

STATE OF CONNECTICUT

v.

Sefer Halim and Susanne Halim

ORDER NUMBER AOWSUST 19-034

DATE ISSUED: 11/7/2019

A. The Commissioner of Energy and Environmental Protection (“the Commissioner”) finds:

1. Sefer Halim and Susanne Halim (“Respondents”) are listed in the Borough of Naugatuck Land Records as the owners of property located at 109 South Main Street, Naugatuck, CT (“the Site”). Such property is further described in a deed which was recorded on October 4, 2010 at Volume 876 on Page 38 in the Borough of Naugatuck Land Records, and as Map 24, Block 32 and Lot E9 in the Borough of Naugatuck Tax Assessor’s Office.
2. Respondents are the owners of two (2) petroleum underground storage tank systems (“USTs”) located at the Site.
3. Respondents are not operating a business from the Site at this time.
4. The Site has been inspected four (4) times and was found to be not in significant operational compliance (“SOC”) each time.
5. On May 3, 2010, the Site was inspected by Storage Tank & PCB Enforcement Unit (“ST & PCB EU”) staff. Based on that inspection, the cathodic protection results were not available for inspection, constituting a violation of The Regulations of Connecticut State Agencies (“RCSA”) section 22a-449(d)-103(e)(4). Also, improperly abandoned USTs with visible vent pipes were determined to be present at the Site, constituting a violation of RCSA section 22a-449(d)-107(b)(2). NOVUST-PC10-0007 was issued on May 3, 2010 without response from Respondents.
6. On April 18, 2012, the Site was inspected by ST & PCB EU staff. The Site was found not to be in SOC.

7. On May 23, 2012, ST & PCB EU staff sent a copy of the latest Inspection Report to Respondents' address as listed in the Naugatuck Assessor's Office. The mail was unclaimed and returned.

8. On October 2, 2014, ST & PCB EU staff performed an inspection at the Site. Based on that inspection improperly abandoned USTs with visible vent pipes were determined to be present on-site, constituting a violation of RCSA section 22a-449(d)-107(b)(2). Notice of Violation ("NOV") NOVUST-LF14-0030 was issued at the time of inspection and mailed to Respondents via USPS certified mail, but went unclaimed.

9. Respondents were served copies of the inspection report and NOV by state marshal service on January 30, 2015 at their home located at 5 Mountain Road in Prospect, CT with a cover letter requesting that Respondents contact the Commissioner. No response was forthcoming.

10. On September 22, 2017, ST & PCB EU staff performed an inspection at the Site. The violations were found to be continuing. Additionally, Respondents failed to submit the requisite annual UST facility notification and fees, constituting a violation of Connecticut General Statutes ("CGS") section 22a-449(e).

11. On October 30, 2018, ST & PCB EU staff performed an office-based inspection. The violations were found to be continuing. An office-based inspection report was generated and mailed to Respondents to notify them that the end of the 30 year UST life expectancy was approaching.

12. By virtue of the above, Respondents are maintaining a condition which can reasonably be expected to create a source of pollution to the waters of the state.

B. The Commissioner, acting under Connecticut General Statutes ("CGS") §22a-6, 22a-424, 22a-432, 22a-433 and 22a-449, orders Respondents as follows:

1. Engage Consultant. On or before ten (10) days after the issuance of this Order Respondents shall retain one or more qualified consultants acceptable to the Commissioner to prepare the documents and implement or oversee the actions required by this Order and shall, by that date notify the Commissioner in writing of the identity of such consultants. Respondents shall retain one or more qualified consultants acceptable to the Commissioner until this Order is fully complied with, and, within ten (10) days after retaining any consultant other than one originally identified under this Paragraph, Respondents shall notify the Commissioner in writing of the identity of such other consultant. The consultant(s) retained to prepare the documents and implement or oversee the actions required by this Order shall be qualified environmental professionals licensed to practice in Connecticut. Respondents shall submit to the Commissioner a description of a consultant's education, experience and training which is relevant to the work required by this Order within ten (10) days after a request for such a description. Nothing in this Paragraph shall preclude the Commissioner from finding a previously acceptable environmental consultant unacceptable.

2. Empty USTs. Within thirty (30) days of the issuance of this Order by the Commissioner, Respondents shall thoroughly empty all petroleum and all hazardous substances from each UST referenced in Paragraph A.2 above, and shall ensure that no petroleum, hazardous substance, waste oil or any other material or waste is placed in any of the USTs until such placement is approved, in writing, by the Commissioner.

