Oregon
Kate Brown, Governor

Department of Environmental Quality
Headquarters
811 SW 6th Ave
Portland, OR 97204-1390
(503) 229-5696
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July 25, 2016

CERTIFIED MAIL No. 7014 2870 0001 3373 6026

Pacific Northwest Petroleum, Inc.
Doing business as Walker Road Chevron
c/o Rohit Sharma, Registered Agent
15786 SW Upper Boones Ferry Road
Lake Oswego, OR 97035

Re: Notice of Civil Penalty Assessment and Order
Case No. AQ/AC-NWR-2016-064

This letter is to inform you that the Department of Environmental Quality (DEQ) has issued you a civil penalty of $1,234 for operating your gasoline dispensing facility at 18335 NW Walker Road in Beaverton without an Air Contaminant Discharge Permit (ACDP) from DEQ. DEQ also cited other violations of Oregon air quality regulations, without penalty, in the attached Notice of Civil Penalty Assessment and Order, including:

- Failing to post a "no topping off" sign at the facility;
- Failing to replace seals to the fill tube dust caps so that the vapor balance equipment is vapor tight and in good working order; and
- Failing to perform testing for leak rate, cracking pressure and static pressure performance.

DEQ issued this penalty because operating without an ACDP is a serious violation. Gasoline dispensing facilities are subject to permitting, testing and other requirements because gasoline vapors contain benzene, a known cancer-causing chemical. Controlling gasoline vapors reduces benzene exposures at and near gasoline dispensing facilities, and contributes to continuing compliance with federal ozone standards to protect the public's health and the environment. When a company subject to permitting requirements operates without a permit, the company has avoided regulation and gained an economic advantage over other similar facilities that did timely obtain their permit by avoiding or delaying the costs of complying with the law.

Included in Section IV is an order requiring you to post a "no topping off" sign, repair or replace the seals to the fill tube dust caps of each gasoline storage tank, and perform all leak rate, cracking pressure and static pressure performance testing and submit the results to DEQ.

DEQ appreciates your efforts to apply for assignment to the General ACDP, once notified by DEQ. DEQ considered these efforts when determining the amount of civil penalty.

If you wish to appeal this matter, you have 20 calendar days from receipt of this letter to request a contested case hearing. This hearing request must be in writing.

Send your hearing request to DEQ Office of Compliance and Enforcement – Appeals:

Via mail - 811 S.W. 6th Ave., Portland, OR 97204
Via fax - 503-229-5100

Once DEQ receives your request, we will arrange to meet with you to discuss this matter. If DEQ does not receive a written hearing request from you within 20 days, the penalty will become due. Alternatively, you can pay the penalty by sending a check or money order to the above address.

The attached Notice further details DEQ's reasons for issuing the penalty and provides further instructions for appealing the penalty. Please review it and refer to it when discussing this case with DEQ.

DEQ may allow you to resolve part of your penalty through the completion of a Supplemental Environmental Project (SEP). SEPs are environmental improvement projects that you sponsor in lieu of paying your penalty. Enclosed is more detail on how to pursue a SEP. SEP documents are available on the internet at http://www.deq.state.or.us/programs/enforcement/SEP.htm, or by calling the number below to request a paper copy.

DEQ's rules are available on the internet at http://www.deq.state.or.us/regulations/rules.htm, or by calling the number below to request a paper copy.

If you have any questions, please contact DEQ Environmental Law Specialist Jenny Root at (503) 229-5874.

Sincerely,

Susan Wheeler for

Leah K. Feldon, Manager
Office of Compliance and Enforcement

Enclosures

cc: Dan DeFehr, Northwest Region Office, DEQ
Cindy Troupe, AQ, HQ, DEQ

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

IN THE MATTER OF: PACIFIC NORTHWEST PETROLEUM, INC., an Oregon corporation doing business as WALKER ROAD CHEVRON, an assumed business name, Respondent.	NOTICE OF CIVIL PENALTY ASSESSMENT AND ORDER NO. AQ/AC-NWR-2016-064

I. AUTHORITY

This Notice and Order is issued pursuant to Oregon Revised Statutes (ORS) 468.100 and 468.126 through 468.140, ORS Chapters 183 and 468A and Oregon Administrative Rules (OAR) Chapter 340, Divisions 011, 012, 200, 216 and 244.

