



# Oregon

Tina Kotek, Governor

Department of Environmental Quality  
Office of Compliance and Enforcement  
700 NE Multnomah Street, Suite 600  
Portland, OR 97232-4100  
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December 6, 2024

CERTIFIED MAIL: 9589 0710 5270 0688 6500 99

Zenith Energy Terminals Holdings, LLC  
c/o C T Corporation System  
780 Commercial Street SE, Suite 100  
Salem, OR 97301

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Zenith Energy Terminals Holdings, LLC  
c/o Tom Wood  
Stoel Rives, LLP  
760 SW Ninth Ave., Suite 3000  
Portland, OR 97025

Re: Notice of Civil Penalty Assessment and Order  
Case No. AQ-V-NWR-2024-635

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued Zenith Energy Terminals Holdings, LLC (Zenith) a civil penalty of \$372,600 for modifying its fuel products transloading facility in northwest Portland and then operating that change, from April 2021 to June 2024, without authorization from DEQ. Specifically, between December 2020 and April 2021, without first notifying DEQ and obtaining DEQ approval, Zenith installed new piping on property it owns, as well as at least 250 meters of new piping and associated components on an adjacent property across Front Street owned by Morec Front LLC and Tanker Basin LLC and operated by McCall Oil and Chemical Corporation (McCall). After completing the project, between April 8, 2021, and June 6, 2024, Zenith used the new piping to conduct 34 marine loading events at a dock that Zenith had leased from McCall, without authorization under Zenith's Title V Operating Permit.

DEQ issued this penalty because operating outside the scope of a Title V Operating Permit is a serious violation. The permitting process is the mechanism by which DEQ ensures that air contamination sources meet all applicable standards and are operating in accordance with good air pollution control practices to minimize air emissions. Based on Zenith's prior notifications to DEQ to obtain approval for other changes at the Portland facility, Zenith knew about the requirement to notify DEQ and obtain approval for the 2021 McCall dock connection, and yet failed to obtain such approval prior to constructing and operating the change. Zenith did not notify DEQ of the change until April 2024, following information requests and a Warning Letter from DEQ, and did not obtain DEQ approval for the change until June 2024.

DEQ acknowledges that Zenith's transition towards renewable fuels supports Oregon's climate goals. However, the expansion and operation of the facility must be conducted in accordance with DEQ's permitting rules.

You may pay the civil penalty as follows:

Pay online with e-check (ACH) or Credit Card. Go to Your DEQ Online here:

<https://ydo.oregon.gov>. Select Register Account or Login, then select Pay Invoices/Fees on your account dashboard. Enter the Invoice number and Account ID included on the attached payment slip. Note: US Bank charges a 2.3% convenience charge for credit card transactions. ACH payments have no additional charges.

Pay by check or money order: Make checks payable to "Department of Environmental Quality" and mail to the address on the enclosed payment slip. Please make sure to include the payment slip with your check or money order.

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 penalty will become due.

The attached Notice further details DEQ's reasons for issuing the penalty and order and provides further instructions regarding 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 portion of your 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 me at 503-979-5421 or [becka.puskas@deq.oregon.gov](mailto:becka.puskas@deq.oregon.gov).

Sincerely,



Becka Puskas, Interim Manager  
Office of Compliance and Enforcement

Zenith Energy Terminals Holdings, LLC

Case No. AQ-TV-NWR-2024-635

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cc: Geoff Tichenor, Stoel Rives LLP  
Dana Love, Zenith Energy Terminals Holdings, LLC  
Grady Reamer, Zenith Energy Terminals Holdings, LLC  
Carlos Munguia, Zenith Energy Terminals Holdings, LLC  
Paul Garrahan, Oregon Department of Justice  
David Gravier, DEQ  
Lisa Ball, DEQ  
Christine Svetkovich, DEQ  
Accounting, DEQ  
Donald Hendrix, AQ, DEQ

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION  
OF THE STATE OF OREGON

IN THE MATTER OF: )  
ZENITH ENERGY TERMINALS ) NOTICE OF CIVIL PENALTY  
4 HOLDINGS, LLC, ) ASSESSMENT AND ORDER  
Respondent. ) CASE NO. AQ-V-NWR-2024-635

I. AUTHORITY

The Department of Environmental Quality (DEQ) issues this Notice of Civil Penalty Assessment and Order (Notice) pursuant to Oregon Revised Statutes (ORS) 468.100, ORS 468.126 through 468.140, ORS Chapters 183 and 468A, and Oregon Administrative Rules (OAR) Chapter 340, Divisions 011, 012, 200, 210, and 218.

