidence to support this statement.

119. On May 26 the Ministry provided HUS with a further opportunity to present supporting evidence, stating:

“I would like to extend a further opportunity for you to submit further information regarding the above statement. Specifically, when did daily flow meter readings commence? Please provide results for all daily flow monitoring from November 1, 2024 (or the date of commencement) until present.”

120. On June 4 HUS responded, stating *“We have nothing further to add to this portion of the OTBH.”*

121. HUS failed to provide evidence to substantiate their statement that the flow meter was repaired and is recording discharge flow, despite being given further opportunity to do so.

122. After considering the relevant information above, I confirm no adjustment for this factor.

Factor j): Other

123. I am guided by the AMP Handbook for this factor, to consider any additional factors which could increase or decrease the penalty. Such factors could include self-reporting, cost to government, cooperation, remorse and accountability, ability to pay, and financial impact of other obligations.

124. The PAF shared at Notice proposed no adjustment for this factor.

125. This factor was not disputed in the OTBH Submission.

126. After considering the relevant information above, I confirm no adjustment for this factor.

Total Penalty after base penalty determination and Factors c) to j) considered:

127. After determining a base penalty of \$10,000 for this failure and applying the mitigating and aggravating factors (\$7,000) discussed above, the penalty is established at \$17,000.

128. The final penalty calculations are summarized in the table below:

Factors to be considered in penalty calculation	Notice	Final Determination
a) Nature of contravention or failure	moderate	moderate
b) Real or potential adverse effect	medium	medium
Base Penalty:	\$10,000	\$10,000
c) Previous contraventions or failures, penalties imposed, or orders issued	+ \$4,000	+ \$4,000
d) Whether contravention or failure was repeated or continuous	+ \$3,000	+ \$3,000
e) Whether contravention or failure was deliberate	+ \$0	+ \$0
f) Economic benefit derived by the party from the contravention or failure	+ \$0	+ \$0
g) Exercise of due diligence to prevent the contravention or failure	- \$0	- \$0
h) Efforts to correct the contravention or failure	- \$0	- \$0
i) Efforts to prevent reoccurrence of the contravention or failure	- \$0	- \$0
j) Additional relevant factors	\$0	\$0
<i>(add factors (c) to (j))</i> Total Penalty Adjustments:	+ \$7,000	+ \$7,000
Penalty after considering all factors: <i>(base penalty plus penalty adjustments)</i>	\$17,000	\$17,000
Application of multiplier: No	N/A	N/A
Final Penalty:	\$17,000	\$17,000

PENALTY CALCULATION

FILE: 2024-63c

Section 3.2 (Grab Sampling)

The Contravention or Failure:

129. Under Section 3.2, HUS must obtain a grab sample of the effluent once per month.

130. On the following seven dates, HUS failed to obtain a grab sample of the effluent once per month, as required by Section 3.2:

- October 2023
- December 2023
- February 2024
- June 2024
- August 2024
- September 2024
- October 2024

131. My reasons for decision will address each factor individually. My considerations under Section 7(1) of the APR are as follows:

Factor a): Nature of Contravention or Failure

132. The PAF shared at Notice proposed that the failures were moderate. In the AMP Handbook, a "moderate" contravention or failure includes *“failure to perform required tasks or actions such as failure to conduct required sampling or studies; failure to undertake required monitoring...*

133. The failure to conduct the required effluent sampling impedes the Ministry’s capacity to regulate as without effluent monitoring data the Ministry is unable to assess the performance of the Facility and whether the Facility is adequately treating the effluent before discharge into the environment. Furthermore, without this data, the Ministry is unable to determine whether there ought to be changes made to the Permit. For these reasons, the failures best meet the AMP Handbook’s definition of moderate. .

134. This factor was not disputed in the OTBH Submission.

135. After considering the relevant information above, I confirm the failures are moderate.

Factor b): Real or Potential Adverse Effects

136. Section 7(1)(b) of the APR requires that I must consider the real **or potential** adverse effect of the failures. A finding of potential adverse effect of the failures is enough to apply this factor.

