

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 22, 2021

Shree Yogikrupa, Inc c/o Bhupendrakumar Patel, Registered Agent 2840 Middle Tennessee Boulevard Murfreesboro, Tennessee 37130-7817 Served via Private Process Server

Re: Discount Tobacco and Beer

2840 Middle Tennessee Boulevard Murfreesboro, Tennessee 37130-7817

Facility ID # 5-750386

Enforcement Case: UST21-0123

Dear Sir or Madam:

Enclosed is an Order and Assessment issued by the Tennessee Department of Environment and Conservation, Division of Underground Storage Tanks. The Order cites operational violations discovered at the facility during an inspection conducted on March 3, 2021. The Order requires you to take corrective action to bring the facility into operational compliance. The following actions must be taken to bring the facility into compliance:

- 1. Complete and submit the enclosed Request to Attend Underground Storage Tank Training form to the Division for scheduling attendance.
- 2. Submit monthly tank release detection records for the most recent three months including the tank alarm history reports.
- 3. Submit monthly piping release detection records for the most recent three months including the piping sensor alarm history report.
- 4. Complete and submit an Amended Notification form and accurately designate Tank #4A and Tank #5A as Currently In Use.

Because there is outstanding noncompliance, if this Order becomes final, then the facility will be placed on the petroleum **Delivery Prohibition List**. Red Tags will be installed at the fill ports and dispensers at the facility. Upon completion of the necessary corrective action, documentation establishing the return to compliance shall be submitted to the Division.

Submit the required compliance documentation to tonya.spence.casson@tn.gov or to:

Tonya Spence Casson Division of Underground Storage Tanks Chattanooga Environmental Field Office 1301 Riverfront Parkway Chattanooga, Tennessee 37402 A civil penalty of \$21,600.00 has been assessed against you based on the violations. The civil penalty is calculated as follows:

Violation #1: Failure to provide release detection method capable of detecting a release from tank that routinely contains product in accordance with Rule 0400-18-01-.04(1)(a)1. Specifically, at the time of inspection, no interstitial monitoring sensor function test was provided for review.

Individual Civil Penalty Amount for Violation	Multiplication Factor	Total Penalty Civil Penalty
\$3,200.00	2	\$6,400.00

Violation #2: Failure to monitor tanks at least monthly, if appropriate in accordance with Rule 0400-18-01-.04(2)(a). Specifically, at the time of inspection, the previous 12 months of tank sensor status reports and tank alarm history reports were not provided for review for Tank #4A (10,000 gallon regular gasoline) or Tank #5A (4,000 gallon regular gasoline).

Individual Civil Penalty Amount for Violation	Multiplication Factor	<u>Total Penalty Civil Penalty</u>
\$3,200.00	2	\$6,400.00

Violation #3: 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, the previous 12 months of piping sensor status reports and piping alarm history reports were not provided for review.

Individual Civil Penalty Amount for Violation	Multiplication Factor	Total Penalty Civil Penalty
\$2,000.00	2	\$4,000.00

Violation #5: Failure to report a change of status for a UST system within 30 days in accordance with Rule 0400-18-01-.03(1)(g). Specifically, at the time of inspection, Tank #4A and Tank #5A were designated as Temporarily Out of Service but were observed as being Currently In Use.

Individual Civil Penalty Amount for Violation	Multiplication Factor	Total Penalty Civil Penalty
\$600.00	2	\$1,200.00

Violation #7: Failure to cooperate with the Division by failing to provide documents, testing or monitoring records to the Division in accordance with Rule 0400-18-01-.03(2).

Individual Civil Penalty Amount for Violation	Multiplication Factor	Total Penalty Civil Penalty
\$3,600.00	1	\$3,600.00

Total Amount of your Civil Penalty: \$21,600.00

Payment of the civil penalty shall be submitted to the following address:

Department of Environment & Conservation Division of Fiscal Services – Fee Section William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 10th Floor Nashville, Tennessee 37243 Payment shall be made payable to the "Treasurer, State of Tennessee". The case number shown on the first page of the enclosed Order should be written on said payment(s).

The appeal period is limited. **Carefully read the Notice of Rights contained in the Order.** An appeal must be in writing and received within 30 days after you receive this Order. If you do not submit a timely appeal, then the entire civil penalty amount of \$21,600.00 will become final, due to be paid, and subject to collection.

If you have any questions about this matter, please contact Tonya Spence Casson at (423) 637-5432.