II. FINDINGS OF FACT

1. Zenith Energy Terminals Holdings LLC (Zenith or Respondent) is a Delaware limited liability company registered to do business in Oregon.

2. Zenith operates a fuel products transloading facility in northwest Portland, Oregon (Facility). Zenith accepts products such as crude oil, diesel, renewable fuels and other fuel products from one mode of transportation, like rail cars, stores the products in above-ground tanks, and loads the products onto other modes of transportation like trucks and marine vessels.

Zenith's Operations Under the Title V Permit

3. Since January 21, 2014, Zenith has operated the Facility under Title V Permit No. 26-2025-TV-01 (the Title V Permit).<sup>1</sup>

4. Starting in 2017, Zenith submitted Notice of Approval applications to DEQ, to make changes to its operations at the Facility.<sup>2</sup> These submittals included:

<sup>1</sup> Zenith, formerly known as Arc Terminals Holdings, LLC, purchased the Facility on or about January 2014 from Paramount Petroleum Corporation. Arc Terminals Holdings, LLC changed its name to Zenith Energy Terminals Holdings LLC on December 26, 2017. The term of Zenith's Title V Permit has expired but it is authorized to continue operating under the Title V Permit as provided in OAR 340-218-0120(2)(b) and 340-218-0130(2).

<sup>2</sup> Notice of Approval is the term for a Notice of Construction for Title V sources. OAR 340-210-0205(3).

- a. On August 16, 2017, Arc Terminals Holdings LLC (which later changed its name to Zenith) submitted a Type 2 Notice of Approval application to DEQ for loading crude oil onto marine vessels at a dock on the Willamette River owned by Chevron USA, Inc. and to install a new vapor combustion unit (VCU) to control the associated emissions;
- b. On January 11, 2018, Zenith submitted a Type 2 Notice of Approval application to DEQ to convert two fixed roof tanks to floating roof tanks, to allow the storage of higher vapor pressure products;<sup>3</sup> and
- c. On July 26, 2018, Zenith submitted a Type 1 Notice of Approval application to DEQ to add 32 railcar spots for offloading. Zenith also submitted an off-permit change notification to incorporate the change into its Title V Permit.

5. On August 8, 2018, Zenith submitted a minor permit modification application to DEQ to incorporate the changes described in Section II, paragraph 4, and associated applicable requirements, into its Title V Permit. This included the addition of an emissions unit for loading products at the Chevron dock (MLOAD). Along with the minor permit modification application, Zenith also submitted an addendum to its Title V Permit renewal application on file with DEQ, updating the application to reflect the facility changes.

6. In the process of reviewing Zenith's Title V Permit renewal application, DEQ determined that based on the activities described in the application, DEQ needed an updated LUCS, and on January 11, 2021, DEQ sent Zenith a letter formally communicating requesting that Zenith submit a LUCS from the City of Portland for the Title V Permit renewal to confirm that the operation of Zenith's facility was consistent with applicable Oregon statewide land use planning goals and the City of Portland's acknowledged comprehensive plan and land use regulations.

7. On October 3, 2022, Zenith ultimately obtained an affirmative LUCS from the City of Portland (the October 2022 LUCS).

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<sup>3</sup> Because DEQ did not respond to the Notice of Approval applications described in Section II, paragraphs 4.a and 4.b within 60 days, Zenith was authorized to proceed with modifications according to ORS 468A.055(4) and OAR 340-210-0240(1)(b).

1 8. On October 3, 2022, Zenith submitted to DEQ an addendum to its Title V Permit renewal  
2 application, which stated that “This letter is to amend the Facility’s Title V permit renewal application  
3 to the extent necessary to reflect the conditions in the LUCS.” This update to the Title V permit  
4 application did not include any reference to Zenith’s operations on the McCall properties.

5 Zenith’s Operations on the McCall Properties

6 9. In December 2018, Zenith entered into a twenty-year dock lease agreement with McCall Oil and  
7 Chemical Corporation (McCall). The lease allows Zenith to use the McCall dock on the Willamette  
8 River and associated dock facilities. McCall operates on properties owned separately by Morec Front  
9 LLC (Section 19B 1N 1E TL 100) Tanker Basin LLC (Section 18C 1N 1E TL 1300) and GW Front  
10 LLC (Section 18C 1N 1E TL 1000) (hereinafter the McCall properties). In connection with the lease,  
11 McCall, Morec Front, Tanker Basin, and GW Front also granted Zenith access easements, utility  
12 easements, and pipeline easements across the McCall properties to facilitate Zenith’s use of the McCall  
13 dock.

