



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 29, 2024

Om Ganganath Inc.
c/o Chandrika Patel, Registered Agent
62 Mallards Landing South
Waterford, New York 12188

Served via Private Process Server

Re: Director's Order UST24-0214
Spirit Market
519 West Main Street
Hohenwald, Tennessee 38462
Facility ID # 6-510021

Dear Chandrika Patel:

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 \$43,440.00 has been assessed against Om Ganganath Inc. 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 January 23, 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 (or remain 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 Skylar Clemons at (615) 428-2141 or Skylar.Clemons@tn.gov.

Sincerely,

Stanley R. Boyd
Director

cc: Enforcement File
Columbia Environmental Field Office

STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION

IN THE MATTER OF:)	
)	DIVISION OF UNDERGROUND
)	STORAGE TANKS
)	
)	
OM GANGANATH INC.,)	CASE NO. UST24-0214
)	
)	
RESPONDENT.)	FACILITY: SPIRIT MARKET
)	

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.

Om Ganganath Inc. ("Respondent") is an inactive corporation created in Tennessee and is not properly registered to conduct business in Tennessee. The Respondent is the registered owner of three underground storage tank ("UST") systems located in Lewis County at 519 West Main Street, Hohenwald, Tennessee 38462 ("Facility"). Service of process may be made on the Respondent's Registered Agent, Chandrika Patel, at 62 Mallards Landing South, Waterford, New York 12188.

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 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 or around November 14, 2018, the Division received a Notification for Underground Storage Tanks form, signed by Babu Patel, listing the Respondent as the owner of the three UST systems located at the Facility. The Facility ID number is 6-510021.

VI.

On January 23, 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 overfill prevention equipment at least once every three (3) years in accordance with Rule 0400-18-01-.02(3)(c)2. Specifically, to date, no overfill prevention device operability test performed at this Facility within three years of the inspection date has been provided to the Division.
- Failure to perform periodic walkthrough inspections in accordance with Rule 0400-18-01-.02(8)(a)1. Specifically, to date, no monthly or annual walkthrough inspection forms for this Facility, dated within one year of the inspection date, have been provided to the Division.
- Failure to conduct annual line tightness test on pressurized underground piping in accordance with Rule 0400-18-01-.04(2)(b)1(ii). Specifically, to date, no line tightness test performed at this Facility within one year of the inspection date has been provided to the Division.
- Failure to monitor tanks at least monthly in accordance with Rule 0400-18-01-.04(2)(a). Specifically, to date, the required twelve months (February 2023 to January 2024) of monthly tank release detection records for the UST systems at this Facility have not been provided to the Division.

- Failure of facility having one or more petroleum UST systems to have one or more persons designated as a Class A and Class B Operator in accordance with Rule 0400-18-01-.16(1)(a). Specifically, to date, the no Class A or Class B Operator for this Facility has been designated with the Division.
- Failure to have at least one trained Class C Operator on site whenever the facility is operating in accordance with Rule 0400-18-01-.16(3)(c). Specifically, at the time of the inspection, the required Class C Operator signage or manual was not observed at the Facility. To date, no documentation that this required signage/ manual has been posted at the Facility has been submitted to the Division.
- Failure to report a change of status for a UST system within 30 days in accordance with Rule 0400-18-01-.03(1)(g). Specifically, on or around December 10, 2022, the Respondent became inactive with the Tennessee Secretary of State and, to date, has not updated the ownership of the Facility with the Division.

VII.

Division personnel sent a Results of Compliance Inspection – Action Required letter to the Respondent on January 23, 2024. The letter cited the violations discovered during the inspection and required the Respondent to submit documentation to the Division by February 28, 2024, to document correction of the violations.

VIII.

Between February 29 and July 9, 2024, the Division sent the Respondent 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 4, and August 8, 2024) for the Respondent to return to compliance and provide the Division with documents proving the Facility had returned to compliance.

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

IX.

To date, the Respondent has not cooperated fully and remains in non-compliance with the Division.

VIOLATIONS

As stated herein, the Respondent committed the following violations:

X.

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[.]

XI.

The Respondent violated Rule 0400-18-01-.02(3)(c)2, which states:

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

(3) Spill and overfill prevention.

(c) Periodic testing of spill prevention equipment and periodic inspection of overfill prevention equipment.

2. Inspections. Overfill prevention equipment must be inspected at least once every three years. At a minimum, the inspection must ensure that overfill prevention equipment is set to activate at the correct level specified in subpart (a)1.(ii) of this paragraph and will activate when petroleum reaches that level. Inspections must be conducted in accordance with one of the criteria in items 1.(ii)(I) through (IV) of this subparagraph.

XII.

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[.]

XIII.

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:

- (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.

XIV.

The Respondent 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)(c) through (f) of this rule, except that tanks which meet the volume, diameter, and test duration requirements as set forth in subpart (3)(a)1.(i) of this rule may use manual tank gauging (conducted in accordance with subparagraph (3)(a) of this rule).

XV.

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).

XVI.

The Respondent violated Rule 0400-18-01-.16(3)(c), which states:

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

- (3) Tank Owner Responsibilities.

- (c) If a UST facility has a person(s) on site, at least one person on site must be a Class C Operator whenever the facility is operating. A sign or instruction manual must be placed where the Class C operator would be expected to see it during the normal course of their work[.]

