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Storage Tank Enforcement: Tennessee Department of Environment and Conservation Proposed Order/Assessment Addressing Robertson County Facility

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The Tennessee Department of Environment and Conservation (“TDEC”) issued a February 7th Proposed Order and Assessment (“Order”) to Murphy Oil USA, Inc. (“Murphy”).

The Order provides that Murphy is the registered owner of three underground storage tank (“UST”) systems located in Robertson County, Tennessee.

The TDEC Division of Underground Storage Tanks (“Division”) is stated to have received an email from an individual with the Division of Solid Waste Management on December 21, 2021, informing the Division of a release of around 50 gallons of product at the Murphy facility on December 17, 2021. Murphy is stated to have been required to investigate the release through a site check to determine if any further corrective action would be required.

TDEC Division personnel are stated to have performed a compliance inspection of the facility on December 28, 2021. Several violations were allegedly identified. However, the violations discovered during the inspection have since been addressed.

Division personnel are stated to have sent a Closure of Suspected Release Investigation letter on February 20th to Murphy. The Order provides that:

... based on the information available, no further investigation or corrective action was required and the case was closed.

The Division is stated to have received an application for fund eligibility from Murphy for the December 17, 2021, suspected release at the facility. The application is stated to have been received 640 days after the December 17, 2021, suspected release. The Order further provides:

... it was noted in the application referral that the original application had been sent to the William R. Snodgrass Tennessee Tower earlier in the year. The application referral contained FedEx tracking alleging that the application arrived at the Tennessee Tower on January 9, 2023. This application was never received by the Division of UST. Even if the Division received the application on January 9, 2023, such application would have been submitted 388 days after the December 17, 2021, suspected release.

Division personnel are stated to have reviewed the Application for Fund Eligibility along with the documentation required by the rules and determined that it did not meet the requirements for reimbursement for the release due to alleged failure to submit the Application for Fund Eligibility within 90 days of the suspected release.

The Order identifies as an alleged violation the failure to operate a UST in compliance with the Act, violating Tennessee Code Ann. Section 68-214-104(2).

The Order provides that the Application for Fund Eligibility for the December 17, 2021, release is denied. Further, it provides that if Murphy fails to comply with the Order and/or file an appeal within the required timeframe, the facility will be placed on the Delivery Prohibition List. Murphy is required to complete certain operator retraining described in the Order.

The Order provides certain appeal rights.

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