

STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION

IN THE MATTER OF:)	
)	DIVISION OF UNDERGROUND
)	
)	STORAGE TANKS
)	
OM SAI RAM 1, LLC,)	
)	
)	CASE NO. UST22-0123
)	
RESPONDENT.)	FACILITY: DENMARK TRUCKSTOP, INC.

ORDER AND ASSESSMENT

David W. Salyers, P.E., Commissioner of the Tennessee Department of Environment and Conservation states:

PARTIES

I.
David W. Salyers, P.E., is the duly appointed Commissioner of the Tennessee 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 ("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 Sai Ram 1, LLC (the "Respondent") is a limited liability company created in 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 154 Highway 138, Denmark, Tennessee 38391. Service of process may be made on the Respondent's Registered Agent, Piyushbhai Patel, at 22 Lochridge Cove, Jackson, Tennessee 38305.

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 affix a notice of petroleum delivery prohibition (“red tag”) to 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. § 68-215-103(11), a responsible party as defined at Tenn. Code Ann. § 68-215-103(17)(A) and has violated the Act as hereinafter stated.

FACTS

V.

The Respondent is the owner of the three UST systems located at 154 Highway 138, Denmark, Tennessee 38391. The facility ID number is 8-570368. A “Notification for Underground Storage Tanks” form submitted by the Respondent to the Division on or about January 28, 2022, confirms that the Respondent is the owner of the tanks at issue.

VI.

On January 13, 2022, Division personnel contacted the Respondent by phone and scheduled a compliance inspection to be conducted on January 26, 2022. Division personnel also sent a letter confirming the inspection date.

VII.

On January 26, 2022, Division personnel contacted the Respondent by phone and scheduled a compliance inspection to be conducted on February 11, 2022. Division personnel also sent a letter confirming the inspection date.

VIII.

On February 11, 2022, Division personnel performed a compliance inspection at the subject facility. The inspector discovered the following violations:

Violation #1: Failure to conduct annual line tightness test or do monthly monitoring on pressurized underground piping in accordance with Rule 0400-18-01-.04(2)(b)(1)(ii). Specifically, at the

time of inspection, a line tightness test (2A Gasoline and 3A Gasoline), an annual interstitial monitoring sensor test (1A Diesel), sensor status reports (1A diesel), an alarm history (1A diesel), and a hydrostatic testing for the diesel dispensers and submersible turbine pump ("STP") sump were not available for review.

- Violation #2: Failure to test line leak detectors annually in accordance with Rule 0400-18-01-.04(4)(a). Specifically, at the time of inspection, a line leak detector test conducted within the previous 12 months was not available for review.
- Violation #3: Failure to inspect containment sumps as part of the required annual walkthrough inspection in accordance with Rule 0400-18-01-.02(8)(a)(1)(ii)(I). Specifically, at the time of inspection, documentation of the annual walkthrough inspection was not available for review.
- Violation #4: Failure to monitor spill prevention equipment, for UST systems no less frequently than walkthrough inspections are conducted, or to test spill prevention equipment at least once every three years in accordance with Rule 0400-18-01-.02(3)(c)(1). Specifically, at the time of inspection, a hydrostatic test for the spill buckets was not available for review.
- Violation #5: Failure to have overfill prevention equipment that will automatically shut off the flow into the tank when the tank is no more than 95% full in accordance with Rule 0400-18-01-.02(3)(a)(1)(ii).¹ Specifically, the overfill prevention operability test dated for February 08, 2022, had failing results for all tanks at the referenced facility.
- Violation #6: Failure to ensure that electronic and mechanical components are tested annually in accordance with Rule 0400-18-01-.04(1)(a)(3). Specifically, at the time of inspection, the annual operability test for the automatic tank gauge ("ATG") was not available for review.
- Violation #7: Failure of facility having one or more petroleum UST systems to have one or more persons designated as Class A, Class B, and Class C Operators in accordance with Rule 0400-18-01-.16(1)(a). Specifically, at the time of inspection, there was not a designed A or B operator for the referenced facility.