137. The PAF shared at Notice proposed that the failures were medium. Medium actual or potential adverse effects are described in the AMP Handbook. Included in the AMP Handbook’s description of "medium" is *“the contravention interferes with the Ministry’s capacity to protect the environment or human health, or has the potential to do so, but does not result in a significant adverse effect or the potential to do so is moderate. Any effect is localized, short-term and can be mitigated or damage repaired within a reasonable timeframe.”*

138. Contaminants of concern in the effluent discharged from SMR include CBOD₅, Fecal Coliform bacteria, Phosphorous and TSS. Higher CBOD₅ discharges can result in low dissolved oxygen in receiving waters which impacts aquatic life. Drinking water contaminated with Fecal Coliform bacteria can cause stomach and intestinal illness including diarrhea and nausea, and even lead to death. Increased Phosphorous can cause undesirable effects such as: decrease in biodiversity and changes in dominant biota, decline in ecologically sensitive species, increase in turbidity, increase in organic matter leading to increased sedimentation, and anoxic conditions. Direct impacts of high levels of TSS on aquatic life include the clogging and abrasion of fish gills, behavioral effects (e.g. movement and migration), resistance to disease, blanketing of spawning gravels and other habitat changes.

139. The Facility discharged into Disposal Creek which flows into Maisal Creek and is known to bare fish species such as Coho salmon, Rainbow trout, and Steelhead.

140. This factor was not disputed in the OTBH Submission.

141. After considering the relevant information above, I confirm that the failures are medium.

142. The base penalty is therefore confirmed at \$10,000 as proposed at Notice.

143. I will now address the application of the penalty adjustment factors that reflect the unique circumstances of this file, including what happened before, during, and after the failures, and the OTBH Submission from HUS.

Factor c): Previous contraventions or failures, penalties imposed, or orders issued:

144. I am guided by the AMP Handbook for this factor, to consider HUS' compliance history. This factor could increase or decrease the penalty.

145. On July 25, 2024, HUS was previously issued AMP 2023-57d for \$12,860 for failing to comply with Section 3.1 and 3.2.

146. The PAF shared at Notice proposed an increase of forty percent of the base penalty (+ \$4,000) for the previous failures.

147. This factor was not disputed in the OTBH Submission.

148. After considering the relevant information above, I confirm an increase of forty percent of the base penalty (+ \$4,000) for this factor.

Factor d): Whether contravention or failure was repeated or continuous

149. I am guided by the AMP Handbook for this factor, to consider whether there is any evidence indicating that the repeated or continuing nature of the failures should have alerted HUS to the failures and the need to take action. If I am persuaded that HUS failed to take action, this factor could increase the penalty.

150. The failure was repeated on seven occasions.

151. The PAF shared at Notice proposed an increase of fifteen percent of the base penalty (+ \$1,500) for the repeated or continuous nature of the failures.

152. This factor was not disputed in the OTBH Submission.

153. After considering the relevant information above, I confirm an increase of fifteen percent of the base penalty (+ \$1,500) for this factor.

Factor e): Whether contravention or failure was deliberate

154. I am guided by the AMP Handbook for this factor, to consider whether there is any evidence indicating that HUS deliberately failed to collect grab samples of the effluent once per month. If I am persuaded that HUS deliberately failed to collect grab samples of the effluent once per month., this factor could increase the penalty.

155. In 2022 and 2023, HUS was previously found out of compliance with Section 3.2, for failing to collect grab samples of the effluent once per month.
156. In 2022 and 2023, HUS was reminded to identify a suitable location for sampling the effluent and collect samples once per month as required by Section 3.2. Despite HUS' long awareness of the ongoing non-compliance, HUS failed to take action to comply with this requirement.
157. The PAF shared at Notice proposed an increase of twenty percent of the base penalty (+ \$2,000) for the deliberate nature of the failures.
158. This factor was not disputed in the OTBH Submission.
159. After considering the relevant information above, I confirm an increase of twenty percent of the base penalty (+ \$2,000) for this factor.

