



STATE OF TENNESSEE  
DEPARTMENT OF ENVIRONMENT AND CONSERVATION  
Division of Underground Storage Tanks  
Davy Crockett Tower  
500 James Robertson Parkway, 7th Floor  
Nashville, Tennessee 37243

October 25, 2024

RMK LLC  
c/o: Reda Hanna  
861 Harrisburg Lane  
Mt. Juliet, Tennessee 37122

Served via Private Process Server

Re: RMK LLC  
10497 Smithville Highway  
Smithville, Tennessee 37110  
Facility ID # 4-890140  
Case # FDA24-0044

Dear Sir or Madam:

Enclosed is a Director's Order and Assessment ("Order") for violations of the Tennessee Petroleum Underground Storage Tank Act and relevant rules. This Order is issued by the State of Tennessee, Department of Environment and Conservation, Division of Underground Storage Tanks. A civil penalty of \$21,600.00 has been assessed against RMK LLC based on the stated violations.

The Division reviewed the Application for Fund Eligibility for the above-referenced facility and determined that this facility meets the requirements for fund eligibility for a release occurring on or after June 15, 2021. Reimbursement of the approved corrective action costs for this release is authorized. The deductible for releases which occur on or after June 15, 2021, is \$5,000.00 provided the facility meets all requirements listed in Rule 0400-18-01-.09(6). Tenn. Comp. R. & Regs. 0400-18-01-.09. Based on the information provided on the Application for Fund Eligibility and violations discovered during the most recent inspection, the deductible for the release is **\$20,000**.

Please read the Order carefully and pay special attention to the **Notice of Rights** section. Please note that the required due dates in the Order are based on the date the Respondent receives the Order, not the date that it was signed by the Director. Any appeal must be made in writing and be received by the Division within thirty days after your receipt of the Order.

Because there is outstanding noncompliance from the April 22, 2024, inspection, if this Order is not appealed and becomes final, the facility will be placed on the petroleum **Delivery Prohibition List**. Red tags will be installed at the facility's fill ports. Documentation establishing the facility's return to compliance shall be submitted to the Division by the due date established in the Order.



STATE OF TENNESSEE  
DEPARTMENT OF ENVIRONMENT AND CONSERVATION  
Division of Underground Storage Tanks  
Davy Crockett Tower  
500 James Robertson Parkway, 7th Floor  
Nashville, Tennessee 37243

October 9, 2024

RMK LLC  
c/o: Reda Hanna  
741 Bench Lane  
Mt. Juliet, Tennessee 37122

Served via Private Process Server

Re: RMK LLC  
10497 Smithville Highway  
Smithville, Tennessee 37110  
Facility ID # 4-890140  
Case # FDA24-0044

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If you have any questions about this matter, please contact Justin Evans at (865) 333-6227 or [justin.evans@tn.gov](mailto:justin.evans@tn.gov).

Sincerely,

A handwritten signature in black ink that reads "Stanley R. Boyd". The signature is written in a cursive style with a large, stylized initial 'S'.

Stanley R. Boyd  
Director

cc: Enforcement File  
Knoxville Environmental Field Office

**STATE OF TENNESSEE**  
**DEPARTMENT OF ENVIRONMENT AND CONSERVATION**

<b>IN THE MATTER OF:</b>	)	
	)	<b>DIVISION OF UNDERGROUND</b>
	)	<b>STORAGE TANKS</b>
	)	
<b>RMK LLC,</b>	)	
	)	<b>CASE NO. FDA24-0044</b>
	)	
<b>RESPONDENT.</b>	)	<b>FACILITY: RMK LLC</b>

**ORDER AND ASSESSMENT**

David W. Salyers, P.E., Commissioner of the Tennessee Department of Environment and Conservation (the "Commissioner"), states:

**PARTIES**

**I.**

David W. Salyers, P.E., is the duly appointed Commissioner of the Department of Environment and Conservation ("Department") and is charged with administering and enforcing the Tennessee Petroleum Underground Storage Tank Act ("Act"), Tenn. Code Ann. §§ 68-215-101 to -204. Stanley R. Boyd is the duly appointed Director of the Division of Underground Storage Tanks ("Division"). He has received written delegation from the Commissioner to administer and enforce the Act.