IX.

On February 23, 2022, Division personnel sent a "Results of Compliance Inspection" letter to the Respondent. The letter cited the violations discovered during the inspection and required the Respondent to submit documentation to the Division by March 25, 2022, to document correction of the violations.

¹ The "Results of Compliance Inspection" letter sent on February 23, 2022 inadvertently cited to Rule 0400-18-01-.02(3)(c)(2) with respect to Violation #5. The rule relevant to Violation #5 is: Rule 0400-18-01-.02(3)(a)(1)(ii).

X.

On March 4, 2022, Division personnel received compliance documentation addressing some violations discovered at the time of inspection. The following documentation was received:

- An Annual Automatic Tank Gauge Operability Test Report dated February 8, 2022.
- A Precision Line Tightness and Leak Detector Test Report dated February 8, 2022.
- A failing UST Overfill Prevention Operability Test dated February 8, 2022.
- An Annual Electronic Interstitial Monitoring Test Report dated February 8, 2022.
- A Containment Sump Integrity Hydrostatic Test Report dated February 8, 2022.
- Liquid status and sensor alarms for the piping associated with the Diesel STP sump.
- A Spill Prevention Device Hydrostatic Test Report dated February 8, 2022.
- A current Monthly/Annual Facility Walkthrough Inspection Form.

The documentation addressed Violations #1, #2, #3, #4, and #6, discovered at the time of inspection.

XI.

On April 8, 2022, Division personnel sent a "Results of Compliance Inspection – Follow-Up" letter to the Respondent. The letter cited the violations discovered during the February 11, 2022 inspection and required the Respondent to submit documentation to the Division by May 10, 2022, to document correction of the violations.

XII.

On May 13, 2022, Division personnel sent a "Follow-up Letter and 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.

XIII.

On June 17, 2022, Division personnel sent a "Notice of Violation" certified letter to the Respondent. The letter cited the violations discovered during the inspection and required the Respondent to submit documentation to the Division by July 18, 2022, to document correction of the violations. U.S. Postal Service tracking records show the Notice of Violation was delivered on June 22, 2022.

XIV.

On July 18, 2022, Division personnel received an extension request for the July 18, 2022 deadline. Division personnel approved this request and sent an "Extension Request – Approved" letter to the Respondent. The letter required the Respondent to submit documentation to the Division by August 18, 2022, to document correction of the violations.

XV.

On August 26, 2022, Division personnel received an email from Tim Wilson with Compliance Associates, LLC regarding the status of flapper valves that had been ordered for the facility. The email indicated that Guardian Fueling Technologies informed Mr. Wilson that the parts were on backorder.

XVI.

On September 14, 2022, Division personnel received an email from the Respondent with a copy of the invoice showing the installation of flapper valves as well as a new UST Overfill Prevention Operability Test dated September 14, 2022. The Respondent also asked for their owner ID so they could designate Class A and Class B Operators. The documentation received addressed Violation #5, discovered at the time of inspection.

However, the Respondent has, to date, failed to address Violation 7 by designating Class A and Class B Operators.

XVII.

When the Respondent failed to meet the August 18, 2022 deadline, the following violation was added:

Violation #8: Failure to cooperate with the Division in accordance with Rule 0400-18-01-.03(2).

XVIII.

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

VIOLATIONS

XIX.

By failing to operate a petroleum underground storage tank system in compliance with the Act, the Respondent 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[...]

XX.

By failing to have one or more persons designated as a Class A, Class B, and Class C Operator at facilities having one or more petroleum UST systems, 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).

XXI.

By failing to cooperate with the Division, 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

XXII.

