



# Oregon

Kate Brown, Governor

Department of Environmental Quality  
Office of Compliance and Enforcement  
700 NE Multnomah Street, Suite 600  
Portland, OR 97232-4100  
(503) 229-5696  
FAX (503) 229-5100  
TTY 711

September 30, 2022

CERTIFIED MAIL: 7020 2450 0000 3349 5284

Thompson Technical Services LLC, d/b/a TTS Charging  
c/o Merlin Thompson, Registered Agent  
688 SE Quay Ave.  
Lincoln City, OR 97367

Merlin Thompson  
688 SE Quay Ave.  
Lincoln City, OR 97367

Re: Notice of Civil Penalty Assessment, Final Determination to Revoke Oregon Fuels Reporting System Account and Invalidate Credits, and Order  
Case No. AQ-CFP-HQ-2022-104

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$2,723,895 for violations of the Oregon Clean Fuels Program rules. In addition, this letter notifies you of DEQ's final determination and order to revoke your Oregon Fuels Reporting System (OFRS) account and to invalidate credits remaining in your account that were generated illegitimately due to your false reporting in the OFRS.

DEQ issued this penalty, final determination, and order because your actions seriously undermine the environmental benefits of the Oregon Clean Fuels Program, a signature part of Oregon's efforts to combat climate change by reducing greenhouse gas emissions from the transportation sector. The Clean Fuels Program requires companies that import transportation fuels into Oregon to reduce the carbon intensity of those fuels over time. Providers of low carbon fuels, such as the owners or service providers of public electric vehicle (EV) charging stations, are invited to participate in the Program as credit generators. The credits generated in the Clean Fuels Program represent real tons of greenhouse gas emissions, which are purchased and used as a compliance mechanism by regulated parties that have emitted more than the standard. Thus, the Program relies on accurate reporting and trading of legitimate credits to ensure a fair and transparent market and to achieve the program's environmental objectives.

You violated the Oregon Clean Fuels Program rules by reporting false information to DEQ through the OFRS, which generated illegitimate credits, and then selling those credits for \$1,788,000. Specifically, in December 2021, Thompson Technical Services LLC (TTS) registered with the Oregon Clean Fuels Program to generate credits based on electricity dispensed to EVs. In February 2022, TTS entered specific information, including serial numbers, into the OFRS, regarding three EV chargers located at 23325 Highway 18, in Sheridan, Oregon. On June 10, 2022, TTS reported in the OFRS that those same three EV chargers dispensed a total of 14,900,000 kilowatt hours (kWh) of electricity to vehicles during the

first calendar quarter of 2022, despite the fact that the three EV charges had not yet been installed and had dispensed zero electricity to vehicles during that time period. The reported amount of electricity exceeds what the three EV chargers could dispense during a calendar quarter, even if they were actively charging EVs for every hour of every day. The report also included the wrong carbon intensity score for electricity purportedly supplied in Sheridan, thus inflating the number of credits generated in the OFRS. The false reporting generated 16,089 illegitimate credits in the OFRS.

On June 27, 2022, TTS transferred 16,000 of the illegitimate credits held in its OFRS account to Elbow River Marketing USA, Ltd. (Elbow River) for a total sale price of \$1,788,000. TTS made the transfer after certifying to both Elbow River and DEQ that the credits were legitimate and generated in compliance with the Clean Fuels Program rules. On July 4, 2022, TTS received full payment of the \$1,788,000 from Elbow River.

The order in Section IV of the enclosed Notice of Civil Penalty Assessment, Final Determination to Revoke Oregon Fuels Reporting System Account and Invalidate Credits, and Order (Notice):

- Revokes your OFRS account and invalidates the 89 illegitimate credits remaining in your account;
- Requires you to purchase legitimate credits and use an administrative process outside the OFRS system to retire those credits, to replace each of the 16,000 illegitimate credits that you generated and transferred to Elbow River; and
- Assesses a total civil penalty of \$2,723,895.

This above is a summary of the order; you must consult Section IV of the Notice for the order's complete requirements.

\$1,802,295 of the civil penalty represents the economic benefit you gained selling the illegitimate credits to Elbow River (the sale price of the credits plus interest). TTS must mitigate the harm it caused to both Elbow River and the Oregon Clean Fuels Program credit market. If you comply with the order's requirements to purchase 16,000 legitimate credits to replace the illegitimate credits that you transferred, or if you otherwise demonstrate to DEQ that you have returned the funds gained from the transaction with Elbow River, DEQ will consider your efforts to mitigate the effects of the violations and will reduce the economic benefit portion of the civil penalty accordingly.

