

SETTLEMENT AGREEMENT
In the Matter of Ziptron Energy, Inc.
Division of Underground Storage Tanks, Director's Order No. UST22-0062

This Settlement Agreement is an agreement between the Department of Environment and Conservation ("Department") and Ziptron Energy, Inc. ("Respondent"), collectively, the "Parties." The Parties enter into this Settlement Agreement to resolve violations of the Tennessee Petroleum Underground Storage Tank Act ("UST Act"), Tenn. Code Ann. §§ 68-215-101 to -129, alleged in Director's Order and Assessment UST22-0062 ("Order"), issued by the Department on June 23, 2022.

WHEREAS the Respondent is the registered owner of three underground storage tank ("UST") system(s) located at 979 South Jefferson Avenue, Cookeville, Tennessee 38501 ("Facility");

WHEREAS the Order alleged the Respondent committed violations of the UST Act and the rules promulgated thereunder by failing to:

1. Conduct release detection monitoring at least monthly as required by Tenn. Comp. R. & Regs. 0400-18-01-.04(2)(a);
2. Keep spill catchment basins free of water, dirt, debris, etc., as required by Tenn. Comp. R. & Regs. 0400-18-01-.02(3)(b)3; and
3. Cooperate with the Department's Division of Underground Storage Tanks ("Division"), by failing to provide documents, testing, or monitoring records to the Division as required by Tenn. Comp. R. & Regs. 0400-18-01-.03(2);

WHEREAS the Order assessed \$12,240 in civil penalties. The Respondent was properly served with the Order on July 8, 2022 and did not submit a timely appeal of the Order or submit any payment of the civil penalties. As a result, the Order became final on August 8, 2022, and the full amount of civil penalties became due;

WHEREAS since issuance of the Order, the Department's Division of Underground Storage Tanks ("Division") confirmed the Respondent corrected the violations alleged in the Order and completed Underground Storage Tank Training on September 14, 2022;

WHEREAS the Respondent endeavors to resolve this matter having communicated with the Division after the Order became final;

NOW, THEREFORE, to resolve this matter, the Parties agree as follows:

1. The Respondent will pay \$8,870, which represents \$8,640 of the assessed civil penalties plus \$230 for the cost of the private process server used to serve the Order. The Respondent will pay this amount such that it is received by the Department within 30 days following the effective date of this Settlement Agreement. The check shall be made payable to the "Treasurer, State of Tennessee" with the case number, UST22-0062, written in the check memo line. Should any payment due date be a Saturday, Sunday, or legal State holiday, the payment shall be paid such that it is received by the Department not later than the next business day following such day. Such payment will be sent to:

Division of Fiscal Services – Consolidated Fees Section
Department of Environment and Conservation
William R. Snodgrass Tennessee Tower, 10th Floor
312 Rosa L. Parks Avenue
Nashville, Tennessee 37243

2. The Respondent shall not allow any automatic enforcement referral violations, as listed in the attachment to this Settlement Agreement, to occur at the Facility for a period of one year from the effective date of this Settlement Agreement.
3. This Settlement Agreement is an integrated contract, and all prior negotiations are merged into this document. No promise, offer, inducement, or representation not set out in this Settlement Agreement forms any part of the Parties' agreement. This Settlement Agreement is the product of the Parties' joint efforts, and for purposes of applying any rule of construction, the Parties shall be deemed to have participated equally in the drafting of this Settlement Agreement.
4. The Parties have each had the opportunity to consult with their respective counsel, if any, regarding this Settlement Agreement, and each enters into this Settlement Agreement voluntarily and with full knowledge of its legal consequences.
5. This Settlement Agreement shall be governed by and interpreted according to the laws of the State of Tennessee.
6. Each of the undersigned representatives is fully authorized by the party they represent to enter into the terms and conditions of this Settlement Agreement and to legally bind such party to this Settlement Agreement.
7. This Settlement Agreement is contingent upon approval of the requisite state official as provided by Tenn. Code Ann. §20-13-103. Documentation of this approval is attached upon execution of this Settlement Agreement by the Department.
8. In the event the Respondent fails to comply with any of the terms of this Settlement Agreement, the Parties agree that this Settlement Agreement will be null and void, and that the Order will be in full force and effect and subject to enforcement by the Department, including the collection of outstanding civil penalties assessed under the Order. The Respondent further agrees that the Department may, in addition to enforcing the Order, pursue full enforcement of corrective action, civil penalties, and damages against the Respondent for any subsequent legal violation(s) that occur, or have occurred, after the Order was issued.
9. The effective date of this Settlement Agreement shall be the date it is approved and signed by the Department.

