



MINISTRY OF ENVIRONMENT AND PARKS
COMPLIANCE AND ENVIRONMENTAL ENFORCEMENT BRANCH

DETERMINATION OF ADMINISTRATIVE PENALTY

June 12, 2025

File: 2024-64
14661

Email: BMitchell@PacificSeafood.com, RGrant@PacificSeafood.com

0822759 B.C. Ltd dba Ucluelet Harbour Seafoods
1661 Cedar Road
PO Box 1089
Ucluelet, BC V0R 3A0

Attention: 0822759 B.C. Ltd dba Ucluelet Harbour Seafoods

RE: Determination of Administrative Penalty

Further to the Notice Prior to Determination of Administrative Penalty issued to you on March 13, 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 that 0822759 B.C. Ltd dba Ucluelet Harbour Seafoods has failed to comply with Permit 14661 Sections 1.3 and 3.1, 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:

2025-03-13 2024-64 Penalty Assessment Form

cc: Haylea Van Vaals, Environmental Protection Officer
Haylea.VanVaals@gov.bc.ca

Nadine Schwager, Environmental Protection Technician
Nadine.Schwager@gov.bc.ca

Brady Nelles, Executive Director, Compliance & Environmental Enforcement
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DETERMINATION OF ADMINISTRATIVE PENALTY

FILE: 2024-64

Name of Party:

0822759 B.C. Ltd.,
dba Ucluelet Harbour Seafoods

AMOUNT OF ADMINISTRATIVE PENALTY:

2024-64a: \$19,000

2024-64b: \$6,000

TOTAL: \$25,000

Contravention or Failure:

A. Failure to comply with Permit 14661 Section 1.3 (Authorized Discharges):

1. This section applies to the discharge of effluent from a fish processing plant. The site reference number for this discharge is E221695. 1.3 The characteristics of the discharge must be equivalent to or better than the following parameters.

<i>Parameter</i>	<i>Maximum Daily Concentration</i>
pH	6.0 – 9.0
5-day Biochemical Oxygen Demand (BOD ₅)	2000 mg/ L
Total Suspended Solids (TSS)	1000 mg/L
Total Ammonia (NH ₃) as N	10 mg/L
Oil & Grease (O&G)	40 mg/L

B. Failure to comply with Permit 14661 Section 3.1 (Discharge Flow Measurement):

Prior to discharging, the permittee must install and maintain a flow measuring device suitable to the director and record once per day the effluent volume discharged over a 24-hour period. The permittee must retain the records for inspection by Ministry staff.

Date of Contravention or Failure:

A. Section 1.3: (# exceedances on that date)

- May 30, 2023
- August 24, 2023 (2)
- September 26, 2023
- October 24, 2023 (3)
- October 31, 2023 (3)
- December 12, 2023 (4)
- January 18, 2024
- June 25, 2024 (3)
- July 10, 2024 (3)
- July 16, 2024 (4)
- August 8, 2024 (4)
- August 13, 2024 (4)

B. Section 3.1:

- March 2, 2023 to March 23, 2023 (22 days)
- April 18, 2023 to July 5, 2023 (79 days)
- August 30, 2023 to October 1, 2023 (33 days)

Directors Summary:

