

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

IN THE MATTER OF:)
AMERICAN PETROLEUM) MUTUAL AGREEMENT
ENVIRONMENTAL SERVICES, INC.) AND FINAL ORDER
a Washington corporation and)
CLEAR LUBE RE-REFINING LLC,) No. AQ/AC-NWR-2016-217
a Delaware limited liability company.)

WHEREAS:

1. On October 24, 2003, the Oregon Department of Environmental Quality (DEQ) issued Air Contaminant Discharge Permit No. 26-3021-ST-01 (Permit) to Energy & Material Recovery, Inc. to operate a used oil re-refining facility at 11535 N. Force Avenue, Portland, Oregon (the Facility).

2. At the time the Permit was issued, the Facility included two electric thermal oxidizers to control volatile organic compound (VOC) emissions from the oil distillation process and regeneration clay filtration system (E-Coil). These thermal oxidizers represented Typically Achievable Control Technology (TACT) in accordance with Oregon Administrative Rule (OAR) 340-226-0130.

3. In or about 2006, Energy & Material Recovery, Inc. removed the electric thermal oxidizers without notifying DEQ.

4. In 2010, American Recyclers LLC purchased the Facility from Energy & Material Recovery, Inc. unaware that the thermal oxidizers had been removed. DEQ renewed and reissued the Permit to American Recyclers LLC on December 21, 2010. In 2011, DEQ performed an on-site inspection of American Recyclers and determined that the thermal oxidizers had been removed and instructed American Recyclers LLC to submit a Notice of Intent to Construct (NOC) to establish Oil Heater #3 to document the change. On February 6, 2012, American Recyclers submitted a Notice of Intent to construct (NOC), documenting the removal of the thermal oxidizers as a Type 1 change. The NOC was administratively approved by DEQ 10 days after receipt of the application.

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1 5. In 2014, American Petroleum Environmental Services, Inc. (APES) purchased the
2 Facility from American Recyclers LLC. On July 26, 2016, DEQ conducted a file review of
3 historical Permit files. After further review of the permit files and the NOC, DEQ has determined
4 the modification was a Type 3 change in accordance with OAR 340-210-0225, because the
5 modification resulted in removal of emission control devices that satisfied the Typically Achievable
6 Control Technology (TACT) requirement. DEQ's position is that removal of the thermal oxidizers
7 could not be processed and administratively approved as a Type 1 change.

8 6. Because the electric thermal oxidizers were removed, DEQ alleges that the Facility
9 is no longer meeting the TACT requirements in OAR 340-226-0130. APES neither admits nor
10 denies the allegations made by DEQ herein, but to address this, APES has committed to upgrade
11 the facility emissions in one of two ways:

12 a. Re-route emissions from cook tank condenser to the inlet of Oil Heater #4,
13 install two natural gas EPCON thermal oxidizers, retrofit the existing burner system of Oil Heaters
14 #3 and #4 as needed, and to duct the waste gas effluents of the PESCO oil refinery and Oil Heaters
15 #3 and #4 to the EPCON thermal oxidizers to reduce VOC emissions at the Facility; or

16 b. Remove Oil Heater #3 and replace with Oil Heater #4, decommission the
17 front plant cooking process, install one natural gas EPCON thermal oxidizer and duct the waste gas
18 effluents of the PESCO oil refinery and Oil Heater #4 to the thermal oxidizer to reduce VOC
19 emissions at the Facility. Engineering efforts for the above may reveal that Oil Heater #4 does not
20 have sufficient heating capacity to handle the full facility demands and a new oil heater would be
21 purchased. APES will supply DEQ with updated technical documentation supporting the new
22 heater design.

23 7. Clear Lube Re-Refining LLC (CLRR) and APES are pursuing joint venture
24 opportunities with the intent of operating an oil re-refining facility utilizing a state-of-the-art
25 sulfonation process and oil polishing system which results in reduced emissions, effluent, and
26 environmental impacts from standard oil recycling operations. The companies hope to complete a
27 formal agreement by early 2017. If in this agreement CLRR purchases the assets of APES and

1 operates the Facility, CLRR agrees to comply with and be bound by this Mutual Agreement and
2 Final Order (MAO).

3 8. APES or CLRR (to the extent applicable) will be operating the Facility without
4 meeting the TACT requirements in OAR 340-226-0130 until APES or CLRR completes
5 installation and commences operation of the new thermal oxidizers and associated process changes
6 in accordance with the compliance schedule established in this MAO. APES or CLRR must operate
7 in accordance with the compliance schedule and modified TACT requirements established in this
8 MAO until DEQ incorporates TACT requirements into the Permit during the next permit action.

