

**STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION**



OFFICE OF ADJUDICATIONS

IN THE MATTER OF : **UNDERGROUND STORAGE
TANK ENFORCEMENT**

ROCKFALL GARAGE : **APRIL 29, 2009**

FINAL DECISION

JURISDICTION

Subdivision (2) of §22a-449(g) provides:

“Not later than two business days after placing a notice or disabling device on a nonresidential underground storage tank system pursuant to subdivision (1) of this subsection, the commissioner shall provide the owner or operator of the affected underground storage tank system with an opportunity for a hearing. Any such hearing shall be limited to whether the violation upon which the commissioner took action under subdivision (1) of this subsection occurred and whether such violation is continuing.”

FINDINGS OF FACT

1. This hearing was held on April 29, 2009 in the DEP Welch Room, 79 Elm Street in Hartford. The following persons were present: Cliff Goodale for Rockfall Garage, Site ID #82-1247 (facility); and Philip Wilde, Omar Tyson, and Paul Czarnota (staff) for the DEP Storage Tank Enforcement Unit. DEP offered two exhibits: the Notice of Disabled UST Systems (DEP-1) and a UST Compliance Inspection Checklist dated January 25, 2007 (DEP-2). DEP-1 and DEP-2 were admitted as full exhibits.
2. The Department disabled (“red tagged”) the underground fuel storage tanks and associated dispensers at the facility on April 27, 2009. The red-tagged tanks are a 3000-gallon diesel fuel tank and two 8000-gallon gasoline tanks. DEP staff

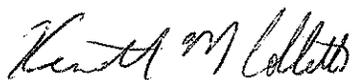
served a “Notice of Disabled UST Systems”, which included the date, time and place of the hearing in compliance with General Statutes §22a-449(g), on Cliff Goodale, the facility operator, and he accepted service on behalf of the facility. (Ex. DEP-1; test. 4/29/09, O. Tyson).¹

3. The DEP conducted an unannounced compliance inspection on April 23, 2009. The tanks were found to lack an automatic tank gauging (ATG) system to monitor for leakage or other problems and the facility’s inventory reconciliation efforts did not comply with regulations. The respondent does not contest that these violations occurred and are continuing and that it is out of compliance with relevant regulations (Regs., Conn. State Agencies §§22a-449(d)-1; 22a-449(d)-101 through 22a-449(d)-113). These violations are similar in nature to those previously identified during the inspection of the facility on January 25, 2007. (Exs. DEP-1, 2; test. 4/29/09, C. Goodale and O. Tyson).
4. The product remaining in the tanks will be pumped out in consultation with DEP staff or left in place if the tanks and lines pass cathodic protection and/or leak detection testing. With permission of the DEP, the facility dispensed a significant amount of product after the initial inspection on April 23, 2009 and before the system was disabled on April 27, 2009. The facility intends to address immediate concerns about the status of its tanks and lines and will remain in contact with Mr. Tyson as it implements an agreed upon compliance plan. (Test. 4/29/09, C. Goodale, O. Tyson).

¹ All references to testimony are from the hearing held on April 29, 2009 at DEP Headquarters in Hartford. The recording of this hearing is on file with the Office of Adjudications and is the official record of this proceeding.

CONCLUSION

There was probable cause to support and sustain this enforcement action taken by the DEP with regard to the tanks owned and operated by Rockfall Garage.



Kenneth M. Collette, Hearing Officer

APPENDIX A
PARTY LIST

FINAL DECISION
In the Matter of Rockfall Garage

PARTY

Rockfall Garage
208 Main Street
Middlefield, CT 06481

REPRESENTED BY

Cliff Goodale, Operator

Department of Environmental Protection

UST Enforcement
79 Elm Street
Hartford, CT 06106

Philip Wilde
Omar Tyson
Paul Czarnota