Sincerely,

Stanley R. Boyd Director

cc: Enforcement File

Nashville Environmental Field Office

STATE OF TENNESSEE

DEPARTMENT OF ENVIRONMENT AND CONSERVATION

IN THE MATTER OF:)	DIVISION OF UNDERGROUND
)	STORAGE TANKS
SHREE YOGIKRUPA, INC.)	
)	CASE NO. UST21-0123
RESPONDENT)	FACILITY: DISCOUNT TOBACCO AND BEER

ORDER AND ASSESSMENT

NOW COMES David W. Salyers, P.E., Commissioner of the Tennessee Department of Environment and Conservation ("Commissioner"), and states:

PARTIES

I.

David W Salyers, P.E. is the duly appointed Commissioner of the Tennessee Department of Environment and Conservation ("Department"), and among other duties and responsibilities, he is charged with the responsibility for administering and enforcing the Tennessee Petroleum Underground Storage Tank Act ("Act"), Tenn. Code Ann. sections 68-215-101 to -129. Stanley R. Boyd is the duly appointed Director ("Director") of the Underground Storage Tank Division ("Division"). He has received written delegation from the Commissioner to administer and enforce aspects of the Act.

II.

Shree Yogikrupa, Inc. ("Respondent") is a corporation created in the State of Tennessee and is properly registered to conduct business in Tennessee. The Respondent is the registered owner of two underground storage tank ("UST") systems located at 2840 Middle Tennessee Boulevard, Murfreesboro, Tennessee 37130. Service of process may be made on the Respondent's Registered Agent, Bhupendrakumar Patel, at 475 W Lincoln Street, Tullahoma, Tennessee 37388-3345.

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 red tag 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. section 68-215-103(11) and has violated the Act as hereinafter stated.

FACTS

٧.

On or about May 8, 2018, the Division received a Notification for Underground Storage Tanks form, listing the Respondent as the owner of the two UST systems located at 2840 Middle Tennessee Boulevard, Murfreesboro, Tennessee 37130-7817. The facility ID number is 5-750386.

VI.

On or about February 10, 2021, Division personnel contacted the Respondent by phone and scheduled a compliance inspection to be conducted on March 3, 2021. Division personnel also sent a letter confirming the inspection date.

VII.

On or about March 3, 2021, Division personnel performed a compliance inspection at the subject facility. The inspector discovered the following violations:

Violation #1: Failure to provide release detection method capable of detecting a release from tank that routinely contains product in accordance with Rule 0400-18-01-.04(1)(a)1. Specifically, at the

time of inspection, no Interstitial Monitoring (IM) sensor function test was available for review.

- Violation #2: Failure to monitor tanks at least monthly in accordance with Rule 0400-18-01-.04(2)(a). Specifically, at the time of inspection, the previous 12 months of tank sensor status reports and tank alarm history reports were not provided for review for Tank #4A (10,000 gallon gasoline) or Tank #5A (4,000 gallon gasoline).
- Violation #3: 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, the previous 12 months of piping sensor status reports and piping alarm history reports were not provided for review.
- Violation #4: Failure to detect a leak through the inner wall in any portion of the UST system that routinely contains petroleum in accordance with Rule 0400-8-01-.04(4)(c)1(i). Specifically, at the time of inspection, the piping fitting was plugged in both the submersible turbine pump (STP) sumps for Tank #4A and Tank #5A, and jump tubing was attached across the T-fitting in the under dispenser containment (UDC) sump for dispenser #3/4.
- Violation #5: Failure to report a change of status for a UST system within 30 days in accordance with Rule 0400-18-01-.03(1)(g). Specifically, at the time of inspection, Tank #4A and Tank #5A were designated as Temporarily Out of Service but were observed as being Currently In Use.
- Violation #6: Failure to test line leak detectors annually in accordance with Rule 0400-18-01-.04(4)(a).

 Specifically, at the time of inspection, no line leak detector test was available for review.

VIII.

On or about March 4, 2021, Division personnel sent a Results of Compliance Inspection – Action Required 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 April 5, 2021, to document correction of the violations.

IX.

On or about March 17, 2021, the Division received compliance documentation partially addressing the violations discovered at the time of inspection. The following documentation was received:

• A copy of a passing line leak detector test conducted on September 10, 2020 for the lines associated with Tank #4A and Tank #5A.

- A copy of a passing line tightness test conducted on September 10, 2020 for the lines associated with Tank #4A and Tank #5A.
- A copy of the Annual Electronic Interstitial Monitoring Test Report conducted on March 16, 2021.
- A copy of the Monthly Electronic Interstitial Monitoring Alarm Report conducted on December 16, 2020, January 15, 2021, February 17, 2021, and March 12, 2021.

The documentation received did not fully address the violations discovered at the time of inspection.

X.

