



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
Division of Underground Storage Tanks
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 12th Floor
Nashville, Tennessee 37243

November 13, 2018

Warren County Tennessee
c/o Jimmy Haley, County Executive
201 Locust Street, Suite 1
McMinnville, Tennessee 37110

Certified Mail No. 9414 7266 9904 2088 5206 80

Re: Warren County Memorial Airport
4187 Nashville Highway
McMinnville, Tennessee 37111
Facility ID # 4-890128
Case # UST18-0118

Dear Mr. Haley:

Enclosed is an Order and Assessment issued by the Tennessee Department of Environment and Conservation, Division of Underground Storage Tanks. The violation was discovered during a facility inspection conducted on June 27, 2018. Specifically, Division personnel discovered:

Violation #1: Failure to conduct release detection monitoring at least monthly for releases using one of the methods listed in subparagraphs (3)(d) through (i) in accordance with Rule 0400-18-01-.04(2)(a). Specifically, at the time of inspection, Tank 5A (10,000 gallon Avgas) was missing six (6) months of release detection records.

<u>Individual Civil Penalty Amount for Violation</u>	<u>Multiplication Factor</u>	<u>Total</u>
\$3,200.00	1	\$3,200.00

Total Amount of your Civil Penalty: \$3,200.00

The record reflects that, upon being notified, you performed the necessary actions to address the violation and returned to compliance. The Division is appreciative of your effort to return to compliance. For this reason, please note that the enclosed Order provides that you may resolve this matter without appeal for a **reduction of up to one hundred percent** in the above civil penalty.

Please carefully review the enclosed Order, including the Options set out in Section XIV., and the Notice of Rights, which explains the appeal process. If you elect Option A or Option B, then you must submit payment, on or before the 31st day after receipt of this Order. Payment shall be submitted to the following address:

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

Payment of the civil penalty shall be made payable to the “Treasurer, State of Tennessee”. The case number shown on the first page of the enclosed Order should be written on said payment(s).

If you accept Option C, the Division’s offer to resolve this matter by attending Underground Storage Tank Training, then you must return the enclosed REQUEST TO ATTEND UNDERGROUND STORAGE TANK TRAINING form on or before the 31st day after receipt of this Order. Return the request form to the following address:

Ethan Ralph
Nashville Environmental Field Office
711 R. S. Gass Boulevard
Nashville, Tennessee 37216

If you decline the options set out in Section XIV., then you may choose to exercise your right to appeal by the deadline stated in the Notice of Rights.

If you neither accept the Division’s offer nor timely appeal, then the entire civil penalty amount of \$3,200.00 will become due and subject to collection.

If you have any questions about this matter, please call Ethan Ralph at (615) 687-7094.

Sincerely,



Stanley R. Boyd
Director

cc: Enforcement file
Cookeville Environmental Field Office

SIGNIFICANT OPERATIONAL COMPLIANCE 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
Illegal Red Tag Removal	Tenn. Code Ann. § 68-215-106(c)-(d)	Tennessee Code Annotated

STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION

IN THE MATTER OF:)	DIVISION OF UNDERGROUND
)	STORAGE TANKS
WARREN COUNTY TENNESSEE)	
)	CASE NO. UST18-0118
RESPONDENT)	FACILITY: WARREN COUNTY MEMORIAL
		AIRPORT

ORDER AND ASSESSMENT

NOW COMES Shari L. Meghreblian, PhD, Commissioner of the Tennessee Department of Environment and Conservation (the "Commissioner"), and states:

PARTIES

I.

Shari L. Meghreblian, PhD, is the duly appointed Commissioner of the Tennessee Department of Environment and Conservation (the "Department"), and among other duties and responsibilities, she is charged with the responsibility for administering and enforcing the Tennessee Petroleum Underground Storage Tank Act (the "Act"), Tennessee Code Annotated ("Tenn. Code Ann.") §§ 68-215-101 *et seq.* Stanley R. Boyd is the duly appointed Director (the "Director") of the Underground Storage Tank Division (the "Division"). He has received written delegation from the Commissioner to administer and enforce particular aspects of the Act.

II.

Warren County, Tennessee (the "Respondent") is the registered owner of two (2) underground storage tank ("UST") systems located at 4187 Nashville Highway, McMinnville, Tennessee 37111. Service of process may be made on Jimmy Haley, County Executive, at the 201 Locust Street, Suite 1, McMinnville, Tennessee 37110.

JURISDICTION

III.

