

FINAL ORDER SETTLEMENT AGREEMENT
In the Matter of City of Gatlinburg
Division of Underground Storage Tanks, Director's Order No. FED24-0018

This Settlement Agreement is an agreement between the Department of Environment and Conservation ("Department") and the City of Gatlinburg ("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 -204, alleged in Director's Order and Assessment FED24-0018 ("Order"), issued by the Department on May 23, 2024.

WHEREAS the Respondent is the registered owner of two underground storage tank ("UST") systems located at 948 Newman Court, Gatlinburg, Tennessee 37738 ("Facility");

WHEREAS the Order alleged the Respondent committed violations of the UST Act and the rules promulgated thereunder;

WHEREAS the Order required the Respondent to perform release investigation and remediation activities as required by Rule 0400-18-01-.06, and the Order denied the Respondent's Application for Fund Eligibility for the suspected release because it was submitted more than 90 days after discovery of the release.

WHEREAS the Order required corrective action and assessed \$3,200 in civil penalties. The Respondent was properly served with the Order on July 12, 2024, 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 12, 2024, and the full civil penalty became due;

WHEREAS the Department's Division of Underground Storage Tanks ("Division") confirmed that, after receiving the Order, the Respondent corrected the violations alleged therein; and

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 \$2,272, which represents 71% of the assessed civil penalty. 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 to the "Treasurer, State of Tennessee" with the case number, FED24-0018, written in the check memo line. Should the 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:

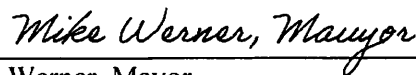
Division of Fiscal Services - Consolidated Fees Section
Department of Environment and Conservation
Davy Crockett Tower
500 James Robertson Pkwy, 6th Floor
Nashville, Tennessee 37243

2. The Respondent shall not allow any probation violations to occur at the Facility for a period of one year from the effective date of this Settlement Agreement. (Attached hereto as Exhibit A is the Probation Violations list, as it appears in the Division's current enforcement standard operating procedures).
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. 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 as a final order under the UST Act, 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.
8. The effective date of this Settlement Agreement shall be the date it is signed by the Department.

IT IS SO AGREED:



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



Mike Werner, Mayor
City of Gatlinburg

Date: 10-24-2024

Date: 10/24/2024

Reviewed by:

Samantha Buller-Young

[Samantha Buller-Young \(Oct 24, 2024 15:10 EDT\)](#)

Samantha Buller-Young

BPR # 040466

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EXHIBIT A – PROBATION VIOLATIONS

Probation 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