

SETTLEMENT AGREEMENT
In the Matter of Eiffel, LLC
Division of Underground Storage Tanks, Director's Order No. UST19-0054

This Settlement Agreement is an agreement between the Department of Environment and Conservation ("Department") and Eiffel, LLC ("Respondent"), (collectively, "the Parties"). The Parties enter into this Settlement Agreement to resolve payment of the civil penalty assessed for violations of the Tennessee Petroleum Underground Storage Tank Act ("UST Act"), Tenn. Code Ann. §§ 68-215-101 to -129, alleged in Director's Order and Assessment UST19-0054 ("Order"), issued by the Department on October 8, 2019.

WHEREAS, the Respondent is the registered owner of three petroleum underground storage tank ("UST") systems located at 1273 Airport Road, Gallatin, Tennessee 37066 ("Facility"). Service of process may be made on the Respondent's Registered Agent, Dalia Gergis, at 8049 Poplarwood Road, Nashville, TN 37221;

WHEREAS, the Order alleged the Respondent committed violations of the UST Act and the rules promulgated thereunder;

WHEREAS, the Order required corrective action and assessed \$14,400 in civil penalties. The Respondent was properly served with the Order through its Registered Agent, Dalia Gergis, on March 15, 2021, and the Respondent did not submit a timely appeal of the Order or submit any payment of the civil penalty. As a result, the Order became final on April 14, 2021, and the full civil penalty assessed of \$14,400 became due;

WHEREAS, since issuance of the Order, the Department's Division of Underground Storage Tanks ("Division") confirmed the Respondent corrected the violations alleged in the Order in the spring of 2021;

WHEREAS, the Division performed an inspection of the Facility after the Order had gone final and after the facility remedied the violations in the Order on or about August 26, 2021. Violations of the UST Act were discovered during this inspection including failure to conduct tank release detection monitoring, failure to conduct annual line tightness tests, failure to keep records of monthly spill bucket inspections, failure to keep records of quarterly dispenser systems, failure to install or provide an adequate overfill prevention system, failure to install additional system parts, and failure to test line leak detectors annually;

WHEREAS, the Division received documentation demonstrating that the Facility returned to operational compliance as of December 19, 2022;

WHEREAS, the Respondent endeavors to resolve this matter having communicated with the Division after the Order became final and after returning the Facility to operational compliance following the August 2021 inspection;

NOW THEREFORE, to resolve this matter the Parties agree as follows:

1. The Respondent shall pay the entire civil penalty amount of \$14,400 in installments as follows. The Respondent shall pay an upfront civil penalty in the amount of \$2,400 and will make six

subsequent monthly payments of \$2,000. The Respondent will pay the upfront amount of \$2,400 such that it is received by the Department within 30 days following the effective date of this Settlement Agreement, as provided in paragraph 12 below. All remaining consecutive monthly payments shall be paid such that they are received by TDEC by the first day of each subsequent month. Should any payment due date be a Saturday, Sunday, or legal State holiday, the installment payment shall be paid such that it is received by the Department not later than the next business day following such day.

2. All payments will be made by check and made payable to the "Treasurer, State of Tennessee" with the case number, UST19-0054, written in the check memo line. Such payment will be sent to:

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

3. Should the Respondent fail to make any of the payments on time, then the Division will re-affix the red tags to the tanks at the Facility, thus prohibiting delivery of petroleum product.
4. The Respondent will attend and complete the Division's Underground Storage Tanks Training class within 90 days of the effective date of this Settlement Agreement.
5. The Respondent shall not allow any Operator Retraining Violations, as listed in the attachment to this Settlement Agreement, to occur at the Facility for a period of one year from the effective date of this Settlement Agreement.
6. This Settlement Agreement is an integrated contract, and all prior negotiations are merged into this document. No promise, offer, inducement, or representation not set out in this Settlement Agreement forms any part of the Parties' agreement. This Settlement Agreement is the product of the Parties' joint efforts, and for purposes of applying any rule of construction, the Parties shall be deemed to have participated equally in the drafting of this Settlement Agreement.
7. The Parties have each had the opportunity to consult with their respective counsel, if any, regarding this Settlement Agreement, and each enters into this Settlement Agreement voluntarily and with full knowledge of its legal consequences.
8. This Settlement Agreement shall be governed by and interpreted according to the laws of the State of Tennessee.
9. Each of the undersigned representatives is fully authorized by the party they represent to enter into the terms and conditions of this Settlement Agreement and to legally bind such party to this Settlement Agreement.
10. This Settlement Agreement is contingent upon approval of the requisite state official as provided by Tennessee Code Annotated section 20-13-103. Such approval is confirmed by the Department signatures below.

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- 11. In the event the Respondent fails to comply with any of the terms of this Settlement Agreement, the Parties agree that this Settlement Agreement will be null and void, and that the Order will be in full force and effect and subject to enforcement by the Department, including the collection of outstanding civil penalties assessed under the Order. The Respondent further agrees that the Department may, in addition to enforcing the Order, pursue full enforcement of corrective action, civil penalties, and damages against the Respondent for any subsequent legal violation(s) that occur, or have occurred, after December 19, 2022, when the Facility returned to operational compliance.
- 12. The effective date of this Settlement Agreement shall be the date it is approved and signed by the Department.

IT IS SO AGREED:

Stanley R. Boyd

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

Dalia Gergis

 Dalia Gergis, Officer & Partner
 Eiffel, LLC, Respondent

Date: May 9, 2023

Date: 03 - 21 - 23

Reviewed by:

George Bell

 George Bell (May 9, 2023 09:06 CDT)
 George S. Bell, III (BPR# 19051)
 Office of General Counsel
 William R. Snodgrass Tennessee Tower
 312 Rosa L. Parks Ave., 2nd Floor
 Nashville, TN 37243
 Phone: (615) 741-3842
 George.Bell@tn.gov

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Operator Retraining Violations		
Violation	State Cite	Rule Section
Failure of tanks installed on or after July 24, 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 on or after July 24, 2007.	0400-18-01-.02(2)(a)5	UST Systems: Installation & Operation (Secondary Containment)
Failure of piping installed on or after July 24, 2007 to be secondarily contained.	0400-18-01-.02(2)(b)1	UST Systems: Installation & Operation (Secondary Containment)
Failure of piping installed on or after July 24, 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 overfill 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