If you wish to appeal this matter, DEQ must receive a request for a hearing within 20 calendar days from your receipt of this letter. The hearing request must be in writing. Send your request to DEQ Office of Compliance and Enforcement:

Via mail – 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232

Via email – [DEQappeals@deq.oregon.gov](mailto:DEQappeals@deq.oregon.gov)

Via fax – 503-229-6762

Once DEQ receives your request, we will arrange to meet with you to discuss this matter. If DEQ does not receive a timely written hearing request, the order will become final and the penalty will become due. The interim suspension of TTS's OFRS account and the administrative hold on the 89 illegitimate credits in the account, communicated in DEQ's August 12, 2022, Initial Determination, will remain in effect until the order becomes final.

The attached Notice further details DEQ's reasons for issuing the final determination, penalty and order and provides further instructions on how to appeal. Please review 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 instead of paying a penalty. Further information is available by calling the number below or at <http://www.oregon.gov/deq/Regulations/Pages/SEP.aspx>.

DEQ's rules are available at <http://www.oregon.gov/deq/Regulations/Pages/Statutes.aspx> or by calling the number below.

If you have any questions, please contact Becka Puskas at 503-229-5058 or toll free in Oregon at 800-452-4011, extension 5058.

Sincerely,



Kieran O'Donnell, Manager  
Office of Compliance and Enforcement

Enclosures

cc: Stephanie Summers, DEQ  
Bill Peters, DEQ  
Cory Ann Wind, DEQ  
Colin McConnaha, DEQ  
Accounting, DEQ



1 4. On December 27 and 28, 2021, Thompson provided additional information to DEQ regarding  
2 three electric vehicle chargers located in Sheridan, Oregon.

3 5. On December 29, 2021, DEQ approved the application, and registered TTS as a credit  
4 generator under the Oregon Clean Fuels Program. The approval letter issued by DEQ states:

5 This registration covers fuel dispensed for transportation use at your electric chargers located in  
6 Oregon. Individual chargers will need to be entered into the Oregon Fuels Reporting System  
7 (OFRS) using the Fuel Supply Equipment registration form prior to the electricity they dispense  
being reported.

8 Effective the date of this registration approval, you are required to comply with the  
9 requirements under OAR 340 Division 253. Specifically, the requirements for:

- 10 • Providers of electricity under OAR 340-253-0330.
- 11 • Recordkeeping under OAR 340-253-0600
- 12 • Reporting under OAR 340-253-0620, 0630 and 0650.

13 6. On February 6, 2022, TTS entered data regarding three non-residential electric vehicle chargers  
(the Three EV Chargers) into the Oregon Fuels Reporting System (OFRS) as follows:

- 14 a. Facility Name: Valley Market (TTS-2325 Hwy 18)
- 15 b. Address: 23325 HWY 18, Sheridan, OR, US 97378
- 16 c. Charging Type: Non-Residential (DCFC-CCS and -CHAdeMO)
- 17 d. Manufacturer: TPG 120KW
- 18 e. Serial Nos: 20211260182, 20211260183, 20211260184

19 7. On May 19, 2022, a broker hired by TTS, and a broker for Elbow River Marketing USA, Ltd.  
20 (Elbow River) arranged for the sale of 12,000 Oregon Clean Fuels program credits, at a price of \$112 per  
21 credit, for delivery in the fourth calendar quarter of 2022.

22 8. On or about May 20, 2022, Thompson, on behalf of TTS, signed an agreement with Elbow  
23 River for the purchase and sale of the 12,000 credits described in Section II, paragraph 7, above. The  
24 agreement, which had an effective date of May 19, 2022, set the total sale price for the 12,000 credits at  
25 \$1,344,000 (12,000 credits at \$112/credit). The agreement includes a representation and warranty by the  
26 seller (TTS) that “each CFP Credit transferred to Buyer hereunder is valid as contemplated by the  
27 Oregon Clean Fuels Program Regulations and is, indefeasibly, a ‘Credit’ as defined by the Oregon

1 Clean Fuels Program Regulations.”

2 9. On June 10, 2022, TTS submitted a quarterly Clean Fuels Program report to DEQ via the  
3 OFRS for the time period from January 1, 2022, through March 31, 2022 (the Q1 2022 Report). In making  
4 that submittal, Thompson, on behalf of TTS, certified as follows:

5  
6 I, Merlin Thompson, as person with Signatory Authority, am submitting this report on behalf of  
7 Thompson Technical Services, LLC, with the understanding that the information contained in  
8 this report is considered an official submission to Oregon Department of Environmental Quality  
9 for purposes of compliance with the Clean Fuels Program (CFP) regulation.

