

**STATE OF CONNECTICUT
DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION
OFFICE OF ADJUDICATIONS**

IN THE MATTER OF: : **UNDERGROUND STORAGE
TANK ENFORCEMENT - SITE ID
#146-3021**

SNEF, INC. : **JULY 13, 2023**

FINAL DECISION

I. JURISDICTION

Subdivision (2) of General Statutes § 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.”

II. PROCEDURAL BACKGROUND

The hearing in this matter was held on July 13, 2023 via the Zoom teleconferencing platform.¹ The following persons were present: Attorney Brendan Schain, Lori Saliby, Gary Trombly, Mark Latham, Phil Wilde, Gil Richards, and Mike Cosker for the Department of Energy and Environmental Protection (“Department” or “staff”) and Farruqh Shahab on behalf of the Respondent, SNEF, Inc. (Site ID #146-3021). The Department offered 21 proposed exhibits: documentation of DEEP inspections and enforcement against Site ID #146-3021 spanning 2018 to the present (Exhibits DEEP-1 through DEEP-19); the Commissioner of DEEP’s June 22, 2016 approval of Alternative Life Expectancy for Certain Underground

¹ A recording of this hearing is on file with the Office of Adjudications and serves as the official record of this proceeding. All references herein to testimony are from the hearing held on July 13, 2023 via Zoom.



Storage Tanks (DEEP-19); and the Pre-Filed Testimony of Lori Saliby (DEEP-21).² By stipulation among the parties, these documents are all admitted into evidence.

III. FINDINGS OF FACT

1. On July 10, 2023, Department staff disabled (“red tagged”) the underground storage tanks (“UST”) and associated dispensers at the Respondent’s facility located at 81 Union Street, Rockville, Connecticut 06066. Exs. DEEP-18; DEEP-19. The Notice of Disabled UST Systems included notice of the date and time of the hearing.³ Ex. DEEP-19. Department staff red tagged the UST system components on July 10, 2023 due to their not being permanently closed, through removal or proper in-place abandonment, prior to the last day of their 30-year life expectancy. Ex. DEEP-19.

2. The USTs at Site ID #146-3021 consist of three single-walled composite tanks that were installed on August 1, 1989. Ex. DEEP-21. The normal 30-year life expectancy for these USTs would have been reached on August 1, 2019. *Id.*

3. However, pursuant to the Commissioner’s June 22, 2016 “Alternate Life Expectancy for Certain Underground Storage Tanks,” USTs such as those located at the Respondent’s facility may remain in service an additional 10 years beyond the default 30-year life expectancy so long as certain conditions and eligibility criteria are met and adhered to. Exs. DEEP-20; DEEP-21.

4. An Owner/Operator’s failure to adhere to any of the conditions, terms, or criteria of Alternate Life Expectancy may result in the life expectancy of a UST reverting back to the standard 30-year life expectancy as set forth in R.C.S.A. § 22a-449(d)-111(c). Exs. DEEP-20 (Section C.2); DEEP-21.

² A full listing of admitted exhibits is attached hereto as Appendix A.

³ The hearing in this matter was originally scheduled for July 12, 2023 but rescheduled to July 13, 2023 at the Respondent’s request received via e-mail correspondence on July 11, 2023. The Respondent acknowledged that in requesting the rescheduled hearing date, he waived his right to have a hearing within 48 hours as otherwise required by General Statutes § 22a-449(g)(2).



