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Trust Fund Eligibility/Storage Tank Enforcement: Tennessee Department of Environment and Conservation and Chattanooga Solid Waste Facility Enter Into Settlement Agreement

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The Tennessee Department of Environment and Conversation and BFI Waste Services, LLC (“BFI”) entered into a December 11th Settlement Agreement and Order (“Settlement”) addressing alleged violations of the Tennessee Underground Storage Tank (“UST”) regulations. See TDEC Case No. FDA23-0027.

The Settlement provides that BFI is the property owner of a site that contains two UST systems in Chattanooga, TN.

The TDEC Division of Underground Storage Tanks (“Division”) performed a compliance inspection at the BFI facility on January 30th. The following violations are alleged to have been identified:

- Failure to use spill prevention equipment that will prevent a release of petroleum into the environment when the hose is detached
- Failure to install or provide adequate overfill equipment
- Failure to install, calibrate, operate or maintain release detection methods for a tank in accordance with the manufacturer’s instructions
- Failure to monitor tanks at least monthly for releases
- Failure to maintain results of annual testing of electronic and electrical components for three years
- Failure to conduct release investigation activities
- Failure to perform monthly walk through inspections
- Failure to perform visual inspections for seeps and drips under all dispensers
- Failure to report a suspected release within 72 hours

BFI is stated to have begun monthly walk through inspections on the inspection date. It is also stated to have completed first quarterly dispenser inspections in the past 12 months. Therefore, two violations have been addressed.

In addition, at the time of inspection Division staff are stated to have witnessed and documented an overfill of tank #2A. Such overfill event is stated to be a release and required further investigations.

Division personnel issued a Results of Compliance Inspection on February 6. The document also addressed fund reimbursement and action required. A release investigation-system test letter was also provided.

Division personnel were stated to have received a passing system testing for both tank 1A and 2A. This addressed a violation.

A Closure of Suspected Release letter was provided to BFI on March 14th. As a result, the suspected release case was closed.

The Division received an Application for Fund Eligibility from BFI on April 13th for the January 30th release. Division personnel are stated to have determined that the facility did not meet requirements for the minimum deductible for the release due to the following:

- Failure to report a suspected release within 72 hours
- Failure to install, calibrate, operate or maintain a release detection method for the tank in accordance with manufacturer's instructions
- Failure to use spill prevention equipment that will prevent a release of petroleum into the environment when the transfer hose is detached
- Failure to install or provide adequate overfill prevention equipment
- Failure to perform a monthly walk through inspection

The Division issued an Order on September 6th requiring BFI to perform all actions necessary to correct outstanding violations and to bring the facility into full compliance with regulatory requirements. Further, it required BFI to attend and complete UST training. All violations cited in the Order have been addressed by October 16th.

The Settlement assesses a civil penalty of \$13,600.00. Further, BFI's assessed the costs of personally serving the Order in the amount of \$90.00. In addition, a contingent civil penalty in the amount of \$13,600.00 will be due if BFI has any operator retraining violations during the 12 calendar months following the effective date of the Settlement or if BFI fails to pay the upfront civil penalty within 30 days of the effective date of the Settlement.

The Settlement sets the deductible for the release at \$30,000.00.

A copy of the Settlement can be downloaded [here](#).