



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 24, 2022

Kamala Amrut, LLC
5518 Highway 60
Birchwood, Tennessee 37308

Served via Private Process Server

Re: 2000 Dalton Pike SE
Cleveland, Tennessee 37311
Facility ID # 3-060063
Case # UST21-0146

Dear Sir or Madame:

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 24, 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. Conduct a cathodic protection ("CP") test and submit results to the Division for review.
3. Begin rectifier inspections and submit results on the state approved form.
4. Perform a line tightness test on the regular gasoline product line and submit to Division for review.
5. Submit Buyer and Seller notification forms, properly naming Kamala Amrut, LLC as the registered tank owner of the UST systems.

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:

Paige Ottenfeld
Nashville Environmental Field Office
711 R.S. Gass Boulevard
Nashville, Tennessee 37216

A civil penalty of \$6,000.00 has been assessed against you based on the violations. The civil penalty is calculated as follows:

Violation #1: Failure to ensure that cathodic protection system is tested within 6 months of installation and every 3 years thereafter in accordance with Rule 0400-18-.02(4)(c)2(i).

<u>Individual Civil Penalty Amount for Violation</u>	<u>Multiplication Factor</u>	<u>Total Penalty Civil Penalty</u>
\$1,200.00	1	\$1,200.00

Violation #2: Failure to maintain a log of the last three inspections of impressed current cathodic protection system rectifier in accordance with Rule 0400-18-01-.02(4)(c)4.

<u>Individual Civil Penalty Amount for Violation</u>	<u>Multiplication Factor</u>	<u>Total Penalty Civil Penalty</u>
\$1,200.00	1	\$1,200.00

Violation #3: Failure to follow release investigation and confirmation steps within 30 days when there is a suspected release in accordance with Rule 0400-18-01-.05(3).

<u>Individual Civil Penalty Amount for Violation</u>	<u>Multiplication Factor</u>	<u>Total Penalty Civil Penalty</u>
\$2,000.00	1	\$2,000.00

Violation #4: Failure to report a change of status for a UST system within 30 days, the Respondent has violated Rule 0400-18-01-.03(1)(g)

<u>Individual Civil Penalty Amount for Violation</u>	<u>Multiplication Factor</u>	<u>Total Penalty Civil Penalty</u>
\$600.00	1	\$600.00

Violation #5: 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>
\$1,000.00	1	\$1,000.00

Total Amount of your Civil Penalty: \$6,000.00

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 \$6,000.00 will become final, due to be paid, and subject to collection.

If you have any questions about this matter, please call Paige Ottenfeld or email at paige.ottenfeld@tn.gov or at 615-913-1299

Sincerely,

A handwritten signature in black ink, appearing to read "Stanley R. Boyd". The signature is written in a cursive, slightly slanted style.

Stanley R. Boyd
Director

cc: Enforcement File
Chattanooga Environmental Field Office

STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION

IN THE MATTER OF:)	DIVISION OF UNDERGROUND
)	STORAGE TANKS
KAMALA AMRUT, LLC.)	
)	CASE NO. UST21-0146
RESPONDENTS)	FACILITY: KISHAN PROPERTIES

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.

Kamala Amrut, LLC is a limited liability company created in the state of Tennessee. The Respondent is the owner of four underground storage tank ("UST") systems with a total of four compartments located at 2000 Dalton Pike, Cleveland, Tennessee 37311. Service of process may be made on the Respondent at 5518 Highway 60, Birchwood, Tennessee 37308.

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 November 29, 2016, a warranty deed was executed properly transferring ownership of the property including the four UST systems at 2000 Dalton Pike, Cleveland, Tennessee 37311 to the Respondent. The facility ID number is 3-060063.

VI.

On or about February 23, 2021, Division personnel contacted the Respondent's leasee, Eric Patel, by phone and scheduled a compliance inspection to be conducted on March 24, 2021. Division personnel also sent a letter confirming the inspection date.

VII.

On or about March 24, 2021, Division personnel performed a compliance inspection at the subject facility. The inspector discovered the following violations:

- Violation #1: Failure to ensure that cathodic protection system is tested within 6 months of installation and every 3 years thereafter in accordance with Rule 0400-18-.02 (4)(c)2(i). Specifically, at the time of the inspection, the previous cathodic protection test was older than 3 years.
- Violation #2: Failure to maintain the last three records of cathodic protection rectifier inspections in accordance with Rule 0400-18-01-.02(4)(c)4. Specifically, at the time of the inspection the last three 60 day rectifier readings were not available.

VIII.

On or about March 29, 2021, Division personnel sent a Results of Compliance Inspection – Action Required letter to Mr. Patel. The letter cited the violations discovered during the inspection and required Mr. Patel to submit documentation to the Division by April 24, 2021, to document correction of the violations.

IX.

On or about March 29, 2021, Division personnel sent a Release Investigation – System Test letter to the Mr. Patel. The letter required Mr. Patel to perform line tightness testing for the regular pressurized piping run. The letter required Mr. Patel to submit the documentation to the Division by April 29, 2021.

X.

On or about May 17, 2021, Division personnel sent a Results of Compliance Inspection – No Response Received letter to Mr. Patel. The letter cited the violations discovered during the inspection and required Mr. Patel to submit documentation to the Division by May 29, 2021. At this time, the following violation was added:

Violation #3: Failure to follow release investigation and confirmation steps within 30 days when there is a suspected release in accordance with Rule 0400-18-01-.05(3). Specifically, multiple failed 3.0 and 0.2 gallon per Hour (GPH) electronic line leak detector results were discovered for the regular grade gasoline line. The Division issued a Release Investigation - System Test reporting letter on March 29, 2021 outlining the testing and reporting requirements.