1. 0822759 B.C. Ltd dba Ucluelet Harbour Seafoods (“UHS”) operates a fish processing facility (“Facility”) in Ucluelet, British Columbia (“BC”). UHS is a division of Pacific Seafood.
2. On October 24, 2024, 0822759 B.C. Ltd. changed its name to PAC Seafood – Ucluelet Harbour Holding Ltd. Throughout this Administrative Penalty (“AMP”) assessment, the company will continue to be referred to as “UHS”.
3. The provincial regulatory authorization governing the discharge of effluent from the Facility is Permit 14661 (“Permit”) issued pursuant to the *Environmental Management Act*, S.B.C. 2003, c. 53 (“EMA”).
4. The Permit was issued and is administered by the BC Ministry of Environment and Parks (“Ministry”).
5. The Permit authorizes the discharge of effluent to Barkley Sound from a fish processing plant.
6. The Permit was first issued on June 23, 1997, and was most recently amended on March 3, 2025.
7. This AMP applies to the June 1, 2020, version of the Permit. Sections 1.3 and 3.1 remain the same in the March 3, 2025 amendment.
8. The Authorized Works in the Permit (Section 1.4) include *“an outfall with diffuser (extending at 200m beyond the Ucluelet Harbour limit between George Fraser Islands and Francis Islands to a minimum depth of 23 m below mean low water)”*
9. On November 22, 2024, the Ministry issued Inspection Report (“IR”) 229797 and found UHS out of compliance with a number of requirements, including Sections 1.3 and 3.1. The outcome of IR 229797 was determined to be a Referral for an AMP.
10. On March 13, 2025, the Ministry issued a Notice Prior to Determination of Administrative Penalty (“Notice”) and accompanying Penalty Assessment Form (“PAF”) to UHS via email. The Notice recommended two penalties:
 - **2024-64a:** \$19,000 for failure to comply with Section 1.3 on 12 dates between May 30, 2023 and August 13, 2024
 - **2024-64b:** \$6,000 for failure to comply with Section 3.1 for 134 days between March 2, 2023 and October 1, 2023
11. In the Notice, UHS was offered an Opportunity to be Heard (“OTBH”) and given thirty (30) days to request an OTBH.
12. On April 14, 2025, UHS requested an OTBH.

13. On May 5, 2025, the Ministry acknowledged UHS' request for an OTBH, confirmed the OTBH would be by written submission, and set a due date of June 6, 2025.
14. On June 6, 2025, UHS provided the OTBH submission ("OTBH Submission") to the Ministry.

Reasons for Decision:

15. In making this Determination of Administrative Penalty ("Determination"), I have considered all of the information available to me, including the OTBH Submission provided by UHS. 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.
16. The "Administrative Penalty Handbook: Version 2 – Ministry of Environment and Parks – *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.
17. 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:

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

PENALTY CALCULATION

FILE: 2024-64a

Section 1.3 (Authorized Discharges)

The Contravention or Failure:

19. Under Section 1.3, the characteristics of the effluent discharge must not exceed specified limits.
20. On the following 12 dates, representing 33 exceedances, UHS failed to comply with Section 1.3 by discharging effluent with characteristics that exceeded the authorized limits:
 - May 30, 2023
 - August 24, 2023 (2)
 - September 26, 2023
 - October 24, 2023 (3)
 - October 31, 2023 (3)
 - December 12, 2023 (4)

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

- January 18, 2024
- July 10, 2024 (3)
- August 8, 2024 (4)
- June 25, 2024 (3)
- July 16, 2024 (4)
- August 13, 2024 (4)

(# exceedances on that date)

21. UHS does not dispute the failures. At page 2 of the OTBH Submission, it stated, “*UHS has reviewed the materials contained in the penalty assessment form, including the dates of contravention or failure to adhere to Permit conditions Sections 1.3 ..., and does not contest any of the listed dates of effluent exceedances ... contained within the penalty assessment form.*”
22. 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

23. I have considered the AMP Handbook, which describes a major contravention or failure as “*exceeding a discharge limit by a significant magnitude (51-100% or more)*”.
24. Exceedances of Permit limits ranged from 10% to 17,150%. Of the 33 exceedances, 28 exceeded the limits by more than 50%. All dates included at least one non-compliance over 50% except September 26, 2023.
25. This major category includes the most serious compliance issues that by their nature can result in an actual significant impact or very serious threat to the environment or to human health or where non-compliance undermines the basic integrity of the overarching regulatory regime and significantly interferes with the Ministry’s capacity to regulate.
26. The PAF shared at Notice proposed that the failures were major.
27. This factor was not disputed in the OTBH Submission.
28. After considering the relevant information above, I confirm the failures are major.

Factor b): Actual or Potential Adverse Effects

29. 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.
30. I have considered the AMP Handbook, which describes medium actual or potential adverse effects as “*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 an 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.*”
31. I have also considered the AMP Handbook, which describes low to none actual or potential adverse effects as “*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."

