



Oregon

Tina Kotek, 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

January 23, 2025

CERTIFIED MAIL: 9589 0710 5270 0688 6501 74

AMA Mini Mart Inc 1
c/o Anesti Audeh, Registered Agent
522 S. 6th Street
Klamath Falls, OR 97601

Re: Notice of Civil Penalty Assessment and Order
Case No. LQ/UST-ER-2023-160

This letter is to inform you that DEQ has issued you a total civil penalty of \$111,175 for underground storage tank (UST) violations at your three facilities in Klamath Falls. DEQ documented numerous violations during its inspections on December 7, 2023, and March 27, 2024. DEQ has cited you for failing to report and investigate a suspected release of fuel, failing to provide a method of release detection that can detect a release from any portion of the UST and the underground piping that routinely contains a regulated substance, failing to repair or replace shear valves, and failing to properly maintain spill prevention equipment. DEQ has also cited you for the following monitoring and testing violations: failing to test spill prevention and overfill prevention equipment, failing to conduct annual line tightness and leak detector testing, failing to test the electronic and mechanical components of the release detection system, failing to conduct monthly and annual walkthrough inspections of the spill prevention equipment and release detection equipment, and failing to retain the most current twelve consecutive months of release detection records.

DEQ issued this penalty because all three of your facilities are out of compliance with many important UST regulations, and because you have a history of violations at your Klamath Falls facilities. Proper operation, maintenance and testing of UST equipment is essential to prevent and detect releases of fuel into the environment. Although there was a suspected release of fuel at two facilities, you failed to take action by reporting it to DEQ or investigating the releases. These actions are necessary to ensure quick and appropriate response to a release before contamination spreads beyond the immediate area of the USTs. Leaking fuel tanks can have lasting harmful effects on the environment and human health. DEQ is especially concerned that shear valves at all three facilities were not functional, and rather than repair or replace them, you wired them into the open position to allow fuel to be dispensed. Shear valves are necessary to prevent releases and protect public health and the environment if a dispenser is damaged by shutting off the flow of fuel.

Included in Section IV of the Notice is an order requiring you to bring the facilities into compliance with UST regulations by taking the following actions: remove all liquid and debris from spill buckets and sumps and properly dispose of it, repair or replace the spill buckets that failed testing, repair or replace the non-functioning shear valves, investigate the suspected release conditions and submit a report to DEQ, install required release detection and interstitial monitoring equipment, and submit monthly walkthrough inspection records. You are required to submit documentation demonstrating your compliance to DEQ within sixty (60) days of this Notice becoming final.

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

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 Esther Westbrook at 503-229-5374 or toll free in Oregon at 800-452-4011, extension 5374.

Sincerely,



Becka Puskas, Interim Manager
Office of Compliance and Enforcement

Enclosures

cc: Maurice Audeh, AMA Mini Mart Inc 1: coikfs@gmail.com
Dylan Eckert, Eugene Office, DEQ
Mark Drouin, Northwest Region, DEQ

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

2 OF THE STATE OF OREGON

3 IN THE MATTER OF:
4 AMA MINI MART INC 1,
an Oregon corporation,

5 Respondent.

)
) NOTICE OF CIVIL PENALTY
) ASSESSMENT AND ORDER

)
) CASE NO. LQ/UST-ER-2023-160

6
7 I. AUTHORITY

8 The Department of Environmental Quality (DEQ) issues this Notice of Civil Penalty Assessment
9 and Order (Notice) pursuant to Oregon Revised Statutes (ORS) 468.100, ORS 468.126 through 468.140,
10 ORS Chapters 466.706 through 466.994, ORS Chapter 183 and Oregon Administrative Rules (OAR)
11 Chapter 340, Divisions 011, 012, and 150.

12 II. FINDINGS OF FACT

13 1. Respondent is the owner and permittee of three underground storage tank (UST) systems
14 at three facilities located in Klamath Falls, Klamath County, Oregon. Facility #111, also known as
15 AMA #1, is located at 9255 S. 6th Street. Facility #1224, also known as AMA #2, is located at 5350 N.
16 Highway 99. Facility #12153, also known as AMA #3, is located at 522 S. 6th Street.

17 2. The UST systems at Respondent’s facilities are described as follows:

- 18 a. The UST system at Facility #111 consists of four USTs and connected piping, with a
19 total capacity of 30,000 gallons of gasoline and diesel fuel, which are regulated
20 substances.
- 21 b. The UST system at Facility #1224 consists of four USTs and connected piping, with a
22 total capacity of 30,000 gallons of gasoline and diesel fuel.
- 23 c. The UST system at Facility #12153 consists of two USTs and connected piping, with a
24 total capacity of 20,000 gallons of gasoline.

25 3. On December 7, 2023, DEQ conducted a full compliance inspection at Facility #111,
26 including the review of Respondent’s records of the UST system.

27 ///

1 4. On March 27, 2024, DEQ conducted full compliance inspections at Facility #1224 and
2 Facility #12153, including the review of Respondent's records of the UST systems.

3 5. On December 7, 2023, all four spill buckets at Facility #111 had liquid and debris
4 accumulated in them.

5 6. On December 7, 2023, all four spill buckets at Facility #111 failed visual inspection.

6 7. On March 27, 2024, two of four spill buckets at Facility #1224 had liquid and debris
7 accumulated in them.

