

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

**OFFICE OF COMPLIANCE & INSPECTION**

**IN RE:   Jeane Tannous  
          Deeb Tannous**

**FILE NO.: OCI-UST-21-9-00317**

**NOTICE OF VIOLATION**

**A.    Introduction**

Pursuant to Sections 42-17.1-2(21) and 42-17.6-3 of the Rhode Island General Laws, as amended, (“R.I. Gen. Laws”) you are hereby notified that the Director of the Department of Environmental Management (the “Director” of “DEM”) has reasonable grounds to believe that the above-named parties (“Respondents”) have violated certain statutes and/or administrative regulations under DEM's jurisdiction.

**B.    Administrative History**

On 3 May 2017, DEM sent an informal written notice to Respondents to notify them of the statutory deadline for the permanent closure of the underground storage tanks at the facility that is the subject of this *Notice of Violation* (“NOV”) and the remedial actions required to bring the facility into compliance with the law and the regulations. Respondents failed to comply with the notice.

**C.    Facts**

- (1)    The property is located at 1885 Mineral Spring Avenue, Assessor’s Plat 21A, Lot 853 in North Providence, Rhode Island (the “Property”). The Property includes a service station and underground storage tanks (“USTs” or “tanks”) that were used for storage of petroleum products (the "Facility").
- (2)    MAGIC REALTY LLC owns the Property.
- (3)    On 27 June 2017, the certificate of authority for MAGIC REALTY LLC was revoked by the Rhode Island Secretary of State. Jeane Tannous is the last known resident agent, member and authorized person for MAGIC REALTY LLC.
- (4)    The Facility is registered with DEM and is identified as UST Facility No. 00317.
- (5)    The USTs are registered with DEM as follows:

<b>UST ID No.</b>	<b>Date Installed</b>	<b>Capacity</b>	<b>Product Stored</b>
001	March 1963	10,000 gallons	Gasoline
002	March 1963	10,000 gallons	Gasoline
003	1973	6,000 gallons	Gasoline

- (6) UST Nos. 001, 002 and 003 are single-walled tanks.
- (7) On or about 3 November 2006, UST Nos. 001, 002 and 003 were emptied for inspection. Upon information and belief, the USTs have been out of use and abandoned since they were emptied.
- (8) On 4 May 2007, Deeb Tannous (“Tannous”) submitted a *Permanent Closure Application for Underground Storage Tanks* to DEM. Tannous identified himself as the owner of the USTs. On 14 May 2007, DEM approved the Application; however, the proposed closure was never scheduled, and the approval expired.
- (9) On 23 December 2008, Tannous submitted a *Permanent Closure Application for Underground Storage Tanks* to DEM. Tannous identified himself as the owner of the USTs. The Application was deficient, and Tannous did not resolve the deficiencies.
- (10) On 3 July 2013, DEM inspected the Facility. The inspection revealed that UST Nos. 001, 002 and 003 remained in place, in an abandoned state.
- (11) On 18 September 2014, Tannous submitted a *Permanent Closure Application for Underground Storage Tanks* to DEM. Tannous identified himself as the owner of the USTs. On 6 November 2014, 17 December 2014 and 7 April 2015, DEM approved the Applications with scheduled closure dates; however, the proposed closures were cancelled each time, and the approval expired.
- (12) On 12 January 2017, 21 February 2018 and 11 February 2021, DEM inspected the Facility. The inspections revealed that UST Nos. 001, 002 and 003 remained in place, in an abandoned state
- (13) As of the date of the NOV, UST Nos. 001, 002 and 003 remain in the ground in an abandoned state.

D. Violation

Based on the foregoing facts, the Director has reasonable grounds to believe that you have violated the following statutes and/or regulations:

- (1) ***Rules and Regulations for Underground Storage Facilities Used for Regulated Substances and Hazardous Materials [effective 26 April 2011 to 20 November 2018]***
  - (a) **Rule 8.04(A)** – requiring that single-walled USTs and product pipelines installed before 8 May 1985 be permanently closed by 22 December 2017.
  - (b) **Rule 13.02(A)** – prohibiting abandonment of USTs.

- (c) **Rule 13.05** – requiring the owner/operator that has removed any UST from operation for more than 180 days and has not been granted an extension of temporary closure by DEM or who have abandoned any UST to permanently close a UST in accordance with the regulations.
- (2) ***Rules and Regulations for Underground Storage Facilities Used for Regulated Substances and Hazardous Materials (250-RICR-140-25-1) [effective 20 November 2018 to Current] (the “UST Regulations”)***
  - (a) **Part 1.10(D)(1)(a)** – requiring that single-walled USTs and product pipelines installed before 8 May 1985 be permanently closed by 22 December 2017.
  - (b) **Part 1.15(B)(1)** – prohibiting abandonment of USTs.
  - (c) **Part 1.15(D)** – requiring the owner/operator that has removed any UST from operation for more than 180 days and has not been granted an extension of temporary closure by DEM or who have abandoned any UST to permanently close a UST in accordance with the regulations.