10 Furthermore, by submitting this report, I understand that I am bound by, and authenticate this  
11 record, and attest to the statements contained within. I also understand that submitting or  
12 attesting to false statements may constitute a serious crime, punishable under the Oregon Penal  
13 Code, or other criminal offenses punishable under state, municipal, or federal law. I certify that  
14 information supplied herein is correct and that I have the authority by the company identified  
15 herein to submit this report.

16 10. The Q1 2022 Report stated that TTS dispensed a total of 14,900,000 kilowatt hours (kWh) of  
17 electricity to vehicles from the Three EV Chargers during Q1 2022.

18 11. The Three EV Chargers were not installed and operational during Q1 2022; they dispensed  
19 zero kWh of electricity to vehicles during Q1 2022.

20 12. The amount of electricity reported by TTS for Q1 2022 exceeds what the Three EV  
21 Chargers could dispense during a calendar quarter, even if they were actively charging EVs for every  
22 hour of every day.

23 13. The Q1 2022 Report stated that the fuel pathway code for the Three EV Chargers is  
24 ORELCCP22 (16.77), which corresponds to electricity provided by Consumers Power, Inc., with a carbon  
25 intensity score of 16.77 grams of carbon dioxide equivalent per megajoule of energy (gCO<sub>2</sub>e/MJ).

26 14. Consumers Power, Inc. does not provide electricity to any customers in Sheridan, Oregon.

27 15. The electric utility serving Sheridan, Oregon, is PGE.

16. The correct fuel pathway code for electricity supplied by PGE is ORELC2002, with a carbon  
intensity score of 146.02 gCO<sub>2</sub>e/MJ.

17. TTS’s submittal of the Q1 2022 Report in the OFRS generated 16,089 credits in the OFRS.



1 18. If TTS has used the PGE fuel pathway code described in Section II, paragraph 16, above, the  
2 submittal of the Q1 2022 Report would have generated 9,156 credits.

3 19. On June 24, 2022, Thompson emailed Elbow River and stated that TTS had 16,000 credits  
4 available to transfer. Elbow River responded that it would take 12,000 credits at the agreed to price of  
5 \$112/credit, and would take the remaining 4,000 available credits at a price of \$111/credit.

6 20. On June 25, 2022, Thompson signed a CFP Credit Transfer Form which stated that 4,000  
7 credits would be transferred from TTS to Elbow River, at a price of \$112/credit, on a proposed transfer  
8 date of June 26, 2022. Elbow River signed the CFP Credit Transfer Form and submitted it in the OFRS on  
9 June 27, 2022, with a note that the actual price of the transaction was \$111/credit. The transaction was  
10 posted to the OFRS on June 27, 2022.

11 21. On June 26, 2022, Thompson signed a second CFP Credit Transfer Form which stated that  
12 12,000 credits would be transferred from TTS to Elbow River, at a price of \$112/credit, on a proposed  
13 transfer date of June 26, 2022. Elbow River signed the second CFP Credit Transfer Form and submitted it  
14 in the OFRS on June 27, 2022. The transaction was posted to the OFRS on June 27, 2022.

15 22. Both of the CFP Credit Transfer Forms described in Section II, paragraphs 20-21 above  
16 include a statement on the first page in red type as follows:

17 **Important: This form must be used each time a credit transfer agreement has been made,**  
18 **regardless of the number of credits transferred and the price per unit credit. Only credits that**  
19 **have been generated and recognized in the CFP Online System can be traded, and transfers must**  
20 **be in compliance with the rules of OAR 340-253.**

21 23. Both of the CFP Credit Transfer Forms described in Section II, paragraphs 20-21 above  
22 include the following certification: "By signing, each person below declares that all information  
23 provided herein are true and correct, and to the best of his/her knowledge and belief."

24 24. On or about June 27, 2022, Thompson, on behalf of TTS, and Elbow River signed a  
25 supplemental agreement to the agreement described in Section II, paragraph 8, above, for the purchase and  
26 sale of the 4,000 credits for a total sale price of \$444,000 (4,000 credits at \$111/credit).