32. Effluent is discharged to Barkley Sound. Fisheries and Oceans Canada ("DFO") identifies the following species at risk found or potentially found in Barkley Sound and the area of the Pacific Ocean outside Barkley Sound is considered critical habitat for Killer Whale populations:
 - Special Concern: Stellar Sea Lion, Humpback Whale, Grey Whale, Yelloweye Rockfish, Tope, Bluntnose Sixgill Shark, Longspine Thornyhead and Rougheye Rockfish
 - Endangered: Killer Whale, Leatherback Sea Turtle, Northern Abalone, Basking Shark
33. Chronic ammonia toxicity can result in decreased survival in aquatic organisms. High BOD₅ concentrations can reduce the oxygen available to aquatic life and impact their health. Oil & Grease can impact aquatic life including mammals, turtles and fish including damaging fish gills and being detrimental to growth in young fish. High TSS concentrations can affect aquatic life through physical abrasion, clogging of gills, interference with underwater navigation, and smothering of eggs and life at the bottom of a water body.
34. While there is a potential for adverse effects to aquatic life, effluent is discharged 23 m below mean low water with an average rate of discharge of 77 m³/day for 2023.
35. The PAF shared at Notice proposed that the failures were medium.
36. UHS submits that there are no indications of adverse impacts and the actual or potential adverse effects should be characterized as low to none. At pages 2-3 of the OTBH Submission, it stated:

"With the most recent 2024 receiving water report having been submitted to the Ministry of Environment and Climate Change Strategy (ENV), and the summary of findings of the REM contained in the 2024 annual report, the latest round of sampling found that there are no indications of adverse impacts to the receiving environment, nor does there appear to be a deleterious effect on water quality due to effluent ammonia concentrations or evidence of an effluent plume in any of the water quality profiles measurements collected during the 2024 monitoring period. Historically, past REM collection events and findings also match these results in the 2024 study, where effluent plumes are not evident in any of the water quality profiles collected during the 2023, 2022, or 2021 monitoring periods.

Therefore, based on the evidence presented above, UHS respectfully requests that the classification of Factor B in Part 2 of the penalty calculation letter be changed from the current standing of 'medium' to 'low to none.' This requested change is supported by years of receiving water profiles that indicated no evidence of effluent plumes. Additionally, the measured concentrations of ammonia and enterococci samples were below water quality standards (WQSs), indicating that there were very limited adverse effects on the receiving environment when UHS was processing during the periods of exceedances cited in the AMP."

37. I have reviewed UHS' 2024 Annual Report and Evaluation (2024 Annual Report) included in the OTBH Submission as well as the 2024 Receiving Environment Monitoring Report (2024 REMP Report) dated May 28, 2025, prepared by Great Pacific Engineering and Environment and referenced in the 2024 Annual Report. The 2024 REMP Report consists of grab samples and profile monitoring of ambient seawater at nine locations. While the 2024 REMP Report included assessments of pH, dissolved oxygen (DO), and ammonia nitrogen, it does not contain studies of TSS and Oil & Grease, nor does it include any biological or sediment monitoring. It is acknowledged that the HUS Permit does not require monitoring of these parameters or receptors in the receiving environment. Page 17 of the 2024 REMP Report states,

“Overall Environmental Impact & Recommendation: The monitoring results indicate that the Pacific Seafood Group's marine outfall discharge had minimal detectable impact on receiving environment water quality for the parameters assessed during the 2024 summer period. Observed variations in temperature and dissolved oxygen appear driven by natural processes characteristic of Barkley Sound. Water quality generally met applicable guidelines, with the exception of a single calculated exceedance of the chronic ammonia guideline at one specific site and depth; however, confidence in this specific ammonia result is low due to QA/QC issues noted above.”

Page 6 of the 2024 Annual Report states,

“The plume is not evident from water quality profile measurements during any of the [five Receiving Environment Monitoring Program] events.”