XI.

On or about July 27, 2021, Division personnel sent a Follow-up Letter and Enforcement Action Notice letter to Mr. Patel. The letter cited the violations discovered during the inspection and the failure to return to compliance.

XII.

On or about August 17, 2021, Division personnel sent a Notice of Violation letter to Mr. Patel. The letter cited the violations discovered during the inspection and required Mr. Patel to submit documentation to the Division by September 16, 2021.

XIII.

On or about November 5, 2021, Division personnel called Mr. Patel to clarify ownership of the facility. Mr. Patel stated he was the leasee of the facility, which is owned by Kamala Amrut, LLC. He also stated that he had made Kamala Amrut aware of the letters he had received from the Division.

XIV.

On or about December 13, 2021, Division personnel sent a Notice of Violation certified letter to the Respondent. The letter cited the violations discovered at the time of the inspection. After enforcement review of the case, the following violation was added to the letter:

Violation 4: 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, after review of the case, it was discovered that Kamala Amrut was deeded the property including the tanks on November 29, 2016.

The letter required the Respondent to submit documentation to the Division by January 13, 2022.

XV.

When the facility failed to return to compliance by the January 13, 2022 deadline, the following violation was added:

Violation #5: 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).

XVI.

To date, the Respondent has not cooperated and is not in compliance with the Division.

VIOLATIONS

XVII.

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;

XVIII.

By failing to ensure that cathodic protection system is tested every three years, the Respondent has violated Rule 0400-18-01-.02(4)(c)2(i), which states:

0400-18-01-.02 UST SYSTEMS: INSTALLATION AND OPERATION.

- (4) Corrosion protection.
 - (c) Operation and maintenance of corrosion protection.
 - 2. All UST systems equipped with cathodic protection systems shall be inspected for proper operation by a qualified cathodic protection tester in accordance with the following requirements:
 - (i) Frequency. All cathodic protection systems shall be tested within six (6) months of installation and at least every three (3) years thereafter;

XIX.

By failing to maintain the last three records of cathodic protection rectifier inspections, the Respondent has violated Rule 0400-18-01-.02(4)(c)4, which states:

0400-18-01-.02 UST SYSTEMS: INSTALLATION AND OPERATION.

- (4) Corrosion protection.
 - (c) Operation and maintenance of corrosion protection.
 - 4. UST systems with impressed current cathodic protection systems shall also be inspected every sixty (60) days to ensure the equipment is operating properly. The results of the inspection shall be recorded in a format established by the division and in accordance with the instructions provided by the division.

XX.

By failing to follow release investigation and confirmation steps within 30 days when there is a suspected release, the Respondent has violated 0400-18-01-.05(3), which states:

0400-18-01-.05 RELEASE REPORTING, INVESTIGATION AND CONFIRMATION.

- (3) Release Investigation and Confirmation Steps.

Unless corrective action is initiated in accordance with 0400-18-01-.06, owners and/or operators shall immediately investigate and confirm all suspected releases of petroleum requiring reporting under paragraph (1) of this rule within thirty (30) days in accordance with this paragraph.

XXI.

By failing to report a change of status for a UST system within 30 days, the Respondent has 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 thirty (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.

XXII.

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 Tenn. Code Ann. §68-215-101 et seq.

ORDER AND ASSESSMENT

XXIII.

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. On or before the thirty-first day after receipt of the Order, the Respondent shall complete and submit the enclosed Request to Attend Underground Storage Tank Training form to the Division for scheduling attendance.
 - ii. On or before the thirty-first day after receipt of this Order, the Respondent shall conduct a cathodic protection ("CP") test and submit results to the Division for review.
 - iii. On or before the thirty-first day after receipt of this Order, the Respondent shall begin rectifier inspections and submit results on the state approved form.
 - iv. On or before the thirty-first day after receipt of this Order, the Respondent shall perform a line tightness test on the regular gasoline product line and submit to Division for review.
 - v. On or before the thirty-first day after receipt of this Order, the Respondent shall submit Buyer and Seller notification forms, properly naming Kamala Amrut, LLC as the registered tank owner of the UST systems
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 \$6,000.00. This amount consists of the following:
 - i. One violation assessed at \$1,200 for failing to perform monthly release detection monitoring.
 - ii. One violation assessed at \$1,200 for failing to perform the required 60-day rectifier inspections.
 - iii. One violation assessed at \$2,000 for failing to perform the required system test required because of a suspected release.
 - iv. One violation assessed at \$600.00 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 \$1,000 for failing to provide documents, testing, or monitoring records to the Division.

4. 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.
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 Paige Ottenfeld, Nashville Environmental Field Office, 711 R.S. Gass Boulevard Nashville, Tennessee 37216. Attorneys should contact the undersigned counsel of record. **The case number, UST21-0146, 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 24th day of January, 2022.



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

Reviewed by:



.. (Jan 24, 2022 16:28 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.

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:

Paige Ottenfeld
Nashville Environmental Field Office
711 R.S. Gass Boulevard
Nashville, Tennessee 37216
Phone: 615-91-1299
Paige.ottenfeld@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).**