



Oregon

Kate Brown, Governor

Department of Environmental Quality
Office of Compliance and Enforcement
700 NE Multnomah Street, Suite 600
Portland, OR 97232
(503) 229-5382
FAX (503) 229-5787
TTY 711

December 4, 2018

CERTIFIED MAIL No. 7016 0750 0000 3470 3722

Tameer, LLC
c/o Babrak Amiri, Registered Agent
3975 SW Beaverton-Hillsdale Highway
Portland, OR 97221

Re: Notice of Civil Penalty Assessment and Order
Case No. AQ/ACDP-NWR-2018-104

This letter is to inform you that DEQ has issued you a civil penalty of \$412.50 for failing to timely conduct and pass yearly Pressure Decay Leak and Air to Liquid Ratio tests, on four gasoline dispensers at your gas station at 3975 SW Beaverton-Hillsdale Highway in Portland.

DEQ issued this penalty because testing the efficiency of your vapor recovery equipment is an important requirement to ensure that gasoline vapors at your facility are being adequately controlled. Gas vapors include benzene, a hazardous air pollutant that can cause cancer, and other chemicals that contribute to smog and degradation of the airshed.

DEQ appreciates your efforts to correct the violation by conducting and passing the tests on July 6, 2018, DEQ considered this effort when determining the amount of civil penalty.

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.state.or.us

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 timely written hearing request, 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 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 DEQ Environmental Law Specialist Jenny Root at 503-229-5874 or toll free in Oregon at 800-452-4011, extension 5874.

Sincerely,



Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Enclosures

cc: Dan DeFehr, Northwest Region, DEQ
Matt Hoffman, Northwest Region, DEQ
Julie Cheney, Accounting, DEQ
Donald Hendrix, AQ, DEQ

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

2 OF THE STATE OF OREGON

3 IN THE MATTER OF:) NOTICE OF CIVIL PENALTY
TAMEER, LLC,) ASSESSMENT AND ORDER
4 an Oregon limited liability company,)
5 Respondent.) CASE NO. AQ/ACDP-NWR-2018-104

6 I. AUTHORITY

7 This Notice and Order is issued pursuant to Oregon Revised Statutes (ORS) 468.100 and
8 468.126 through 468.140, ORS Chapters 183 and 468A, and Oregon Administrative Rules (OAR)
9 Chapter 340, Divisions 011, 012, 200, 216 and 244.

10 II. FINDINGS OF FACT

11 1. Respondent, Tameer, LLC, an Oregon limited liability company, owns and
12 operates a gasoline dispensing facility at 3975 Beaverton-Hillsdale Highway, Portland, Oregon
13 as “Hillsdale Food & Fuel” (the Facility).

14 2. The Facility has four vacuum assist operated gasoline dispensers (Dispensers 1
15 through 4).

16 3. On May 3, 2013, the Department of Environmental Quality (DEQ) assigned the
17 Facility to General Air Contaminant Discharge Permit AQGP-023 (Permit) as source number:
18 26-9777-23-01. The Permit was in effect at all material times.

19 4. The Permit authorizes Respondents to discharge air contaminants from the
20 Facility in conformance with the requirements, limitations and conditions set forth in the Permit.

21 5. Condition 5.3 of the Permit requires that, once a year, each vacuum assist system
22 at the Facility must pass a Pressure Decay Leak test using California Air Resources Board Vapor
23 Recovery Test Procedure TP-201.3 and an Air to Liquid Ratio test using California Air
24 Resources Board Vapor Recovery Test Procedure TP-201.5, or other DEQ-approved methods.

25 6. According to OAR 340-200-020(193), “year” means any consecutive 12-month
26 period.

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1 011-0530 for further information about requests for hearing.) You must send your request to: **DEQ,**
2 **Office of Compliance and Enforcement, 700 NE Multnomah Street, Suite 600, Portland,**
3 **Oregon 97232,** fax it to **503-229-5100** or email it to **DEQappeals@deq.state.or.us.** An
4 administrative law judge employed by the Office of Administrative Hearings will conduct the
5 hearing, according to ORS Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501
6 to 0700. You have a right to be represented by an attorney at the hearing, however you are not
7 required to be. If you are an individual, you may represent yourself. If you are a corporation,
8 partnership, limited liability company, unincorporated association, trust or government body, you
9 must be represented by an attorney or a duly authorized representative, as set forth in OAR 137-
10 003-0555.

11 Active duty service-members have a right to stay proceedings under the federal Service
12 Members Civil Relief Act. For more information, please call the Oregon State Bar at 1-800-
13 452-8260 or the Oregon Military Department at 1-800-452-7500. Additional information can be
14 found online at the United States Armed Forces Legal Assistance (AFLA) Legal Services Locator
15 website <http://legalassistance.law.af.mil/content/locator.php>.

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

22
23 12/4/18
24 Date

23 
24 Kieran O'Donnell, Manager
25 Office of Compliance and Enforcement
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EXHIBIT NO. 1

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

VIOLATION: Failing to pass, by April 25, 2018, yearly (2018) Pressure Decay Leak and Air to Liquid Ratio tests in violation of Condition 5.3 of the Permit.

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

MAGNITUDE: The magnitude of the violation is minor pursuant to OAR 340-012-0130(4) as there is no selected magnitude specified in OAR 340-012-0135 applicable to this violation and DEQ finds that the violation had no more than a de minimis adverse impact on human health or the environment, and posed no more than a de minimis threat to human health and the environment. In making this finding, DEQ considered the following reasonably available information: even though Respondent tested late, the test results showed that Respondent's equipment was operating in compliance with the standards.

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 \$375 for a Class II, minor magnitude violation in the matrix listed in OAR 340-012-0140(4)(b)(B)(iii) and applicable pursuant to OAR 340-012-0140(4)(a)(C) because Respondent operates the Facility under a General Air Contaminant Discharge Permit only because the Facility 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 0 according to OAR 340-012-0145(4)(a) because there was only one occurrence of the violation. Respondent was late conducting one annual round of testing in 2018.

"M" is the mental state and receives a value of 4 according to OAR 340-012-0145(5)(b), because Respondent was negligent. Condition 5.3 of the Permit expressly requires Respondent to conduct yearly Pressure Decay Leak and Air to Liquid Ratio tests. DEQ issued

Respondent a warning letter with opportunity to correct on May 31, 2016, for failing to conduct annual tests in 2013, 2014 and 2016. DEQ sent Respondent an email on April 5, 2018, reminding Respondent to test by April 25, 2018. By failing to employ adequate measures to ensure Respondent tested and passed the tests timely, Respondent failed to take reasonable care to avoid the foreseeable risk it would again violate the Permit.

"C" is Respondents' efforts to correct or mitigate the violation and receives a value of -3 according to OAR 340-012-0145(6)(c) because once notified of the violation, Respondent made reasonable efforts to correct the violation by conducting and passing the tests on July 6, 2018.

"EB" is the approximate economic benefit that an entity gained by not complying with the law. 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 pursuant to OAR 340-012-0150(3) because any economic benefit derived from the violation would have been de minimis, as the tests were only delayed a little over two months.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
= $\$375 + [(0.1 \times \$375) \times (0 + 0 + 0 + 4 - 3)] + \0
= $\$375 + (37.50 \times 1) + \0
= $\$375 + \$37.5 + \$0$
= $\$412.50$