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Storage Tank Enforcement: Trust Fund Eligibility: Proposed Tennessee Department of Environment and Conservation Order/Assessment Addressing Warren County Storage Tank Owner

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The Tennessee Department of Environment and Conservation ("TDEC") issued on March 18th a Proposed Order and Assessment ("Order") to M&M Spartasmoke LLC ("M&M"). See Case No. Fed. 24-0008.

The Order addresses a facility titled Pump N Pay West which is stated to be the owner of two existing underground storage tanks ("USTs") and two closed USTs in Warren County, Tennessee.

The TDEC Division of Underground Storage Tanks ("Division") is stated to have been contacted by Phillips Sales and Service on October 31, 2022, advising there was a water intrusion issue for an M&M UST. Division personnel are stated to have performed a compliance inspection at the facility on November 3, 2022.

Multiple violations were allegedly discovered. However, all violations discovered at the inspection are stated to have been addressed.

Phillips Sales and Service personnel are stated to have phoned the Division on November 10, 2022, stating that a hole was discovered in the previously referenced UST. This is stated to have confirmed structural failure of the UST.

The Division is stated to have received a Permanent Closure Application ("PCA") for the previously referenced tank and an additional one on February 27, 2023. The Division sent a PCA-approved letter to M&M. Therefore, M&M are stated to have permanently closed the referenced USTs in accordance with its rules and guidance.

The Division is stated to have received analytical results on May 25, 2023, showing Extractable Petroleum Hydrocarbons ("EPH") above initial screening levels. Further, on October 13, 2023, the Division is stated to have received an application for fund eligibility from M&M for the previously identified release. Division personnel have determined that the facility did not meet the requirements for reimbursement for the release due to the following:

- Failure to submit the application for fund eligibility within 90 days of the suspected release in accordance with the Tennessee Code and UST rules.

The Order therefore requires that M&M perform the required release investigation or remediation activities required by the UST rules. In addition, the Order requires that M&M complete certain operator retraining and provides two options.

The Proposed Order provides certain appeal rights.

A copy of the Proposed Order can be downloaded [here](#).