**II.**

RMK LLC ("Respondent") is a limited liability company created in Tennessee. The Respondent is the property owner and registered owner of two underground storage tank ("UST") systems located in Warren County at 10497 Smithville Highway, Smithville, Tennessee, 37110. Service of process may be made on the Respondent's Registered Agent, RMK LLC, at 741 Bench Lane, Mt. Juliet, Tennessee 37122.

**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 December 2, 2021, the Division received a Buyer's Notification for Underground Storage Tanks form, listing the Respondent as the owner of the two UST systems located at 10497 Smithville Highway, Smithville, Tennessee 37110 ("Facility"). The facility ID number is 4-890140.

#### **VI.**

On April 18, 2024, the Division received a phone call from Mr. Reda Hanna, with the Respondent, stating that a leak was discovered from piping on April 17, 2024. Mr. Hanna stated that the pump was shut down and Phillips Sales and Service, Inc. investigated and told him he needed to report the leak.

#### **VII.**

On April 19, 2024, the Division sent a Confirmation of Compliance Inspection Appointment letter to the Respondent. The letter confirmed an inspection date of April 22, 2024.

#### **VIII.**

On April 22, 2024, Division personnel performed a compliance inspection at the Facility. The inspector discovered several violations. The following violation has not been addressed:

- Failure to provide a release detection method capable of detecting a release from tank that routinely contains product as in accordance with Rule 0400-18-01-.04(1)(a)1. Specifically, at the time of the inspection the facility was using Statistical Inventory Reconciliation (SIR) as the primary form of monthly tank release detection. Documentation of dispenser calibration performed within 12 months of the inspection date was not provided for Tanks 1A (4,000 gallons gasoline) and 2A (2,000 gallons gasoline).

While the following violation has been addressed by the Respondent, it impacts the deductible as set forth in Rule 0400-18-01-.09:

- Failure to perform periodic and annual walkthrough inspections in accordance with Rule 0400-18-01-.02(8)(a)1. Specifically, at the time of the inspection, the Division's periodic and annual walkthrough forms or an approved alternative walkthrough form was not provided. The monthly spill bucket and quarterly dispenser forms were being completed on older Division forms no longer in use. The approved periodic and annual walkthrough forms were completed during the inspection for Tanks 1A (4,000 gallons gasoline) and 2A (2,000 gallons gasoline).

#### **IX.**

On April 25, 2024, the Division sent a Results of Compliance Inspection - Fund Reimbursement - Action Required letter to the Respondent. The letter cited the violations discovered at the time of the inspection and required compliance documentation to be submitted by May 25, 2024.

#### **X.**

On May 3, 2024, the Division sent a Release Investigation - Site Check Letter to the Respondent. The letter required a site check to be conducted and the results to be submitted to the Division by June 17, 2024.

#### **XI.**

On May 20, 2024, the Division received an Application for Fund Eligibility for the April 17, 2024, release at the Facility. This application did not have a signed Corrective Action Contractor contract attached as required by Rule 0400-18-01-.09(10)(b). Payments from the Petroleum Underground Storage Tank Fund cannot be made to Responsible Parties until a properly signed contract meeting the requirements of Tennessee Code Annotated section 68-215-129 is submitted.

#### **XII.**

On June 18, 2024, Division personnel issued a Site Check Report - Not Provided letter to the Respondent and cited the following violation:

- Failure to conduct a site check in accordance with Rule 0400-18-01-.05(3)(b).

The letter required a site check to be conducted and the results to be submitted to the Division by July 17, 2024.