Factor f): Economic benefit derived by the party from the contravention or failure

160. I am guided by the AMP Handbook for this factor, to consider whether is any evidence indicating that HUS obtained an economic benefit from the failures. If I am persuaded that HUS obtained an economic benefit from the failures, this could increase the penalty.
161. HUS derived economic benefit by avoiding costs associated with the failure to collect and analyze seven monthly samples between October 2023 and October 2024.
162. The PAF shared at Notice proposed an increase of \$950 for economic benefit from avoided costs.
163. This factor was not disputed in the OTBH Submission.
164. After considering the relevant information above, I confirm an increase of \$950 for this factor.

Factor g): Exercise of due diligence to prevent the contravention or failure

165. I am guided by the AMP Handbook for this factor, to consider whether there is any evidence that HUS took **all** reasonable measures to prevent the failures. If I am persuaded that HUS took all reasonable measures to prevent the failures, this factor could decrease the penalty.
166. The PAF shared at Notice proposed no adjustment for this factor.
167. This factor was not disputed in the OTBH Submission.
168. After considering the relevant information above, I confirm no adjustment for this factor.

Factor h): Efforts to correct the contravention or failure

169. I am guided by the AMP Handbook for this factor, to consider what HUS did **after** the failures to restore compliance or reverse or mitigate the impacts. If I am persuaded that HUS did take actions after the failures to restore compliance or reverse or mitigate the impacts, this factor could decrease the penalty.

170. The PAF shared at Notice proposed no adjustment for this factor.

171. This factor was not disputed in the OTBH Submission.

172. After considering the relevant information above, I confirm no adjustment for this factor.

Factor i): Efforts to prevent reoccurrence of the contravention or failure

173. I am guided by the AMP Handbook for this factor, to consider whether HUS has taken any action to avoid the failures happening again in the future. If I am persuaded that HUS has taken any action to avoid the failures happening again in the future, this factor could decrease the penalty.

174. The PAF shared at Notice proposed no adjustment for this factor.

175. In the OTBH Submission, HUS submitted that it has obtained monthly grab samples for analysis. In the OTBH Submission HUS states:

“Grab samples are being pulled monthly with proper care and handling as outlined in the Permit, and sent to Element Vancouver (#104, 19575 55A Avenue, Surrey, BC) for analysis. The results are being sent to the Utilities team for recording.”

176. HUS provided results for samples collected October 29, 2024, December 16, 2024, January 22, 2025, April 9, 2025, and May 20, 2025, stating *“Monthly sampling results attached are from October 2024 to date.”* Although some monthly sampling has been conducted, no rationale or comments were provided regarding the missing sample results for February and March 2025. Consequently, it is unclear what measures, if any, have been implemented to prevent future monthly sampling deficiencies.

177. After considering the relevant information above, a reduction of ten percent of the base penalty (- \$1,000) is applied for this factor.

Factor j): Other

178. I am guided by the AMP Handbook for this factor, to consider any additional factors which could increase or decrease the penalty. Such factors could include self-reporting, cost to government, cooperation, remorse and accountability, ability to pay, and financial impact of other obligations.

179. The PAF shared at Notice proposed no adjustment for this factor.

180. This factor was not disputed in the OTBH Submission.

181. After considering the relevant information above, I confirm no adjustment for this factor.

Total Penalty after base penalty determination and Factors c) to j) considered:

182. After determining a base penalty of \$10,000 for these failures and applying the mitigating and aggravating factors (\$7,450) discussed above, the penalty is established at \$17,450.

183. The final penalty calculations are summarized in the table below:

Factors to be considered in penalty calculation	Notice	Final Determination
a) Nature of contravention or failure	moderate	moderate
b) Real or potential adverse effect	medium	medium
Base Penalty:	\$10,000	\$10,000
c) Previous contraventions or failures, penalties imposed, or orders issued	+ \$4,000	+ \$4,000
d) Whether contravention or failure was repeated or continuous	+ \$1,500	+ \$1,500
e) Whether contravention or failure was deliberate	+ \$2,000	+ \$2,000
f) Economic benefit derived by the party from the contravention or failure	+ \$950	+ \$950
g) Exercise of due diligence to prevent the contravention or failure	- \$0	- \$0
h) Efforts to correct the contravention or failure	- \$0	- \$0
i) Efforts to prevent reoccurrence of the contravention or failure	- \$0	- \$1,000
j) Additional relevant factors	\$0	\$0
<i>(add factors (c) to (j)) Total Penalty Adjustments:</i>	+ \$8,450	+ \$7,450
Penalty after considering all factors: <i>(base penalty plus penalty adjustments)</i>	\$18,450	\$17,450
Application of multiplier: No	N/A	N/A
Final Penalty:	\$18,450	\$17,450