14 10. Between approximately December 2020 and April 2021, Zenith completed a construction project  
15 to connect equipment at property owned by Zenith to an existing pipe that runs under Front Street. On the  
16 other side of Front Street, on the McCall properties, Zenith installed new piping to connect to the McCall  
17 dock. This change allowed Zenith to conduct marine vessel loading and unloading of fuel products at the  
18 McCall dock.

19 11. Zenith did not submit a Notice of Approval application, did not notify DEQ, and did not obtain  
20 DEQ approval prior to the construction described in Section II, paragraph 10, above.

21 12. The new pipes installed as part of the construction project described in Section II, paragraph 10  
22 include piping components (pump seals, valves and connectors) that are a source of fugitive emissions  
23 of volatile organic compounds (VOCs) and hazardous air pollutants (HAPs) to the atmosphere. Loading  
24 products such as diesel and renewable diesel onto ships results in emissions of VOCs and HAPs  
25 because the loaded fuel displaces vapors from the fuel tanks on the ships, which escape to the  
26 atmosphere. Thus, the project described in Section II, paragraph 10 caused an increase, on an hourly  
27 basis at full production, of regulated pollutant emissions.

1 13. Following the completion of the project described in Section II, paragraph 10, above, Zenith has  
2 loaded Ultra Low Sulfur Diesel (ULSD) and Renewable Diesel (RD) onto marine vessels at the McCall  
3 dock as described in Table 1 below.

4 **Table 1.** Zenith loading events at the McCall dock.

5

6

<b>Date of loading event</b>	<b>Volume Loaded (barrels)</b>	<b>Product Loaded</b>
4/8/2021	21,812	ULSD
1/18/2022	27,309	ULSD
6/10/2023	37,841	ULSD
7/26/2023	4,902	ULSD
7/26/2023	10,014	RD
8/2/2023	37,009	ULSD
8/10/2023	9,980	RD
8/11/2023	37,530	ULSD
8/23/2023	19,131	ULSD
8/28/2023	10,957	RD
9/5/2023	37,820	ULSD
9/8/2023	21,875	ULSD
9/14/2023	8,251	ULSD
9/14/2023	10,930	RD
9/17/2023	21,663	ULSD
9/19/2023	37,886	ULSD
9/22/2023	10,957	ULSD
9/24/2023	37,983	ULSD
10/13/2023	11,027	ULSD
10/13/2023	11,027	RD
10/20/2023	21,294	ULSD
11/2/2023	16,084	ULSD
11/9/2023	11,135	RD
11/12/2023	21,374	ULSD
11/29/2023	11,099	RD
12/21/2023	11,037	RD
2/10/2024	37,996	RD
4/10/2024	6,044	RD
4/20/2024	10,988	RD
4/25/2024	9,484	RD
5/8/2024	11,032	RD
5/12/2024	3,560	ULSD

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<b>Date of loading event</b>	<b>Volume Loaded (barrels)</b>	<b>Product Loaded</b>
5/20/2024	11,037	RD
6/4/2024	10,373	ULSD
6/11/2024	11,799	RD
6/21/2024	10,880	ULSD
6/29/2024	10,738	RD
7/12/2024	11,088	ULSD
7/28/2024	22,054	RD
8/14/2024	21,898	RD
9/3/2024	21,182	ULSD
9/18/2024	21,308	ULSD
10/22/2024	13,081	ULSD
10/24/2024	26,991	RD

14. On November 11, 2022, Zenith submitted an Air Contaminant Discharge permit (ACDP) application to DEQ.

15. The ACDP application included a site layout plot plan depicting the Zenith property as well as two marine loading emissions units labeled MLOAD\_C and MLOAD\_M. Regarding these emissions units, the application stated: “Products are unloaded and loaded at both of the marine docks. The emission unit name for marine loading of products is MLOAD with the emissions generated at the Chevron dock (MLOAD-C) and McCall dock (MLOAD-M).”

