



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

December 18, 2024

Farhad Davachi
363 Jones Parkway
Brentwood, Tennessee 37027

Served via Private Process Server

Mehmoosh Davachi
363 Jones Parkway
Brentwood, Tennessee 37027

Served via Private Process Server

Re: Director's Order UST24-0244
Caldwell Shell Service
1605 Columbia Avenue, Franklin, Tennessee 37064
Facility ID # 5-940017

Dear Farhad and Mehmoosh Davachi:

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 \$9,840.00 has been assessed against you based on the stated violations.

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 Department within thirty days after your receipt of the Order.

Documentation establishing the facility's return to compliance shall be submitted to the Department by the due date established in the Order. Because there is outstanding noncompliance from the February 13, 2024, inspection, if the Respondent fails to fully comply with the Order, or if the Order becomes final due to the Respondent's failure to file a timely appeal, the facility will be placed on the petroleum **Delivery Prohibition List**. Red tags will be installed at the facility's fill ports and dispensers.

If you have any questions about this matter, please contact Jeff Mann at (615) 812-0770 or Jeff.Mann@tn.gov.

Sincerely,

Stanley R. Boyd
Director

cc: Enforcement File
Nashville Environmental Field Office

STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION

IN THE MATTER OF:)	DIVISION OF UNDERGROUND STORAGE TANKS
)	
)	
)	
FARHAD AND MEHMOOSH DAVACHI,)	CASE NO. UST24-0244
)	
)	
RESPONDENTS.)	FACILITY: CALDWELL SHELL SERVICE

ORDER AND ASSESSMENT

Stanley R. Boyd, Director of the Division of Underground Storage Tanks, 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") and has received written delegation from the Commissioner to administer and enforce the Act.

II.

Farhad Davachi ("Respondent Farhad") and Mehmoosh Davachi ("Respondent Mehmoosh") are individuals and the registered owners of three 10,000 gallon underground storage tank ("UST") systems located in Williamson County at 1605 Columbia Avenue, Franklin, Tennessee 37064. Service of process may be made on the Respondents at 363 Jones Parkway, Brentwood, Tennessee 37027.

Respondent Farhad and Respondent Mehmoosh will hereinafter collectively be referred to as the "Respondents."

JURISDICTION

III.

When the Commissioner finds that the Act is being violated or that effective measures are not in place to comply with 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 USTs have been promulgated and are effective as Tenn. Comp. R. & Regs. 0400-18-01-.01 to -.17 ("Rules") pursuant to Tennessee Code Annotated section 68-215-107(f).

IV.

The Respondents are "persons," Tenn. Code Ann. § 68-215-103(11), "responsible part[ies]," Tenn. Code Ann. § 68-215-103(17)(A), and have violated the Act.

FACTS

V.

On May 2, 2023, the Division received a Notification for Underground Storage Tanks form, signed by Farhad Davachi listing the Respondents as the owners of the three UST systems located at 363 Jones Parkway, Brentwood, Tennessee 37027. The facility ID number is 5-940017.

VI.

On February 13, 2024, Division personnel performed a compliance inspection at the Facility. The inspector discovered several violations. The following violations have not been addressed:

- Failure to inspect impressed current corrosion protection system every sixty (60) days in accordance with Rule 0400-18-01-.02(4)(c)4. Specifically, at the time of the inspection, no 60-day rectifier logs were provided for Tank 1A (10,000 gallons regular), Tank 2A (10,000 gallons premium) and Tank 3A (10,000 gallons diesel).
- Failure to ensure that cathodic protection system is tested every three years in accordance with Rule 0400-18-01-.02(4)(c)2(i). Specifically, at the time of the inspection, no cathodic protection test results were provided for Tank 1A (10,000 gallons regular), Tank 2A (10,000 gallons premium) and Tank 3A (10,000 gallons diesel). The last test on record with the Division was dated November 9, 2016.
- Failure to ensure that cathodic protection is functioning as designed and is effectively preventing corrosion in accordance with Rule 0400-18-01-.02(4)(c)1. Specifically, at the time of the inspection, the Impressed Current (IC) rectifier amp gauge was reading zero amps for Tank 1A (10,000 gallons regular), Tank 2A (10,000 gallons premium) and Tank 3A (10,000 gallons diesel).