5. Both before and after the time at which the Respondent’s USTs reached Alternate Life Expectancy, Site ID #146-3021 was subject to numerous compliance violations. *See* Exs. DEEP-2 and DEEP-3 (June 13, 2018 Notice of Disabled UST Systems and Notice of Violation); Exs. DEEP-11 and DEEP-12 (July 19, 2021 Notice of Disabled UST Systems and Notice of Violation); Exs. DEEP-15 and DEEP-16 (June 26, 2023 Notice of Disabled UST Systems and Notice of Violation); Testimony of L. Saliby (July 13, 2023 at 9:35—10:25; 18:07—20:26) (“...every time this site is inspected it has a laundry list of serious violations.”).
6. The evidence in the record demonstrates a pattern of violations, continuing up until the present, from prior to when the 30-year life expectancy was reached on August 1, 2019 and both after the Alternate Life Expectancy was claimed subsequent to that date. Ex. DEEP-21. The Respondent does not dispute that these violations have occurred. Testimony of F. Shahab (July 13, 2023 at 23:18—23:53).
7. Given the pattern of ongoing violations and the failure to maintain significant operational compliance, the 30-year life expectancy for the USTs at Site ID #146-3021 therefore reverted back to August 1, 2019, consistent with Section C.2 of the Commissioner’s June 22, 2016 “Alternate Life Expectancy for Certain Underground Storage Tanks.” Exs. DEEP-20; DEEP-21.
8. Accordingly, the Respondent’s USTs at Site ID #146-3021 remained in operation beyond their 30-year operation and were not permanently closed, through removal or proper in-place abandonment, in violation of R.C.S.A. § 22a-449-110(c). This violation served as the basis for the Department staff’s disabling of the UST systems and the violation has not yet been resolved and is currently continuing. Exs. DEEP-18; DEEP-19; Testimony of F. Shahab (July 13, 2023 at 26:21—27:08).

IV. CONCLUSION

There was probable cause to support and sustain the enforcement action taken by Department staff on July 10, 2023 with regard to the UST system components at Site ID #146-3021. The testimony and documentary evidence provided by the Department demonstrate and confirm that the violations in question occurred and are continuing at this time. Given the compliance history of this site, the Alternative Life



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Expectancy has reverted back to the standard 30-year term, which was reached on August 1, 2019. Accordingly, the red tagged UST system components have exceeded their life expectancy established by R.C.S.A. § 22a-449(d)-111(c). The red tags shall therefore remain in place and in effect so long as the violation continues.

/s/ Andrew W. Minikowski

Andrew W. Minikowski, Esq.
Hearing Officer

Dated: July 13, 2023

cc: Service List



SERVICE LIST

In the Matter of SNEF, Inc. – Final Decision (Site ID #146-3021)

SERVICE VIA ELECTRONIC MAIL

July 13, 2023

Respondent – SNEF, Inc. (Erum’s Mini Mart)

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APPENDIX A

In the Matter of SNEF, Inc. – Final Decision (Site ID #146-3021)

Exhibits Entered Into Evidence

1. DEEP-1 – Inspection Report dated June 13, 2018
2. DEEP-2 – Notice of Disabled UST Systems dated June 13, 2018
3. DEEP-3 – Notice of Violation dated June 13, 2018 (NOVUST-MC218-0071)
4. DEEP-4 – Warning Letter dated June 13, 2018 (WLUST-MC218-0097)
5. DEEP-5 – Six Annotated Photographs date-stamped June 13, 2018
6. DEEP-6 – Inspection Report dated June 15, 2018
7. DEEP-7 – Inspection Report dated August 14, 2018
8. DEEP-8 – Inspection Report dated August 12, 2020
9. DEEP-9 – Warning Letter dated August 12, 2020 (WLUST-MC220-0190)
10. DEEP-10 – Inspection Report dated July 19, 2021
11. DEEP-11 – Notice of Disabled UST Systems dated July 19, 2021
12. DEEP-12 – Notice of Violation dated July 19, 2021 (NOVUST-MC221-0031)
13. DEEP-13 – Four Annotated Photographs date-stamped July 8, 2021
14. DEEP-14 – Inspection Report dated June 26, 2023
15. DEEP-15 – Notice of Disabled UST Systems dated June 26, 2023
16. DEEP-16 – Notice of Violation dated June 26, 2023 (NOVUST-MC223-0106)
17. DEEP-17 – Seven Annotated Photographs (no date-stamp provided)
18. DEEP-18 – Inspection Report dated July 10, 2023
19. DEEP-19 – Notice of Disabled UST Systems dated July 10, 2023
20. DEEP-20 – “Alternate Life Expectancy for Certain Underground Storage Tanks” dated June 22, 2016
21. DEEP-21 – Pre-Filed Testimony of Lori Saliby dated July 13, 2023