16. Based on information that Zenith has provided to DEQ for its ACDP application, the maximum capacity of ship and barge loading and unloading operations at the McCall dock is 12,000 barrels/hour (for comparison, the Chevron dock’s capacity is 15,120 barrels/hour).

17. When DEQ began to process the ACDP application, in December 2023 and January 2024, DEQ requested additional information regarding the MLOAD-M emissions unit and Zenith’s operations at the McCall dock. As part of that information exchange, DEQ learned that Zenith had begun loading marine vessels at the McCall dock in April 2021. In addition, at DEQ’s request, Zenith provided to DEQ a Memorandum of Dock Lease Agreement, describing the lease referenced in Section II, paragraph 9, above.

1 18. In response to DEQ's January 2024 information request, Zenith stated:

2 Existing piping between the Zenith terminal and the McCall property has existed and been used  
3 to exchange products between the two facilities since the 1940s. The piping runs under Front  
4 Avenue. As you note, starting in April 2021, Zenith began moving ULSD and RD through the  
5 pipe and a connection was added to pass the products directly to the existing dock lines. Zenith  
6 leases the dock and associated piping/hoses on the dock from McCall. Zenith owns the pipeline  
7 leading to the dock and has an easement for siting and access. Because Zenith owns the  
8 pipeline to the dock and controls the product and directs its transport to and from the dock under  
9 McCall's operation, Zenith includes emissions associated with product loading/unloading as  
10 well as the fugitive emissions from pipe components in its annual emissions report. Zenith has  
11 proposed this same approach going forward in the ACDP application.

12 ...

13 As previously mentioned, the facilities have been exchanging products since the 1940s. A  
14 flanged valve and a small amount of welded pipe was all that was needed on the McCall site to  
15 join the pre-existing inter-facility lines to the pre-existing dock lines. The addition in 2021 of  
16 the valve and associated pipe did not trigger any City of Portland construction permit  
17 requirements.

18 19. On March 5, 2024, based on the information provided by Zenith, DEQ issued a Warning Letter  
19 with Opportunity to Correct, notifying Zenith that it had violated Condition G18 of its Title V Permit,  
20 OAR 340-210-0205(1)(b)(A), and OAR 340-218-0190(1), by failing to notify DEQ and obtain  
21 approval prior to modifying the Facility by connecting pipes to enable marine loading at the McCall  
22 dock in April 2021. DEQ requested that Zenith submit a Notice of Approval application for the  
23 modification.

24 20. On April 5, 2024, Zenith submitted a Notice of Approval application for the project described in  
25 Section II, paragraph 10, above (the 2021 McCall Connection Project).

26 21. On June 6, 2024, DEQ issued an order approving the 2021 McCall Connection Project. DEQ's  
27 memorandum in support of the order stated that no permit modification application was needed, and the  
change could be operated as an off-permit change. Zenith did not request a hearing within the time  
allowed, and the order became final by default.

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22. On November 13, 2024, DEQ conducted an inspection of Zenith’s operations on the McCall properties. DEQ observed the following construction that Zenith had completed between December 2020 and April 2021:

- a. A flanged valve and a small amount of pipe installed on the Zenith property to connect to an existing pipe that goes under Front Street; and
- b. On the other side of Front Street, approximately 250 meters of new pipe had been installed on the McCall properties to connect to the McCall dock for marine loading and unloading.

### III. CONCLUSIONS

1. On or before April 8, 2021, Zenith violated Condition G.18 of the Title V Permit by constructing or making a modification that was required to be reviewed under OAR 340-218-0190 without receiving approval from DEQ, as described in Section II, paragraphs 9-12, above. According to OAR 340-218-0190(1), Zenith, as the owner and operator of a major stationary source, must obtain approval from DEQ according to OAR 340-210-0205 through 340-210-0250 prior to construction or modification the stationary source. Between December 2020 and April 8, 2021, Zenith completed a construction project that involved the installation of piping (and associated components) to connect existing pipelines between Zenith’s property and the McCall Dock to allow for marine loading and unloading. That project was a “modification” because the change was a physical or operational change that increased the source’s potential to emit VOCs and HAPs. OAR 340-200-0200(92). OAR 340-210-0215(2)<sup>4</sup> states: “Modifications to existing sources. No person is allowed to make a physical change or change in operation of an existing source that will cause an increase, on an hourly basis at full production, in any regulated pollutant emissions without first notifying DEQ in writing.” Zenith did not submit a Notice of Approval application to DEQ for the 2021 McCall Connection Project until April 5,

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<sup>4</sup> This citation is to the rule in effect in April 2021. The rule was updated effective March 1, 2023, *see* DEQ 19-2022, amend filed 11/18/2022, effective 3/01/2023. The current citation is 340-210-0205(1)(b)(A), but the substance of the requirement is the same (“Owners or operators of existing sources, including sources that have permits under OAR chapter 340, division 216 or 218, must submit the appropriate application before undertaking any of the following: (A) Construction or modification that will cause an increase, on an hourly basis at full production, in any regulated air pollutant emissions”).