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1 25. On June 27, 2022, Thompson sent two invoices to Elbow River for the two transactions. The  
2 first invoice, dated May 24, 2022, was in the amount of \$1,344,000 for 12,000 Oregon CFP credits. The  
3 second invoice, dated June 27, 2022, was in the amount of \$444,000 for 4,000 Oregon CFP credits.

4 26. On July 4, 2022, Elbow River transferred \$1,788,000 to TTS.

5 27. On August 12, 2022, pursuant to OAR 240-253-0670(3), DEQ issued a Notice of Initial  
6 Determination and Interim Suspension of your Clean Fuels Program Account to TTS (Notice of Initial  
7 Determination). The Notice of Initial Determination informed Respondents that DEQ was imposing an  
8 interim suspension on TTS's OFRS account and placing an administrative hold on the 89 credits in the  
9 account. The Notice of Initial Determination also requested information from TTS, to be provided by no  
10 later than September 1, 2022.

11 28. On August 12, 2022, DEQ issued a Pre-Enforcement Notice to TTS.

12 29. On August 31, 2022, Thompson, on behalf of TTS, provided additional information in  
13 response to DEQ's information request.

14 30. As of the date of this Notice, neither Respondent Thompson nor Respondent TTS has provided  
15 information to DEQ that shows that the Three EV Chargers were dispensing electricity to vehicles during  
16 Q1 2022.

### 17 III. CONCLUSIONS

18 1. Respondents TTS and Thompson submitted an inaccurate Clean Fuels Program quarterly  
19 report that generated 16,089 illegitimate credits in violation of OAR 340-253-0330(9), OAR 340-253-  
20 0640(2)(b) and OAR 340-253-1005(7)(a), as described in Section II, paragraphs 1-18, above. OAR  
21 340-253-0330(9) requires that credit generators, including owners or service providers of electric-  
22 charging equipment, may generate clean fuel credits by complying with the registration, recordkeeping  
23 and reporting requirements of OAR Chapter 340, division 253. OAR 340-253-0640(2)(b) requires that  
24 for electricity, each public access charging station must report the amount of electricity dispensed in  
25 kilowatt hours to vehicles. OAR 340-253-1005(7) requires registered parties to report accurately when  
26 submitting information to the OFRS. In the Q1 2022 Report, Respondents reported to DEQ via the  
27 OFRS that the Three EV Chargers had dispensed a total of 14,900,000 kWh of electricity to vehicles in



1 Q1 2022, when in fact the Three EV Chargers were not installed and operational and had dispensed  
2 zero kWh of electricity to vehicles in Q1 2022. As described in Section II, paragraph 12, above, the  
3 amount of electricity reported by TTS exceeds the physical capacity of the Three EV Chargers. In  
4 addition, Respondents included an inaccurate fuel pathway code in the Q1 2022 Report. This inaccurate  
5 reporting resulted in the generation of 16,089 illegitimate credits, which are invalid according to OAR  
6 340-253-1005(7)(a). These are Class I violations, according to OAR 340-012-0054(1)(ff). DEQ hereby  
7 assesses a \$460,800 civil penalty for these violations.

8 2. Respondents TTS and Thompson transferred 16,000 credits in violation of OAR 340-253-  
9 1005(8), as described above in Section II, paragraphs 1-26, above. Specifically, Respondents used fraud to  
10 transfer 16,000 credits to Elbow River in exchange for a total of \$1,788,000, in violation of OAR 340-253-  
11 1005(8)(a). On May 19, 2022, Respondents entered into an agreement with Elbow River to sell 12,000  
12 credits to Elbow River in Q4 2022 for \$112 per credit. After generating illegitimate credits in the OFRS,  
13 on June 24, 2022, Respondents represented to Elbow River that TTS had 16,000 credits available to  
14 transfer, and that those credits were generated in compliance with the Clean Fuels Program rules. In  
15 exchange for the two credit transfers on June 27, 2022, Elbow River paid the Respondents \$1,788,000 on  
16 July 4, 2022. In fact, as described in Section III, paragraph 1 above, all of the credits transferred to Elbow  
17 River on June 27, 2022, were illegitimate, invalid, and had no value. Alternatively, Respondents completed  
18 two credit transfers involving a false report and untrue statements of material fact related to the price of the  
19 credits, in violation of OAR 340-253-1005(8)(c). Respondents represented to Elbow River that the credits  
20 in TTS's OFRS account were generated in compliance with the Clean Fuels Program rules and presented  
21 Elbow River with two separate Credit Transfer Forms listing the price of the credits as \$112/credit, when  
22 in fact the credits sold to Elbow River were illegitimate, invalid, and had no value. These are Class I  
23 violations according to OAR 340-012-0054(1)(ee). DEQ hereby assesses a \$2,263,095 civil penalty for  
24 these violations.