PENALTY CALCULATION

FILE: 2024-63d

Section 3.7 (Reporting)

The Contravention or Failure:

184. Under Section 3.7, HUS must submit semi-annual reports to the Ministry by May 1 and October 31 each year. The reports must contain data of analyses and flow measurement data.

185. On the following three dates, HUS failed to submit semi-annual reports, as required by Section 3.2:

- October 31, 2023
- May 1, 2024
- October 31, 2024

186. My reasons for decision will address each factor individually. My considerations under Section 7(1) of the APR are as follows:

Factor a): Nature of Contravention or Failure

187. The PAF shared at Notice proposed that the failure was minor. Minor natures of contravention are described in the AMP Handbook. Included in the AMP Handbook description of minor natures of contravention is *“not providing reports within legislated timeframes”*.

188. Failing to comply with reporting requirements is considered minor as it interferes with the Ministry’s ability to monitor the impact of the discharge from the wastewater facilities on the receiving environment.

189. This factor was not disputed in the OTBH Submission.

190. After considering the relevant information above, I confirm the failures are minor.

Factor b): Real or Potential Adverse Effects

191. Section 7(1)(b) of the APR requires that I must consider the real **or potential** adverse effect of the failure. A finding of potential adverse effect of the failure is enough to apply this factor.

192. The PAF shared at Notice proposed that the failure was low to none. Failing to comply with the Permit’s reporting requirements is considered as having a low to none actual or potential for adverse effect, which aligns with the AMP Handbook description *“the contravention does not result in an adverse effect or interfere with the Ministry’s capacity to protect the environment or human health, or the potential to do so is low.”*

193. The failure to submit reports is considered to have low to actual or potential for adverse effect.

194. This factor was not disputed in the OTBH Submission.

195. After considering the relevant information above, I confirm the failures are low to none.

196. The base penalty is therefore confirmed at \$1,000 as proposed at Notice.

197. I will now address the application of the penalty adjustment factors that reflect the unique circumstances of this file, including what happened before, during, and after the failures, and the OTBH Submission from HUS.

Factor c): Previous contraventions or failures, penalties imposed, or orders issued:

198. I am guided by the AMP Handbook for this factor, to consider HUS’ compliance history. This factor could increase or decrease the penalty.

199. On July 25, 2024, HUS was previously issued AMP 2023-57e for \$1,050 for failing to comply with Section 3.7.

200. The PAF shared at Notice proposed an increase of forty percent of the base penalty (+ \$400) for the previous failures.

201. This factor was not disputed in the OTBH Submission.

202. After considering the relevant information above, I confirm an increase of forty percent of the base penalty (+ \$400) for this factor.

Factor d): Whether contravention or failure was repeated or continuous

203. I am guided by the AMP Handbook for this factor, to consider whether there is any evidence indicating that the repeated or continuing nature of the failure should have alerted HUS to the failure and the need to take action. If I am persuaded that HUS failed to take action, this factor could increase the penalty.

204. The PAF shared at Notice proposed no adjustment for this factor.

205. This factor was not disputed in the OTBH Submission.

206. After considering the relevant information above, I confirm no adjustment for this factor.

Factor e): Whether contravention or failure was deliberate

207. I am guided by the AMP Handbook for this factor, to consider whether there is any evidence indicating that HUS deliberately failed to submit semi-annual reports of data of analyses and flow measurement data. If I am persuaded that HUS deliberately failed to submit semi-annual reports of data of analyses and flow measurement data, this factor could increase the penalty.

208. In 2022 and 2023, HUS was previously found out of compliance with Section 3.7, for failing to submit semi-annual reports of data of analyses and flow measurement data.

209. In 2022 and 2023, HUS was reminded to submit bi-annual reports as required by Section 3.7, ensuring that the reports contain all required information. Despite HUS' long awareness of the ongoing non-compliance, HUS failed to take action to comply with this requirement.