2024, in response to a Warning Letter issued by DEQ on March 5, 2024. This is a Class II violation, according to OAR 340-012-0054(2)(c). DEQ hereby assesses a \$5,400 civil penalty for this violation.

2. From April 8, 2021 to June 6, 2024, Zenith violated ORS 468A.045(1)(b) by operating air contaminant sources without authorization under its Title V Permit, as described above in Section II, above. Prior to April 8, 2021, without any notice to or authorization from DEQ, Zenith completed a project to connect existing pipes between the Zenith property and the McCall dock. This change allowed Zenith to begin loading product, including diesel and renewable diesel, onto ships at the McCall dock. Loading product onto ships (called the MLOAD-M emissions unit) results in air contaminant emissions because the loaded product displaces vapors from the tanks on the ships, which escape to the atmosphere. In addition, the piping components installed as part of 2021 McCall Connection Project generate fugitive emissions. Thus, both the MLOAD-M emissions unit and the piping components installed as part of the 2021 McCall Connection Project are air contamination sources as defined in ORS 468A.005(4).<sup>5</sup> The MLOAD-M emissions unit and the piping components that generate fugitive emissions must be included in Zenith's Title V Permit because they are part of the major source. OAR 340-218-0020(1)(a); OAR 340-218-0020(6) and (7).<sup>6</sup> However, Zenith did not seek DEQ authorization for the 2021 McCall Connection Project until April 5, 2024, nor did Zenith apply for a modification to its Title V Permit to incorporate the change to the permitted major source, as required according to OAR 340-210-0250(2)(c) [formerly OAR 340-210-0250(2)(d)] and OAR 340-218-0190(2). DEQ approved the 2021 McCall Connection Project on June 6, 2024. Therefore, from

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<sup>5</sup> "Air contamination source" means any source at, from or by reason of which there is emitted into the atmosphere any air contaminant, regardless of who the person may be who owns or operates the building, premises or other property in, at or on which such source is located, or the facility, equipment or other property by which the emission is caused or from which the emission comes." ORS 468A.005(4).

<sup>6</sup> As used in Oregon's Title V Operating Permit program, a major source "means any stationary source or any group of stationary sources that are located on one or more contiguous or adjacent properties and are under common control of the same person or persons under common control belonging to a single major industrial grouping or supporting the major industrial group [that meet certain emissions thresholds]." OAR 340-200-0020(90)(b); *see also* 40 CFR § 70.2. "Stationary source" means any building, structure, facility, or installation at a source that emits or may emit any regulated pollutant. Stationary source includes portable sources that are required to have permits under OAR chapter 340, division 216. OAR 340-200-0020(172); *see also* 40 CFR § 70.2.

1 April 8, 2021, to June 6, 2024, Zenith operated the MLOAD-M emissions unit and the piping  
2 components installed as part of the 2021 McCall Connection Project, including 34 loading events at the  
3 McCall dock as described in Table 1 above, without first obtaining authorization from DEQ to include  
4 those operations under the Title V Permit. These are Class I violations, according to OAR 340-012-  
5 0054(1)(e). DEQ hereby assesses a \$367,200 civil penalty for these violations.

#### 6 IV. ORDER

7 Based upon the foregoing FINDINGS OF FACT and CONCLUSIONS:

8 1. Zenith is hereby ordered to pay a civil penalty of \$372,600. The determination of the  
9 civil penalties are attached as Exhibits 1 and 2 and are incorporated as part of this Notice.

10 If you do not file a request for hearing as set forth in Section V below, please pay the penalty as  
11 follows:

12 Pay online with e-check (ACH) or Credit Card. Go to Your DEQ Online here:  
13 <https://ydo.oregon.gov>. Select Register Account or Login, then select Pay Invoices/Fees on your account  
14 dashboard. Enter the Reference Number and FIMS Account ID included on the attached payment slip.  
15 Note: US Bank charges a 2.3% convenience charge for credit card transactions. ACH payments have no  
16 additional charges.