25 3. Respondents TTS and Thompson submitted a Credit Transfer Form to the OFRS containing  
26 inaccurate information regarding the price paid for each credit in violation of OAR 340-253-1005(3)(e), as  
27 described in Section II, paragraphs 19-20 and 24-26, above. Specifically, TTS and Thompson submitted a

1 Credit Transfer Form to the OFRS on June 25, 2022, which stated that 4,000 credits would be transferred  
2 to Elbow River at a price of \$112 per credit, when the actual sale price was \$111 per credit. This is a Class  
3 II violation according to OAR 340-012-0053(2). DEQ has not assessed a civil penalty for this violation.

4 4. According to OAR 340-253-0670(1) and (5), DEQ hereby makes a final determination to:

5 a. Revoke the OFRS account of Thompson Technical Services, LLC;

6 b. Suspend the 16,000 illegitimate credits in the Elbow River OFRS account that were  
7 transferred from TTS to Elbow River on June 27, 2022, until TTS replaces the credits as  
8 required under OAR 340-253-1005(7)(a)(B), pursuant to the order in Section IV, Paragraph  
9 2, below or DEQ determines, according to OAR 340-253-1005(7)(b)(A), that TTS is  
10 unlikely to retire 16,000 legitimate credits to replace the 16,000 illegitimate credits that  
11 TTS transferred to Elbow River; and

12 c. Invalidate the 89 illegitimate credits remaining in the TTS OFRS account.

13 5. The bases for this final determination in Section III, paragraph 4, above are follows:

14 a. As described in Section III, paragraph 1, above, TTS reported incorrect fuel transaction  
15 data to the OFRS, which was used to calculate credits. According to OAR 340-253-  
16 0670(2)(d), this is a basis for the actions described in Section III, paragraph 4, above.

17 b. As described in Section III, paragraphs 1 and 2, above, TTS generated and transferred  
18 credits to Elbow River in violation of the Oregon Clean Fuels Program Rules. According to  
19 OAR 340-253-0670(2)(e), this is a basis for the actions described in Section III, paragraph  
20 4, above.

21 c. As described in Section III, paragraphs 1 and 2, above, TTS submitted material information  
22 to DEQ and to Elbow River that was incorrect, in connection with a credit transaction.  
23 According to OAR 340-253-0670(2)(b), this is a basis for the actions described in Section  
24 III, paragraph 4, above.

25 6. According to OAR 340-253-1005(7)(a)(B), TTS is required to retire a legitimate credit to  
26 replace each of the 16,000 illegitimate credits generated by TTS and transferred to Elbow River on June  
27 27, 2022.

1 IV. ORDER REVOKING OREGON FUELS REPORTING SYSTEM ACCOUNT, INVALIDATING  
2 CREDITS, TO COMPLY, AND TO PAY CIVIL PENALTY

3 Based upon the foregoing FINDINGS OF FACT AND CONCLUSIONS, it is hereby  
4 ORDERED that:

- 5 1. Effective on the date this Order becomes final by operation of law or on appeal:
- 6 a. The OFRS account of Thompson Technical Services, LLC is revoked.
- 7 b. The 89 illegitimate credits remaining in the TTS OFRS account are invalidated and shall  
8 be subtracted from the account.
- 9 2. According to OAR 340-253-1005(7)(a)(B), Thompson Technical Services LLC is required to  
10 retire a legitimate credit to replace each of the 16,000 illegitimate credits generated by TTS and transferred  
11 to Elbow River on June 27, 2022, using the process outlined in Section IV, paragraphs 2.a-2.c below:
- 12 a. By no later than October 31, 2022, or within 15 days of this order becoming final by  
13 operation of law or on appeal, whichever comes later:
- 14 i. TTS must enter into an agreement and complete the purchase of 16,000 legitimate  
15 Oregon Clean Fuels Program credits; and
- 16 ii. TTS must provide to DEQ a copy of the agreement described in Section IV,  
17 paragraph 2.a.i and documentation of transfer of the funds to the seller of the  
18 credits.
- 19 b. Within 2 business days of receipt of the information described in Section IV, paragraph  
20 2.a.ii, DEQ will provide a Credit Transfer Form to TTS and the seller via email.
- 21 c. Within 2 business days of receipt of the completed Credit Transfer Form described in  
22 Section IV, paragraph 2.b and signed by both parties, DEQ will administratively cancel the  
23 purchased credits in the seller's account.
- 24 3. Respondents must pay a total civil penalty of \$2,723,895. The determination of the civil  
25 penalties are attached as Exhibits 1 and 2 and are incorporated as part of this Notice.

