



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

January 11, 2022

RMRM Inc.
c/o Amanullah Devji, Registered Agent
4999 East Shelby Drive
Memphis, Tennessee 38118-7504

Served via Private Process Server

RMRM, Inc.
c/o Amanullah Devji
319 Poplar View Lane W
Collierville, Tennessee 38017

Served via Private Process Server

Re: Lamar Marathon
4999 East Shelby Drive
Memphis, Tennessee 38118-7504
Facility ID # 9-790657
Case UST21-0134

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 April 7, 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 release detection records for the most recent three months and complete a Notification for Underground Storage Tanks changing the status of all five tank systems to Currently In Use, or remove the product from all five tank systems so that no more than one inch of liquid and or residue remains in each tank to properly be registered as Temporarily Out of Service status.

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 \$15,360.00 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, Tank 2A (12,000-gallon regular gasoline) contained 10 inches of product, Tank 3A (12,000-gallon premium gasoline) contained 11 inches of product, Tank 4A (12,000-gallon diesel) contained 10 inches of product, and Tank 5A (12,000-gallon diesel) contained 18 inches of product. All four tanks are designated as Temporarily Out of Service and there were no release detection records provided at the time of inspection.

<u>Individual Civil Penalty Amount for Violation</u>	<u>Multiplication Factor</u>	<u>Total Penalty Civil Penalty</u>
\$3,200.00	4	\$12,800.00

Violation #2: 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).

<u>Individual Civil Penalty Amount for Violation</u>	<u>Multiplication Factor</u>	<u>Total Penalty Civil Penalty</u>
\$2,560.00	1	\$2,560.00

Total Amount of your Civil Penalty: \$15,360.00

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

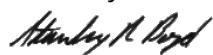
Department of Environment & Conservation
Division of Fiscal Services – Fee Section
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 10th Floor
Nashville, Tennessee 37243

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 \$15,360.00 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 or at tonya.spence.casson@tn.gov.

Sincerely,



Stanley R. Boyd
Director

cc: Enforcement File
Memphis Environmental Field Office

STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION

IN THE MATTER OF:)	DIVISION OF UNDERGROUND
)	STORAGE TANKS
RMRM, INC.)	
)	CASE NO. UST21-0134
RESPONDENT)	FACILITY: LAMAR MARATHON

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.

RMRM, 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 five underground storage tank ("UST") systems located at 4999 East Shelby Drive, Memphis, Tennessee, 38118. Service of process may be made on the Respondent's Registered Agent, Amanullah Devji, at 4999 E Shelby Drive, Memphis, Tennessee, 38118 and 319 Poplar View Lane W, Collierville, Tennessee, 38017.

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

V.

On or about August 21, 2020, the Division received a Notification for Underground Storage Tanks form, listing the Respondent as the owner of the five UST systems located at 4999 East Shelby Drive, Memphis, Tennessee, 38118, and identifying all tanks as Temporarily Out of Service. The facility ID number is 9-790657.

VI.

On or March 26, 2021, Division personnel contacted Mr. Tim Wilson, Compliance Associates, LLC, by email and scheduled a compliance inspection to be conducted on April 7, 2021. Division personnel also sent a letter to the Respondent confirming the inspection date.

VII.

On or about April 7, 2021, Division personnel performed a compliance inspection at the subject facility. The inspector discovered the following violation:

Violation #1: Failure to meet the requirements for Out-Of-Service UST Systems and closure in accordance with Rule 0400-18-01-.07(1)(a). Specifically, at the time of inspection, Tank 2A (12,000-gallon

regular gasoline) contained 10 inches of product, Tank 3A (12,000-gallon premium gasoline) contained 11 inches of product, Tank 4A (12,000-gallon diesel) contained 10 inches of product, and Tank 5A (12,000-gallon diesel) contained 18 inches of product. All four tanks are designated as Temporarily Out of Service and there were no release detection records provided at the time of inspection.

VIII.

On or about April 9, 2021, Division personnel sent a Results of Compliance Inspection – Action Required letter to the Respondent. The letter cited the violation discovered during the inspection and required the Respondent to submit documentation to the Division by May 10, 2021, to document correction of the violation.

IX.

On or about May 14, 2021, Division personnel sent a Results of Compliance Inspection – No Response Received letter to the Respondent. The letter cited the violation discovered during the inspection and required the Respondent to submit documentation to the Division by June 14, 2021, to document correction of the violation.

X.

On or about June 22, 2021, Division personnel sent a Follow-up Letter and Enforcement Action Notice letter to the Respondent. The letter cited the violation discovered during the inspection and the Respondent's failure to return to compliance.

XI.

On or about August 11, 2021, Division personnel sent a Notice of Violation letter to the Respondent. The letter corrected the Rule cited in the Results of Compliance Inspection letters from Rule 0400-18-01-.07(1)(a) to Rule 0400-18-01-.04(1)(a)1. The letter cited the violation discovered during the inspection and required the Respondent to submit documentation to the Division by September 13, 2021, to demonstrate compliance. Respondent did not submit the required documentation to the Division by September 13, 2021.

XII.

By failing to submit required documentation to the Division, the Respondent has also committed the following violation:

Violation #2: 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).

XIII.

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

VIOLATIONS

XIV.

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[.]

XV.

By failing to provide a release detection method capable of detecting a release from tanks that routinely contain 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:
 - 1. Can detect a release from any portion of the tank and the connected underground piping that routinely contains petroleum;

XVI.

By failing to cooperate with the Division 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 T.C.A. §§ 68-215-101 et seq.

ORDER AND ASSESSMENT

XVII.

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:

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 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. Submit monthly release detection records for the most recent three months and complete a Notification for Underground Storage Tanks changing the status of all five tank systems to Currently In Use, or remove the product from all five tank systems so that no more than one inch of liquid and or residue remains in each tank to properly be registered as Temporarily Out of Service status.
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 \$15,360.00. This amount consists of the following:
 - i. Four violations assessed at \$3,200.00 per tank system for a total of \$12,800.00 for failing to provide a release detection method capable of detecting a release from tanks that routinely contain product.
 - ii. One violation assessed at 20% of the civil penalty for all outstanding violations for a total of \$2,560.00 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. § 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 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, UST21-0134, 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 11th day of January, 2022.



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

Reviewed by:



Grant LeMaster Ruhl
BPR # 036182
Assistant Counsel
Department of Environment and Conservation
312 Rosa L. Parks Avenue, 2nd Floor
Nashville, Tennessee 37243
(615) 313-5682
Grant.Ruhl@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.

Please use an active email address when completing this form as it will be the primary way the Division will provide information about the class and the web link to attend. Please carefully read the requirements below to successfully attend online Tank School. If any of these requirements cannot be met and you would still like to attend Tank School, please check this box: ☐

Tank school classes are offered on specific dates throughout the year. All classes are from 8:30 am to 4:00 pm Central time / 9:30 am to 5:00 pm Eastern time. The Division usually schedules 3 tank school classes per year with make-up sessions available as needed. After receipt of this completed form, the Division will schedule a class with you.

I, _____ (Please Print Your Name), request to attend training on the proper operation of underground storage tanks.

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).**