

OFFICE OF ADJUDICATIONS

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

THE CHILDREN'S HOME : **FEBRUARY 19, 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 February 19, 2009 in the DEP Welch Room, 79 Elm Street in Hartford. The following persons were present: Raymond Moore for The Children's Home, Site ID #33-4771 (facility); and Lori Saliby and Omar Tyson (staff) for the DEP Storage Tank Enforcement Unit. DEP offered two exhibits: the Notice of Disabled UST Systems (DEP-1) and the UST Compliance Inspection Checklist (DEP-2). DEP-1 and DEP-2 were admitted as full exhibits.
2. The Department disabled (“red tagged”) an underground fuel storage tank and associated dispenser at the facility on February 17, 2009. The red-tagged tank is a 1000-gallon gasoline tank. 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 David Maibaum, the facility manager, and he accepted service on behalf of the facility. (Ex. DEP-1; test. 2/19/09, O. Tyson).¹

3. The DEP conducted an unannounced compliance inspection on February 3, 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. (Ex. DEP-2; test. 2/19/09, R. Moore and O. Tyson).
4. The product remaining in the tanks will be pumped out in consultation with DEP staff. The facility intends to come into compliance and will remain in contact with Mr. Tyson as it implements an agreed upon compliance plan. (Test. 2/19/09, O. Tyson).

CONCLUSION

There was probable cause to support and sustain this enforcement action taken by the DEP with regard to the tank owned and operated by The Children's Home.

/s/ Kenneth M. Collette
Kenneth M. Collette, Hearing Officer

¹ All references to testimony are from the hearing held on February 19, 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.

APPENDIX A
PARTY LIST

FINAL DECISION
In the Matter of The Children's Home

PARTY

The Children's Home
60 Hicksville Road
Cromwell, CT 06416

REPRESENTED BY

Ray Moore,
Director of Maintenance

Department of Environmental Protection

UST Enforcement
79 Elm Street
Hartford, CT 06106

Lori Saliby
Omar Tyson