



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

May 18, 2021

Parsons Sky Holding LLC  
c/o Yousef Shaban, Registered Agent  
3330 Valleywood Cove  
Murfreesboro, Tennessee 37129-0871

Certified Mail Number 9315 4699 0430 0082 6573 71

Re: Smiley's  
326 West Main Street  
Parson, Tennessee 38363  
Facility ID # 8-200010  
Case # UST21-0003

Dear Sir or Madam:

Enclosed is an Order and Assessment issued by the Tennessee Department of Environment and Conservation, Division of Underground Storage Tanks. The Order cites operational violations discovered at the facility during an inspection conducted on January 28, 2020. The Order requires you to take corrective action to bring the facility into operational compliance. The following actions must be taken to bring the facility into compliance:

1. Submit documentation detailing the repair and testing of the impressed current cathodic protection system.

Because there is outstanding noncompliance, if this Order becomes final, then the facility will be placed on the petroleum **Delivery Prohibition List**. Red Tags will be installed at the fill ports and dispensers at the facility. Upon completion of the necessary corrective action, documentation establishing the return to compliance shall be submitted to the Division.

Submit the required compliance documentation to:

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

A civil penalty of \$2,400.00 has been assessed against you based on the violations. The civil penalty is calculated as follows:

Violation #1: Failure to operate and maintain corrosion protection system to provide continuous protection accordance with Rule 0400-18-01-.02(4)(c)1.

<u>Individual Civil Penalty Amount for Violation</u>	<u>Multiplication Factor</u>	<u>Total Penalty Civil Penalty</u>
\$2,000.00	1	\$2,000.00

Violation #3: Failure to cooperate with the Division by failing to provide documents, testing or monitoring records to the Division in accordance with Rule 0400-18-01-.03(2).

<u>Individual Civil Penalty Amount for Violation</u>	<u>Multiplication Factor</u>	<u>Total Penalty Civil Penalty</u>
\$400.00	1	\$400.00

**Total Amount of your Civil Penalty: \$2,400.00**

Payment of the civil penalty 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, 10<sup>th</sup> Floor  
Nashville, Tennessee 37243

Payment 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).

The appeal period is limited. **Carefully read the Notice of Rights contained in the Order.** An appeal must be in writing and received within 30 days after you receive this Order. If you do not submit a timely appeal, then the entire civil penalty amount of \$2,400.00 will become final, due to be paid, and subject to collection.

If you have any questions about this matter, please call Ethan Ralph at (615) 924-1328.

Sincerely,



Stanley R. Boyd  
Director

cc: Enforcement File  
Columbia 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>PARSON SKY HOLDINGS LLC</b>	)	
	)	<b>CASE NO. UST21-0003</b>
<b>RESPONDENT</b>	)	<b>FACILITY: SMILEY'S</b>

**ORDER AND ASSESSMENT**

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

**PARTIES**

**I.**

David W Salyers, P.E. is the duly appointed Commissioner of the Tennessee Department of Environment and Conservation ("Department"), and among other duties and responsibilities, he is charged with the responsibility for administering and enforcing the Tennessee Petroleum Underground Storage Tank Act ("Act"), Tenn. Code Ann. sections 68-215-101 to -129. Stanley R. Boyd is the duly appointed Director ("Director") of the Underground Storage Tank Division ("Division"). He has received written delegation from the Commissioner to administer and enforce aspects of the Act.

**II.**

Parsons Sky Holdings LLC ("Respondent") is a limited liability company created in the State of Tennessee and is properly registered to conduct business in Tennessee. The Respondent is the registered owner of three underground storage tank ("UST") systems located at 326 West Main Street, Parsons, Tennessee 38363. Service of process may be made on the Respondent's Registered Agent, Yousef Shaban, at 3330 Valleywood Cove, Murfreesboro, Tennessee 37129-0871.

**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, the

Commissioner 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. § 68-215-114. If this Order becomes final, the Commissioner may red tag the facility fill ports and/or dispensers and give notice on the Department's website of petroleum delivery prohibition. Tenn. Code Ann. § 68-215-106(c). Further, the Commissioner is authorized to assess civil penalties against any person who violates or fails to comply with the Act. Tenn. Code Ann. § 68-215-121. Rules governing USTs have been promulgated pursuant to Tenn. Code Ann. § 68-215-107(f) and are effective as Tenn. Comp. R. & Regs. 0400-18-01-.01 to -.17 ("Rules").

#### **IV.**

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

#### **FACTS**

#### **V.**

On or about December 30, 2009, the Division received a Notification for Underground Storage Tanks form, signed by Terry Newman ("Authorized Representative"), listing the Respondent as the owner of the three underground storage tank ("UST") systems located at 326 West Main Street, Parsons, Tennessee 38363. The facility ID number is 8-200010.

#### **VI.**

On or about December 26, 2019, Division personnel sent a Confirmation of Compliance Inspection Appointment letter to the Respondent. The letter confirmed that a compliance inspection would be conducted at the facility on January 28, 2020.

#### **VII.**

On or about January 28, 2020, Division personnel performed a compliance inspection at the subject facility. The inspector discovered the following violations:

Violation #1: Failure to operate and maintain corrosion protection system to provide continuous protection accordance with Rule 0400-18-01-.02(4)(c)1. Specifically, at the time of inspection, the inconclusive results of an impressed current cathodic protection ("CP") test conducted January 22, 2020 were provided.

