



Oregon

Kate Brown, Governor

Department of Environmental Quality

Northwest Region

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July 24, 2017

Mike Mazza, President

American Petroleum Environmental Services, Inc.

11535 N Force Ave.

Portland, OR 97217

RE: Compliance with MAO No. AQ/AC-NWR-2016-217
American Petroleum Environmental Services, Inc.
PERMIT # 26-3021-ST-01
Multnomah County

Dear Mr. Mazza:

On December 27, 2016, American Petroleum Environmental Services, Inc. (APES) entered into Mutual Agreement and Final Order No. AQ/AC-NWR-2016-217 (MAO) with the Oregon Department of Environmental Quality (DEQ). Condition 16.c of the MAO requires APES to construct and operate an operational natural gas thermal oxidizer (TO) by July 25, 2017. Operation of the TO is essential to addressing air quality concerns resulting from APES's operations.

DEQ received a letter from Clear Lube Re Refining Company, LLC (CLRR)¹ on July 14, 2017, requesting an extension of the deadline in Section 16.c of the MAO. CLRR states the installation and operation of the TO has been delayed because "permit approvals necessary to begin construction have not been issued by the City of Portland." CLRR anticipates an additional 10-12 weeks to obtain City permits and complete installation of the TO.

Based on information submitted to DEQ to date, communications with the City of Portland's Bureau of Development Services (BDS), and a review of BDS records, DEQ has determined that the delay is not beyond APES' reasonable control. The check sheets BDS provided to DEQ indicate that on multiple occasions APES failed to provide BDS with the requested documentation in support of permit applications, delaying the permit issuance and the TO installation. We have also learned that APES

¹ APES, as the current permittee and as stipulated in the MAO, remains liable for compliance at the facility, including the terms of the MAO, until CLRR assumes assets and operations (see paragraphs 7 and 15 of the MAO).

never made an effort to take advantage of BDS programs to expedite permit review. And we have concluded that APES did not notify DEQ immediately upon its realization that it would not be able to meet the July 25 deadline. Therefore, DEQ will not extend times for performance under the provisions of Section 18 of the MAO.

APES is subject to civil penalties of \$1,600 per day for violations of condition 16.c of the MAO.

Given that APES is not able to meet the deadline in the MAO, in order for DEQ to conclude that APES has adequately mitigated the effects of this delay, APES must take the following steps:

1. Adjust operations to minimize emissions (such as limiting operations to 8:00 AM to 5:00 PM, Monday through Friday) until the TO is installed and operating according to the requirements of the MAO; and
2. Immediately follow up with BDS to resolve all outstanding requirements, and pursue all available options for expediting review of all necessary permit applications.

Your timely and responsive action will be considered when determining civil penalty assessments for violations of the MAO.

In your July 14 letter, you state that "DEQ's draft Solid Waste Disposal Permit requires that a permittee receive approval prior to any construction" and that you "are reaching out to the DEQ solid waste permitting team to confirm whether the ACDP is sufficient." APES does not need approval from the solid waste program to proceed with installation of the TO.

If you wish to provide additional information for DEQ's consideration, please submit it to my attention. DEQ will consider new information you submit in any action we take.

Sincerely,



Michael R. Orman

Northwest Region Air Quality Manager

(503) 229-5160

cc: Joe Stanaway, CLRR
Brien Flanagan, Schwabe, Williamson, and Wyatt
Office of Compliance and Enforcement, DEQ