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1 If you do not file a request for hearing as set forth in Section V below, your check or money  
2 order must be made payable to "State Treasurer, State of Oregon" and sent to the **DEQ, Business**  
3 **Office, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232.**

4 V. NOTICE OF RIGHT TO REQUEST A CONTESTED CASE HEARING

5 You have a right to a contested case hearing on this Notice, if you request one in writing. DEQ  
6 must receive your request for hearing **within 20 calendar days** from the date you receive this Notice. If  
7 you have any affirmative defenses or wish to dispute any allegations of fact in this Notice or attached  
8 exhibits, you must do so in your request for hearing, as factual matters not denied will be considered  
9 admitted, and failure to raise a defense will be a waiver of the defense. (See OAR 340-011-0530 for  
10 further information about requests for hearing.) You must send your request to: **DEQ, Office of**  
11 **Compliance and Enforcement, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232**, fax  
12 it to **503-229-6762** or email it to [DEQappeals@deq.oregon.gov](mailto:DEQappeals@deq.oregon.gov). An administrative law judge  
13 employed by the Office of Administrative Hearings will conduct the hearing, according to ORS  
14 Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be  
15 represented by an attorney at the hearing, however you are not required to be. If you are an individual,  
16 you may represent yourself. If you are a corporation, partnership, limited liability company,  
17 unincorporated association, trust or government body, you must be represented by an attorney or a duly  
18 authorized representative, as set forth in OAR 137-003-0555.


19 Active duty Service members have a right to stay proceedings under the federal Service  
20 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-  
21 452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed  
22 Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military  
23 Department does not have a toll free telephone number.

24 If you fail to file a timely request for hearing, the Notice will become a final order by default  
25 without further action by DEQ, as per OAR 340-011-0535(1). If you do request a hearing but later  
26 withdraw your request, fail to attend the hearing or notify DEQ that you will not be attending the  
27 hearing, DEQ will issue a final order by default pursuant to OAR 340-011-0535(3). DEQ designates

1 the relevant portions of its files, including information submitted by you, as the record for purposes of  
2 proving a prima facie case.

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9/30/2022  
Date

  
Kieran O'Donnell, Manager  
Office of Compliance and Enforcement

9/30/2022  
Date

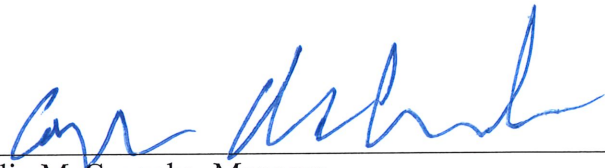
  
Colin McConnaha, Manager  
Office of Greenhouse Gas Programs



EXHIBIT 1

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

VIOLATION NO. 1 Submitting an inaccurate Clean Fuels Program quarterly report that generated 16,089 illegitimate credits in violation of OAR 340-253-0030(9), OAR 340-253-0640(2)(b) and OAR 340-253-1005(7)(a).

CLASSIFICATION: These are Class I violations according to OAR 340-012-0054(1)(ff).

MAGNITUDE: The magnitude of the violations is major pursuant to OAR 340-012-0135(1)(I)(D) because the inaccurate reporting generated illegitimate credits.

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 \$12,000 for a Class I, major magnitude violation in the matrix listed in OAR 340-012-0140(2)(b)(A)(i) and applicable pursuant to OAR 340-012-0140(2)(a)(S).

"P" is whether Respondents have 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 the same Respondents, and receives a value of 0 according to OAR 340-012-0145(2)(a)(A), because there are no prior significant actions.

"H" is Respondents' 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. According to OAR 340-253-0680(1), each illegitimate credit generated constitutes a separate violation of the Oregon Clean Fuels Program rules. In this case, Respondents generated 16,089 illegitimate credits. As discussed below regarding the gravity-based penalty calculation, DEQ is using its enforcement discretion to assess 16 separate penalties, one for each group of approximately 1,000 illegitimate credits. Therefore, each separate penalty represents approximately 1,000 occurrences of the violation.