8 8. On December 7, 2023, the diesel spill bucket at Facility #1224 failed visual inspection.

9 9. On March 27, 2024, the fill adapter on the premium spill bucket at Facility #1224 was
10 loose, rendering the spill bucket not liquid tight. Therefore, the spill bucket failed visual inspection.

11 10. On March 27, 2024, the regular unleaded spill bucket at Facility #12153 had liquid and
12 debris accumulated in it.

13 11. On or about December 7, 2023, Respondent inspected and tested the spill and overfill
14 prevention equipment at Facility #111, Facility #1224, and Facility #12153. Respondent had not
15 previously conducted this testing.

16 12. On or about December 7, 2023, Respondent tested the electronic and mechanical
17 components of the release detection systems at Facility #111, Facility #1224, and Facility #12153.
18 Respondent had not previously conducted this testing.

19 13. On or about December 7, 2023, Respondent tested the line leak detectors at Facility
20 #111, Facility #1224, and Facility #12153. Respondent had not conducted this testing since at least
21 August 1, 2019.

22 14. On or about December 7, 2023, Respondent performed line tightness testing at Facility
23 #111, Facility #1224, and Facility #12153. Respondent had not conducted this testing since at least
24 August 1, 2019.

25 15. As of December 7, 2023, Respondent had not performed monthly walkthrough
26 inspections of the spill prevention equipment and release detection equipment at Facility #111, and
27 Respondent did not have records of such inspections for at least one year.

1 16. As of March 27, 2024, Respondent had not performed monthly walkthrough inspections
2 of the spill prevention equipment and release detection equipment at Facility #1224 and Facility
3 #12153, and Respondent did not have records of such inspections for at least one year.

4 17. As of December 7, 2023, Respondent had not performed an annual operation and
5 maintenance walkthrough inspection at Facility #111, and Respondent did not have records of such an
6 inspection for the previous year.

7 18. As of March 27, 2024, Respondent had not performed annual operation and maintenance
8 walkthrough inspections at Facility #1224 and Facility #12153, and Respondent did not have records of
9 such inspections for the previous year.

10 19. On December 7, 2023, Respondent did not have records of release detection monitoring
11 at Facility #111 for the previous twelve (12) consecutive months.

12 20. On March 27, 2024, Respondent did not have records of release detection monitoring at
13 Facility #1224 and Facility #12153 for the previous twelve (12) consecutive months.

14 21. On March 27, 2024, the annular sensors for all three USTs at Facility #1224 were in
15 alarm status. The annular sensor for one UST at Facility #12153 was in alarm status.

16 22. On March 27, 2024, and as of the date of this Notice, Respondent had not made efforts
17 to investigate or confirm the suspected releases.

18 23. On March 27, 2024, the shear valves underneath one dispenser at Facility #111, several
19 dispensers at Facility #1224 and several dispensers at Facility #12153 were not functional and had been
20 wired open to allow fuel to be dispensed.

21 24. On March 27, 2024, there was no leak detection equipment installed in the under-
22 dispenser containment (UDC) for the dispenser at the south end of Facility #12153, nor in the premium
23 tank top sump. The piping between these two UST system components, which was replaced after
24 March 2008, did not have interstitial monitoring equipment installed.

25 ///

26 ///

27 ///

1 III. CONCLUSIONS

2 1. Respondent has violated OAR 340-150-0310(1) by failing to operate and maintain spill
3 prevention equipment at Facility #111, Facility #1224, and Facility #12153, to prevent the release of fuel
4 to the environment when the transfer hose is detached from the fill pipe, as alleged in Section II,
5 Paragraphs 5-10 above. These are Class I violations according to OAR 340-012-0067(1)(d). DEQ hereby
6 assesses a civil penalty of \$23,306 for these violations.

7 2. Respondent has violated OAR 340-150-0310(10) by failing to initially test its spill
8 prevention and overfill prevention equipment prior to October 1, 2020, and violated OAR 340-150-
9 0310(8)(b) and (9) by failing to test the equipment within three years of the initial deadline at Facility
10 #111, Facility #1224, and Facility #12153, as alleged in Section II, Paragraph 11 above. These are Class
11 I violations according to OAR 340-012-0067(1)(j). DEQ hereby assesses a civil penalty of \$14,514 for
12 these violations.

13 3. Respondent has violated OAR 340-150-0400(2) by failing to test the electronic and
14 mechanical components of the release detection system on an annual basis beginning on October 1,
15 2020, at Facility #111, Facility #1224, and Facility #12153, as alleged in Section II, Paragraph 12 above.
16 Since Respondent did not conduct the testing until December 7, 2023, it missed three annual tests.
17 These are Class I violations according to OAR 340-012-0067(1)(j). DEQ hereby assesses a civil penalty of
18 \$11,184 for these violations.

19 4. Respondent has violated OAR 340-150-0410(2)(c) by failing to conduct operational line leak
20 detector testing annually at Facility #111, Facility #1224, and Facility #12153, as alleged in Section II,
21 Paragraph 13 above. Since Respondent did not conduct testing between August 1, 2019, and December 7,
22 2023, it missed three annual tests. These are Class I violations according to OAR 340-012-0067(1)(j).
23 DEQ hereby assesses a civil penalty of \$13,046 for these violations.