17 Pay by check or money order: Make checks payable to "Department of Environmental Quality"  
18 and mail to the address on the enclosed payment slip. Please make sure to include the payment slip with  
19 your check or money order.

#### 20 V. NOTICE OF RIGHT TO REQUEST A CONTESTED CASE HEARING

21 You have a right to a contested case hearing on this Notice, if you request one in writing. DEQ  
22 must receive your request for hearing **within 20 calendar days** from the date you receive this Notice. If  
23 you have any affirmative defenses or wish to dispute any allegations of fact in this Notice or attached  
24 exhibits, you must do so in your request for hearing, as factual matters not denied will be considered  
25 admitted, and failure to raise a defense will be a waiver of the defense. (See OAR 340-011-0530 for  
26 further information about requests for hearing.) You must send your request to: **DEQ, Office of**  
27 **Compliance and Enforcement, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232**, fax

1 it to **503-229-6762** or email it to **DEQappeals@deq.oregon.gov**. An administrative law judge  
2 employed by the Office of Administrative Hearings will conduct the hearing, according to ORS  
3 Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be  
4 represented by an attorney at the hearing, however you are not required to be. If you request a hearing,  
5 you will be notified of the time and place of the hearing and you will be given information on the  
6 procedures, and other rights of parties relating to the conduct of the hearing before commencement of  
7 the hearing. If you are an individual, you may represent yourself. If you are a corporation, partnership,  
8 limited liability company, unincorporated association, trust or government body, you must be  
9 represented by an attorney or a duly authorized representative, as set forth in OAR 137-003-0555.

10 Active duty Service members have a right to stay proceedings under the federal Service  
11 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-  
12 452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed  
13 Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military  
14 Department does not have a toll free telephone number.

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

21  
22  
23 12/6/2024

24 Date

Rebecca L Puskas

Becka Puskas, Interim Manager  
Office of Compliance and Enforcement

## EXHIBIT 1

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

- VIOLATION NO. 1                      Constructing or making a modification that was required to be reviewed under OAR 340-218-0190 without receiving approval from DEQ, in violation of Condition G.18 of the Title V Permit.
- CLASSIFICATION:                      This is a Class II violation according to OAR 340-012-0054(2)(c).
- 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 \$3,000 for a Class II, moderate magnitude violation in the matrix listed in OAR 340-012-0140(2)(b)(B)(ii) and applicable pursuant to OAR 340-012-0140(2)(a)(A) because Zenith has a Title V Permit.
- "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 the same 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. Zenith modified an existing source without DEQ approval as described in Section II, paragraphs 9-12 of the Notice.
- "M"    is the mental state of the Respondent, and receives a value of 8 according to OAR 340-012-0145(5)(d) because Respondent acted or failed to act intentionally with actual knowledge of the requirement. As of April 2021, Zenith had actual knowledge of the requirement to submit a Notice of Approval application to DEQ for modifications to the existing Zenith source that would cause an increase in emissions because Zenith had submitted multiple such Notices of Approval to DEQ since it purchased the facility in 2014, as described in Section II, paragraph 4 of the Notice. Therefore, based on its past practice of submitting Notice of Approval applications and obtaining DEQ approval for projects that would cause an increase in emissions at the existing Facility, Zenith had actual knowledge of the

requirement, but failed to submit a Notice of Approval application to DEQ prior to constructing the 2021 McCall Connection Project.<sup>1</sup>

"C" is Respondent's efforts to correct or mitigate the violation, and receives a value of 0 according to OAR 340-012-0145(6)(f) because there is insufficient information to make a finding under paragraphs (6)(a) through (6)(e), or (6)(g).

"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 DEQ has insufficient information to calculate an economic benefit for this violation.