3. Closed UST Systems. Respondents shall permanently close each UST system referenced in Paragraph A.2 above. For each UST system in the notice submitted under this Paragraph that is being closed, including each UST system being removed, Respondents shall ensure that such closure fully complies with the requirements set forth in this Paragraph. For each UST system being closed pursuant to this Order, Respondents shall comply with the following requirements:

(a). Within thirty (30) days of the issuance of this Order, Respondents shall notify the Commissioner, in writing, of the schedule for the closure of each UST. Except for any corrective action required by RCSA section 22a-449(d)-107(c)(2), Respondents shall ensure that any such schedule provides for the completion of all permanent closure activities no later than sixty (60) days after the issuance of this Order.

(b). Respondents shall ensure that the permanent closure of each aforementioned UST fully complies with RCSA sections 22a-449(d)-107(b),(c), (e) and (f). For each UST being permanently closed, except for any corrective action required by RCSA section 22a-449(d)-107(c)(2), Respondents shall complete all closure activities in compliance with the schedule submitted pursuant to subparagraph B.3(a). of this Order, or no later than sixty (60) days after the issuance of this Order, whichever is earlier.

(c). Within thirty (30) days of the completion of the closure of each UST, Respondents shall notify the Commissioner, in writing, that the closure has been completed. Any such notification of closure shall be so made using EZ File.

4. Release Reporting. If at any time during the installation and/or operation of release detection equipment, or during permanent closure of an UST system, as any of which may be required by, or in response to, this Order, Respondents discover or become aware of contaminated soil, contaminated groundwater or free product as a liquid or vapor anywhere at, on or emanating from the Site, Respondents shall: (1) notify the Department regarding such contamination or free product in accordance with applicable law; and (2) perform corrective action in accordance with RCSA section 22a-449(d)-106, as applicable. Nothing in this provision shall excuse, be a substitute for, or affect any other notification or reporting requirement applicable to Respondents or the Site.

5. Scope of Study. If closure sampling required by Paragraph B.3 indicates the need for corrective action Respondents shall, within thirty (30) days following the determination that environmental contamination exists at the Site, submit for the Commissioner's review and written approval a scope of study for the investigation of the petroleum and hazardous substance releases at the Site, emanating from the Site and the discharge of pollutants to the waters of the state, to determine the potential impact of such activities on human health and the environment, including, but not limited to, the existing and potential extent and

degree of soil, groundwater and surface water pollution. Such scope of study shall include, at a minimum:

- a. the proposed locations and depths of groundwater monitoring wells and soil and surface water sampling;
- b. a proposed sampling and analytical program, including at least the parameters to be tested, sampling and analytical methods, and quality assurance and quality control procedures; and
- c. a schedule for conducting the investigation required by this Paragraph.

6. Performance of Investigation. In accordance with the approved schedule referenced in Paragraph B.5. above, Respondents shall:

- a. perform the investigation and other actions specified in the approved scope of study in accordance with the approved scope of study and the approved schedule; and
- b. shall notify the Commissioner in writing of the date and time of installation of monitoring wells and of each soil and water sampling event at least five (5) business days prior to such installation or sampling.

7. Supplemental Plan and Investigation. If the investigation carried out under an approved scope of study does not fully characterize the extent and degree of soil, surface water and groundwater pollution to the satisfaction of the Commissioner, additional investigation shall be performed in accordance with a supplemental plan and schedule approved in writing by the Commissioner. Unless otherwise specified in writing by the Commissioner, the supplemental plan and schedule shall be submitted for the Commissioner's review and written approval on or before thirty (30) days after notice from the Commissioner that they are required. Respondents shall notify the Commissioner in writing of the date and time of installation of monitoring wells and of each soil and water sampling event at least five (5) business days prior to such installation or sampling.

8. Investigation Report and Remedial Action Plan. In accordance with the schedule approved by the Commissioner pursuant to Paragraph B.5.c of this Order, Respondents shall submit for the Commissioner's review and written approval a comprehensive and thorough report which describes in detail the investigation performed and remediation to be conducted pursuant to this Order and which:

- a. defines the existing and potential extent and degree of soil and surface water and groundwater pollution which is on, is emanating from or has emanated from the Site;
- b. evaluates the remedial actions to abate such pollution in accordance with the standards adopted pursuant to RCSA §22a-133k. This evaluation shall include, but not be limited to, any alternative specified by the Commissioner;
- c. states in detail the most expeditious schedule for performing each remedial action;

d. lists all permits and approvals required for each remedial action including, but not limited to, any permits required under CGS §22a-32, 22a-42a, 22a-342, 22a-361, 22a-368 or 22a-430;

e. proposes a detailed program and schedule to perform the remedial actions. The schedule required by this Paragraph shall also include a schedule for applying for and obtaining all permits and approvals required for such remedial actions; and

f. such plan shall include but not be limited to a soil, surface water and groundwater monitoring program to determine the degree to which the approved remedial actions have been effective, and a schedule for performing the approved monitoring program.

9. Performance of Remedial Actions. Upon approval by the Commissioner of the remedial action plan, Respondents shall perform the approved remedial actions in accordance with the approved schedule(s). Within fifteen (15) days after completing such actions, Respondents shall certify to the Commissioner in writing that the actions have been completed as approved.