9 9. In addition, construction of the sulfonation process and oil polishing system
10 described in paragraph 7 above requires a construction or modified permit from DEQ. However, to
11 achieve maximum design efficiency of the new thermal oxidizer, the sulfonation process and oil
12 polishing system must be constructed and installed in preparation for the expedient commissioning
13 of the thermal oxidizer(s). Therefore, in the interest of expediting the reimplementation of TACT to
14 achieve maximum efficiency and effectiveness, the sulfonation process and oil polishing system
15 will be constructed before a construction or modified ACDP can be issued, in violation of OAR
16 340-210-240(1)(c). This MAO restricts APES or CLRR from operating the sulfonation process
17 equipment and/or oil polishing system until APES or CLRR is authorized to do so by modified or
18 renewed ACDP.

19 10. DEQ has received odor complaints from citizens residing near the Facility. While
20 DEQ has not determined a specific source of the odor, the actions required by this MAO will have
21 the effect of mitigating the potential that odor issues arise from the Facility.

22 11. DEQ, APES and CLRR recognize that the Environmental Quality Commission
23 has the authority to impose a civil penalty and to issue an abatement order for violations of
24 Oregon environmental law. Therefore, pursuant to ORS 183.417(3)(a) and (b), DEQ and APES
25 agree to resolve any past violations as described in Paragraphs 3 through 6 above, and DEQ,
26 APES and CLRR (to the extent applicable), wish to resolve the ongoing and future violations
27 alleged in Paragraphs 8 and 9 above, in advance, through this MAO. This MAO also establishes

1 a compliance/corrective action schedule to memorialize APES' (and if applicable, CLRR's)
2 commitment to install additional pollution control, improve current control technology operation
3 and to develop enforceable milestones that will enable the reimplementation of TACT in an
4 expeditious manner, in accordance with OAR 340-226-0130.

5 12. By entering into this MAO, APES and CLRR neither admit nor deny the
6 allegations related to or arising from any of the matters in this MAO.

7 13. This MAO is not intended to limit, in any way, DEQ's right to proceed against
8 APES and CLRR in any forum for any past or future violations not expressly settled herein.

9 14. Nothing in this MAO alters the plant site emission limits or operating conditions
10 of the ACDP. APES or CLRR (to the extent applicable) must continue to comply with the
11 current ACDP conditions and limits at all times, in addition to this MAO, until a modified or
12 renewed ACDP is issued.

13 NOW THEREFORE, it is stipulated and agreed that:

14 15. CLRR will assume all responsibilities and legal obligations under this MAO at the
15 time it completes purchase and takes operational control of the Facility. In the event CLRR does not
16 purchase the Facility, APES will continue all responsibilities and legal obligations under this MAO.

17 16. The Environmental Quality Commission shall enter a final order requiring that
18 APES or CLRR (to the extent applicable as set forth in Paragraph 15 above):

19 a. Within 30 days of execution of this MAO, submit to DEQ the final
20 determination of Section 6, and technical documentation supporting the final equipment
21 arrangement. The following deadlines must be met:

22 (1) If Section 6.a is selected: Within 60 days of the submission to DEQ
23 of the final determination of Section 6 and technical documentation required in 16.a. immediately
24 above, re-pipe cook tank emissions to the combustion chamber of either Oil Heater #4 or Oil
25 Heater #3; or

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1 (2) If Section 6.b is selected and Oil Heater #4 determined adequate,
2 within 120 days of the submission to DEQ of the final determination of Section 6 and technical
3 documentation required in 16.a. immediately above, Oil Heater #3 will be replaced with Oil
4 Heater #4, and the front plant cooking process will be decommissioned.

5 (3) If Section 6.b is selected and Oil Heater #4 is determined to be
6 inadequate, within 180 days of the submission to DEQ of the final determination of Section 6
7 and technical documentation required in 16.a. immediately above, Oil Heater #3 will be replaced
8 with the appropriate new oil heater, and the front plant cooking process will be decommissioned.