On or about March 25, 2021, the Division received compliance documentation partially addressing the violations discovered at the time of inspection. The following documentation was received:

- A copy of the current Monthly Electronic Interstitial Monitoring Alarm Report conducted on March 12, 2021.
- A copy of the liquid sensor status report conducted on March 12, 2021
- A copy of the alarm history report
- Photographs documenting that the plugs in the interstitial fittings had been removed from both
 STP sumps
- Photographs documenting that the jump tubing had been removed to allow liquid in the piping interstice to reach the nearest IM sensor.

The documentation confirmed that Violation #1, Violation #4, and Violation #6 discovered during the inspection had been addressed.

XI.

On or about April 6, 2021, Division personnel sent a Results of Inspection – Follow-up Letter to the Respondent. The letter noted the violations that had been addressed up to that date, cited the remaining violations discovered during the inspection, and required the Respondent to submit documentation to the Division by May 7, 2021, to document correction of the violations.

XII.

On or about May 20, 2021, 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 or about July 19, 2021, Division personnel sent a Notice of Violation letter to the Respondent. The letter cited the violations discovered during the inspection and required the Respondent to submit documentation to the Division by August 19, 2021, to demonstrate compliance.

XIV.

When the Respondent failed to meet the August 19, 2021 deadline, the following violation was added:

Violation #7: Failure to cooperate with the Division by failing to provide documents, testing or monitoring records to the Division prior to the issuance of the order in accordance with Rule 0400-18-01-.03(2).

XV.

To date, the Respondent has not addressed the violations and remains in noncompliance.

VIOLATIONS

XVI.

By failing to operate a petroleum underground storage tank system in compliance with the Act, the Respondent has violated Tenn. Code Ann. section 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;

XVII.

By failing to provide release detection method capable of detecting a release from tank that routinely contains product, the Respondent has violated Rule 0400-18-01-.04(1)(a)1, which states:

0400-18-01-.04 Release Detection.

- (1) General requirements for release detection.
 - (a) Owners and/or operators of UST systems shall provide a method, or combination of methods, of release detection that:
 - Can detect a release from any portion of the tank and the connected underground piping that routinely contains petroleum;

XVIII.

By failing to conduct release detection monitoring at least monthly, the Respondent has violated Rule 0400-18-01-.04(2)(a), which states:

0400-18-01-.04 RELEASE DETECTION.

(2) Requirements for petroleum UST systems.

Owners and/or operators of petroleum UST systems shall provide release detection for tanks and piping as follows:

(a) Tanks.

Tanks shall be monitored at least monthly for releases using one of the methods listed in subparagraphs (3)(c) through (f) of this rule, except that tanks which meet the volume, diameter, and test duration requirements as set forth in subpart (3)(a)1(i) of this rule may use manual tank gauging (conducted in accordance with subparagraph (3)(a) of this rule).

XIX.

By failing to conduct annual line tightness test or do monthly monitoring on pressurized underground piping, the Respondent has violated Rule 0400-18-01-.04(2)(b)1(ii), which states: 0400-18-01-.04 RELEASE DETECTION.

(2) Requirements for petroleum UST systems.

Owners and/or operators of petroleum UST systems shall provide release detection for tanks and piping as follows:

(b) Piping.

Underground piping that routinely contains petroleum shall be monitored for releases in a manner that meets one of the following requirements:

1. Pressurized piping.

Underground piping that conveys petroleum under pressure shall:

(ii) Have an annual line tightness test conducted in accordance with subparagraph (4)(b) of this rule or have monthly monitoring conducted in accordance with subparagraph (4)(c) of this rule.

By failing to report a change of status for a UST system within 30 days, the Respondents have violated Rule 0400-18-01-.03(1)(g), which states:

0400-18-01-.03 NOTIFICATION, REPORTING, and RECORD KEEPING

- (1) Notification requirements.
 - (g) Any change in the status of the tanks at a petroleum UST facility shall be reported within 30 days of said change. This includes but is not limited to changes of ownership, upgrading or replacement of tanks, changes in mailing address, permanent closure of a tank compartment, and changes in service. Such reports shall be made using an amended notification form. In the case of a sale of tanks, the seller shall submit the notification form designated by the Division, completed in accordance with instructions provided by the Division, and shall also inform the buyer of the notification requirement.

XXI.

By failing to cooperate by failing to provide documents, testing, or monitoring records to the Division, the Respondent has 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 Tenn. Code Ann. §§ 68-215-101 et seq.

ORDER AND ASSESSMENT

XXII.