Pursuant to the authority vested by Tenn. Code Ann. §§ 68-215-107, -114, and -121 of the Act, the Respondent is issued the following Order:

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 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 90th day after receipt of this Order, the Respondent shall complete operator retraining by choosing one of the two following options:
 - a. Complete online training (Tennessee Tank Helper) anytime, using this link:
<https://tdec.tn.gov/tankhelper>

- I. 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:
<https://www.tn.gov/environment/program-areas/ust-underground-storage-tanks/operator-training/tank-school.html>
 - I. Tank school classes are held on the second Wednesday of the month. The Respondent must register to attend the class at least 1 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 properly designate a Class A and Class B Operator for the referenced facility.
3. On or before the thirty-first day after receipt of this Order, the Respondent shall pay a total civil penalty in the amount of \$4,560.00. This amount consists of the following:
 - i. One violation assessed at \$3,800.00 per facility for failing to have one or more persons designated as Class A, Class B, and Class C Operators.
 - ii. One violation assessed at 20% of the assessed civil penalty for a total of \$760.00 for failing to cooperate with the Division.
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/or recovery of costs.
5. With the exception of the deadline for filing the appeal of this Order, the Director 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 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. 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 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. 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 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 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. § 68-215-119; 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 at Ethan.Ralph@tn.gov or at Nashville Environmental Field Office, 711 R.S. Gass Boulevard, Nashville, Tennessee 37216. Attorneys should contact the undersigned counsel of record. **The case number, UST22-0123, 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 28th day of June, 2023.



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

Reviewed by:



Austin M. Moore (Jun 28, 2023 15:59 CDT)

Austin M. Moore
BPR # 035258
Assistant General Counsel
Department of Environment & Conservation
312 Rosa L. Parks Avenue, 2nd Floor
Nashville, Tennessee 37243
615-693-1794
austin.moore@tn.gov



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 9, 2023

Om Sai Ram 1, LLC
c/o Piyushbhai Patel, Registered Agent
95 Greenville Drive
Jackson, Tennessee 38305

Served via Private Process Server

Re: Director's Order UST22-0123
Denmark Truckstop, Inc.
154 Highway 138
Denmark, Tennessee 38391
Facility ID # 8-570368

Dear Sir or Madam:

Enclosed is a Director's Order and Assessment for violations of the Tennessee Petroleum Underground Storage Tank Act and relevant rules, issued by the State of Tennessee, Department of Environment and Conservation, Division of Underground Storage Tanks. A civil penalty of \$4,560.00 has been assessed against you 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. An appeal must be made in writing and be received by the Division within 30 days after your receipt of the Order.

Because there is outstanding noncompliance from the February 11, 2022 inspection, if this Order is not appealed and becomes final, the facility will be placed on the petroleum **Delivery Prohibition List**. Red tags will be installed at the facility's fill ports and dispensers. Documentation establishing the facility's return to compliance shall be submitted to the Division by the due date established in the Order.

If you have any questions about this matter, please contact Ethan Ralph at Ethan.Ralph@tn.gov or at (615) 924-1328.

Sincerely,

Stanley R. Boyd
Director

cc: Enforcement File
Jackson Environmental Field Office



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

June 28, 2023

Om Sai Ram 1, LLC
c/o Piyushbhai Patel, Registered Agent
22 Lochridge Cove
Jackson, Tennessee 38305

Served via Private Process Server

Re: Director's Order UST22-0123
Denmark Truckstop, Inc.
154 Highway 138
Denmark, Tennessee 38391
Facility ID # 8-570368

Dear Sir or Madam:

Enclosed is a Director's Order and Assessment for violations of the Tennessee Petroleum Underground Storage Tank Act and relevant rules, issued by the State of Tennessee, Department of Environment and Conservation, Division of Underground Storage Tanks. A civil penalty of \$4,560.00 has been assessed against you based on the stated violations.

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If you have any questions about this matter, please contact Ethan Ralph at Ethan.Ralph@tn.gov or at (615) 924-1328.

Sincerely,

Stanley R. Boyd
Director

cc: Enforcement File
Jackson Environmental Field Office