38. The OTBH Submission referenced a September 5, 2024 Environment and Climate Change Canada *Fisheries Act* Direction (“ECCC Direction”). The ECCC Direction was based on an August 20, 2024 inspection and August 21, 2024 sampling and stated,

“an Inspector and Fishery Officer designated by the Minister of Fisheries and Oceans under subsection 38(1) and 5(1) of the Fisheries Act, have reasonable grounds to believe:

- 1. That there occurs a deposit of a deleterious substance in water frequented by fish that is not authorized under the Fisheries Act and/or there is a serious and imminent danger of a deposit of a deleterious substance in water frequented by fish.*
- 2. That determinant to fish habitat or fish or to the use of humans of fish results or may reasonably be expected to result from the occurrence and that immediate action is necessary in order to take all reasonable measures consistent with the public safety and with the conservation and protection of fish and fish habitat to prevent the occurrence or to counteract, mitigate or remedy and adverse effects that result from the occurrence or might reasonably be expected to result from it.*
- ...*
- 15. That untreated fish processing wastewater and wastewater associated with the fish plant operations is an identified deleterious substance that is harmful to fish and fish habitat and the use of fish by man.”*

39. The ECCC Direction identifies the potential for adverse effect from the wastewater that cannot be appropriately categorized as low to none.

40. For this factor, I consider the actual or potential adverse effects on the environment. In this context, “environment” includes both water quality and aquatic life, such as benthic and aquatic organisms. Based on the information in the 2024 REM Report, I find that the exceedances of BOD₅, ammonia, and pH likely had low to no impact on receiving environment water quality. However, the TSS and Oil & Grease exceedance, comprising 14 of the 33 total exceedances, were not considered in the 2024 REM Report. I find the UHS has not considered all exceeded parameters collectively, and the environment as a whole, when presenting their case for reclassifying the actual or potential adverse effects as low to none. As such, I find that the potential for adverse impacts from all of the exceedances outlined in this AMP best meets the AMP Handbook description for medium.
41. After considering the relevant information above, I confirm that the failures are medium.
42. The base penalty is therefore confirmed at \$20,000 as proposed at Notice.
43. 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 UHS.

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

44. I am guided by the AMP Handbook for this factor, to consider UHS’ compliance history. This factor could increase or decrease the penalty.
45. The PAF shared at Notice proposed no adjustment for this factor.
46. This factor was not disputed in the OTBH Submission.
47. After considering the relevant information above, I confirm no adjustment for this factor.

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

48. 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 UHS to the failures and the need to take action. If I am persuaded that UHS failed to take action, this factor could increase the penalty.
49. The failure was repeated on 12 dates, representing 33 exceedances. Given the facility is required to collect one composite sample per month, I have elected to apply an increase based on the first sample collected in the nine months where exceedances occurred. The samples used to calculate the increase are highlighted in bold below. These nine samples represent 21 exceedances.

- | | | |
|-------------------------------|--------------------------------|-----------------------------|
| • May 30, 2023 | • October 31, 2023 (3) | • July 10, 2024 (3) |
| • August 24, 2023 (2) | • December 12, 2023 (4) | • July 16, 2024 (4) |
| • September 26, 2023 | • January 18, 2024 | • August 8, 2024 (4) |
| • October 24, 2023 (3) | • June 25, 2024 (3) | • August 13, 2024 (4) |

50. The PAF shared at Notice proposed an increase of fifteen percent of the base penalty (+ \$3,000) for the repeated or continuous nature of the failures.
51. This factor was not disputed in the OTBH Submission.
52. After considering the relevant information above, I confirm an increase of fifteen percent of the base penalty (+ \$3,000) for the repeated or continuous nature of the failures

Factor e): Whether contravention or failure was deliberate

53. I am guided by the AMP Handbook for this factor, to consider whether there is any evidence indicating that UHS deliberately discharged effluent with characteristics that exceeded the authorized limits. If I am persuaded that UHS deliberately discharged effluent with characteristics that exceeded the authorized limits, this factor could increase the penalty.
54. In 2023, UHS was found out of compliance with Section 1.3. In 2023, UHS was reminded to ensure that effluent discharge characteristics met the Section 1.3 limits. As reported in NCRs and the 2023 Annual Report, UHS did attempt to avoid continued failures through investigation and remedial actions.
55. The PAF shared at Notice proposed no adjustment for this factor.
56. This factor was not disputed in the OTBH Submission.
57. 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

58. I am guided by the AMP Handbook for this factor, to consider whether is any evidence indicating that UHS obtained an economic benefit from the failures. If I am persuaded that UHS obtained an economic benefit from the failures, this could increase the penalty.
59. The PAF shared at Notice proposed no adjustment for this factor.
60. This factor was not disputed in the OTBH Submission.
61. 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

62. I am guided by the AMP Handbook for this factor, to consider whether there is any evidence that UHS took any reasonable measures to prevent the failures. If I am persuaded that UHS took any reasonable measures to prevent the failures, this factor could decrease the penalty.
63. UHS made efforts to determine the cause of exceedances once they occurred. UHS has attributed exceedances to an ammonia cleaning agent, insufficient cleaning schedule, intermittent processing schedule, warm temperatures, contributions from offal trucks, design

of the wastewater conveyance structure, and a hose leak. These actions were considered under factor i).