Pursuant to the authority vested by Tenn. Code Ann. sections 68-215-107, -114, and -121,

- I, Stanley R. Boyd, acting as the authorized representative of the Commissioner, hereby issue the following Order and Assessment to the Respondent:
 - 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 violations 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 thirty-first day after receipt of this Order, the Respondent shall submit monthly tank release detection records for the most recent three months including the tank alarm history reports.
 - ii. On or before the thirty-first day after receipt of this Order, the Respondent shall submit monthly piping release detection records for the most recent three months including the piping sensor alarm history report.
 - iii. On or before the thirty-first day after receipt of this Order, the Respondent shall complete and submit an Amended Notification form and accurately designate Tank #4A and Tank #5A as Currently In Use.
- 3. On or before the thirty-first day after receiving this Order, the Respondent shall return a signed Request to Attend Underground Storage Tank Training form to the address that appears on the request form, which is enclosed. The Respondent must attend Underground Storage Tank Training within **three months** after receiving this Order.
- 4. On or before the thirty-first day after receipt of this Order, the Respondent shall pay a total civil penalty in the amount of \$21,600.00. This amount consists of the following:
 - i. Two violations assessed at \$3,200.00 per tank compartment for a total of \$6,400.00 for failing to provide a release detection method capable of detecting a release from tank that routinely contains product.
 - ii. Two violations assessed at \$3,200.00 per tank compartment for a total of \$6,400.00 for failing to monitor tanks at least monthly.
 - iii. Two violations assessed at \$2,000.00 per piping system for a total of \$4,000.00 for failing to conduct annual line tightness test or do monthly monitoring on pressurized underground piping.
 - iv. Two violations assessed at \$600.00 per UST system for a total of \$1,200.00 for failing to report a change of status for a UST system within 30 days.
 - v. One violation assessed at 20% of the civil penalty for all outstanding violations for a total of \$3,600.00 for failing to provide documents, testing, or monitoring records to the Division.

- 5. The Respondent is advised that the foregoing Order is not in any way to be construed as a waiver, express or implied, of any provision of the law or regulations, including but not limited to, future enforcement for violations of the Act and Regulations which are not charged as violations in this Order. However, compliance with the Order will be one factor considered in any decision whether to take enforcement action against the Respondent in the future.
- 6. 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.
- 7. For good cause shown by the Respondent, the Director may extend the compliance dates contained within this Order for a fixed time period. 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. § 69-215-119; 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 Tonya Spence Casson, Division of Underground Storage Tanks, Chattanooga Environmental Field Office, 1301 Riverfront Parkway, Chattanooga, Tennessee, 37402 or to tonya.spence.casson@tn.gov . Attorneys should contact the undersigned counsel of record. The case number, UST21-0123, 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 22nd day of November , 2021.

Stanley & Bosd

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

Reviewed by:

.. (Nov 22, 2021 14:04 CST)

George S. Bell, III BPR# 19051 Assistant General Counsel Department of Environment & Conservation 312 Rosa L. Parks Avenue, 2d Floor Nashville, Tennessee 37243 615-741-3842 George.Bell@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

REQUEST TO ATTEND UNDERGROUND STORAGE TANK TRAINING ONLINE

Please complete this form to attend training on the proper operation of underground storage tanks in accordance with rules established by the State of Tennessee. This form serves as a reservation to attend UST systems and maintenance training online with the Division of Underground Storage Tanks.

information about the class	and the web link nk School. If any of	to attend. Please carefully read the requirements below to attend. Please carefully read the requirements below to
Central time / 9:30 am to 5:00	pm Eastern time. T	s throughout the year. All classes are from 8:30 am to 4:00 pm he Division usually schedules 3 tank school classes per year with ipt of this completed form, the Division will schedule a class with
l,proper operation of undergro	ound storage tanks.	_ (<i>Please Print Your Name</i>), request to attend training on the
Name:		Date:
My contact information is:	Email: Telephone: Address:	

Mail or Email this Request to:

Tonya Spence Casson Division of Underground Storage Tanks Chattanooga Environmental Field Office 1301 Riverfront Parkway Chattanooga, Tennessee 37402 Phone # (432) 637-5432 tonya.spence.casson@tn.gov

REQUIREMENTS TO ATTEND ONLINE TANK SCHOOL

- ✓ Access to a computer and reliable/good internet connection [1.0 Mbps (Receive) and 1.5 Mbps (Send) is recommended].
- ✓ Access to reliable (charged/wired) audio source (i.e., cell phone, computer speakers, headset, etc.)
- √ Valid email address
- ✓ Ability to complete an online pre-test prior to class and an online post-test after the class presentation.
- ✓ Ability to participate and attend entire online class (approximately 6 hours).