9 b. Within 30 days of execution of this MAO, submit to DEQ for review and
10 approval, an Operations and Maintenance Plan for the activated carbon capture system(s) at the
11 Facility. The plan must include a monitoring protocol, methods for identifying carbon
12 breakthrough, replacement procedures and the establishment of sufficient carbon canister
13 material on hand to allow for expeditious replacement upon detection of breakthrough;

14 c. Within 180 days of the submission to DEQ of the final determination of
15 Section 6 and technical documentation required in 16.a. immediately above, complete
16 construction and installation of the new EPCON Thermal Oxidizer(s), TO-01 (and TO-02) or
17 "the project" including:

18 (1) Construct the project in conformance with the plans and
19 specifications submitted in the application for a Complex Technical ACDP Modification which
20 must be submitted within 30 days after the execution of this MAO. No changes or deviations that
21 would significantly alter the quantity or character of emissions may be made without prior
22 written approval from DEQ;

23 (2) Ensure that the inlet ducting and exhaust stack of TO-01 (and TO-
24 02) are configured to comply with EPA test Method 1 and are appropriately equipped with
25 sample ports for sample and velocity traverses during source testing;

26 d. Operate and maintain TO-01 (and TO-02) in accordance with the
27 manufacturer's specifications at all times;

1 e. Maintain the operating temperature of TO-01 (and TO-02) at no less than
2 1,500 degrees Fahrenheit during all periods when the associated upstream process is operating
3 and/or when waste gas effluent (VOC) is produced;

4 f. Equip TO-01 (and/or TO-02) with temperature monitoring devices that
5 allow continuous monitoring of the operating temperature in the combustion chamber of each
6 oxidizer;

7 g. Continuously monitor, record and maintain records of the operating
8 temperature in the combustion chamber of TO-01 (and TO-02) during all periods of required
9 operation. Records must be retained for a period of at least five years from date of record and
10 made available to DEQ upon request. The two most recent years of records must be maintained
11 onsite at the Facility;

12 h. Notify DEQ of the date this project is completed using DEQ's Notice of
13 Approved Construction Completion form (AQ104C). Submit the form to DEQ no later than
14 seven (7) business days after oxidizer startup; and

15 i. Perform source testing of both TO-01 (and TO-02) within 60 days of
16 completing construction and approval of the Complex Technical ACDP Modification application
17 in Section 16.c(1) to demonstrate that TO-1 (and TO-2) each (if applicable) achieve a VOC
18 destruction efficiency of 97%. Once both of the above have been met, the timeframe between
19 construction completion and the source test shall be referred to as the "initial start-up phase,"
20 during which the PESCO refinery, cooking process, sulfonation and oil polishing systems (upon
21 the ACDP modification issuance) and their respective control devices may be operated. An
22 extension of this testing deadline may be approved by DEQ in writing if APES or CLRR requests
23 and appropriately justifies the extension request in writing at least ten days prior to the deadline.
24 The source tests are to be performed as follows:

25 (1) Testing must be performed at process operating rates
26 approximating the Facility's normal maximum operating capacity. APES or CLRR must perform
27 source testing for emission factor verification demonstrating carbon monoxide (CO), nitrogen

1 oxides (NO_x), sulfur dioxide (SO₂) and VOC emission rates as well as VOC destruction
2 efficiencies for both TO-01 and TO-02. APES or CLRR must perform the source tests using the
3 test methods identified below or as approved in the pretest plan.

4 Tested Pollutant	Reference Test Method
5 CO	EPA Method 10
6 NOX	EPA Method 7E
7 SO ₂	EPA Method 6C
8 VOC	EPA Method 25, 25A or 18
9 Opacity	EPA Method 9

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11 (2) During the source tests, the following parameters must be
12 monitored unless otherwise approved in DEQ's pretest plan review:

- 13 i. quantity of natural gas combusted in the oxidizer;
- 14 ii. quantity of oil refined in the PESCO refinery;
- 15 iii. production rate/throughput metrics of the cook tank
16 condenser, Oil Heater #3 (HTR-3) and Oil Heater #4 (HTR-4);
- 17 iv. exhaust gas flow rates at the inlet and outlet of the oxidizer;
- 18 v. operating temperature in the combustion chamber of the
19 oxidizer;
- 20 vi. visible emissions as measured by EPA Method 9 for a
21 period of at least six minutes during or within 30 minutes before or after each test run; and
- 22 vii. Other process or pollution control device operating
23 parameters not identified above that are determined to be needed by the DEQ and/or the
24 permittee.