II. FINDINGS OF FACT

1. Respondent operates a gasoline dispensing facility (GDF) at 18335 NW Walker Road, in Beaverton, Oregon as "Walker Road Chevron" (the Facility).The Facility includes two gasoline storage tanks that are each equipped with a vapor balance system to control air contaminant emissions.

2. Pursuant to Oregon Administrative Rule (OAR) 340-216-0020(3), no person may construct, install, establish, develop or operate any air contaminant source listed in OAR 340-216-8010 without first obtaining an Air Contaminant Discharge Permit (ACDP) from DEQ. Table 1 of OAR 340-216-8010, Part B, Item 35 requires an air contaminant discharge permit (ACDP) for gasoline dispensing facilities (GDFs), except for GDFs that have a monthly throughput of less than 10,000 gallons of gasoline.

3. In June 2015, Respondent began operating the Facility. From June 2015 through December 2015, the Facility's total gasoline throughput was 433,933 gallons.

4. Respondent did not have an ACDP from DEQ when it began operating the Facility in June 2015.

5. OAR 340-244-0240(1)(c) requires owners or operators of GDFs to post a sign at the facility instructing a person filling up a motor vehicle to not top off the vehicle tank.

6. OAR 340-244-0242(4)(b) requires each owner or operator of a GDF equipped with a vapor balance system to maintain all equipment associated with the vapor balance system so that the system is vapor tight and in good working order.

7. OAR 340-244-0242(5)(a) and OAR 340-244-0244(1)(a) and (b) require each owner or operator of a GDF with a vapor balance system to conduct initial testing for leak rate, cracking pressure and static pressure performance upon installation of the vapor balance system, and every three years thereafter for GDFs with a monthly throughput of 100,000 gallons of gasoline or more.

8. According to OAR 340-244-0234(10), if a GDF's throughput ever exceeds an applicable throughput threshold, the GDF will remain subject to the requirements for GDF's above the threshold, even if the GDF's throughput later falls below the applicable throughput threshold.

9. According to annual reports submitted to DEQ by the previous owner of the Facility, during calendar years 2010 and 2011, the monthly gasoline throughput for the Facility exceeded 100,000 gallons.

10. On March 29, 2016, DEQ conducted an inspection at the Facility. During the inspection, DEQ noted the following:

a. Respondent did not have a sign posted instructing a person filling up a motor vehicle to not top off the vehicle tank;

b. The dust caps on top of the fill tubes of each gasoline storage tank had a seal that was either missing or corroded, thus rendering the vapor balance system not vapor tight; and

c. Respondent had not conducted leak rate, cracking pressure and static pressure performance testing at the Facility. The last tests at the Facility occurred on May 27, 2011, under the previous owner or operator. The previous owner or operator ceased operating the Facility in August 2013. Therefore, in accordance with OAR 340-244-0244(1), the next test was

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due three years after the previous one (May 27, 2014), or upon renewed startup of the Facility in June 2015.

11. On April 25, 2016, Respondent completed its application and paid fees for assignment to the General ACDP for GDFs.

12. DEQ assigned Respondent to the General ACDP on May 9, 2016.

III. CONCLUSIONS

1. From on or about June 2015 to May 9, 2015, Respondent violated ORS 468A.045(1)(b) and OAR 340-216-0020(3), adopted pursuant to ORS 468A.040, by operating an air contaminant source listed in OAR 340-216-8010 without first obtaining an ACDP from DEQ. This is a Class II violation, according to OAR 340-012-0054(2)(a). DEQ hereby assesses a $1,234 civil penalty for this violation.