24 ///

25 ///

26 ///

27 ///

1 5. Respondent has violated OAR 340-150-0410(3) by failing to conduct line tightness testing
2 annually at Facility #111, Facility #1224, and Facility #12153, as alleged in Section II, Paragraph 14
3 above. Since Respondent did not conduct testing between August 1, 2019, and December 7, 2023, it
4 missed three annual tests. These are Class I violations according to OAR 340-012-0067(1)(j). DEQ hereby
5 assesses a civil penalty of \$10,350 for these violations.

6 6. Respondent has violated OAR 340-150-0315(1)(a)(A) by failing to conduct walkthrough
7 inspections of the spill prevention equipment and release detection equipment every thirty (30) days at
8 Facility #111, Facility #1224, and Facility #12153, as alleged in Section II, Paragraphs 15-16 above.
9 These are Class II violations according to OAR 340-012-0053(2). DEQ hereby assesses a civil penalty of
10 \$6,075 for these violations.

11 7. Respondent has violated OAR 340-150-0315(1)(a)(B) by failing to conduct annual operation
12 and maintenance walkthrough inspections at Facility #111, Facility #1224, and Facility #12153, as
13 alleged in Section II, Paragraphs 17-18 above. These are Class II violations according to OAR 340-012-
14 0053(2). DEQ hereby assesses a civil penalty of \$5,400 for these violations.

15 8. Respondent has violated OAR 340-150-0465(6) by failing to retain the most current twelve
16 consecutive months of release detection records at Facility #111, Facility #1224, and Facility #12153, as
17 alleged in Section II, Paragraphs 19-20 above. These are Class II violations according to OAR 340-012-
18 0053(2). DEQ hereby assesses a civil penalty of \$5,400 for these violations.

19 9. Respondent has violated OAR 340-150-0510(1) by failing to immediately initiate
20 investigation and confirmation of a suspected release of fuel from four USTs at Facility #1224 and
21 Facility #12153, as alleged in Section II, Paragraph above. These are Class I violations according to
22 OAR 340-012-0067(1)(a). DEQ hereby assesses a civil penalty of \$10,200 for these violations.

23 10. Respondent has violated OAR 340-150-0163(1)(h) by failing to repair or replace shear valves,
24 which are UST system components that prevent releases of fuel, at Facility #111, Facility #1224 and
25 Facility #12153, as alleged in Section II, Paragraph 23 above. These are Class II violations according to
26 OAR 340-012-0053(2). DEQ hereby assesses a civil penalty of \$7,200 for these violations.

27 ///

1 11. Respondent has violated OAR 340-150-0400(1)(a) and OAR 340-150-0135(12) by failing to
2 provide a method of release detection that can detect a release from any portion of the UST and the
3 underground piping that routinely contains a regulated substance, specifically the UDC and sump and new
4 piping, at Facility #12153, as alleged in Section II, Paragraph 24 above. This is a Class I violation
5 according to OAR 340-012-0067(1)(e). DEQ hereby assesses a \$4,500 civil penalty for this violation.

6 IV. ORDER TO PAY CIVIL PENALTY AND TO COMPLY

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

9 1. Pay a total civil penalty of \$111,175. The determination of the civil penalty is attached as
10 Exhibits 1-11, which are incorporated as part of this Notice.

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

14 2. Within sixty (60) days of this order becoming final by operation of law or on appeal, take
15 the following action to bring the UST systems into compliance. Submit written documentation
16 demonstrating compliance with each of the requirements below to Dylan Eckert, UST inspector, by
17 mail to 165 E 7th Ave, Suite 100, Eugene, Oregon 97401 or by email to:
18 Dylan.Eckert@deq.oregon.gov.

- 19 a. Remove all liquid and debris from spill buckets and sumps and properly dispose of the
20 waste;
- 21 b. Repair or replace all five spill buckets that failed testing. After the work is completed,
22 conduct hydrostatic testing and submit the results to DEQ;
- 23 c. Repair or replace the non-functioning shear valves at Facility #1224 and Facility #12153
24 and submit documentation to DEQ;
- 25 d. Investigate the suspected release conditions at Facility #1224 and Facility #12153 and
26 submit a report to DEQ.

27 ///

- 1 e. Install release detection equipment in the UDC and install interstitial monitoring
2 equipment at Facility #12153 and submit a completed Modification Checklist to DEQ;
3 and
4 f. Submit records of monthly walkthrough inspections at all three facilities for the past six
5 months to DEQ.

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

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

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

26 ///

27 ///

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

7
8
9
10 1/23/2025
11 Date

Rebecca Puskas
12 Becca Puskas, Interim Manager
13 Office of Compliance and Enforcement
14
15
16
17
18
19
20
21
22
23
24
25
26
27

EXHIBIT 1

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

VIOLATION NO. 1 Failing to operate and maintain spill prevention equipment to prevent the release of fuel to the environment when the transfer hose is detached from the fill pipe, in violation of OAR 340-150-0310(1).

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0067(1)(d).

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 for 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 \$1,500 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(4)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(4)(a)(I). Respondent is the owner or permittee of three UST facilities.

"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 10 according to OAR 340-012-0145(2)(a)(C) and (D). Respondent had three Class I violations in Case No. 2019-FC-4895, three Class I violations and two Class II violations in Case No. 2019-FC-4894, and two Class II violations in Case No. 2019-FC-4892.