When the Commissioner finds upon investigation that any provision of the Act is not being carried out, and that effective measures are not being taken to comply with the provisions of the Act, then pursuant to Tenn. Code Ann. § 68-215-114, she may issue an Order for correction to the responsible party, and this Order shall be complied with within the time limit specified in the Order. Tenn. Code Ann. § 68-215-121 authorizes the Commissioner to assess civil penalties against any person who violates or fails to comply with the Act. Rules governing underground storage tanks have been promulgated pursuant to Tenn. Code Ann. § 68-215-107(f) and are effective as Tenn. Comp. R. & Regs. 0400-18-01 *et seq.* (the "Rules").

IV.

The Respondent is a person as defined at Tenn. Code Ann. § 68-215-103(11), and has violated the Act as hereinafter stated.

FACTS

V.

On or about August 17, 2007, the Division received a Notification for Underground Storage Tanks form listing the Respondent as the owner of the two (2) UST systems located at 4187 Nashville Highway, McMinnville, Tennessee 37111. The facility ID number is 4-890128.

VI.

On or about June 1, 2018, Division personnel contacted Richard Crawford (the "facility operator") by phone and scheduled a compliance inspection to be conducted on June 27, 2018. Division personnel also sent a letter confirming the inspection date.

VII.

On or about June 27, 2018, Division personnel performed a compliance inspection at the subject facility. The inspector discovered the following violation:

Violation #1: Failure to conduct release detection monitoring at least monthly for releases using one of the methods listed in subparagraphs (3)(d) through (i) in accordance with Rule 0400-18-01-.04(2)(a). Specifically, Tank 5A (10,000 gallon Avgas) was missing six (6) months of release detection records. Additionally, the Automatic Tank Gauge ("ATG") alarm history could not be provided at the time of inspection.

VIII.

On or about July 11, 2018, Division personnel sent a Results of Compliance Inspection – Action Required certified letter to the facility operator. The letter cited the violation discovered during the inspection and required the Respondent to submit documentation to the Division by August 13, 2018, to demonstrate compliance. U.S. Postal Service tracking records delivery on July 14, 2018.

IX.

On or about August 13, 2018, Division personnel sent a Results of Compliance Inspection – Follow-up Letter via certified mail to the facility operator. The letter cited the violation discovered during the inspection and required the Respondent to submit documentation to the Division by September 13, 2018, to demonstrate compliance. U.S. Postal Service tracking records delivery on August 16, 2018.

X.

On or about September 20, 2018, the Division received compliance documentation addressing the violation discovered at the time of inspection. The facility operator personally delivered the ATG records for August 2018 and September 2018 and the ATG alarm history for Tank 5A (10,000 gallon Avgas) and Tank 5B (10,000 gallon Jet Fuel) to the Cookeville Environmental Field Office. The documentation confirmed that the violation discovered during the inspection had been addressed and the facility had returned to operational compliance. On or about September 24, 2018, Division personnel returned the original documents to the facility operator.

XI.

On or about September 26, 2018, Division personnel sent a Results of Inspection - Enforcement Action Notice certified letter to the Respondent. The letter cited the violation discovered during the inspection and the response received by the Division to address the violation. U.S. Postal Service tracking records delivery on September 29, 2018.

VIOLATION

XII.

By failing to operate a petroleum underground storage tank in compliance with the Act, the Respondent has violated Tenn. Code Ann. § 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;

XIII.

By failing to conduct release detection monitoring at least monthly, the Respondent has violated Rule 0400-18-01-.04(2)(a), 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:

- (a) Tanks.

Tanks shall be monitored at least monthly for releases using one of the methods listed in subparagraphs (3)(d) through (i) of this rule, except that:

ORDER AND ASSESSMENT

XIV.

WHEREFORE, pursuant to the authority vested by Tenn. Code Ann. §§ 68-215-107, 68-215-114, and 68-215-121,

I, Stanley R. Boyd, acting as the authorized representative of the Commissioner, hereby issue the following ORDER AND ASSESSMENT to the Respondent:

1. The Respondent is assessed a CIVIL PENALTY of THREE THOUSAND TWO HUNDRED DOLLARS (\$3,200.00) and must complete one of the following options:

Option A. Full Civil Penalty Payment Option:

On or before the thirty-first (31st) day after receiving this Order, the Respondent shall pay the **FULL CIVIL PENALTY** in the amount of THREE THOUSAND TWO HUNDRED DOLLARS (\$3,200.00).