PENALTY CALCULATION:  $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$   
= \$3,000 + [(0.1 x \$3,000) x (0 + 0 + 0 + 8 + 0)] + \$0  
= \$3,000 + (\$300 x 8) + \$0  
= \$3,000 + \$2,400 + \$0  
= \$5,400

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<sup>1</sup> Moreover, on October 6, 2021, DEQ sent Zenith a letter after Zenith had obtained a LUCS from the City of Portland for a 1200-C Construction Stormwater permit to develop infrastructure for renewable fuels on the Zenith property. The DEQ letter notified Zenith that this future project would be subject to DEQ's Notice of Construction requirements, and referenced OAR 340-210-0215(2), which states that: "... No person is allowed to make a physical change or change in operation of an existing source that will cause an increase, on an hourly basis at full production, in any regulated pollutant emissions without first notifying DEQ in writing." In addition, on July 14, 2023, Zenith submitted a Type 1 Notice of Approval application to DEQ for another renewables project which, as stated in the application, would increase regulated pollutant emissions due to the installation of new piping and associated components. Despite this additional correspondence with DEQ, Zenith failed to submit a Notice of Approval application to DEQ for the 2021 McCall Connection Project until April 5, 2024, in response to a DEQ Warning Letter.

## EXHIBIT 2

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

VIOLATION NO. 2 Operating air contaminant sources without first obtaining a permit, in violation of ORS 468A.045(1)(b).

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

MAGNITUDE: The magnitude of the violations is moderate pursuant to OAR 340-012-0130(1), as there is no selected magnitude specified in OAR 340-012-0135 applicable to these violations, 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 \$6,000 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(2)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(2)(a)(A) because Zenith has a Title V Permit.

"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 the same 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)(e) because DEQ is assessing a separate penalty for each of the 34 marine loading events that Zenith conducted at the McCall dock between April 8, 2021 and June 6, 2024, when DEQ approved the 2021 McCall Connection Project.

"M" is the mental state of the Respondent, and receives a value of 8 according to OAR 340-012-0145(5)(d) because Respondent acted or failed to act intentionally with actual knowledge of the requirement. As of April 2021, Zenith had actual knowledge of the requirement to submit a Notice of Approval application to DEQ for modifications to the existing Zenith source that would cause an increase in emissions because Zenith had submitted multiple such Notices of Approval to DEQ since it purchased the facility in 2014, as described in Section II, paragraph 4 of the Notice. Therefore, based on its past practice of submitting Notice of Approval applications and obtaining DEQ approval for projects that would cause an increase in emissions at the existing Facility, Zenith had actual knowledge of the requirement, but failed to submit a Notice of Approval application to DEQ prior to

constructing the 2021 McCall Connection Project.<sup>1</sup> Zenith also knew that changes at the Facility, once approved, needed to be incorporated into its Title V Permit. As described in Section II, paragraph 5 of the Notice, in August 2018, Zenith submitted a minor permit modification application to DEQ to incorporate Facility changes and associated applicable requirements, into its Title V Permit. This included the addition of an emissions unit for loading products at the Chevron dock (MLOAD). Along with the minor permit modification application, Zenith also submitted an addendum to its Title V Permit renewal application on file with DEQ, updating the application to reflect the facility changes. Similarly, as described in Section II, paragraph 8 of the Notice, when Zenith received a LUCS from the City of Portland on October 3, 2022, Zenith immediately submitted a further amendment to its Title V Permit renewal application on file with DEQ incorporating the restrictions in the LUCS that applied to the permitted source. Therefore, Zenith had actual knowledge of the requirement to ensure that changes to the existing source, including new air contamination sources, were covered under the Title V Permit, but nevertheless operated the McCall dock connection from April 8, 2021 to June 6, 2024 without any authorization from DEQ.

"C" is Respondent's efforts to correct or mitigate the violation, and receives a value of 0 according to OAR 340-012-0145(6)(f) because there is insufficient information to make a finding under paragraphs (6)(a) through (6)(e), or (6)(g).

"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 DEQ has insufficient information to calculate an economic benefit for this violation.

PENALTY CALCULATION:  $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$   
= \$6,000 + [(0.1 x \$3,000) x (0 + 0 + 0 + 8 + 0)] + \$0  
= \$6,000 + (\$600 x 8) + \$0  
= \$6,000 + \$4,800 + \$0  
= \$10,800

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<sup>1</sup> Moreover, on October 6, 2021, DEQ sent Zenith a letter after Zenith had obtained a LUCS from the City of Portland for a 1200-C Construction Stormwater permit to develop infrastructure for renewable fuels on the Zenith property. The DEQ letter notified Zenith that this future project would be subject to DEQ's Notice of Construction requirements, and referenced OAR 340-210-0215(2), which states that: "... No person is allowed to make a physical change or change in operation of an existing source that will cause an increase, on an hourly basis at full production, in any regulated pollutant emissions without first notifying DEQ in writing." In addition, on July 14, 2023, Zenith submitted a Type 1 Notice of Approval application to DEQ for another renewables project which, as stated in the application, would increase regulated pollutant emissions due to the installation of new piping and associated components. Despite this additional correspondence with DEQ, Zenith failed to submit a Notice of Approval application to DEQ for the 2021 McCall Connection Project until April 5, 2024, in response to a DEQ Warning Letter.