2. Respondent violated OAR 340-244-0240(1)(c), adopted pursuant to ORS 468A.025, by failing to post a sign at the Facility instructing a person filling up a motor vehicle to not top off the vehicle tank. This is a Class II violation, according to OAR 340-012-0053(2). DEQ has not assessed a civil penalty for this violation.

3. Respondent violated OAR 340-244-0242(4)(b), adopted pursuant to ORS 468A.025, by failing to maintain all equipment associated with the vapor balance system to be vapor tight and in good working order as further described in Section II Paragraph 10.b. This is a Class II violation according to OAR 340-012-0054(2)(k). DEQ has not assessed a civil penalty for this violation.

4. Respondent violated OAR 340-244-0242(5)(a) and OAR 340-244-0244(1)(a) and (b), adopted pursuant to ….. by failing to perform testing for leak rate, cracking pressure and static pressure performance as further described in Section II, paragraph 10.c. This is a Class II violation according to OAR-340-012-0053(2). DEQ has not assessed a civil penalty for this violation.

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IV. ORDER TO PAY CIVIL PENALTY AND COMPLY

Based upon the foregoing FINDINGS OF FACTS AND CONCLUSIONS, Respondent is hereby ORDERED TO:

1. Pay a total civil penalty of $1,234. The determination of the civil penalty is attached as Exhibit No. 1 and is incorporated as part of this Notice.

2. Within 30 days of final order:

a. Post a sign at the Facility to instruct a person filling up a motor vehicle to not top off the vehicle tank and submit a photo to DEQ documenting that the sign has been posted;

b. Repair or replace the seals to the fill tube dust caps of each gasoline storage tank and submit a photo to DEQ showing that each seal has been replaced or repaired; and

c. Perform testing for leak rate, cracking pressure and static pressure performance.

3. Within 30 days of completing the leak rate, cracking pressure and static pressure performance tests, submit all test results to DEQ.

4. Submit all photo documentation and test results to: Dan DeFehr, DEQ Northwest Region Office, 700 NE Multnomah Street, Portland, OR 97232 by the above deadlines.

If you do not file a request for hearing as set forth in Section V below, your check or money order must be made payable to "**State Treasurer, State of Oregon**" and sent to the **DEQ, Business Office, 811 S.W. Sixth Avenue, Portland, Oregon 97204**. Once you pay the penalty, the Findings of Fact, Conclusions and Order become final.

V. NOTICE OF RIGHT TO REQUEST A CONTESTED CASE HEARING

You have a right to a contested case hearing on this Notice, if you request one in writing. You must ensure that DEQ receives the request for hearing **within 20 calendar days** from the date you receive this Notice. If you have any affirmative defenses or wish to dispute any allegations of fact in this Notice or attached exhibits, you must include them in your request for hearing, as factual matters not denied will be considered admitted, and failure to raise a defense will be a waiver of the defense. (See OAR 340-011-0530 for further information about requests

for hearing.) You must mail the request for hearing to: **DEQ, Office of Compliance and Enforcement - Appeals, 811 SW Sixth Avenue, Portland, Oregon 97204**, or fax it to **503-229-5100**. An administrative law judge employed by the Office of Administrative Hearings will conduct the hearing, according to ORS Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be represented by an attorney at the hearing, or you may represent yourself unless you are a corporation, agency or association.

Active duty service-members have a right to stay proceedings under the federal Servicemembers Civil Relief Act. For more information, please call the Oregon State Bar at 1(800) 452-8260 or the Oregon Military Department at 1(800) 452-7500. Additional information can be found online at the United States Armed Forces Legal Assistance (AFLA) Legal Services Locator website, http://legalassistance.law.af.mil/content/locator.php.

If you fail to file a request for hearing in writing within 20 calendar days of receipt of the Notice, the Notice will become a final order by default without further action by DEQ, as per OAR 340-011-0535(1). If you do request a hearing but later withdraw your request, fail to attend the hearing, or notify DEQ that you will not be attending the hearing, DEQ will issue a final order by default pursuant to OAR 340-011-0535(3). DEQ designates the relevant portions of its files, including information submitted by you, as the record for purposes of proving a prima facie case.