- 64. The PAF shared at Notice proposed no adjustment for this factor.
- 65. This factor was not disputed in the OTBH Submission.
- 66. After considering the relevant information above, I confirm no adjustment for this factor.

Factor h): Efforts to correct the contravention or failure

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

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

- 71. I am guided by the AMP Handbook for this factor, to consider whether UHS has taken any action to avoid the failures happening again in the future. If I am persuaded that UHS has taken any action to avoid the failures happening again in the future, this factor could decrease the penalty.
- 72. In response to the 2023 Warning letter UHS swapped to a chlorine-based cleaning agent. After further non-compliances were reported in 2023, UHS increased equipment cleaning frequency, updated its cleaning protocols, conducted additional training on how to recognize buildup on equipment, and replaced damaged hoses. In 2024, UHS updated sections of wastewater conveyance infrastructure to reduce the contact time between solids and wastewater and commenced an investigation to identify where the highest sources of pollutants were coming from. The results of the investigation have not yet been reported to the Ministry.
- 73. While the efficacy of the efforts to prevent recurrence of the exceedances has not yet been proven, I find that the efforts made by UHS to-date warrant a reduction in base penalty.
- 74. The PAF shared at Notice proposed a reduction of twenty percent of the base penalty (- \$4,000) for efforts made to prevent to reoccurrence of the failures.
- 75. UHS submits that additional efforts are being undertaken to prevent the reoccurrence of the failures. While UHS submits this as an additional factor for factor j), I find that it is best evaluated under factor i). At pages 3-4 of the OTBH Submission, it stated:

“Before receiving the Notice of the AMP on March 13, 2025, UHS received a Fisheries Act Direction (Direction) from Inspector and Fishery Officer, ... following an inspection conducted at the facility on August 20, 2024. Ultimately, the Direction included four measures to be taken in order to eliminate several instances of observed noncompliance observed during the inspection.

One of those items consisted of UHS needing to produce ‘non-acutely lethal effluent when the fish processing facility is operational in a normal day to day capacity.’ That directive was based on several wastewater samples that were collected and underwent whole effluent toxicity (WET) tests, in which the samples collected by the inspector had 100% mortality to the test fish in 100% wastewater concentrations collected as grab samples collected during the inspection at our final discharge location before leaving the facility. As a result, UHS commenced actions that will ultimately reduce the concentrations of parameters of concern in our effluent.

As required by the Direction, UHS committed to spending \$44,260 to implement the planned improvements included in the Fisheries Act Direction Remedial Plan (Plan) and complete all required reports, which will be conducted by Professional Engineers at SLR International Corporation. The Plan submitted by UHS also stated that the installation of additional treatment for the final effluent will be completed if deemed necessary to eliminate any instances of deleterious substances that are present in WET tests that can result in the failure of future tests. In addition to the costs of reporting and engineering support, UHS invested in other areas to prevent sources of pollutants from entering the wastewater conveyance system altogether in response to other measures contained within the Direction. Furthermore, as we continue to investigate the cause of the acute toxicity results and have more WET tests analyzed, we will most certainly incur additional expenses above and beyond the previously committed amount of \$44,260.

Given the cooperation and financial investment UHS has dedicated, along with other administrative remedies relevant to the unauthorized discharges contained in the AMP, UHS requests that the above information and collaboration with other regulating entities be taken into account for calculating Factor J of the base penalty amount in Part 2 Section 1.3 of the AMP.”