IT IS SO AGREED:

Stanley R. Boyd

Stanley R. Boyd, Director
Division of Underground Storage Tanks
Department of Environment and Conservation

Date: 2/23/2023

Muraddi Bharwani
Print Name: Muraddi Bharwani
Title: President
Ziptron Energy, Inc.

Date: 1/27/2023

Reviewed by:

George S. Bell, III

George Bell (Feb 23, 2023 10:08 CST)

George S. Bell, III
BPR# 19051
Senior Associate Counsel
Department of Environment & Conservation
312 Rosa L. Parks Avenue, 2nd Floor
Nashville, Tennessee 37243
615-741-3842
George.Bell@tn.gov

[Respondent's Counsel, if any]

LIST OF AUTOMATIC ENFORCEMENT VIOLATIONS		
Violation	State Cite	Rule Section
Failure of tanks installed after July 27, 2007 to be secondarily contained.	0400-18-01-.02(2)(a)1	UST Systems: Installation & Operation (Secondary Containment)
Failure to provide interstitial monitoring on tanks installed after July 24, 2007.	0400-18-01-.02(2)(a)5	UST Systems: Installation & Operation (Secondary Containment)
Failure of piping installed after July 27, 2007 to be secondarily contained.	0400-18-01-.02(2)(b)1	UST Systems: Installation & Operation (Secondary Containment)
Failure of piping installed after July 25, 2007 to be monitored for a release at least every thirty (30) days	0400-18-01-.02(2)(b)5	UST Systems: Installation & Operation (Secondary Containment)
Failure to install any spill prevention system.	0400-18-01-.02(3)(a)1(i)	UST Systems: Installation & Operation
Failure to install any overflow prevention system.	0400-18-01-.02(3)(a)1(ii)	UST Systems: Installation & Operation
Failure to provide any cathodic protection for metal tanks.	0400-18-01-.02(4)(a)	UST Systems: Installation & Operation
Failure to permanently close a lined tank where CP was not added by the December 22, 2012 deadline.	0400-18-01-.02(4)(a)3(v)	UST Systems: Installation & Operation
Failure to provide any cathodic protection for metal piping.	0400-18-01-.02(4)(b)	UST Systems: Installation & Operation
Failure to provide release detection method capable of detecting a release from tank or piping that routinely contains product.	0400-18-01-.04(1)(a)1	Release Detection (General)
Failure to install, calibrate, operate, or maintain release detection method in accordance with manufacturer's instructions.	0400-18-01-.04(1)(a)2	Release Detection (General)
Failure to provide a release detection method that meets the performance requirements for tanks or piping.	0400-18-01-.04(1)(a)3	Release Detection (General)
Failure to monitor tanks at least every 30 days, if appropriate.	0400-18-01-.04(2)(a)	Release Detection (General)
Failure to provide any release detection for underground piping.	0400-18-01-.04(2)(b)	Release Detection (Piping)
Failure to install line leak detector for pressurized underground piping.	0400-18-01-.04(2)(b)1(i)	Release Detection (Pressurized Piping)
Failure to conduct annual line tightness test or do monthly monitoring on pressurized underground piping.	0400-18-01-.04(2)(b)1(ii)	Release Detection (Pressurized Piping)
Failure to comply with general remedial requirements	0400-18-01-.06	Petroleum Release Response, Remediation, and Risk Management
Division not notified of tank closure.	0400-18-01-.07(4)(a)1-2	Out-of-Service UST Systems and Closure
Failure to conduct system closure sampling.	0400-18-01-.07(5)(a)-(b)	Out-of-Service UST Systems and Closure
Failure to register an underground storage tank in accordance with the statute.	Tenn. Code Ann. § 68-215-106(a)	Tennessee Code Annotated
Placing petroleum into an underground storage tank system(s) where the Division has attached a tag or notice to the dispensers or fill ports or that has been placed on the Delivery Prohibition list on the website.	Tenn. Code Ann. §§ 68-215-106(c) and (e) 0400-18-01-.10(6)(a)	Fee Collection
all Red Tag Removal	Tenn. Code Ann. § 68-215-106(c)-(d)	Tennessee Code Annotated