"M" is the mental state of the Respondents, and receives a value of 8 according to OAR 340-012-0145(5)(d) because Respondents' conduct was reckless. According to OAR 340-012-0030(20), reckless means the respondent consciously disregarded a substantial and unjustifiable risk that the result would occur or that the circumstance existed. The risk must be of such a nature and degree that disregarding that risk constituted a gross deviation from the standard of care a reasonable person would observe in that situation. In this case, Respondents TTS and Thompson reported false information to the Clean Fuels Program

about the amount of electricity dispensed by the Three EV Chargers in Sheridan, Oregon. The amount of electricity reported was in excess of the physical capacity of the chargers. Respondents also incorrectly reported the fuel pathway code, increasing the number of credits generated. This reporting generated 16,089 illegitimate credits in TTS's OFRS account. Respondents TTS and Thompson submitted false information to DEQ despite written notification from DEQ regarding TTS's obligations as a credit generator to comply with the Clean Fuels Program requirements for providers of electricity, recordkeeping and reporting (see Notice, Section II, paragraph 5), and despite certifying to both DEQ and Elbow River that the reporting was accurate and that the credits were generated in compliance with the Oregon Clean Fuels Program Rules (see Notice Section II, paragraphs 8, 9). By submitting a Clean Fuels Program report that falsely represented the both the amount of electricity dispensed to electric vehicles and the fuel pathway code, despite written notification from DEQ regarding the requirement to comply with Clean Fuels Program reporting rules, and despite certifying that the information was accurate and in compliance with the Clean Fuels Program Rules, Respondents consciously disregarded a substantial and unjustifiable risk of submitting an inaccurate report that would generate illegitimate credits. The OFRS system automatically generates credits based on the information reported by registered parties. These credits have monetary value and are traded by Clean Fuels Program participants as a mechanism for regulated parties to meet their compliance obligations under the program, which collectively reduces the carbon intensity of transportation fuels used in Oregon. Thus, the program relies on accurate reporting in compliance with the Clean Fuels Program Rules to ensure the integrity of the program's market, maintain fair and transparent conduct of trading activity, and to achieve the program's environmental objectives. Thus, the risk of submitting an inaccurate report in violation of the Clean Fuels Program Rules is of such a nature and degree that disregarding that risk constitutes a gross deviation from the standard of care a reasonable person would observe when submitting a Clean Fuels Program report.

"C" is Respondents' efforts to correct or mitigate the violation, and receives a value of 2 according to OAR 340-012-0145(6)(g) because Respondents did not address the violation as described in paragraphs (6)(a) through (6)(e) and the facts do not support a finding under paragraph (6)(f).

"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 \$0 because the economic benefit associated with these violations is captured in Exhibit 2.

**PENALTY CALCULATION:**  $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$   
 $= \$12,000 + [(0.1 \times \$12,000) \times (0 + 0 + 4 + 8 + 2)] + \$0$   
 $= \$12,000 + (\$1,200 \times 14) + \$0$   
 $= \$12,000 + \$16,800 + \$0$   
 $= \$28,800$

According to OAR 340-253-0680(1), each illegitimate credit generated constitutes a separate violation of the Oregon Clean Fuels Program rules. In this case, Respondents generated 16,089 illegitimate credits. DEQ is using its enforcement discretion to assess a separate penalty for each group of approximately 1,000 illegitimate credits generated by Respondents. Thus, DEQ is assessing 16 separate penalties in the amount of \$28,800 for each penalty.

Total civil penalty =  $\$28,800 \times 16 = \$460,800$

## EXHIBIT 2

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

- VIOLATION NO. 2 Transferring 16,000 credits in violation of OAR 340-253-1005(8).
- CLASSIFICATION: These are Class I violations according to OAR 340-012-0054(1)(ee).
- MAGNITUDE: The magnitude of the violations is major pursuant to OAR 340-012-0135(1)(l)(E) because Respondents committed an action related to a credit transfer that is prohibited under OAR 340-253-1005(8).
- 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 \$12,000 for a Class I, major magnitude violation in the matrix listed in OAR 340-012-0140(2)(b)(A)(i) and applicable pursuant to OAR 340-012-0140(2)(a)(S).
- "P" is whether Respondents have 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 the same Respondents, and receives a value of 0 according to OAR 340-012-0145(2)(a)(A), because there are no prior significant actions.
- "H" is Respondents' 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. Respondents transferred 16,000 credits in violation of OAR 340-253-1005(8). As discussed below regarding the gravity-based penalty calculation, DEQ is using its enforcement discretion to assess 16 separate penalties, one for each group of 1,000 illegitimate credits transferred in violation of the Clean Fuels Program rules. Therefore, each penalty represents 1,000 occurrences of the violation.
- "M" is the mental state of the Respondents, and receives a value of 8 according to OAR 340-012-0145(5)(d) because Respondents' conduct was reckless. According to OAR 340-012-0030(20), reckless means the respondent consciously disregarded a substantial and unjustifiable risk that the result would occur or that the circumstance existed. The risk must be of such a nature and degree that disregarding that risk constituted a gross deviation from the standard of care a reasonable person would observe in that situation. In this case, Respondents TTS and Thompson submitted an inaccurate quarterly report that generated 16,089 illegitimate credits in TTS's OFRS account, and then sold 16,000 of those credits to Elbow River for a total price of \$1,788,000. Respondents TTS and Thompson submitted false information to DEQ despite written notification from DEQ regarding TTS's