76. I have reviewed the Fisheries Act Direction Remedial Plan (“Remedial Plan”) included in the OTBH Submission. The Remedial Plan is focused on identifying the cause of acute toxicity in the final effluent. It outlines steps to gather concurrent toxicity and concentration data, submit an interim report by June 22, 2025, install treatment for final effluent as needed, and submit a final report by December 31, 2025. While addressing the issue of acute toxicity is important for environmental protection, this AMP pertains specifically to exceedances of parameters listed in the Permit: pH, TSS, ammonia, BOD₅, and Oil & Grease. UHS has not made any clear or additional commitments to resolve these parameter exceedances. Although UHS acknowledges that the cause of acute toxicity is currently unknown, they suggest it may be related to low dissolved oxygen, ammonia, or chlorine. It is therefore possible that UHS could resolve the acute toxicity issue without achieving compliance with the Permit limits. As reported on page 3 of the Remedial Plan,

“It is possible that the samples collected as part of Step 3a will pass the toxicity tests since use of chlorine in dock and washdown water has been discontinued. Should that be the case, it will be concluded that chlorine was the cause of toxicity in the effluent and that the effluent is no longer a deleterious substance.”

77. If chlorine is confirmed as the cause of toxicity, it is reasonable to assume that UHS may determine no effluent treatment is needed. In that case, the underlying exceedances of Permit parameters could continue unresolved. Similarly, if ammonia is identified as the cause, there is still no clear plan or commitment to address the associated or other parameter exceedances.
78. After considering the relevant information above, I find that UHS has not provided any additional information regarding actions taken to address the pH, TSS, ammonia, BOD₅, Oil & Grease exceedances subject to this AMP and have applied no further reduction in base penalty for this factor.
79. I will consider collaboration with other regulating entities under factor j).
80. I confirm a reduction of twenty percent of the base penalty (- \$4,000) for this factor.

Factor j): Other

81. 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.
82. The PAF shared at Notice proposed no adjustments for this factor.
83. As discussed above under factor i), UHS submits that additional efforts are being undertaken to prevent the reoccurrence of the failures. While UHS submits this as an additional factor for factor j), I find that it is best evaluated under factor i). UHS also submits:

UHS requests that ... collaboration with other regulating entities be taken into account for calculating Factor J of the base penalty amount in Part 2 Section 1.3 of the AMP.”

84. I acknowledge that collaboration with ECCC is important to addressing the issues identified in the ECCC Direction, and that this cooperation may also contribute to resolving some of the non-compliances discussed in this PAF. However, this factor considers actions taken specifically to mitigate or rectify the non-compliances at issue in this penalty. While cooperation with another regulator is a positive step, I do not find that it warrants a reduction under this factor.
85. 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:

86. After determining a base penalty of \$20,000 for these failures and applying the mitigating and aggravating factors (- \$1,000) discussed above, the penalty is established at \$19,000.

87. 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	major	major
b) Actual or potential adverse effect	medium	medium
Base Penalty:	\$20,000	\$20,000
c) Previous contraventions or failures, penalties imposed, or orders issued	\$0	\$0
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	\$
h) Efforts to correct the contravention or failure	\$0	\$0
i) Efforts to prevent reoccurrence of the contravention or failure	- \$4,000	- \$4,000
j) Additional relevant factors	\$0	\$0
<i>(add factors (c) to (j))</i> Total Penalty Adjustments:	- \$1,000	- \$1,000
Penalty after considering all factors: <i>(base penalty plus penalty adjustments)</i>	\$19,000	\$19,000
Application of multiplier: No	N/A	N/A
Final Penalty:	\$19,000	\$19,000

PENALTY CALCULATION

FILE: 2024-64b

Section 3.1 (Discharge Flow Measurement)

The Contravention or Failure:

88. Under Section 3.1, UHS must record once per day the effluent volume discharged over a 24-hour period.

89. Over the following three continuous periods, representing 134 days, UHS failed to comply with Section 3.1 by not recording once per day the effluent volume discharged over a 24-hour period:
- March 2, 2023 to March 23, 2023 (22 days)
 - April 18, 2023 to July 5, 2023 (79 days)
 - August 30, 2023 to October 1, 2023 (33 days)
90. UHS does not dispute the failures. At page 2 of the OTBH Submission, it stated, “*UHS has reviewed the materials contained in the penalty assessment form, including the dates of contravention or failure to adhere to Permit conditions Sections ... 3.1, and does not contest any of the listed ... dates of missing effluent flow data contained within the penalty assessment form.*”
91. 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