#### **XIII.**

After enforcement review, the Division added the following violations:

- Failure to conduct annual line tightness test or do monthly monitoring on pressurized underground piping as in accordance with Rule 0400-18-01-.04(2)(b)1(ii). Specifically, at the time of the inspection, the facility was using SIR as the primary form of monthly piping release detection. Documentation of dispenser calibration performed within 12 months of the inspection date was not provided for piping systems associated with Tanks 1A (4,000 gallons gasoline) and 2A (2,000 gallons gasoline).
- Failure to repair or replace any tanks or piping which have had a structural failure in accordance with Rule 0400-18-01-.02(7). Specifically, a suspected release was reported to the Division on April 18, 2024, due to a leak that was discovered from the piping system for Tank 1A (4,000 gallons gasoline) during dispenser repairs on April 17, 2024. The Division has not yet received documentation of the repair or replacement of the leaking piping line.

#### **XIV.**

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 provide release detection method capable of detecting a release from a tank that routinely contains product in accordance with Rule 0400-18-01-.04(1)(a)1.
- Failure to conduct annual line tightness test or do monthly monitoring on pressurized underground piping in accordance with Rule 0400-18-01-.04(2)(b)1(ii).
- Failure to perform periodic and annual walkthrough inspections in accordance with Rule 0400-18-01-.02(8)(a)1.

The deductible for the release is \$20,000.

#### **VIOLATIONS**

#### **XV.**

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: Construct, alter or operate a petroleum underground storage tank in violation of this chapter or the rules or regulations established pursuant thereto[.]

#### **XVI.**

The Respondent violated Rule 0400-18-01-.04(1)(a)1, which states:

0400-18-01-.04 RELEASE DETECTION.

- (1) General requirements for release detection.
  - (a) Owners and/or operators of UST systems shall provide a method, or combination of methods, of release detection that:
    1. Can detect a release from any portion of the tank and the connected underground piping that routinely contains petroleum[.]

#### **XVII.**

The Respondent violated Rule 0400-18-01-.04(2)(b)1(ii), which states:

0400-18-01-.04 RELEASE DETECTION.

- (2) Requirements for petroleum UST systems.

Owners and/or operators of petroleum UST systems shall provide release detection for tanks and piping as follows: [...]

  - (b) Piping.

Underground piping that routinely contains petroleum shall be monitored for releases in a manner that meets one of the following requirements:

    1. Pressurized piping.

Underground piping that conveys petroleum under pressure shall:
      - (i) Be equipped with an automatic line leak detector conducted in accordance with subparagraph (4)(a) of this rule; and
      - (ii) Have an annual line tightness test conducted in accordance with subparagraph (4)(b) of this rule or have monthly monitoring conducted in accordance with subparagraph (4)(c) of this rule.

#### **XVIII.**

The Respondent violated Rule 0400-18-01-.02(7), which states:

0400-18-01-.02 UST SYSTEMS: INSTALLATION AND OPERATION.

- (7) Repairs.

Owners and/or operators of UST systems shall ensure that repairs will prevent releases due to structural failure or corrosion as long as the UST system is used to store petroleum. Owners and/or operators shall repair or replace any tanks or piping which have had a structural failure. The repairs shall meet the following requirements[.]



## XIX.

The Respondent violated Rule 0400-18-01-.02(8)(a)1, which states:

0400-18-01-.02 UST SYSTEMS: INSTALLATION AND OPERATION.

- (8) Periodic operation and maintenance walkthrough inspections.
  - (a) To properly operate and maintain UST systems, no later than three years after the effective date of this rule, owners and/or operators must meet one of the following:
    - 1. Conduct a walkthrough inspection that, at a minimum, checks the following equipment as specified below:
      - (i) Every 30 days (Exception: spill prevention equipment at UST systems receiving deliveries at intervals greater than every 30 days may be checked prior to each delivery):
        - (I) Spill prevention equipment – visually check for damage; remove liquid or debris; check for and remove obstructions in the fill pipe; check the fill cap to make sure it is securely on the fill pipe; and, for double walled spill prevention equipment with interstitial monitoring, check for a leak in the interstitial area; and
        - (II) Release detection equipment – check to make sure the release detection equipment is operating with no alarms or other unusual operating conditions present; and ensure records of release detection testing are reviewed and current; and
      - (ii) Annually:
        - (I) Containment sumps – visually check for damage, leaks to the containment area, or releases to the environment; remove liquid (in contained sumps) or debris; and, for double walled sumps with interstitial monitoring, check for a leak in the interstitial area; and
        - (II) Hand held release detection equipment – check devices such as tank gauge sticks or groundwater bailers for operability and serviceability[.]