XVII.

The Respondent violated Rule 0400-18-01-.03(1)(g), which states:

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

- (1) Notification requirements.

- (g) Any change in the status of the tanks at a petroleum UST facility shall be reported within 30 days of said change. This includes but is not limited to changes of ownership, upgrading or replacement of tanks, changes in mailing address, permanent closure of a tank compartment, and changes in service. Such reports shall be made using an amended notification form. In the case of a sale of tanks, the seller shall submit the notification form designated by the Division, completed in accordance with instructions provided by the Division, and shall also inform the buyer of the notification requirement.

XVIII.

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

XIX.

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

- 1. If the Respondent fails 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 Respondent shall pay a total civil penalty of \$43,440.00 on or before the thirty-first day after receipt of this Order. This amount consists of:

- i. Three violations assessed at \$2,000.00 per tank compartment for a total of \$6,000.00 for failing to inspect overfill prevention equipment at least once every three years;
- ii. Three violations assessed at \$3,200.00 per UST system for a total of \$9,600.00 for failing to perform periodic walkthrough inspections;
- iii. Three violations assessed at \$2,000.00 per piping system for a total of \$6,000.00 for failing to conduct annual line tightness test on pressurized underground piping;
- iv. Three violations assessed at \$3,200.00 per tank compartment for a total of \$9,600.00 for failing to monitor tanks at least monthly;
- v. One violation assessed at \$3,800.00 per facility per class designation for a total of \$3,800.00 for failing to have one or more persons designated as a Class A and Class B Operator;
- vi. One violation assessed at \$600.00 per facility per class designation for a total of \$600.00 for failing to have at least one trained Class C Operator on site whenever the facility is operating;
- vii. One violation assessed at \$600.00 for failing to report a change of status for a UST system within 30 days;
- viii. One violation assessed at 20% per outstanding violation for a total of \$7,240.00 for failing to cooperate with the Division.
- ix. 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 Respondent shall perform all actions necessary to correct the outstanding violations and to bring the Facility into full compliance with regulatory requirements. The Respondent 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 Respondent shall designate a trained Class A and Class B Operator with the Division. If the designated Operator has not already completed the required operator training, then they will need to do so by choosing one of the two following options:
 - a. Complete online training (Tennessee Tank Helper) using this link:
 - i. <https://www.tn.gov/environment/ust/operator-training/tank-helper.html>. If the Respondent does not already have an account, the Respondent must create one and complete all relevant trainings for the site.
 - b. Complete virtual training (Tennessee Tank School) by registering for the upcoming class using this link:
 - i. <https://www.tn.gov/environment/ust/operator-training/tank-school.html>. Tank school classes are held on the second Wednesday of the month. The Respondent must register to attend the class at least one week prior to the class and complete the pre-test. A post-class test score of 70 or above is required.
- ii. On or before the thirty-first day after receipt of this Order, the Respondent shall conduct an overfill prevention device operability test on all overfill prevention devices at the Facility and submit a copy of the test on the Division's designated form to the Division for review.
- iii. On or before the thirty-first day after receipt of this Order, the Respondent shall begin conducting monthly and annual walkthrough inspections using the Division's designated forms and submit a copy of the most recently completed walkthrough forms to the Division for review.
- iv. On or before the thirty-first day after receipt of this Order, the Respondent shall conduct a line tightness test on all UST piping systems at the Facility and submit a copy of the test on the Division's designated form to the Division for review.
- v. On or before the thirty-first day after receipt of this Order, the Respondent shall submit a copy of the missing monthly tank release detection records for all USTs at the Facility to the Division for review. If these records are not available, then a copy of the most recent month of tank release detection records must be submitted to the Division for review.
- vi. On or before the thirty-first day after receipt of this Order, the Respondent shall create an acceptable Class C Operator signage or manual containing all Division-

required information and post this signage/ manual in a location in which the Class C Operator can easily access it during the course of their normal workday. A copy of this signage/ manual, as well as a photo of its placement, must be submitted to the Division for review on or before the deadline stated above.

vii. On or before the thirty-first day after receipt of this Order, the Respondent shall either reactivate the inactive corporation "Om Ganganath Inc." with the Tennessee Secretary of State **OR** successfully change the ownership of the USTs with the Division. If the Respondent wishes to change the ownership, then the Division's Buyer and Seller's forms must be properly completed and submitted to the Division's Notification section for review, along with proof of the change of ownership.

a. If any failing results occur on any of the above compliance testing/ reporting, then appropriate steps must be taken to investigate, repair/ replace, and retest the source of the failing results. Documentation of any repairs, replacements, and/ or retesting must be submitted to the Division for review on or before the deadline stated above.

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 Respondent. 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(s).

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. 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 Skylar Clemons, Division of Underground Storage Tanks, Nashville Environmental Field Office, 711 R. S. Gass Boulevard, Nashville, Tennessee 37243 or to Skylar.Clemons@tn.gov. Attorneys should contact the undersigned counsel of record. **The case number, UST24-0214, 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 29th day of October, 2024.



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

Reviewed by:



[Samantha Buller-Young \(Oct 30, 2024 10:26 EDT\)](#)

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