- Failure of facility having one or more petroleum UST systems to have one or more persons designated as Class A, Class B, and Class C Operators in accordance with Rule 0400-18-01-.16(1)(a). Specifically, at the time of the inspection, no trained A or B operator had been designated for this facility.

VII.

Division personnel sent a Results of Compliance Inspection – Action Required letter to the Respondent on February 14, 2024. The letter cited the violations discovered during the inspection and required the Respondent to submit documentation to the Division by March 15, 2024, to document correction of the violations.

VIII.

Between March 22 and September 24, 2024, the Division sent the Respondents multiple letters that cited the violations discovered during the inspection and the Respondent's failure to return to compliance. These letters explained how to address each violation and extended the deadline to return to compliance multiple times. The Division set two deadlines, April 22 and October 24, 2024, for the Respondent to return to compliance and provide the Division with documents proving the facility had returned to compliance.

The Respondents violated Rule 0400-18-01-.03(2) when they failed to meet the deadlines.

IX.

To date, the Respondents have not cooperated fully and remain in non-compliance with the Division.

VIOLATIONS

As stated herein, the Respondents committed the following violations:

X.

By failing to operate a UST in compliance with the Act, the Respondents 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[.]

XI.

The Respondent violated Rule 0400-18-01-.02(4)(c)4, which states:

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

(4) Corrosion protection.

(c) Operation and maintenance of corrosion protection.

All owners and/or operators of metal UST systems with corrosion protection shall comply with the following requirements to ensure that releases due to corrosion are prevented until the UST system is permanently closed or undergoes a change-in-service in accordance with paragraph (4) of Rule 0400-18-01-.07:

4. UST systems with impressed current cathodic protection systems shall also be inspected every 60 days to ensure the equipment is operating properly. The results of the inspection shall be recorded in a format established by the Division and in accordance with the instructions provided by the Division.

XII.

The Respondent violated Rule 0400-18-01-.02(4)(c)2(i), which states:

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

(4) Corrosion protection.

(c) Operation and maintenance of corrosion protection.

All owners and/or operators of metal UST systems with corrosion protection shall comply with the following requirements to ensure that releases due to corrosion are prevented until the UST system is permanently closed or undergoes a change-in-service in accordance with paragraph (4) of Rule 0400-18-01-.07:

2. All UST systems equipped with cathodic protection systems shall be inspected for proper operation by a qualified cathodic protection tester in accordance with the following requirements:
 - (i) All cathodic protection systems shall be tested within six months of installation and at least every three years thereafter;

XIII.

The Respondent violated Rule 0400-18-01-.02(4)(c)1, which states:

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

(4) Corrosion protection.

(c) Operation and maintenance of corrosion protection.

All owners and/or operators of metal UST systems with corrosion protection shall comply with the following requirements to ensure that releases due to corrosion are prevented until the UST system is permanently closed or undergoes a change-in-service in accordance with paragraph (4) of Rule 0400-18-01-.07:

1. All corrosion protection systems shall be operated and maintained in accordance with a corrosion expert's design to continuously provide corrosion protection to the metal components of that portion of the tank, piping and underground ancillary equipment that routinely contains petroleum and is in contact with the ground.

XIV.

The Respondent violated Rule 0400-18-01-.16(1)(a), which states:

0400-18-01-.16 CERTIFIED OPERATOR PROGRAM.

- (1) Operator Designation Requirements.
 - (a) Effective August 8, 2012, every facility having one or more petroleum UST systems subject to the requirements of Chapter 0400-18-01 must have one or more persons who have been designated by the tank owner as Class A, Class B, and Class C Operator(s).

XV.

The Respondent violated Rule 0400-18-01-03(2), which states:

0400-18-01-.03 NOTIFICATION, REPORTING, AND RECORD KEEPING.

- (2) Reporting and record keeping.