25 (3) Only regular operating staff may adjust the combustion system or
26 production processes and emission control parameters during the source test and within two
27 hours prior to the source test. Any operating adjustments made during the source test, which are a

1 result of consultation with source testing personnel, equipment vendors or consultants, may
2 render the source test invalid.

3 (4) Include calculations of the following information in the source test
4 report:

- 5 i. CO emission rate (in ppmvd and lb/hr) measured at the
6 outlet of the oxidizer;
- 7 ii. NOX emission rate (in ppmvd and lb/hr) measured at the
8 outlet of the oxidizer;
- 9 iii. SO₂ emission rate (in ppmvd and lb/hr) measured at the
10 outlet of the oxidizer;
- 11 iv. VOC concentration (ppmvd as propane) measured at the
12 oxidizer inlet and outlet;
- 13 v. VOC emission rate (lb/hr and lbs/10³ gallon of oil refined)
14 measured at the outlet of the oxidizer, measured as propane; and
15 vi. VOC destruction efficiency.

16 (5) A pretest plan must be submitted to DEQ at least 15 days prior to
17 the intended test date and approved by the Regional Source Test Coordinator and/or Permit
18 Writer. All tests must be conducted in accordance with DEQ's Source Sampling Manual and the
19 approved pretest plan. The identified reference test methods and monitoring requirements are to
20 be used in the source tests unless a test method modification or substitute test method is
21 approved or required by DEQ at time of pretest plan review.

22 (6) Within 45 days of test completion, compile all final test data and
23 results into a report format and submit to DEQ for review unless otherwise approved in the
24 pretest plan. Submit the pretest plan and final test report to: Department of Environmental
25 Quality, Northwest Region - AQ Section, 700 NE Multnomah St., Suite #600, Portland, OR
26 97232.

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1 j. APES or CLRR shall not operate the sulfonation process and/or oil
2 polishing system until operating and monitoring requirements are incorporated into the ACDP
3 during the next permit action.

4 17. Requiring APES or CLRR, upon receipt of a written Penalty Demand Notice from
5 DEQ, to pay a civil penalty for violations of any requirements of this MAO as follows:

6 a. \$1,600 per day for each day that APES or CLRR (if applicable) violates
7 Paragraphs 16.a through 16.c, 16.f, 16.i and 16.j. of this MAO;

8 b. \$800 per day for each day the Facility is in operation and that APES or
9 CLRR (if applicable) violates Paragraphs 16.d, and 16.e. No such penalties shall be applicable
10 during initial start-up of TO-01 (and TO-02). For the purposes of this section, "initial start-up" is
11 defined in Section 16.i; and

12 c. \$250 per day for violations of Paragraphs 16.g and 16.h.

13 18. If any event occurs that is beyond APES' or CLRR's (if applicable) reasonable
14 control that causes or may cause a delay or deviation in performance of the requirements of this
15 MAO, APES or CLRR (if applicable) must immediately notify DEQ verbally or in writing of the
16 cause of delay or deviation and its anticipated duration, the measures that have been or will be
17 taken to prevent or minimize the delay or deviation, and the timetable by which APES or CLRR
18 (if applicable) proposes to carry out such measures. If DEQ is notified verbally, APES or CLRR
19 (if applicable) must confirm in writing this information within five (5) working days of the onset
20 of the event. It is APES' or CLRR's (if applicable) responsibility in the written notification to
21 demonstrate to DEQ's satisfaction that the delay or deviation has been or will be caused by
22 circumstances beyond the reasonable control and despite due diligence of APES or CLRR (if
23 applicable). If APES or CLRR so demonstrates, DEQ will extend times of performance of related
24 activities under this MAO as appropriate. Circumstances or events beyond APES' or CLRR's
25 control include, but are not limited to, delivery delays by the vendor of TO-01 (and TO-02), acts
26 of nature, unforeseen strikes, work stoppages, fires, explosion, riot, sabotage, or war. Increased
27 cost of performance or consultant's failure to provide timely reports will not be considered

1 circumstances beyond APES' or CLRR's reasonable control. However, delay in DEQ approval
2 of documents or required approvals from other governmental agencies despite good faith efforts
3 of APES' or CLRR's will be considered circumstances beyond APES' or CLRR's control.

4 19. Regarding the violations and potential violations set forth in Paragraphs 3 through
5 6, 8 and 9 above, which are expressly settled herein, APES and CLRR (if applicable) hereby
6 waive any and all of their rights to any and all notices, a contested case hearing, judicial review,
7 and to service of a copy of the final order herein. DEQ reserves the right to enforce this order
8 through appropriate administrative and judicial proceedings.