July 26, 2016
Date

Leah K. Feldon, Manager
Office of Compliance and Enforcement

EXHIBIT NO. 1

FINDINGS AND DETERMINATION OF RESPONDENT'S CIVIL PENALTY
PURSUANT TO OREGON ADMINISTRATIVE RULE (OAR) 340-012-0045

VIOLATION: Operating an air contaminant source (gasoline dispensing facility) listed in OAR 340-216-8010 without first obtaining an ACDP from DEQ, in violation of ORS 468A.045(1)(b) and OAR 340-216-0020(3).

CLASSIFICATION: This is a Class II violation pursuant to OAR 340-012-0054(2)(a).

MAGNITUDE: The magnitude of the violation is moderate pursuant to OAR 340-012-0130(1), as there is no selected magnitude specified in OAR 340-012-0135 applicable to this violation, and the information reasonably available to DEQ does not indicate a minor or major magnitude.

CIVIL PENALTY FORMULA: The formula for determining the amount of penalty of each violation is: $BP + [(0.1 \times BP) \times (P + H + O + M + C)] + EB$

"BP" is the base penalty, which is $750 for a Class II, moderate magnitude violation in the matrix listed in OAR 340-012-0140(4)(b)(B)(ii) and applicable pursuant to OAR 340-012-0140(4)(a)(C) because Respondent needed to apply for a General Air Contaminant Discharge Permit because Respondent is subject to the federal Area-Source NESHAP requirements.

"P" is whether Respondent has any prior significant actions, as defined in OAR 340-012-0030(19), in the same media as the violation at issue that occurred at a facility owned or operated by Respondent, and receives a value of 0 according to OAR 340-012-0145(2)(a)(A), because there are no prior significant actions.

"H" is Respondent's history of correcting prior significant actions and receives a value of 0 according to OAR 340-012-0145(3)(c), because there is no prior history.

O" is whether the violation was repeated or ongoing and receives a value of 4 according to OAR 340-012-0145(4)(d), because there were more than 28 occurrences of the violation. In accordance with OAR 340-012-0145(4), each day of violation with a duration of more than one day is a separate occurrence. Respondent operated without an ACDP from June 2015 to May 9, 2016.

"M" is the mental state of the Respondent and receives a value of 4 according to OAR 340-012-0145(5)(c), because Respondent was negligent. Respondent owns or operates other GDFs in Oregon that have been assigned to the General ACDP. Therefore, Respondent has general knowledge of DEQ air quality permitting requirements for GDFs. By failing to ensure that the Walker Road Chevron had been assigned to the General Permit before starting up

operation or to inquire with DEQ whether a permit was needed, Respondent failed to take reasonable care to avoid a foreseeable risk that Respondent would be operating the Facility without an ACDP, in violation of the law.

"C" is Respondent's efforts to correct or mitigate the violation and receives a value of -3 according to OAR 340-012-0145(6)(c), because Respondent made reasonable efforts to correct the violation by applying to DEQ for assignment under the General ACDP on April 25, 2016.

"EB" is the approximate dollar value of the benefit gained and the costs avoided or delayed as a result of the Respondent's noncompliance. It is designed to "level the playing field" by taking away any economic advantage the entity gained and to deter potential violators from deciding it is cheaper to violate and pay the penalty than to pay the costs of compliance. In this case, "EB" receives a value of $109. This is the amount Respondent gained by delaying payment of $1,872 in permit fees from June 1, 2015 until March 24, 2016, for assignment to the General ACDP. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

PENALTY CALCULATION: Penalty = BP + [(0.1 x BP) x (P + H + O + M + C)] + EB
= $750 + [(0.1 x $750) x (0 + 0 + 4 + 4 + -3)] + $109
= $750 + (75 x 5) + $109
= $750 + $375 + $109
= $1,234