Owners, operators, and/or other responsible parties of UST systems shall cooperate fully with inspections, monitoring and testing conducted by the Division, as well as requests for document submission, testing, and monitoring by the owner, operator, and/or other responsible parties in accordance with the Tennessee Petroleum Underground Storage Tank Act T.C.A. §§ 68-215-101 et seq.

ORDER AND ASSESSMENT

XVI.

Pursuant to sections 68-215-107, -114, and -121 of the Act, the Respondents are issued the following Order and Assessment ("Order"):

1. If the Respondents fail to comply with this Order 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).

2. **Civil Penalty:** The Respondents shall pay a total civil penalty of \$9,840.00 on or before the thirty-first day after receipt of this Order. This amount consists of:

- i. One violation assessed at \$1,200.00 per impressed current system for a total of \$1,200.00 for failing to inspect impressed current corrosion protection system every sixty (60) days.
- ii. One violation assessed at \$1,200.00 per corrosion protection system test for a total of \$1,200.00 for failing to ensure that the cathodic protection system is tested every 3 years.
- iii. One violation assessed at \$2,000.00 per corrosion protection system test for a total of \$2,000.00 for failing to ensure that cathodic protection is functioning as designed and is effectively preventing corrosion.
- iv. One violation assessed at \$3,800.00 per Class A/B operator designations for a total of \$3,800.00 for failure of a facility having one or more petroleum UST systems to have one or more persons designated as Class A, Class B, and Class C Operators.
- v. One violation assessed at 20% of the civil penalty for all outstanding violations for a total of \$1,640.00 for failing to cooperate with the Division.
- vi. 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

3. **Remedial Action:** The Respondents shall perform all actions necessary to correct the outstanding violations and to bring the facility into full compliance with regulatory requirements. The Respondents shall provide the Division with documentation of the remedial action performed; the documentation shall be sufficient to establish a return to full compliance.

- i. On or before the thirty-first day after receipt of this Order, the Respondents shall, using the Division's designated form (CN-1282) begin performing rectifier

inspections every sixty (60) days and submit documentation to the Division for review or complete the Permanent Closure Process.

- ii. On or before the thirty-first day after receipt of this Order, the Respondents shall, either conduct a cathodic protection test using the Division's designated form (CN-1309) and submit results to the Division for review or complete the Permanent Closure Process.
- iii. On or before the thirty-first day after receipt of this Order, the Respondents shall, either investigate and if necessary, repair and test the corrosion protection system using the Division's designated form (CN-1309) ensuring the rectifier's output is operational and is within the desirable operating range or complete the Permanent Closure Process.
- iv. On or before the thirty-first day after receipt of this Order, the Respondents shall complete the operator training requirement.

There are two ways to complete the operator training requirement:

1. Complete online (Tennessee Tank Helper) training anytime at your convenience, using this link <https://tdec.tn.gov/tankhelper>. If you do not already have an account, you will need to create one and complete all relevant trainings for your site; or
2. Complete virtual training (Tennessee Tank School) by registering for the upcoming class using this link <https://www.tn.gov/environment/programareas/ust-underground-storage-tanks/operator-training/tank-school.html>,

Tank school classes are held once a month on the second Wednesday of the month. You will need to register to attend the class at least 1 week prior to the class. A post-class test score of 70 or above is required. Designate the person completing A and B operator training as an A and B operator if they are not already.

4. 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.
5. 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 Respondents 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 Respondents 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 Respondents. 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(s).

NOTICE OF RIGHTS

The Respondents 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 Respondents 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. Chapter 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 Parkway, 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. 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 Parkway, 6th Floor, Nashville, Tennessee

37243. Technical questions and other correspondence involving compliance issues should be sent to Jeff Mann, Division of Underground Storage Tanks, Nashville Environmental Field Office, 711 R. S. Gass Boulevard, Nashville, Tennessee 37243. Attorneys should contact the undersigned counsel of record. **The case number, UST24-0244, 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 18th day of December, 2024.

Stanley R. Boyd

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

Reviewed by:

Samantha Buller-Young

Samantha Buller-Young (Dec 18, 2024 1:13 EST)

Samantha Buller-Young
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