Zenith has conducted 34 marine loading at the McCall dock between April 8, 2021 and June 6, 2024. DEQ is assessing a separate civil penalty for each of these unauthorized loading events. Therefore, the total civil penalty is:  $\$10,800 \times 34 = \textbf{\$367,200}$

Oregon Department of Environmental Quality  
700 NE Multnomah Street, Suite 600  
Portland, OR 97232-4100



State of Oregon  
**Department of Environmental Quality**

Phone: 503-229-5437  
Fax: 503-229-5850

**CIVIL PENALTY - ORS 468.135(2)**

<b>DATE:</b>	December 6, 2024
<b>RESPONSE DATE :</b>	February 14, 2025
<b>TOTAL PENALTY:</b>	\$372,600.00

Account Name:	ZENITH ENERGY TERMINALS HOLDINGS, LLC <ZENITH ENERGY TERMINALS PORTLAND> <16055>		
Account Type:	Vendor/Organization/Company	Reference Number:	CPGFD2500026
SubSystem ID:	190908	FIMS Acct. ID:	2406

**Penalty Summary**

Penalty Amount	Interest	Adjustment	Amount Paid	Total Penalty
\$ 372,600.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 372,600.00

Payment of this penalty is subject to the exercise of your options or right to appeal as described in the enclosed enforcement documents.

To Pay Online with ACH or Credit Card Visit <https://ydo.oregon.gov> and select 'Register Account'



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PLEASE RETURN THIS PORTION WITH YOUR PAYMENT



REFERENCE NO.	CPGFD2500026		
PAYCODE:	00401 7400 10040 74001 0500 000000 00		
FEE PROGRAM ID:	950	RESPONSE DATE:	February 14, 2025
FIMS ACCT. ID:	2406	TOTAL PENALTY DUE:	\$372600.00

AMOUNT ENCLOSED:

MAKE CHECK PAYABLE TO: Department of Environmental Quality

☐

Check this box if updated address information has been provided on the back of the form.

DEQ FINANCIAL SERVICES - LBX4244  
PO BOX 4244  
PORTLAND OR 97208-4244

00401 7400 10040 74001 0500 000000 00950000024067CPGFD250002600372600009



State of Oregon  
Department of  
Environmental  
Quality

## State of Oregon Department of Environmental Quality

**CIVIL PENALTY - ORS 468.135(2)**

700 NE Multnomah Street, Suite 600  
Portland, OR 97232-4100  
Phone: 503-229-5437  
Fax: 503-229-5850

### Penalty Detail

Transaction Date	Description	Amount
12/6/2024	2024-635 AQ-V-NWR-2024-635	\$372,600.00

### SFMS Agencies Use:

Trans Code	Treasury Fund	SFMS	Index	PCA (5)	Agency Object	Project #	Phase
723	00401	7400	10040	74001	0500	00000	00

### Address Changes

Please visit <https://ydo.oregon.gov> to update  
your mailing address online or provide the  
following information:

Name \_\_\_\_\_  
Address \_\_\_\_\_  
City, State, Zip \_\_\_\_\_

# CERTIFICATE OF MAILING

I hereby certify that I served DEQ Case No.

AQ-V-NWR-2024-635 upon:

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c/o CT Corporation System  
780 Commercial Street SE, Suite 100  
Salem, OR 97301

Sent To

Street and Apt. No., or PO Box No.

City, State, ZIP+4®

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

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Zenith Energy Terminals Holdings, LLC  
c/o Tom Wood  
Stoel Rives, LLP  
760 SW Ninth Ave., Suite 3000  
Portland, OR 97025

Sent To

Street and Apt. No., or PO Box No.

City, State, ZIP+4®

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

by mailing a true copy of the above by placing it in a sealed envelope. with postage prepaid, at the DEQ/DAS mail services in Portland, Oregon, on December 6, 2024.

Cesae Griffith

Office of Compliance and Enforcement  
Department of Environmental Quality