210. The PAF shared at Notice proposed an increase of twenty percent of the base penalty (+ \$200) for the deliberate nature of the failure.

211. This factor was not disputed in the OTBH Submission.

212. After considering the relevant information above, I confirm an increase of twenty percent of the base penalty (+ \$200) for this factor.

Factor f): Economic benefit derived by the party from the contravention or failure

213. I am guided by the AMP Handbook for this factor, to consider whether is any evidence indicating that HUS obtained an economic benefit from the failure. If I am persuaded that HUS obtained an economic benefit from the failure, this could increase the penalty.

214. The PAF shared at Notice proposed no adjustment for this factor.

215. This factor was not disputed in the OTBH Submission.

216. After considering the relevant information above, I confirm no adjustment for this factor.

Factor g): Exercise of due diligence to prevent the contravention or failure

217. I am guided by the AMP Handbook for this factor, to consider whether there is any evidence that HUS took **all** reasonable measures to prevent the failure. If I am persuaded that HUS took all reasonable measures to prevent the failure, this factor could decrease the penalty.

218. The PAF shared at Notice proposed no adjustment for this factor.

219. This factor was not disputed in the OTBH Submission.

220. After considering the relevant information above, I confirm no adjustment for this factor.

Factor h): Efforts to correct the contravention or failure

221. I am guided by the AMP Handbook for this factor, to consider what HUS did **after** the failure to restore compliance or reverse or mitigate the impacts. If I am persuaded that HUS did take actions after the failure to restore compliance or reverse or mitigate the impacts, this factor could decrease the penalty.

222. The PAF shared at Notice proposed no adjustment for this factor.

223. This factor was not disputed in the OTBH Submission.

224. After considering the relevant information above, I confirm no adjustment for this factor.

Factor i): Efforts to prevent reoccurrence of the contravention or failure

225. I am guided by the AMP Handbook for this factor, to consider whether HUS has taken any action to avoid the failure happening again in the future. If I am persuaded that HUS has taken any action to avoid the failure happening again in the future, this factor could decrease the penalty.

226. The PAF shared at Notice proposed no adjustment for this factor.

227. In the OTBH Submission, HUS submitted that it has hired new staff with the purpose of record keeping. In the OTBH Submission it states:

“Hemlock Valley Utilities has hired on an Administrative staff member to develop and maintain accurate records and recording processes. Additionally, the Utility has set up a streamlined system for recording and maintaining all information collected.”

228. HUS further provided an offer letter for an administrative position, dated November 27, 2024. Included in the summary of responsibilities for this position is “*Work closely with the*

Resort, Utilities, and the BCUC on reporting, inspections, compliance, and safety.” HUS further reported:

“Hemlock Utility Services is using a combination of recording-keeping by spreadsheet data, simple Microsoft Calendar reminders, and a program design by IMPAK solutions to help streamline the recording and maintenance of information”

229. HUS was required to submit a semi-annual report on May 1, 2025. Despite hiring an administrative staff member in November, and reporting that they have establishing a streamlined system for recording and maintaining all information, the May 1, 2025 report has not been submitted.

230. After considering the relevant information above, no adjustment is provided for this factor.

Factor j): Other

231. I am guided by the AMP Handbook for this factor, to consider any additional factors which could increase or decrease the penalty. Such factors could include self-reporting, cost to government, cooperation, remorse and accountability, ability to pay, and financial impact of other obligations.

232. The PAF shared at Notice proposed no adjustment for this factor.

233. This factor was not disputed in the OTBH Submission.

234. After considering the relevant information above, I confirm no adjustment for this factor.

Total Penalty after base penalty determination and Factors c) to j) considered:

235. After determining a base penalty of \$1,000 for these failures and applying the mitigating and aggravating factors (\$600) discussed above, the penalty is established at \$1,600, prior to determining the application of the daily multiplier.