obligations as a credit generator to comply with the Clean Fuels Program requirements for providers of electricity, recordkeeping and reporting (see Notice, Section II, paragraph 5), and despite certifying to both DEQ and the Buyer that the reporting was accurate and that the credits were generated in compliance with the Oregon Clean Fuels Program Rules (see Notice Section II, paragraphs 8, 9). Upon signing the CFP Credit Transfer Forms, which triggered the transfer of 16,000 credits from TTS to Elbow River in the OFRS system, Thompson, on behalf of TTS, was notified that transfers must be in compliance with the Oregon Clean Fuels Program Rules (see Notice, Section II, paragraph 22), and certified that all of the information contained in the forms was true and correct, and to the best of his knowledge and belief (see Notice, Section II, paragraph 23). By submitting an inaccurate Clean Fuels Program report that generated illegitimate credits, and then transferring those credits to Elbow River for a total of \$1,788,000, despite certifying to both Elbow River and DEQ that the credits were generated, and were being transferred in compliance with the Clean Fuels Program Rules, Respondents consciously disregarded a substantial and unjustifiable risk of transferring credits in violation of OAR 340-253-1005(8). The OFRS system automatically generates credits based on the information reported by registered parties. These credits have monetary value and are traded by Clean Fuels Program participants as a mechanism for regulated parties to meet their compliance obligations under the program, which collectively reduces the carbon intensity of transportation fuels used in Oregon. Thus, the program relies on accurate reporting in compliance with the Clean Fuels Program Rules to ensure the integrity of the program's market, maintain fair and transparent conduct of trading activity, and to achieve the program's environmental objectives. Thus, the risk of transferring credits in violation of OAR 340-253-1005(8) is of such a nature and degree that disregarding that risk constitutes a gross deviation from the standard of care a reasonable person would observe when transacting Clean Fuels Program credits.

"C" is Respondents' efforts to correct or mitigate the violation, and receives a value of 2 according to OAR 340-012-0145(6)(g) because Respondents did not address the violation as described in paragraphs (6)(a) through (6)(e) and the facts do not support a finding under paragraph (6)(f).

GRAVITY-BASED PENALTY CALCULATION:

$$\begin{aligned}
 \text{Penalty} &= \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] \\
 &= \$12,000 + [(0.1 \times \$12,000) \times (0 + 0 + 4 + 8 + 2)] \\
 &= \$12,000 + (\$1,200 \times 14) \\
 &= \$12,000 + \$16,800 \\
 &= \$28,800
 \end{aligned}$$

Respondents' transferred 16,000 credits in violation of OAR 340-253-1005(8). DEQ is using its enforcement discretion to assess a separate penalty for each group of 1,000 credits transferred. Thus, DEQ is assessing 16 separate penalties in the amount of \$28,800 for each penalty.

$$\text{Total gravity-based penalty} = \$28,800 \times 16 = \$460,800$$



## ECONOMIC BENEFIT

"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 \$1,802,295, which is the actual sale price of the 16,000 credits that were sold to the Buyer (\$1,788,000), plus interest, based on the bank prime loan rate of 5.28%, averaging the monthly values published by the Federal Reserve, from July to September 2022.<sup>1</sup> The EB was calculated according to OAR 340-012-0150(3)(a).

## TOTAL PENALTY

According to OAR 340-012-0045, the total civil penalty is the gravity-based penalty of \$460,800 plus the economic benefit of \$1,802,295.

Thus, the total civil penalty for Violation No. 2 is \$2,263,095.

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<sup>1</sup> Board of Governors of the Federal Reserve System, H.15 selected interest rates, available at <https://www.federalreserve.gov/releases/h15/> and <https://fred.stlouisfed.org/series/MPRIME>