9 20. DEQ, APES and CLRR may amend the terms of this MAO by mutual written
10 agreement. If CLRR completes purchase and takes operational control of the Facility, then
11 APES' agreement will not be required to amend the terms of the MAO.

12 21. APES and CLRR agree that this MAO will be binding on APES and CLRR (once
13 CLRR completes purchase of the Facility) and their respective successors, agents, and assigns. The
14 undersigned representatives of APES and CLRR certify that they are fully authorized to execute
15 and bind APES and CLRR to this MAO. No change in ownership or corporate or partnership
16 status relating to the Facility will, in any way, alter APES' or CLRR's obligation under this
17 MAO (except upon the purchase of the Facility by CLRR, as stated herein), unless otherwise
18 approved in writing by DEQ.

19 22. All reports, notices and other communications required under or relating to this
20 MAO should be sent to: Louis Bivins, Northwest Region Office - AQ Section, 700 NE
21 Multnomah St., Suite #600, Portland, OR 97232. Communications can be directed via email to
22 bivins.louis@deq.state.or.us. The contact person for APES is: Mike Mazza. Communications
23 can be directed via email to mmazza@apes-inc.com. The contact person for CLRR is: Joe
24 Stanaway. Communications can be directed via email to joe.stanaway@ecoluberecovery.com.

25 23. APES and CLRR acknowledge that they have actual notice of the contents and
26 requirements of this MAO and that failure to fulfill any of the requirements hereof will constitute
27 a violation of this MAO and will subject APES and/or CLRR to payment of civil penalties.

1 24. Any stipulated civil penalty imposed pursuant to Paragraph 17 is due upon written
2 demand. Stipulated civil penalties must be paid by check or money order made payable to the
3 "State Treasurer, State of Oregon" and sent to: Business Office, Department of Environmental
4 Quality, 700 NE Multnomah St., Suite #600, Portland, OR 97232. Within twenty (20) days of
5 receipt of a "Demand for Payment of Stipulated Civil Penalty" Notice from the DEQ, APES or
6 CLRR may request a hearing to contest the Demand Notice. At any such hearing, the issue will
7 be limited to APES' or CLRR's compliance or noncompliance with this MAO. The amount of
8 each stipulated civil penalty for each violation and/or day of violation is established in advance
9 by this MAO and will not be a contestable issue, but such payment shall not be due until 10 days
10 after a final order in the matter.

11 25. If unforeseen, exigent circumstances arise, DEQ may amend the compliance
12 schedule and conditions in this MAO upon finding that such modification is necessary because of
13 the changed circumstances here necessary to protect public health and the environment. DEQ
14 must provide APES and/or CLRR a minimum of thirty (30) days written notice prior to issuing
15 an amended order modifying any compliance schedules or conditions. If APES or CLRR contests
16 the amended order, the applicable procedures for conduct of contested cases in such matters will
17 apply (ORS Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700).

18 26. This MAO will terminate at the time DEQ notifies APES or CLRR (if applicable)
19 in writing that all of the following have occurred:

- 20 a. APES and/or CLRR completed all of the requirements in Paragraphs 16.a
21 through 16.i above;
- 22 b. DEQ has issued a modified or renewed ACDP;
- 23 c. DEQ approves source test results demonstrating that TO-01 (and TO-02)
24 are meeting the TACT standard (97% VOC destruction efficiency) established in this MAO; and
- 25 d. APES and/or CLRR has fully paid all penalties, if any, required by
26 Paragraphs 17 and 24.

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AGREED:

12-27-2016
Date

AMERICAN PETROLEUM ENVIRONMENTAL SERVICES, INC.
[Signature]
Signature
Michael P. Mazza
Name (print)
President
Title (print)

12/27/2016
Date

CLEAR LUBE RE-REFINING LLC
[Signature]
Signature
JOSEPH P. STANNARD
Name (print)
CEO
Title (print)

FINAL ORDER

AGREED. IT IS SO ORDERED:

DEPARTMENT OF ENVIRONMENTAL QUALITY and ENVIRONMENTAL QUALITY COMMISSION

12/27/16
Date

[Signature]
Sarah G. Wheeler, Acting Manager
Office of Compliance and Enforcement
on behalf of DEQ pursuant to OAR 340-012-0170
on behalf of the EQC pursuant to OAR 340-011-0505

MPM??