

**STATE OF RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

OFFICE OF COMPLIANCE AND INSPECTION

In Re: GALILEE FUEL SERVICES, INC.

File No.: OCI-UST-2018-38-03190

AAD No.: 18-05/WME

CONSENT AGREEMENT

A. INTENT & PURPOSE

This Agreement is entered by and between the Rhode Island Department of Environmental Management (“RIDEM”) and GALILEE FUEL SERVICES, INC. (“Respondent”). This Agreement is entered in accordance with Section 42-17.1-2 *et seq.* of the Rhode Island General Laws (“R.I. Gen. Laws”) for the purpose of resolving the alleged violations set forth in a Notice of Violation (“NOV”) issued by RIDEM on June 7, 2018.

B. STIPULATED FACTS

- (1) WHEREAS, the property is located on Great Island Road in the Town of Narragansett, Rhode Island and includes underground storage tanks (“USTs” or “tanks”) that are used for storage of petroleum products (the "Facility").
- (2) WHEREAS, Respondent owns the USTs and operates the Facility.
- (3) WHEREAS, on December 4, 2017, Respondent submitted a *Permanent Closure Application for USTs* to RIDEM in accordance with Part 1.15(D) of the Rhode Island Code of Regulations titled *Rules and Regulations for Underground Storage Facilities Used for Petroleum Products and Hazardous Materials (250-RICR-140-25-1)* (the “UST Regulations”) for the permanent closure of the USTs (the “Application”).
- (4) WHEREAS, on June 7, 2018, RIDEM issued a NOV to Respondent alleging certain violations of Rhode Island’s *Water Pollution Act* and the UST Regulations.
- (5) WHEREAS, Respondent requested an administrative hearing to contest the NOV.
- (6) WHEREAS, Respondent has complied with the Order section of the NOV.
- (7) WHEREAS, the Administrative Adjudication Division is a division of RIDEM.
- (8) WHEREAS, in lieu of proceeding to an administrative adjudicatory hearing to contest the NOV and to affect a timely and amicable resolution of the NOV, RIDEM and Respondent hereby agree that it is in the best interest of the parties and in the public interest to resolve the issues raised in the NOV.

- (9) WHEREAS, RIDEM finds that this Agreement is a reasonable and fair settlement and adequately protects the public interest in accordance with Rhode Island's *Water Pollution Act* and the UST Regulations.

C. **AGREEMENT**

- (1) **JURISDICTION** – RIDEM has jurisdiction over the subject matter of this Agreement and has personal jurisdiction over Respondent.
- (2) **FORCE and EFFECT** – This Agreement shall have the full force and effect of a final compliance order issued after a full hearing on the merits pursuant to the Administrative Procedures Act, R.I. Gen. Laws Section 42-35-1 et seq. and R.I. Gen. Laws Section 42-17.7-1 et seq. from which no timely appeal was taken, and which is enforceable in Superior Court in accordance with R.I. Gen. Laws Section 42-17.1-2(21)(vi).
- (3) **APPLICATION** – The provisions of this Agreement shall apply to and be binding upon RIDEM, Respondent and its agents, servants, employees, successors, assigns and all persons, firms and corporations acting under, through and for Respondent in the performance of work relating to or impacting the requirements of this Agreement.
- (4) **PENALTY** – Respondent shall pay to RIDEM the sum of **\$15,722** in administrative penalties assessed as follows:
- (a) Respondent submitted a first payment of **\$4,472** upon execution of this Agreement.
 - (b) The remainder of the penalty, **\$11,250**, shall be paid to RIDEM on or before September 1, 2021.
 - (c) Penalties that Respondent agrees to pay in this Agreement are penalties payable to and for the benefit of the State of Rhode Island and are not compensation for actual pecuniary loss.
 - (d) If Respondent fails to remit to RIDEM a payment on or before its due date, that payment will be considered late, and Respondent will be in default. If the payment is not received within 30 days of its due date, interest shall begin to accrue on the entire unpaid balance at the rate of 12 percent per annum. Interest will accrue at this rate beginning with the day after the due date specified in this Agreement until such date all past due installment payment and interest owed are remitted. Interest shall be calculated using the following generally established accounting principle:

$$\text{Interest due} = (\text{number of days late}/365) \times (0.12) \times (\text{amount of unpaid balance})$$
 - (e) All penalty payments shall be in the form of a certified check, cashier's check, or money order, payable to the **R.I. General Treasurer – Water and Air Protection Program**. All payments shall be delivered to:

