

STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION

IN THE MATTER OF:)	
)	DIVISION OF UNDERGROUND
)	STORAGE TANKS
)	
STAGE ROAD PROPERTY INC)	CASE NO. FDA24-0028
)	
)	
RESPONDENT.)	FACILITY: FOOD N FUEL
)	

SETTLEMENT AGREEMENT AND ORDER

On April 2, 2024, the Department of Environment and Conservation (“Department”) Division of Underground Storage Tanks (“Division”) issued Order and Assessment number FDA24-0028 (“Order”) to Stage Road Property Inc (“Respondent”). A private process server completed service of the Order on April 10, 2024, and the Respondent electronically filed an appeal of the Order on April 18, 2024. Pursuant to Tennessee Code Annotated sections 4-5-105 and 68-215-119(b), the Division and the Respondent have reached a settlement. By executing this settlement, (1) the Division agrees to dismiss the Order and that this settlement resolves and supersedes the Order, and (2) the Respondent agrees that it waives its right to a contested case hearing before the Underground Storage Tanks and Solid Waste Disposal Control Board. The Division alleges as follows:

PARTIES

I.

David W Salyers, P.E., is the Commissioner of the Department and is charged with enforcing the Tennessee Petroleum Underground Storage Tank Act (“Act”), Tenn. Code Ann. §§ 68-215-101 to -129. Stanley R. Boyd is the duly appointed Director of the Division and has received written delegation from the Commissioner to administer and enforce the Act.

II.

The Respondent is a corporation created in Tennessee and is registered to conduct business in Tennessee. The Respondent is the registered owner of five underground storage tank (UST) systems located

in Shelby County at 4544 Stage Road, Memphis, Tennessee 38134. Service of process may be made on the Respondent's Registered Agent, Amarjit Chaudhry, at 4544 Stage Road, Memphis, Tennessee, 38128.

JURISDICTION

III.

When the Commissioner finds that the Act is being violated or that effective measures are not in place to comply with the provisions of the Act, the Commissioner may issue an order for correction to the responsible party and assess civil penalties of up to \$10,000.00 for each day a violation exists. Tenn. Code Ann. §§ 68-215-114 and -121. If this Order becomes final, the Commissioner may affix a notice of petroleum delivery prohibition (also known as a "red tag") to the facility fill ports or dispensers or give notice on the Department's website of petroleum delivery prohibition. Tenn. Code Ann. § 68-215-106(c). Rules governing underground storage tanks have been promulgated and are effective as Tenn. Comp. R. & Regs. 0400-18-01-.01 to -.17 ("Rules"). Tenn. Code Ann. § 68-215-107(f).

IV.

The Respondent is a "person," Tenn. Code Ann. § 68-215-103(11), a "responsible party," Tenn. Code Ann. § 68-215-103(17)(A), and has violated the Act.

FACTS

V.

On March 4, 2022, the Division received a Notification for Underground Storage Tanks form, listing the Respondent as the owner of the five UST systems located at 4544 Stage Road, Memphis, Tennessee 38134 ("Facility"). The Facility ID number is 9-791647.

VI.

On October 13, 2023, the Division sent a Confirmation of Compliance Inspection Appointment letter to the Respondent. The letter stated the Division would perform an inspection at the Facility on December 11, 2023.

VII.

On December 11, 2023, Division personnel performed a compliance inspection at the Facility. The inspector discovered several violations, including:

- Failure to install or provide adequate overfill prevention system in accordance with Rule 0400-18-01-.02(3)(a)1.(ii). Specifically, the overfill devices associated with Tank 5A (8,000 gallon regular), Tank 6A (8,000 gallon diesel), and Tank 7A (8,000 gallon premium) failed inspection.
- Failure to report a suspected release within 72 hours in accordance with Rule 0400-18-01-.05(1)(a). Specifically, an overfill that occurred on December 2, 2023, from Tank 5A (regular) was not reported to the Division.

VIII.

On December 18, 2023, the Division sent a Results of Compliance Inspection – Fund Reimbursement – Action Required letter to the Respondent. The letter cited violations discovered at the inspection and required the Respondent to submit documentation to the Division by January 17, 2024.

IX.

On January 9, 2024, the Division received an Application for Fund Eligibility from the Respondent for the December 2, 2023, release at the Facility.

X.

On January 19, 2024, the Division sent a Follow-up and Enforcement Action Notice letter to the Respondent. The letter notified the Respondent of the referral to the enforcement section for review.

XI.

Division personnel reviewed the Application for Fund Eligibility along with the documentation required by Rule 0400-18-01-.09. Based upon this review, Division personnel determined that this Facility did not meet the requirements for the minimum deductible for the release due to the following:

- Failure to report a suspected release within 72 hours in accordance with Rule 0400-18-01-.05(1)(a).
- Failure to install or provide adequate overfill prevention system in accordance with Rule 0400-18-01-.02(3)(a)1.(ii).