"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 insufficient information on which to base a finding under paragraphs (3)(a) or (b).

"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. Each day of violation is a separate occurrence. The violation was documented at all three facilities during inspections on December 7, 2023 and March 27, 2024, and has not been corrected as of the date of this Notice, which is a duration of approximately one year.

"M" is the mental state of Respondent and receives a value of 4 according to OAR 340-012-0145(5)(c) because Respondent's conduct was negligent. By failing to properly maintain spill buckets and repair or replace them when needed, Respondent failed to take reasonable care to avoid a foreseeable risk that it would violate spill prevention requirements.

"C" is Respondent's efforts to correct or mitigate the violation, and receives a value of 2 according to OAR 340-012-0145(6)(g) because Respondent 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). As of the date of this Notice, Respondent has not repaired or replaced the spill buckets that failed inspection.

"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 \$9,806. This is the amount Respondent gained by avoiding spending a total of \$12,500 (\$2,500 per spill bucket) to repair or replace four spill buckets at Facility #111 and one spill bucket at Facility #1224. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

The civil penalty for the same violation at all three facilities is calculated in this exhibit.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$

$$\begin{aligned} &= 3 \times [\$1,500 + [(0.1 \times \$1,500) \times (10 + 0 + 4 + 4 + 2)]] + \$9,806 \\ &= 3 \times [\$1,500 + (\$150 \times 20)] + \$9,806 \\ &= 3 \times [\$1,500 + \$3,000] + \$9,806 \\ &= \$23,306 \end{aligned}$$

EXHIBIT 2

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

VIOLATION NO. 2 Failing to initially test spill prevention and overfill prevention equipment by October 1, 2020, in violation of OAR 340-150-0310(10), and within three years of the initial deadline, in violation of OAR 340-150-0310(8)(b) and (9).

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0067(1)(j).

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 for 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 \$1,500 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(4)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(4)(a)(I). Respondent is the owner or permittee of three UST facilities.

"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 10 according to OAR 340-012-0145(2)(a)(C) and (D). Respondent had three Class I violations in Case No. 2019-FC-4895, three Class I violations and two Class II violations in Case No. 2019-FC-4894, and two Class II violations in Case No. 2019-FC-4892.

"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 insufficient information on which to base a finding under paragraphs (3)(a) or (b).

"O" is whether the violation was repeated or ongoing, and receives a value of 2 according to OAR 340-012-0145(4)(b) because there were more than one but less than seven occurrences of the violation. Respondent failed to conduct initial testing by October 1, 2020, and again by October 1, 2023.

"M" is the mental state of the Respondent and receives a value of 2 according to OAR 340-012-0145(5)(b) because Respondent had constructive knowledge (reasonably should have known) of the requirement. In 2018, DEQ adopted the regulation requiring that the testing be completed prior to October 1, 2020, and provided extensive outreach to the regulated community on the requirement to conduct the testing prior to that date. Respondent

reasonably should have known of the requirement to conduct the testing prior to October 1, 2020, and every three years thereafter.

"C" is Respondent's efforts to correct or mitigate the violation and receives a value of - 3 according to OAR 340-012-0145(6)(c) because Respondent made reasonable efforts to correct the violation by completing the testing on December 7, 2023.

"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 \$5,064. This is the amount Respondent gained by avoiding spending \$3,250 to test the spill and overfill prevention equipment in 2020, and spending \$3,250 to test this equipment in 2023. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

The civil penalty for the same violation at all three facilities is calculated in this exhibit.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
 $= 3 \times [\$1,500 + [(0.1 \times \$1,500) \times (10 + 0 + 2 + 2 - 3)]] + \$5,064$
 $= 3 \times [\$1,500 + (\$150 \times 11)] + \$5,064$
 $= 3 \times [\$1,500 + \$1,650] + \$5,064$
 $= \$14,514$

EXHIBIT 3

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

VIOLATION NO. 3 Failing to test the electronic and mechanical components of the release detection system on an annual basis, in violation of OAR 340-150-0400(2).

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0067(1)(j).

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 for 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 \$1,500 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(4)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(4)(a)(I). Respondent is the owner or permittee of three UST facilities.

"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 10 according to OAR 340-012-0145(2)(a)(C) and (D). Respondent had three Class I violations in Case No. 2019-FC-4895, three Class I violations and two Class II violations in Case No. 2019-FC-4894, and two Class II violations in Case No. 2019-FC-4892.

"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 insufficient information on which to base a finding under paragraphs (3)(a) or (b).

"O" is whether the violation was repeated or ongoing, and receives a value of 2 according to OAR 340-012-0145(4)(b) because there were more than one but less than seven occurrences of the violation. Respondent failed to conduct annual testing for three years: 2020, 2021, and 2022.

"M" is the mental state of the Respondent, and receives a value of 2 according to OAR 340-012-0145(5)(b) because Respondent had constructive knowledge (reasonably should have known) of the requirement. In 2018, DEQ adopted the regulation requiring that the testing be completed prior to October 1, 2020, and had provided extensive outreach to the regulated community on the requirement to conduct the testing prior to that date. Respondent reasonably should have known of the requirement to conduct the testing by October 1, 2020, and annually thereafter.