**XX.**

The Respondent violated Rule 0400-18-01-.05(3)(b), which states:

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

(3) Release Investigation and Confirmation Steps.

Unless corrective action is initiated in accordance with Rule 0400-18-01-.06, owners and/or operators shall immediately investigate and confirm all suspected releases of petroleum requiring reporting under paragraph (1) of this rule within 30 days in accordance with this paragraph.

(b) Site check.

Owners and/or operators shall measure for the presence of a release where contamination is most likely to be present at the UST site. In selecting sample types, sample locations, and measurement methods, owners and/or operators must consider the nature of the stored petroleum, the type of initial alarm or cause for suspicion, the type of backfill, the depth of groundwater, and other factors appropriate for identifying the presence and source of the release.

**ORDER AND ASSESSMENT**

**XXI.**

Pursuant to the authority vested by sections 68-215-107, -114, and -121 of the Act, the Respondent is issued the following Order:

1. The Application for Fund Eligibility for the April 17, 2024, release is approved with a deductible of \$20,000.00.
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 order and/or file an appeal within the timeframes stated below, **the above referenced 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. **Remedial Action:** The Respondent shall perform all actions necessary to correct the outstanding violations and to bring the facility into full compliance with regulatory requirements.
  - i. On or before the thirty-first day after receipt of this Order, the Respondent shall complete one of the following:

- a. Perform dispenser calibration and submit documentation of this and the next consecutive month of SIR monthly tank release detection reports to the Division for review; or
    - b. Empty Tanks 1A (4,000 gallons gasoline) and 2A (2,000 gallons gasoline) to no more than one inch of residue and register the tanks as Temporarily Out of Service (TOS) with the Division's notification section.
  - ii. On or before the thirty-first day after receipt of this Order, the Respondent shall complete one of the following:
    - a. Perform dispenser calibration and submit documentation of this and the next consecutive month of SIR monthly piping release detection reports to the Division for review; or
    - b. Empty Tanks 1A (4,000 gallons gasoline) and 2A (2,000 gallons gasoline) to no more than one inch of residue and register the tanks as TOS with the Division's notification section.
  - iii. On or before the ninetieth day after receipt of this Order, the Respondent shall repair or replace the leaking piping system for Tank 1A (4,000 gallons gasoline) in accordance with Rules 0400-18-01-.02(6) and (7).
- 5. **Civil Penalty:** On or before the thirty-first day after receipt of this Order, the Respondent shall pay a total civil penalty in the amount of \$21,600.00. This amount consists of the following:
  - i. Two violations assessed at \$3,200.00 per tank compartment for a total of \$6,400.00 for failing to provide a release detection method capable of detecting a release from a tank that routinely contains product.
  - ii. Two violations assessed at \$2,000.00 per piping system for a total of \$4,000.00 for failing to conduct annual line tightness test or do monthly monitoring on pressurized underground piping.
  - iii. One violation assessed at \$8,000.00 per piping system for failing to repair or replace any tanks or piping which have had a structural failure.
  - iv. One violation assessed at \$3,200.00 per event for failing to conduct a site check.
  - v. All payments should be sent to the following address:

**Treasurer, State of Tennessee**  
**Division of Fiscal Services – Consolidated Fees Section**  
**Davy Crockett Tower**  
**500 James Robertson Parkway, 6th Floor**  
**Nashville, Tennessee 37243**