The deductible for the release is \$30,000.00.

VIOLATIONS

XII.

By failing to operate a UST in compliance with the Act, the Respondent violated Tennessee Code Annotated section 68-215-104(2), which states:

It is unlawful to . . . [c]onstruct, alter or operate a petroleum underground storage tank in violation of this chapter or the rules or regulations established pursuant thereto[.]

XIII.

The Respondent has violated Rule 0400-18-01-.05(1)(a), which states:

0400-18-01-.05 RELEASE REPORTING, INVESTIGATION AND CONFIRMATION

(1) Reporting of Suspected Releases.

(a) Owners and/or operators of UST systems shall report to the division within 72 hours and follow the procedures in paragraph (3) of Rule 0400-18-01-.05 for any of the following conditions

XIV.

The Respondent has violated Rule 0400-18-01-.02(3)(a)1(ii), which states:

0400-18-02 UST SYSTEMS: INSTALLATION AND OPERATION.

(3) Spill and overfill prevention.

(a) Equipment.

1. Except as provided in parts 2. and 3. of this subparagraph, to prevent spilling and overfilling associated with petroleum transfer to the UST system, owners and/or operators shall use the following spill and overfill prevention equipment:

(ii) Overfill prevention equipment that will:

(l) Automatically shut off flow into the tank when the tank is no more than 95% full;

SETTLEMENT AGREEMENT AND ORDER

XV.

Pursuant to sections 68-215-107, -114, and -121 of the Act, I, Stanley R. Boyd, hereby execute the following Settlement Agreement and Order ("Settlement"):

1. The Application for Fund Eligibility for the December 2, 2023, release is approved with a deductible of \$30,000.00.
2. The Respondent shall perform release investigation and remediation activities of Rule 0400-18-01-.06 within the timeframes determined by the Division.
3. If the Respondent fails to comply with this Settlement, **the Facility will be placed on the Delivery Prohibition List and the fill ports or dispensers will be red-tagged until compliance is achieved.** Tenn. Code Ann. § 68-215-106(c).
4. **Civil Penalty:** On or before the thirty-first day after execution of this Settlement, the Respondent shall pay a total civil penalty of \$1,600.00 for failing to report a suspected release to the Division within 72 hours. The Respondent shall pay an additional civil penalty of \$1,600.00 if it incurs any Operator Retraining Violations (Attachment 1) at the Facility within one year of this Settlement's date of execution.

All payments should be sent to the following address:

Treasurer, State of Tennessee
Division of Fiscal Services – Consolidated Fees Section
500 James Robertson Pkwy, 6th Floor
Nashville, Tennessee 37243

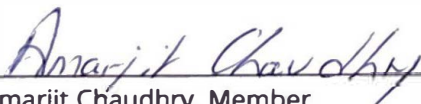
DEPARTMENT'S RESERVATION OF RIGHTS

In executing this Settlement, the Department does not waive any provision of the Act or the regulations promulgated thereunder or the authority to assess costs, civil penalties, and/or damages incurred by the State against the Respondent. The Department expressly reserves all rights it has at law and in equity to order further corrective action, assess civil penalties and/or damages, and to pursue further enforcement action including, but not limited to, monetary and injunctive relief. Compliance with this settlement will be considered as a mitigating factor in determining the need for future enforcement action.

RESPONDENT'S RESERVATION OF RIGHTS

The Respondent does not admit or deny the factual allegations or the alleged violations of law contained in this Settlement. The Respondent reserves its right to contest the factual allegations and alleged violations contained in this Settlement in any proceeding other than a proceeding brought by the Department to enforce the terms of this Settlement.

Executed by the Director of the Division of Undergound Storage Tanks, Department of Environment and Conservation, on May 09, 2024.



Amarjit Chaudhry, Member
Stage Road Property Inc
Respondent



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

Reviewed by:

A handwritten signature in black ink, appearing to read "Grant LeMaster Ruhl", written over a horizontal line.

Grant LeMaster Ruhl

BPR # 036182

Associate Counsel

Department of Environment and Conservation

Davy Crockett Tower, 5th Floor

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(629) 201-0016

Grant.Ruhl@tn.gov

EXHIBIT A – Violations That Require Tank School for Operator Retraining

Operator Retraining Violations		
Violation	State Cite	Rule Section
Failure of tanks installed on or after July 24, 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 on or after July 24, 2007.	0400-18-01-.02(2)(a)5	UST Systems: Installation & Operation (Secondary Containment)
Failure of piping installed on or after July 24, 2007 to be secondarily contained.	0400-18-01-.02(2)(b)1	UST Systems: Installation & Operation (Secondary Containment)
Failure of piping installed on or after July 24, 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 overfill 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
Illegal Red Tag Removal	Tenn. Code Ann. § 68-215-106(c)-(d)	Tennessee Code Annotated