"C" is Respondent's efforts to correct or mitigate the violation, and receives a value of -3 according to OAR 340-012-0145(6)(c) because Respondent made reasonable efforts to correct the violation. Respondent completed the testing on December 7, 2023.

"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 \$1,734. This is the amount Respondent gained by avoiding spending \$675 per year to conduct annual testing for three years at three facilities. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

The civil penalty for the same violation at all three facilities is calculated in this exhibit.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
 $= 3 \times [\$1,500 + [(0.1 \times \$1,500) \times (10 + 0 + 2 + 2 - 3)]] + \$1,734$
 $= 3 \times [\$1,500 + (\$150 \times 11)] + \$1,734$
 $= 3 \times [\$1,500 + \$1,650] + \$1,734$
 $= \$11,184$

EXHIBIT 4

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

VIOLATION NO. 4 Failing to conduct annual operational line leak detector testing, in violation of OAR 340-150-0410(2)(c).

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0067(1)(j).

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 for 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 \$1,500 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(4)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(4)(a)(I). Respondent is the owner or permittee of three UST facilities.

"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 10 according to OAR 340-012-0145(2)(a)(C) and (D). Respondent had three Class I violations in Case No. 2019-FC-4895, three Class I violations and two Class II violations in Case No. 2019-FC-4894, and two Class II violations in Case No. 2019-FC-4892.

"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 insufficient information on which to base a finding under paragraphs (3)(a) or (b).

"O" is whether the violation was repeated or ongoing, and receives a value of 2 according to OAR 340-012-0145(4)(b) because there were more than one but less than seven occurrences of the violation. Respondent failed to conduct annual testing on three occasions between 2019 and the date it completed the testing, December 7, 2023.

"M" is the mental state of the Respondent, and receives a value of 4 according to OAR 340-012-0145(5)(c) because Respondent's conduct was negligent. By failing to conduct line leak detector testing for three years, Respondent failed to take reasonable care to avoid a foreseeable risk that it would violate UST requirements.

"C" is Respondent's efforts to correct or mitigate the violation, and receives a value of -3 according to OAR 340-012-0145(6)(c) because Respondent made reasonable efforts to correct the violation. Respondent completed the line leak detector testing on December 7, 2023.

"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 \$2,696. This is the amount Respondent gained by avoiding spending \$1,050 per year to conduct line tightness and line leak detector testing for three years at three facilities. This "EB" was calculated pursuant to OAR 340-012-0150(1) using the U.S. Environmental Protection Agency's BEN computer model.

The civil penalty for the same violation at all three facilities is calculated in this exhibit.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
 $= 3 \times [\$1,500 + [(0.1 \times \$1,500) \times (10 + 0 + 2 + 4 - 3)]] + \$2,696$
 $= 3 \times [\$1,500 + (\$150 \times 13)] + \$2,696$
 $= 3 \times [\$1,500 + \$1,950] + \$2,696$
 $= \$13,046$

EXHIBIT 5

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

VIOLATION NO. 5 Failing to conduct annual line tightness testing, in violation of OAR 340-150-0410(3).

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0067(1)(j).

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 for 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 \$1,500 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(4)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(4)(a)(I). Respondent is the owner or permittee of three UST facilities.

"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 10 according to OAR 340-012-0145(2)(a)(C) and (D). Respondent had three Class I violations in Case No. 2019-FC-4895, three Class I violations and two Class II violations in Case No. 2019-FC-4894, and two Class II violations in Case No. 2019-FC-4892.

"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 insufficient information on which to base a finding under paragraphs (3)(a) or (b).

"O" is whether the violation was repeated or ongoing, and receives a value of 2 according to OAR 340-012-0145(4)(b) because there were more than one but less than seven occurrences of the violation. Respondent failed to conduct annual testing on three occasions between 2019 and the date it completed the testing, December 7, 2023.

"M" is the mental state of the Respondent, and receives a value of 4 according to OAR 340-012-0145(5)(c) because Respondent's conduct was negligent. By failing to conduct line tightness testing for three years, Respondent failed to take reasonable care to avoid a foreseeable risk that it would violate UST requirements.

"C" is Respondent's efforts to correct or mitigate the violation, and receives a value of -3 according to OAR 340-012-0145(6)(c) because Respondent made reasonable efforts to correct the violation. Respondent completed the line tightness testing on December 7, 2023.

"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 for this violation is included in Exhibit 4.

The civil penalty for the same violation at all three facilities is calculated in this exhibit.

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 \times [\$1,500 + [(0.1 \times \$1,500) \times (10 + 0 + 2 + 4 - 3)]] + \0
 $= 3 \times [\$1,500 + (\$150 \times 13)] + \$0$
 $= 3 \times [\$1,500 + \$1,950] + \$0$
 $= \$10,350$

EXHIBIT 6

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

VIOLATION NO. 6 Failing to perform monthly walkthrough inspections of the spill prevention equipment and release detection equipment, in violation of OAR 340-150-0315(1)(a).

CLASSIFICATION: This is a Class II violation pursuant to OAR 340-012-0053(2).

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 for this violation, and the information reasonably available to DEQ does not indicate a minor or major magnitude.

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

"BP" is the base penalty, which is \$750 for a Class II, moderate magnitude violation in the matrix listed in OAR 340-012-0140(4)(b)(B)(ii) and applicable pursuant to OAR 340-012-0140(4)(a)(I). Respondent is the owner or permittee of three UST facilities.