10. Monitoring, Additional Remedial Actions, Measures and Reporting. Respondents shall perform the approved monitoring program to determine the effectiveness of the remedial actions in accordance with the approved schedule(s). Respondents shall notify the Commissioner of the date and time of each soil or water sampling event at least five (5) business days before such event. If the approved remedial actions do not result in prevention and abatement of soil, surface water and groundwater pollution to the satisfaction of the Commissioner, additional remedial actions and measures for monitoring and reporting on the effectiveness of those actions shall be performed in accordance with a supplemental plan and schedule prepared by Respondents and approved in writing by the Commissioner. Unless otherwise specified in writing by the Commissioner, the supplemental plan and schedule shall be submitted for the Commissioner's review and written approval on or before thirty (30) days after the notice from the Commissioner that they are required. On a schedule established by the Commissioner or if no schedule is established, on a quarterly basis beginning no later than ninety (90) days after initiation of these approved remedial actions or, as applicable, supplemental remedial actions, Respondents shall submit for the Commissioner's review and written approval a report describing the results to date of the monitoring program.

11. Free Product. If qualified consultants overseeing the initial site investigation determine that free product is present, Respondents shall, as soon as possible after such determination, develop and implement a plan to remove free product to the maximum extent technically practicable. Such initial site investigation shall determine:

a. the presence and extent of free product resulting from releases;

b. groundwater pollution resulting from the release that may threaten the quality of drinking water wells; and

c. if the release has resulted in pollution of soil vapor that poses a significant environmental hazard as identified in CGS §22a-6u(e)(2).

12. Significant Environmental Hazard. If qualified consultants overseeing the initial site investigation determine that groundwater pollution resulting from the release threatens the quality of drinking water wells, Respondents shall, as soon as possible after such determination, sample such drinking water wells, notify the Commissioner of such determination and take all necessary steps to provide potable water, in a manner determined by the Commissioner, to any person impacted by the release, where the pollution exceeds groundwater protection criteria identified in CGS §22a-6u(g)(1). If qualified consultants overseeing the initial site investigation determine that the release has resulted in pollution of soil vapor that poses a significant environmental hazard as identified in CGS §22a-6u(e)(2)(A) through (C), Respondents shall, as soon as possible after such determination, take any measures necessary as determined by the Commissioner to abate the hazards from those release(s).

13. Sampling and sample analyses. All sampling and sample analyses that are required by this Order and all reporting of such sample analyses shall be done by a laboratory certified by the U.S. Environmental Protection Agency and/or the Connecticut Department of Health Services for such analyses. All sampling and sample analyses performed under this Order shall be performed in accordance with the procedures specified or approved in writing by the Commissioner, or if no such procedures have been specified or approved, in accordance with the following:

<u>Product Stored</u>	<u>Potential Contamination</u>	<u>Suggested Analytical Method</u>
gasoline	aromatic volatile organics and MTBE lead (if leaded gasoline)	EPA 8021 or 8260 (collection method EPA 5035) EPA 7421 (TCLP or SPLP)
fuel oil or diesel (see Note below)	extractable total petroleum hydrocarbons aromatic volatile organics and MTBE semi-volatile organics	Connecticut ETPH EPA 8021 or 8260 (collection method EPA 5035) EPA 8270
waste oil	extractable total petroleum hydrocarbons aromatic volatile organics and MTBE halogenated volatile organics RCRA 8 metals PCBs	Connecticut ETPH EPA 8021 or 8260 EPA 8021 or 8260 EPA 6010 (TCLP or SPLP) EPA 8082

unknown or other product: contact DEP UST Enforcement Program staff at (860) 424-3374

Note: For fuel oil or diesel UST closure, analyze all samples by Connecticut ETPH method and, at a minimum, analyze the most contaminated sample (based on field observation) by the additional methods.

Unless otherwise specified by the Commissioner in writing, the value of each parameter shall be reported to the maximum level of precision and accuracy specified in the applicable protocol, and if no such level is specified, to the maximum level of precision and accuracy possible. All samples shall be discrete rather than composite samples.

14. Progress Reports. On or before the last day of each month following issuance of this Order and continuing until all actions required by this Order have been completed as approved and to the Commissioner's satisfaction, Respondents shall submit a progress report to the Commissioner describing the actions which Respondents have taken to date to comply with this Order.

15. Full Compliance. Respondents shall not be considered in full compliance with this Order until all actions required by this Order have been completed as approved and to the satisfaction of the Commissioner.