6. Failure to comply with any of the requirements of this Order could lead to further enforcement actions which may include additional civil penalties, assessment of damages and recovery of costs.
7. With the exception of the deadline for filing the appeal of this Order, the Department may extend the compliance dates contained within this Order for a fixed time period for good cause shown by the Respondents. To be eligible for this time extension, the Respondent shall submit a written request to be received in advance of the compliance date. The written request must include sufficient detail to justify such an extension and include at a minimum the anticipated length of the delay. The Department will reply to the Respondent's request in writing, establishing a new deadline for compliance with this Order. Should the Respondent fail to meet the requirements of this Order by the new deadline, then any associated civil penalty shall be due within thirty days after that deadline. The request for an extension of time does not change the deadline to submit an appeal. See Notice of Rights.

## **RESERVATION OF RIGHTS**

In issuing this Order, the Department does not implicitly or expressly waive any provision of the Act or the regulations promulgated thereunder or the authority to assess costs, civil penalties, 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 or damages, and to pursue further enforcement action including, but not limited to, monetary and injunctive relief. Compliance with this Order will be considered as a mitigating factor in determining the need for future enforcement action.

## **NOTICE OF RIGHTS**

The Respondent may appeal this Order. Tenn. Code Ann. § 68-215-119. To do so, a written petition setting forth the reasons for requesting a hearing must be received by the Commissioner within thirty days of the date the Respondent received this Order or this Order will become final.

If an appeal is filed, an initial hearing of this matter will be conducted by an Administrative Judge as a contested case hearing. Tenn. Code Ann. § 68-215-119; Tenn. Code Ann. §§ 4-5-301 to -326 (the Uniform Administrative Procedures Act); and Tenn. Comp. R. & Regs. 1360-04-01 (the Department of State's Uniform Rules of Procedure for Hearing Contested Cases Before State Administrative Agencies). Such hearings are legal proceedings in the nature of a trial. Individual Respondents may represent themselves or be represented by an attorney licensed to practice law in Tennessee. Artificial Respondents (corporations, limited partnerships, limited liability companies, etc.) cannot engage in the practice of law and therefore may only pursue a contested case through an attorney licensed to practice law in Tennessee. Low-income individuals may be eligible for representation at reduced or no cost through a local bar association or legal aid organization.

At the conclusion of any initial hearing, the Administrative Judge has the authority to affirm, modify, or deny the Order. Furthermore, the Administrative Judge on behalf of the Board has the authority to assess additional damages incurred by the Department including, but not limited to, all docketing expenses associated with the setting of the matter for a hearing and the hourly fees incurred due to the presence of the Administrative Judge and a court reporter.

Any petition for review (appeal) must be directed to the Commissioner of the Tennessee Department of Environment and Conservation, c/o Jenny L. Howard, General Counsel, Department of Environment and Conservation, Davy Crockett Tower, 500 James Robertson Pkwy, 5th Floor, Nashville, Tennessee 37243. The petition may be mailed or delivered to this address, or it may be sent to [TDEC.Appeals@tn.gov](mailto:TDEC.Appeals@tn.gov). Payments of the civil penalty and/or damages shall be made payable to the "Treasurer, State of Tennessee" and sent to the Division of Fiscal Services – Consolidated Fees Section, Department of Environment and Conservation, Davy Crockett Tower, 500 James Robertson Pkwy, 6th Floor, Nashville, Tennessee 37243. Technical questions

and other correspondence involving compliance issues should be sent to Justin Evans, Knoxville Environmental Field Office, 3711 Middlebrook Pike, Knoxville TN 37921. Attorneys should contact the undersigned counsel of record. **The case number, FDA24-0044, should be written on all correspondence regarding this matter.**

Issued by the Director of the Division of Underground Storage Tanks, Tennessee Department of Environment and Conservation, on this 9th day of October, 2024.



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

Reviewed by:



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Shelby R. B. Ward  
BPR # 030394  
Associate Counsel  
Department of Environment and Conservation  
3711 Middlebrook Pike  
Knoxville, Tennessee 37921  
(865) 722-1982  
shelby.ward@tn.gov