"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 10 according to OAR 340-012-0145(2)(a)(C) and (D). Respondent had three Class I violations in Case No. 2019-FC-4895, three Class I violations and two Class II violations in Case No. 2019-FC-4894, and two Class II violations in Case No. 2019-FC-4892.

"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 insufficient information on which to base a finding under paragraphs (3)(a) or (b).

"O" is whether the violation was repeated or ongoing, and receives a value of 3 according to OAR 340-012-0145(4)(c) because there were from seven to 28 occurrences of the violation. Respondent is required to conduct walkthrough inspections on a monthly basis. Respondent did not conduct walkthrough inspections for at least twelve months.

"M" is the mental state of the Respondent, and receives a value of 4 according to OAR 340-012-0145(5)(c) because Respondent's conduct was negligent. By failing to conduct walkthrough inspections for at least twelve months, Respondent failed to take reasonable care to avoid a foreseeable risk that it would violate UST requirements.

"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 the violation or the effects of the violation could not be corrected or minimized.

"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 finds that the economic benefit Respondent gained by failing to conduct walkthrough inspections was de minimis.

The civil penalty for the same violation at all three facilities is calculated in this exhibit.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$

$$\begin{aligned} &= 3 \times [\$750 + [(0.1 \times \$750) \times (10 + 0 + 3 + 4 + 0)]] + \$0 \\ &= 3 \times [\$750 + (\$75 \times 17)] + \$0 \\ &= 3 \times (\$750 + \$1,275) + \$0 \\ &= 3 \times \$2,025 + 0 \\ &= \$6,075 \end{aligned}$$

EXHIBIT 7

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

- VIOLATION NO. 7 Failing to perform an annual operation and maintenance walkthrough inspection, in violation of OAR 340-150-0315(1)(a)(B).
- CLASSIFICATION: This is a Class II violation pursuant to OAR 340-012-0053(2).
- 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 for this violation, and the information reasonably available to DEQ does not indicate a minor or major magnitude.
- CIVIL PENALTY FORMULA: The formula for determining the amount of penalty of each violation is: $BP + [(0.1 \times BP) \times (P + H + O + M + C)] + EB$
- "BP" is the base penalty, which is \$750 for a Class II, moderate magnitude violation in the matrix listed in OAR 340-012-0140(4)(b)(B)(ii) and applicable pursuant to OAR 340-012-0140(4)(a)(I). Respondent is the owner or permittee of three UST facilities.
- "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 10 according to OAR 340-012-0145(2)(a)(C) and (D). Respondent had three Class I violations in Case No. 2019-FC-4895, three Class I violations and two Class II violations in Case No. 2019-FC-4894, and two Class II violations in Case No. 2019-FC-4892.
- "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 insufficient information on which to base a finding under paragraphs (3)(a) or (b).
- "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 failed to conduct annual operation and maintenance walkthrough inspections for the year preceding DEQ's inspection.
- "M" is the mental state of the Respondent, and receives a value of 4 according to OAR 340-012-0145(5)(c) because Respondent's conduct was negligent. By failing to conduct an annual walkthrough inspection, Respondent failed to take reasonable care to avoid a foreseeable risk that it would violate UST requirements.

"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 the violation or the effects of the violation could not be corrected or minimized.

"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 finds that the economic benefit Respondent gained by failing to conduct walkthrough inspections was de minimis.

The civil penalty for the same violation at all three facilities is calculated in this exhibit.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$

$$\begin{aligned} &= 3 \times [\$750 + [(0.1 \times \$750) \times (10 + 0 + 0 + 4 + 0)]] + \$0 \\ &= 3 \times [\$750 + (\$75 \times 14)] + \$0 \\ &= 3 \times (\$750 + \$1,050) + \$0 \\ &= 3 \times \$1,800 + 0 \\ &= \$5,400 \end{aligned}$$

EXHIBIT 8

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

VIOLATION NO. 8 Failing to retain the most current twelve consecutive months of release detection records, in violation of OAR 340-150-0465(6).

CLASSIFICATION: This is a Class II violation pursuant to OAR 340-012-0053(2).

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 for this violation, and the information reasonably available to DEQ does not indicate a minor or major magnitude.

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

"BP" is the base penalty, which is \$750 for a Class II, moderate magnitude violation in the matrix listed in OAR 340-012-0140(4)(b)(B)(ii) and applicable pursuant to OAR 340-012-0140(4)(a)(I). Respondent is the owner or permittee of three UST facilities.

"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 10 according to OAR 340-012-0145(2)(a)(C) and (D). Respondent had three Class I violations in Case No. 2019-FC-4895, three Class I violations and two Class II violations in Case No. 2019-FC-4894, and two Class II violations in Case No. 2019-FC-4892.

"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 insufficient information on which to base a finding under paragraphs (3)(a) or (b).

"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. DEQ documented the lack of recordkeeping during the inspection.

"M" is the mental state of the Respondent, and receives a value of 4 according to OAR 340-012-0145(5)(c) because Respondent's conduct was negligent. By failing to maintain records of release detection monitoring, Respondent failed to take reasonable care to avoid a foreseeable risk that it would violate UST requirements.