92. I have considered the AMP Handbook, which described a moderate contravention or failure as “*failure to undertake required monitoring*”.
93. Failing to record effluent discharge volumes impedes the Ministry’s ability to adequately assess compliance against the Permit. The failure to carry out operational requirements such as undertaking the required monitoring create, at a minimum, a risk of harm to the environment and human health and are considered a moderate failure.
94. The PAF shared at Notice proposed that the failures were moderate.
95. This factor was not disputed in the OTBH Submission.
96. After considering the relevant information above, I confirm the failures are moderate.

Factor b): Actual or Potential Adverse Effects

97. 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.
98. I have considered the AMP Handbook, which describes low to none actual or potential adverse effects as “*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.*”
99. While not monitoring effluent discharge impedes the Ministry’s ability to adequately assess compliance against the Permit, UHS reported being in compliance with discharge limits for those periods where flow was measured in 2023.

100. The PAF shared at Notice proposed that the failures were low to none.

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

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

103. The base penalty is therefore confirmed at \$5,000 as proposed at Notice.

104. 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 UHS.

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

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

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

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

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

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

109. 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 UHS to the failures and the need to take action. If I am persuaded that UHS failed to take action, this factor could increase the penalty.

110. The failure was repeated for three continuous periods of 22 days, 79 days and 33 days, for a total of 134 days.

111. The PAF shared at Notice proposed an increase of twenty percent of the base penalty (+ \$1,000) for the repeated or continuous nature of the failures.

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

113. After considering the relevant information above, I confirm an increase of twenty percent of the base penalty (+ \$1,000) for the repeated or continuous nature of the failures.

Factor e): Whether contravention or failure was deliberate

114. I am guided by the AMP Handbook for this factor, to consider whether there is any evidence indicating that UHS deliberately failed to record the effluent volume discharged. If I am persuaded that UHS deliberately failed to record the effluent volume discharged, this factor could increase the penalty.

115. In 2018, UHS was found out of compliance with the requirement to record once per day the effluent volume discharged over a 24-hour period. In 2018, UHS was reminded to ensure that effluent volume discharge is recorded once per day over a 24-hour period.

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

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

118. 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

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

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

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

122. 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

123. I am guided by the AMP Handbook for this factor, to consider whether there is any evidence that UHS took any reasonable measures to prevent the failures. If I am persuaded that UHS took any reasonable measures to prevent the failures, this factor could decrease the penalty.

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.

Factor h): Efforts to correct the contravention or failure

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

128. UHS restored the flow meter to service after each failure. However, the length of each failure would indicate that UHS did not prioritize correcting the failures.

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

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

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

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

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

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

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

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

Factor j): Other

136. 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.

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

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

139. 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:

140. After determining a base penalty of \$5,000 for these failures and applying the mitigating and aggravating factors (+ \$1,000) discussed above, the penalty is established at \$6,000.

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

Factors to be considered in penalty calculation	Notice	Final Determination
k) Nature of contravention or failure	moderate	moderate
l) Actual or potential adverse effect	low to none	low to none
Base Penalty:	\$5,000	\$5,000
m) Previous contraventions or failures, penalties imposed, or orders issued	\$0	\$0
n) Whether contravention or failure was repeated or continuous	+ \$1,000	+ \$1,000

o) Whether contravention or failure was deliberate	\$0	\$0
p) Economic benefit derived by the party from the contravention or failure	\$0	\$0
q) Exercise of due diligence to prevent the contravention or failure	\$0	\$0
r) Efforts to correct the contravention or failure	\$0	\$0
s) Efforts to prevent reoccurrence of the contravention or failure	\$0	\$0
t) Additional relevant factors	\$0	\$0
<i>(add factors (c) to (j)) Total Penalty Adjustments:</i>	+\$1,000	+\$1,000
Penalty after considering all factors: <i>(base penalty plus penalty adjustments)</i>	\$6,000	\$6,000
Application of multiplier: No	N/A	N/A
Final Penalty:	\$6,000	\$6,000

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 12th day of June, 2025.