Violation #2: Failure to report a change in status for a UST system within 30 days in accordance with Rule 0400-18-01-.03(1)(g). Specifically, at the time of inspection, it was discovered that Tank #2A

(10,000 gallon gasoline) had been out-of-service and pumped to less than one inch of liquid since January 2019.

#### **VIII.**

On or about January 28, 2020, Division personnel sent a Results of Compliance Inspection – Action Required certified letter to the Respondent. The letter cited the violations discovered during the compliance inspection and required the Respondent to submit documentation to the Division by March 2, 2020, to document correction of the violations. U.S. Postal Service tracking records delivery on February 1, 2020.

#### **IX.**

On or about January 30, 2020, the Division received an amended Notification for Underground Storage Tanks form properly registering Tank #2A as Temporarily Out-of-Service. The documentation confirmed that Violation #2, discovered during the inspection, had been addressed.

#### **X.**

On or about March 9, 2020, Division personnel sent an Enforcement Action Notice certified letter to the Respondent. The letter cited the violations discovered during the inspection and the Respondent's failure to return to compliance. U.S. Postal Service tracking records delivery on March 12, 2020.

#### **XI.**

On or about March 18, 2020, Division personnel received a phone call from Anthony Coblenz with JPS Services LLC. Mr. Coblenz requested an extension allegedly because the inconclusive CP test was being reviewed. . On or about March 19, 2020, an Extension Request – Approved letter was sent to the Respondent. The letter granted the extension and established a deadline of May 1, 2020, to document correction of the violations.

#### **XII.**

On or about June 30, 2020, Division personnel contacted Anthony Coblenz via email to inquire on the status of the review of the inconclusive test. Michael Coblenz, with JPS Services LLC, replied to the email stating that the review had been completed and an estimate of the necessary repairs was being sent to the Respondent.

**XIII.**

On or about November 3, 2020, Division personnel contacted Michael Coblentz via email to inquire on the status of the CP repairs at the facility. Mr. Coblentz replied to the email stating the estimate had been sent to the Respondent in July 2020, and they received no response from the Respondent.

**XIV.**

On or about December 4, 2020, a Notice of Violation letter was sent to the Respondent. The letter cited the violations discovered during the compliance inspection and required the Respondent to submit documentation to the Division by January 4, 2021, to document correction of the violations.

**XV.**

When the Respondents failed to meet the January 4, 2021 deadline, the following violation was added:

Violation #3: Failure to cooperate with the Division by failing to provide documents, testing or monitoring records to the Division in accordance with Rule 0400-18-01-.03(2).

**XVI.**

To date, no further contact has been made with the Respondent, and the facility is not in compliance with the Division.

**VIOLATIONS**

**XVII.**

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

**XVIII.**

By failing to maintain the impressed current CP system, the Respondent has 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 steel UST systems with corrosion protection shall comply with the following requirements to ensure that releases due to corrosion are prevented for as long as the UST system is used to store petroleum:

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.

#### **XIX.**

By failing to cooperate with the Division, the Respondents have 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 Tenn. Code Ann. §§ 68-215-101 et seq.

#### **ORDER AND ASSESSMENT**

#### **XX.**

Pursuant to the authority vested by Tenn. Code Ann. sections 68-215-107, -114, and -121, I, Stanley R. Boyd, acting as the authorized representative of the Commissioner, hereby issue the following Order and Assessment to the Respondent:

1. 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 and dispensers will be red tagged until compliance is achieved.** Tenn. Code Ann. § 68-215-106(c).
2. The Respondent shall perform all actions necessary to correct the outstanding violation(s) and to bring the facility into full compliance with regulatory requirements. The Respondent shall provide the Division with documentation of the corrective action performed; the documentation shall be sufficient to establish a return to full compliance.

- i. On or before the 30<sup>th</sup> day after receipt of this Order, the Respondent shall submit documentation detailing the repairs and testing of the impressed current CP system.
3. On or before the 30<sup>th</sup> day after receipt of this Order, the Respondent shall pay a total civil penalty in the amount of \$2,400.00. This amount consists of the following:
  - i. One violation assessed at \$2,000.00 per CP system for a total of \$2,000.00 for failing to maintain the impressed current CP system.
  - ii. One violation assessed at 20% of the outstanding civil penalties for a total of \$400.00 for failing to provide repair and testing documents.
4. The Respondent is advised that the foregoing Order is not in any way to be construed as a waiver, express or implied, of any provision of the law or regulations, including but not limited to, future enforcement for violations of the Act and Regulations which are not charged as violations in this Order. However, compliance with the Order will be one factor considered in any decision whether to take enforcement action against the Respondent in the future.
5. **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.**
6. For good cause shown by the Respondent, the Director may extend the compliance dates contained within this Order for a fixed time period. 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 Director 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 30 days after that deadline.



### **RESERVATION OF RIGHTS**

In issuing this Order and Assessment, 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, and/or damages incurred by the State against the Respondent(s). 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 order will be considered as a mitigating factor in determining the need for future enforcement action(s).

### **NOTICE OF RIGHTS**

The Respondent(s) may appeal this Order and Assessment. 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 30 days of the date the Respondent(s) received this Order and Assessment or this Order and Assessment will become final.

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. Tenn. Code Ann. § 69-215-119; Tenn. Code Ann. § 4-5-301 to -325 (the Uniform Administrative Procedures Act); 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 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. 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 37243-1548. 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, 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 or emailed to Ethan.Ralph@tn.gov. Attorneys should contact the undersigned counsel of record. **The case number, UST21-0003, 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 May, 2021.



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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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.. (May 18, 2021 12:23 CDT)

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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](mailto:George.Bell@tn.gov)