



**STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION**



OFFICE OF ADJUDICATIONS

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

JEMMA PROPERTY, LLC : **APRIL 30, 2009**
Facility ID No. 148-2722

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 30, 2009 in the DEP Welch Room, 79 Elm Street in Hartford. The following persons were present: William Hawthorn, for Jemma Property, LLC, Site ID # 148-2722 (facility); and Philip Wilde, Omar Tyson, George Purple, and Paul Czarnota (staff) for the DEP Storage Tank Enforcement Unit. DEP offered one exhibit: the Notice of Disabled UST Systems (DEP-1). DEP-1 was admitted as a full exhibit.
2. The Department disabled (“red tagged”) the underground fuel storage tanks and associated dispensers at the facility on April 28, 2009. The red-tagged tanks are a 4000-gallon diesel fuel tank and three 4000-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 Mr. Hawthorn, the facility owner, and he accepted service on behalf of the facility. (Ex. DEP-1; test. 4/29/09, P. Czarnota).¹

3. The DEP conducted an unannounced compliance inspection on April 1, 2009. The facility lacked 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 DEP returned to the facility on April 28, 2009 and noted the same continuing violations. 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). (Ex. DEP-1; test. 4/29/09, W. Hawthorn and P. Czarnota).
4. The product in the tanks will remain pending a test of the cathodic protection (CP) system on the tanks and a tightness testing of the tank lines. If the system passes these tests DEP will remove the red tags and discuss an appropriate compliance plan going forward, which will include the installation and operation of an appropriate release detection system. Mr. Hawthorn has committed to compliance and will remain in communication with DEP staff regarding these efforts. (Test. 4/29/09, W. Hawthorn, P. Wilde. O. Tyson).

¹ All references to testimony are from the hearing held on April 30, 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 Jemma Property, LLC.



Kenneth M. Collette, Hearing Officer

APPENDIX A
PARTY LIST

FINAL DECISION
In the Matter of Jemma Property, LLC

PARTY

Jemma Property, LLC
1103 Old Colony Road
Wallingford, CT 06492

REPRESENTED BY

William Hawthorn, Owner

Department of Environmental Protection

UST Enforcement
79 Elm Street
Hartford, CT 06106

Philip Wilde
Omar Tyson
Paul Czarnota
George Purple