Multiplier Application:

236. The PAF shared at Notice proposed the application of the multiplier on daily basis for three days.

237. The application of a daily multiplier was not disputed in the OTBH Submission.

238. The final penalty calculations are summarized in the table below:

Factors to be considered in penalty calculation	Notice	Final Determination
a) Nature of contravention or failure	minor	minor
b) Real or potential adverse effect	low to none	low to none
Base Penalty:	\$1,000	\$1,000

c) Previous contraventions or failures, penalties imposed, or orders issued	+ \$400	+ \$400
d) Whether contravention or failure was repeated or continuous	+ \$0	+ \$0
e) Whether contravention or failure was deliberate	+ \$200	+ \$200
f) Economic benefit derived by the party from the contravention or failure	+ \$0	+ \$0
g) Exercise of due diligence to prevent the contravention or failure	- \$0	- \$0
h) Efforts to correct the contravention or failure	- \$0	- \$0
i) Efforts to prevent reoccurrence of the contravention or failure	- \$0	- \$0
j) Additional relevant factors	\$0	\$0
<i>(add factors (c) to (j) Total Penalty Adjustments:</i>	+ \$600	+ \$600
Penalty after considering all factors: <i>(base penalty plus penalty adjustments)</i>	\$1,600	\$1,600
Application of multiplier: Yes	3 x \$1,600	3 x \$1,600
Final Penalty:	\$4,800	\$4,800

DUE DATE AND PAYMENT

Payment of this administrative penalty is due within thirty (30) calendar days after the date of service of this Determination of Administrative Penalty (Determination). You will be sent an invoice, to be paid via cheque or money order made **payable to the Minister of Finance**. Payment can be mailed to Business Services at:

Financial Services Branch
Corporate Services for the Natural Resource Ministries
Ministry of Water, Land and Resource Stewardship
PO Box 9356 Stn Prov Govt
Victoria, BC V8W 9M2

Please do not mail cash. A \$30 service fee will be charged for dishonoured payments.

If payment has not been received in the thirty (30) calendar day period, interest will be charged on overdue payments at a rate of 3% + the prime lending rate of the principal banker to the Province per month and the amount payable is recoverable as a debt due to the government. In the event of non-payment you will be ineligible for a permit or approval, or to amend a permit or approval, until the penalty is paid in full. Further, I am authorized by Section 18 of EMA to cancel or suspend your current authorization in the event of non-payment and if I decide to do so, you will be notified accordingly.

RIGHT TO APPEAL

If you disagree with this Determination, Division 2 of Part 8 of EMA provides information for how to appeal my decision to the Environmental Appeal Board ("EAB"). In accordance with EMA and with the EAB Procedures Regulation, the EAB must receive Notice of the Appeal no later than 30 calendar days after the date you receive this Determination of Administrative Penalty. The notice must include:

- a. Your name and address and the name of the person, if any, making the request on your behalf;
- b. The address for serving a document to you or the person acting on your behalf;
- c. The grounds for appeal;
- d. A statement of the nature of the order requested; and
- e. The notice of appeal shall be signed by you, or your counsel or agent if any, and be accompanied by a fee of \$25, payable to the Minister for Finance by cheque, money order or bank draft.

The Notice of Appeal form is available online at <https://www.bceab.ca/resources/forms-and-templates>. It should be completed and filed by registered mail or by leaving a copy at the EAB office during normal business hours. The street address is 4th Floor, 747 Fort Street, Victoria, BC, and the office is open from 8:30 am – 4:30 pm Monday through Friday, excluding public holidays.

Notice may also be sent by email or fax, provided the original Notice of Appeal and the appeal fee follows by mail. The mailing address of the EAB is:

Environmental Appeal Board
PO Box 9425 Stn Prov Govt
Victoria, BC V8W 9M6

For further information, please consult the EAB website at <https://www.bceab.ca>. If the administrative penalty is appealed to the EAB and the penalty is upheld, payment is due within 30 calendar days after receiving a copy of the order or decision of the appeal board, or, if the EAB has sent the matter back to the decision maker, within 30 calendar days after a new Determination of Administrative Penalty is served.

PUBLICATION

Seven days after the date of service, this Determination will be published on the Natural Resource Compliance and Enforcement Database ("NRCED") Website: <https://nrced.gov.bc.ca/>

Dated this 6th day of June, 2025.