Option B. Twenty Percent Civil Penalty Payment Option:

- i. On or before the thirty-first (31st) day after receiving this Order, the Respondent shall pay twenty percent (20%) of the civil penalty. Twenty percent of the civil penalty is SIX HUNDRED AND FORTY DOLLARS (\$640.00).
- ii. If the Respondent timely pays the twenty percent (20%) payment, then the Respondent shall pay the remaining eighty percent (80%) of the civil penalty, TWO THOUSAND FIVE HUNDRED AND SIXTY DOLLARS (\$2,560.00), if and only if, the Division determines that a significant operational compliance violation has occurred at the facility during a one-year period to commence on the date of receipt of this Order. Payment of the remaining eighty percent (80%) of the civil penalty shall be due within thirty (30) days

after the significant operational compliance violation is discovered. A list of the violations that are treated as significant operational compliance violations for the purposes of this Order was enclosed with the order.

- iii. In the event that the Division discovers any violation, including non-significant operational compliance, it reserves the right to assess additional civil penalties and to take any and all other enforcement actions that it deems necessary.

Option C. Underground Storage Tank Training Option:

- i. On or before the thirty-first (31st) day after receiving this Order, the Respondent shall return a signed Request to Attend Underground Storage Tank Training form to the address that appears on the request form, which is enclosed. The Respondent must attend Underground Storage Tank Training within **one year** after receiving this Order.
- ii. If the Respondent timely submits the Request To Attend Underground Storage Tank Training, then the Respondent shall pay the **FULL CIVIL PENALTY**, if and only if, one of the following occurs:
 - a. The Respondent fails to successfully complete attendance at Underground Storage Tank Training. If Respondent does not successfully attend the training, then payment of the full civil penalty shall be due within thirty (30) days after expiration of the one-year period; or
 - b. The Division determines that a significant operational compliance violation has occurred at the facility during a one-year period to commence on the date of receipt of this Order. Payment of the civil penalty shall be made within thirty (30) days following discovery of the significant operational compliance violation. A list of the violations that are treated as significant operational compliance violations for the purposes of this Order was enclosed with the order.
- iii. In the event that the Division discovers any violation, including non-significant operational compliance violations, it reserves the right to assess additional civil penalties and to take any and all other enforcement actions that it deems necessary.

- 2. **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/or recovery of costs.**

NOTICE OF RIGHTS

Tenn. Code Ann. § 68-215-119 allows the Respondent to appeal this Order and Assessment. To do so, a written petition setting forth the grounds (reasons) for requesting a hearing must be RECEIVED by the Commissioner within THIRTY (30) DAYS after the date the Respondent received this Order and Assessment or this Order and Assessment will become final (not subject to review).

If an appeal is filed, an initial hearing of this matter will be conducted by an Administrative Law Judge ("ALJ") as a contested case hearing pursuant to the provisions of Tenn. Code Ann. § 68-211-119(b), Tenn. Code Ann. § 4-5-301 *et seq.* (the Uniform Administrative Procedures Act), and Rule 1360-04-01 *et seq.* (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 an appeal 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 ALJ has the authority to affirm, modify, or deny the Order and Assessment. This includes the authority to modify (decrease or increase) the penalty within the statutory limits of Tenn. Code Ann. § 68-215-121 (from \$1 to \$10,000 per day per violation). Furthermore, the ALJ 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 ALJ and a court reporter.

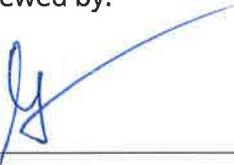
Any petition for review (appeal) must be directed to the Commissioner of the Tennessee Department of Environment and Conservation, c/o Jenny L. Howard, General Counsel, Department of Environment and Conservation, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 2nd Floor, Nashville, Tennessee 37243. 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, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 10th Floor, Nashville, Tennessee 37243. Technical questions and other correspondence involving compliance issues should be sent to Ethan Ralph, Nashville Environmental Field Office, 711 R. S. Gass Boulevard, Nashville, Tennessee 37216. Attorneys should contact the undersigned counsel of record. **The case number, UST18-0118, 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 13th day of November, 2018.



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

Reviewed by:



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

Director's Order #UST18-0118
Facility ID #4-890128

REQUEST TO ATTEND UNDERGROUND STORAGE TANK TRAINING

In order to receive consideration for the reduction of civil penalties for violations addressed in this Order, the Respondent has been given the opportunity to attend training on the proper operation of underground storage tanks in accordance with rules established by the State of Tennessee. To accept training, the Respondent must sign the request below and return it to the Division within thirty (30) days after receipt of the Order. You will be contacted to schedule training.

Tank school classes are offered in different regions of the state. To best accommodate you, please circle the region in which you would like to attend tank school.

West Tennessee

Middle Tennessee

East Tennessee

I, _____ (*Please Print Your Name*) request to attend training on the proper operation of underground storage tanks.

Signature: _____

Date: _____

My contact information is: Telephone: _____
Address: _____

Return this Request to:
Ethan Ralph
Nashville Environmental Field Office
711 R.S. Gass Boulevard
Nashville, Tennessee 37216