"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 the violation or the effects of the violation could not be corrected or minimized.

"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 finds that the economic benefit Respondent gained by failing to maintain records was de minimis.

The civil penalty for the same violation at all three facilities is calculated in this exhibit.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$

$$\begin{aligned} &= 3 \times [\$750 + [(0.1 \times \$750) \times (10 + 0 + 0 + 4 + 0)]] + \$0 \\ &= 3 \times [\$750 + (\$75 \times 14)] + \$0 \\ &= 3 \times (\$750 + \$1,050) + \$0 \\ &= 3 \times \$1,800 + 0 \\ &= \$5,400 \end{aligned}$$

EXHIBIT 9

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

VIOLATION NO. 9 Failing to immediately initiate investigation and confirmation of a suspected release, in violation OAR 340-150-0510(1).

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0067(1)(a).

MAGNITUDE: The magnitude of the violation is moderate, pursuant to OAR 340-012-0130(1), as there is no selected magnitude specified in OAR 340-012-0135 for 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 \$1,500 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(4)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(4)(a)(I). Respondent is the owner or permittee of three UST facilities.

"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 10 according to OAR 340-012-0145(2)(a)(C) and (D). Respondent had three Class I violations in Case No. 2019-FC-4895, three Class I violations and two Class II violations in Case No. 2019-FC-4894, and two Class II violations in Case No. 2019-FC-4892.

"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 insufficient information on which to base a finding under paragraphs (3)(a) or (b).

"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. Each day of violation is a separate occurrence. DEQ observed the alarm status indicating a suspected release on March 27, 2024, and Respondent has not investigated the suspected releases as of the date of this Notice, which is a duration of more than eight months.

"M" is the mental state of Respondent and receives a value of 8 according to OAR 340-012-0145(5)(d) because Respondent's conduct was reckless. As permitted UST facility, Respondent is aware of the requirement to investigate and clean up releases of petroleum products. During its inspection on March 27, 2024, DEQ documented the suspected release conditions and notified Respondent of the requirement to investigate. However, Respondent has not investigated the release as of the date of this Notice. By failing to investigate a suspected petroleum release at its facility, Respondent consciously disregarded a substantial

and unjustifiable risk that a release had occurred. Because of the potential impacts of petroleum releases on human health and the environment, disregarding this risk constituted a gross deviation from the standard of care a reasonable permittee would observe in that situation.

"C" is Respondent's efforts to correct or mitigate the violation, and receives a value of 2 according to OAR 340-012-0145(6)(g) because Respondent 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). As of the date of this Notice, Respondent has not investigated the suspected release.

"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 on which to make an estimate of Respondent's economic benefit, if any.

The civil penalty for the same violation at two facilities (Facility #1224 and Facility #12153) is calculated in this exhibit.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$

$$\begin{aligned} &= 2 \times [\$1,500 + [(0.1 \times \$1,500) \times (10 + 0 + 4 + 8 + 2)]] + \$0 \\ &= 2 \times [\$1,500 + (\$150 \times 24)] + \$0 \\ &= 2 \times [\$1,500 + \$3,600] + \$0 \\ &= \$10,200 \end{aligned}$$

EXHIBIT 10

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

VIOLATION NO. 10 Failing to repair, modify or replace UST system components, specifically shear valves, as necessary to prevent releases, in violation of OAR 340-150-0163(1)(h).

CLASSIFICATION: This is a Class II violation pursuant to OAR 340-012-0053(2).

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 for this violation, and the information reasonably available to DEQ does not indicate a minor or major magnitude.

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

"BP" is the base penalty, which is \$750 for a Class II, moderate magnitude violation in the matrix listed in OAR 340-012-0140(4)(b)(B)(ii) and applicable pursuant to OAR 340-012-0140(4)(a)(I). Respondent is the owner or permittee of three UST facilities.

"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 10 according to OAR 340-012-0145(2)(a)(C) and (D). Respondent had three Class I violations in Case No. 2019-FC-4895, three Class I violations and two Class II violations in Case No. 2019-FC-4894, and two Class II violations in Case No. 2019-FC-4892.

"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 insufficient information on which to base a finding under paragraphs (3)(a) or (b).

"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. Each day of violation is a separate occurrence. DEQ observed that the violation on March 27, 2024, and Respondent has not repaired or replaced the shear valves as of the date of this Notice, which is a duration of more than eight months.

"M" is the mental state of the Respondent, and receives a value of 8 according to OAR 340-012-0145(5)(d) because Respondent's conduct was reckless. Shear valves are required UST system components that prevent releases of fuel caused by impact or damage to dispensers by shutting off the flow of fuel. When the shear valves became non-functional, rather than repair or replace them, Respondent wired them to stay in the open position so that it could continue dispensing fuel. By tampering with the shear valves rather than repairing or

replacing them, Respondent consciously disregarded a substantial and unjustifiable risk that it did not have the required equipment to prevent a release. Because of the potential impacts of petroleum releases on human health and the environment, disregarding this risk constituted a gross deviation from the standard of care a reasonable permittee would observe in that situation.

"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 the violation or the effects of the violation could not be corrected or minimized.

"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 on which to base an estimate of Respondent's economic benefit.

The civil penalty for the same violation at all three facilities is calculated in this exhibit.