D. COMPLIANCE

- (1) EFFECT OF COMPLIANCE – Compliance with and fulfillment of this Agreement shall be deemed to resolve all issues raised in the NOV. Upon Respondent’s successful completion of the requirements set forth in this Agreement, RIDEM shall issue a Release and Discharge of the NOV to Respondent for recording. The recording shall be at the sole expense of Respondent.
- (2) COMPLIANCE WITH OTHER APPLICABLE LAWS – Compliance with the terms of this Agreement does not relieve Respondent of any obligation to comply with any other applicable laws or regulations administered by, through or for RIDEM or any other governmental entity.
- (3) ADDITIONAL ENFORCEMENT ACTIONS – Upon a determination by the Director that there is a threat to the public health or the environment, or upon discovery of any new information, RIDEM reserves the right to take additional enforcement actions as provided by statute or regulation, including, but not limited to, the issuance of “Immediate Compliance Orders” as authorized by R.I. Gen. Laws Section 42-17.1-2(21). This Agreement shall not restrict any right to hearing or other right available by statute or regulation that Respondent may have regarding any new enforcement action commenced by RIDEM after the execution of this Agreement.
- (4) FUTURE ACTIVITIES AND UNKNOWN CONDITIONS – This Agreement shall not operate to shield Respondent from liability arising from future activities, as of the date of execution of this Agreement.
- (5) SCOPE OF THE AGREEMENT – The scope of the Agreement is limited to violations alleged in the NOV.
- (6) NOTICE AND COMMUNICATION – Communications regarding this Agreement shall be directed to:

Tracey D’Amadio Tyrrell
Supervising Environmental Scientist
RIDEM Office of Compliance and Inspection
235 Promenade Street
Providence, RI 02908-5767
(401) 222-1360
tracey.tyrrell@dem.ri.gov

Tricia Quest
Senior Legal Counsel
RIDEM Office of Legal Services
235 Promenade Street
Providence, RI 02908-5767
(401) 222-6607
tricia.quest@dem.ri.gov

Joseph DeAngelis, Esq.
Adler Pollock & Sheehan, P.C.
One Citizens Plaza, 8th Floor
Providence, RI 02903
(401) 274-7400
JDeAngelis@apslaw.com

All communications regarding compliance with this Agreement shall be forwarded to the above-referenced addressees by certified mail.

- (7) DEFERRAL – The Director may, for good cause shown, defer any of the compliance dates prescribed herein. Good cause for deferral of any compliance date shall be forwarded to RIDEM in writing at least 15 days prior to the prescribed deadline.
- (8) AMENDMENT – The Agreement may be amended by agreement of the parties in writing.
- (9) EFFECTIVE DATE – This Agreement shall be deemed entered as of the date of execution by all parties.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the undersigned consent to this Agreement in substance and in form.

GALILEE FUEL SERVICES, INC.

By: _____
Print Name: _____ Title: _____

Dated: _____

In my capacity, as _____ of GALILEE FUEL SERVICES, INC., I hereby aver that I am authorized to enter into this Agreement and thereby bind GALILEE FUEL SERVICES, INC., to satisfy any obligation imposed upon it pursuant to said Agreement.

STATE OF RHODE ISLAND
COUNTY OF _____

In _____, in said County and State, on this _____ day of _____, 2020, before me personally appeared _____, the _____ of GALILEE FUEL SERVICES, INC., a Rhode Island corporation, to me known and known by me to be the party executing the foregoing instrument on behalf of GALILEE FUEL SERVICES, INC., and he/she acknowledged said instrument by him/her executed, to be his/her/ free act and deed in said capacity and the free act and deed of GALILEE FUEL SERVICES, INC..

Notary Public
My Commission Expires: _____

State of Rhode Island, Department of Environmental
Management

By: _____
David E. Chopy, Administrator
Office of Compliance and Inspection

Dated: _____