16. Approvals. Respondents shall use best efforts to submit to the Commissioner all documents required by this Order in a complete and approvable form. If the Commissioner notifies Respondents that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and Respondents shall correct the deficiencies and resubmit it within a reasonable time specified by the Commissioner or, if no time is specified by the Commissioner, within thirty (30) days of the Commissioner's notice of deficiencies. In approving any document or other action under this Order, the Commissioner may approve the document or other action as submitted or performed or with such conditions or modifications as the Commissioner deems necessary to carry out the purposes of this Order. Nothing in this Paragraph shall excuse noncompliance or delay.

17. Definitions. As used in this Order, "Commissioner" means the Commissioner of Energy and Environmental Protection or an agent of the Commissioner. "Free product" shall be defined as that term is defined in RCSA subdivision 22a-449(d)-101(d)(33). "Underground storage tank system" shall be defined as that term is defined in RCSA subdivision 22a-449(d)-101(d)(75). "Petroleum" shall be defined as that term is defined in RCSA subparagraph 22a-449(d)-101(d)(59)(b) and shall include all of the items included as a "Regulated substance" in RCSA subdivision 22a-449(d)-101(d)(59).

18. Dates. The date of "issuance" of this Order is the date the Order is deposited in the U.S. mail or personally delivered, whichever is earlier. The date of submission to the Commissioner of any document required by this Order shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this Order, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is deposited in the U.S. Mail, or is personally delivered, whichever is earlier. Except as otherwise specified in this Order, the word "day" as used in this Order means calendar day. Any document or action which is required by this Order to be submitted or performed by a date which falls on a Saturday, Sunday, or a Connecticut or federal holiday shall be submitted or performed on or before the next day which is not a Saturday, Sunday or Connecticut or federal holiday.

19. Notification of Noncompliance. In the event that Respondents become aware that they did not or may not comply, or did not or may not comply on time, with any requirement of this Order or of any document required hereunder, Respondents shall immediately notify the Commissioner and shall take all reasonable steps to ensure that any

noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. In so notifying the Commissioner, Respondents shall state in writing the reasons for the noncompliance or delay and propose, for the review and written approval of the Commissioner, dates by which compliance will be achieved, and Respondents shall comply with any dates, which may be approved in writing by the Commissioner. Notification by Respondents shall not excuse noncompliance or delay, and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing.

20. Certification of Documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this Order shall be signed by Respondents or, if Respondents are not individuals, by Respondents' chief executive officer or a duly authorized representative of such officer, as those terms are defined in RCSA section 22a-430-3(b)(2) and by the individual(s) responsible for actually preparing such document, each of whom shall certify in writing as follows:

"I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, that the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information may be punishable as a criminal offense under CGS section 53a-157 and any other applicable law."

21. False Statements. Any false statement in any information submitted pursuant to this Order may be punishable as a criminal offense under CGS §53a-157b and any other applicable law.

22. Notice of Transfer; Liability of Respondents and Others. Until Respondents have fully complied with this Order, Respondents shall notify the Commissioner in writing no later than fifteen (15) days after transferring all or any portion of the operations which are the subject of this Order, the Site, or the business, or after obtaining a new mailing or location address. Respondents' obligations under this Order shall not be affected by the passage of title to any other person or municipality.

23. Commissioner's Powers. Nothing in this Order shall affect the Commissioner's authority to institute any proceeding or take any other action to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for violations of law, including but not limited to those described in this Order. If at any time the Commissioner determines that the actions taken by Respondents pursuant to this Order have not successfully corrected all violations, fully characterized the extent and degree of pollution or have not successfully abated or prevented pollution, the Commissioner may institute any proceeding to require Respondents to undertake further investigation or further action to prevent or abate pollution.

24. Respondents' Obligations Under Law. Nothing in this Order shall relieve Respondents of other obligations under applicable federal, state and local law.

25. No Assurance by Commissioner. No provision of this Order and no action or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the actions taken by Respondents pursuant to this Order will result in compliance or prevent or abate pollution.
26. No Effect on Rights of Other Persons. This Order neither creates nor affects any rights of persons that are not parties to this Order.
27. Notice to Commissioner of Changes. Within fifteen (15) days of the date Respondents become aware of a change in any information submitted to the Commissioner under this Order, or that any such information was inaccurate or misleading or that any relevant information was omitted, Respondents shall submit the correct or omitted information to the Commissioner.
28. Joint and several liability. Respondents shall be jointly and severally liable for compliance with this order.
29. Submission of Documents. Any document or notice to the Commissioner under this Order shall, unless otherwise specified in writing by the Commissioner, be directed to:

David J. Keating
Department of Energy and Environmental Protection
Emergency Response and Spill Prevention Division
Storage Tank and PCB Enforcement Unit
79 Elm Street
Hartford, Connecticut 06106-5127

Issued as an Order of the Commissioner of the Department of Energy and Environmental Protection.

Dated

11/7/19


Katherine S. Dykes
Commissioner

ORDER NUMBER AOWSUST 19-034