PENALTY CALCULATION: $Penalty = BP + [(0.1 \times BP) \times (P + H + O + M + C)] + EB$

$$\begin{aligned} &= 3 \times [\$750 + [(0.1 \times \$750) \times (10 + 0 + 4 + 8 + 0)]] + \$0 \\ &= 3 \times [\$750 + (\$75 \times 22)] + \$0 \\ &= 3 \times (\$750 + \$1,650) + \$0 \\ &= 3 \times \$2,400 + 0 \\ &= \$7,200 \end{aligned}$$

EXHIBIT 11

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

VIOLATION NO. 11 Failing to provide a method of release detection that can detect a release from any portion of the UST and the underground piping that routinely contains a regulated substance, in violation of OAR 340-150-0400(1)(a) and OAR 340-150-0135(12).

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0067(1)(e).

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 for 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 \$1,500 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(4)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(4)(a)(I). Respondent is the owner or permittee of three UST facilities.

"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 10 according to OAR 340-012-0145(2)(a)(C) and (D). Respondent had three Class I violations in Case No. 2019-FC-4895, three Class I violations and two Class II violations in Case No. 2019-FC-4894, and two Class II violations in Case No. 2019-FC-4892.

"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 insufficient information on which to base a finding under paragraphs (3)(a) or (b).

"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. Each day of violation is a separate occurrence. DEQ documented the violation on March 27, 2024, and Respondent has not installed the necessary release detection equipment as of the date of this Notice, which is a duration of more than eight months.

"M" is the mental state of Respondent, and receives a value of 4 according to OAR 340-012-0145(5)(c) because Respondent's conduct was negligent. By failing to ensure that release detection equipment was installed in the under-dispenser containment (UDC) and that recently installed piping had interstitial monitoring before DEQ's inspection in April 2024

or after being notified of its noncompliance, Respondent failed to take reasonable care to avoid a foreseeable risk that it would violate UST requirements.

"C" is Respondent's efforts to correct or mitigate the violation, and receives a value of 2 according to OAR 340-012-0145(6)(g) because Respondent 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). As of the date of this Notice, Respondent has not installed release detection equipment.

"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 on which to make an estimate of Respondent's economic benefit.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$

$$\begin{aligned} &= \$1,500 + [(0.1 \times \$1,500) \times (10 + 0 + 4 + 4 + 2)] + \$0 \\ &= \$1,500 + (\$150 \times 20) + \$0 \\ &= \$1,500 + \$3,000 + \$0 \\ &= \$4,500 \end{aligned}$$

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



State of Oregon
DEQ Department of Environmental Quality

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

UST - CIVIL PENALTY

| | |
|------------------------|------------------|
| DATE: | January 23, 2025 |
| RESPONSE DATE : | April 3, 2025 |
| TOTAL PENALTY: | \$111,175.00 |

| | | | |
|----------------------|-----------------------------|--------------------------|---------------------|
| Account Name: | AMA MINI MART #1 | | |
| Account Type: | Vendor/Organization/Company | Reference Number: | CPUST2500002 |
| SubSystem ID: | 242037 | FIMS Acct. ID: | 22520 |

Penalty Summary

| Penalty Amount | Interest | Adjustment | Amount Paid | Total Penalty |
|----------------|----------|------------|-------------|---------------|
| \$ 111,175.00 | \$ 0.00 | \$ 0.00 | \$ 0.00 | \$ 111,175.00 |

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'



 PLEASE RETURN THIS PORTION WITH YOUR PAYMENT



| | | | |
|------------------------|---------------------------------------|---------------------------|---------------|
| REFERENCE NO. | CPUST2500002 | | |
| PAYCODE: | 00563 3240 10040 32432 0500 000000 00 | | |
| FEE PROGRAM ID: | 954 | RESPONSE DATE: | April 3, 2025 |
| FIMS ACCT. ID: | 22520 | TOTAL PENALTY DUE: | \$111175.00 |

AMOUNT ENCLOSED:

MAKE CHECK PAYABLE TO: Department of Environmental Quality

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

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

00563 3240 10040 32432 0500 000000 0095400225201CPUST250000200111175004



State of Oregon
Department of
Environmental
Quality

State of Oregon Department of Environmental Quality

UST - CIVIL PENALTY

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

Penalty Detail

| Transaction Date | Description | Amount |
|------------------|-----------------------------|--------------|
| 1/22/2025 | 2023-160 LQ-UST-ER-2023-160 | \$111,175.00 |

SFMS Agencies Use:

| Trans Code | Treasury Fund | SFMS | Index | PCA (5) | Agency Object | Project # | Phase |
|------------|---------------|------|-------|---------|---------------|-----------|-------|
| 723 | 00563 | 3240 | 10040 | 32432 | 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. LQ/OST-ER-2023-160 upon:

9589 0710 5270 0688 6501 74

| | |
|---|--|
| U.S. Postal Service™ CERTIFIED MAIL® RECEIPT Domestic Mail Only | |
| For delivery information, visit our website at www.usps.com ®. | |
| OFFICIAL USE | |
| AMA Mini Mart Inc 1 c/o Anesti Audeh, Registered Agent 522 S. 6th Street Klamath Falls, OR 97601 | |
| Total Postage and Fees | |
| 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 January 23, 2025

Trace Griffin

Office of Compliance and Enforcement
Department of Environmental Quality