E. Order

Based upon the violations alleged above and pursuant to R.I. Gen. Laws Section 42-17.1-2(21), you are hereby ORDERED to:

- (1) **Within 7 days of receipt of the NOV**, procure the services of a qualified contractor to evacuate the contents of UST Nos. 001, 002 and 003 and their product pipelines. The tanks shall be evacuated to 1 inch or less of liquid at the bottom of the tanks and the fill port for each tank shall be locked. Written verification of compliance shall be submitted to DEM’s Office of Compliance and Inspection (“OC&I”).
- (2) **Within 45 days of receipt of the NOV**, submit a completed *Permanent Closure Application for USTs* to DEM's Office of Land Revitalization and Sustainable Materials Management (“LRSMM”) and, **with LRSSM’s consent and approval, complete the permanent closure of UST Nos. 001, 002 and 003** in accordance with Part 1.15 of the UST Regulations.
- (3) **Within 30 days of the removal of UST Nos. 001, 002 and 003**, Respondents’ qualified environmental consultant shall complete and submit to LRSMM a *Closure Assessment Report* in accordance with Part 1.15(D)(10) of the UST Regulations, the *UST Closure Assessment Guidelines*, May 2019, and Part 2.13 of the *Oil Pollution Control Regulations* [effective 2 May 2018 to Current] (the “OPC Regulations”).
- (4) **Within 30 days of the removal of UST Nos. 001, 002 and 003**, remove and compliantly dispose of any contaminated soil encountered during the tank closure and within 10 days of the soil disposal, submit documentation of disposal to LRSMM, in accordance with Part 2.13 of the OPC Regulations.

- (5) If, after review of the *Closure Assessment Report*, LRSMM determines that a site investigation is required, Respondents' qualified environmental consultant shall complete the site investigation and submit a *Site Investigation Report* ("SIR") to LSMM in accordance with Part 1.14(H) of the UST Regulations within the time frame specified by LRSMM.
- (6) If, after review of the SIR, LRSMM determines that a *Corrective Action Plan* ("CAP") is required, Respondents' qualified environmental consultant shall submit a proposed CAP in accordance with Part 1.10(I) of the UST Regulations within the time frame specified by LSMM. LRSMM will review the proposed CAP and issue further instructions on how to proceed. The CAP shall be implemented in accordance with an *Order of Approval* issued by DEM.

F. Penalty

- (1) Pursuant to R.I. Gen. Laws Section 42-17.6-2, the following administrative penalty, as more specifically described in the attached penalty summary and worksheets, is hereby ASSESSED against the respondents:

**\$35,986**

- (2) The proposed administrative penalty is calculated pursuant to the *Rules and Regulations for Assessment of Administrative Penalties (250-RICR-130-00-1)* [effective 19 March 2021 to Current] (the "Penalty Regulations") and must be paid to DEM within 30 days of your receipt of the NOV. Penalty payments shall be by one of two methods:

- (a) By certified check, cashier's check, or money order made payable to the **General Treasury – Water and Air Protection Program** and forwarded to:

Administrator, DEM Office of Compliance and Inspection  
235 Promenade Street, Suite 220  
Providence, RI 02908-5767

- (b) By wire transfer in accordance with instructions provided by DEM.
- (3) Penalties assessed against Respondents in the NOV are penalties payable to and for the benefit of the State of Rhode Island and are not compensation for actual pecuniary loss.
- (4) If any violation alleged herein shall continue, then each day during which the violation occurs or continues shall constitute a separate offense and the penalties and/or costs for that violation shall continue to accrue in the manner set forth in the attached penalty summary and worksheets. The accrual of additional penalties and costs shall be suspended if DEM determines that reasonable efforts have been made to comply promptly with the NOV.

G. Right to Administrative Hearing

- (1) Pursuant to R.I. Gen. Laws Chapters 42-17.1, 42-17.6, 42-17.7 and 42-35, each named respondent is entitled to request a hearing before DEM's Administrative Adjudication Division regarding the allegations, orders and/or penalties set forth in Sections B through F above. All requests for hearing MUST:
  - (a) Be in writing. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and 42-17.6-4(b);
  - (b) Be **RECEIVED** by DEM's Administrative Adjudication Division, at the following address, within 20 days of your receipt of the NOV. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and 42-17.7-9:

Administrative Clerk  
DEM - Administrative Adjudication Division  
235 Promenade Street, Suite 350  
Providence, RI 02908-5767

- (c) Indicate whether you deny the alleged violations and/or whether you believe that the administrative penalty is excessive. See R.I. Gen. Laws Section 42-17.6-4(b); **AND**
  - (d) State clearly and concisely the specific issues which are in dispute, the facts in support thereof and the relief sought or involved, if any. See Part 1.7(B) of the *Rules and Regulations for the Administrative Adjudication Division (250-RICR-10-00-1)* [effective 27 November 2014 to Current].
- (2) A copy of each request for hearing must also be forwarded to:

Susan Forcier, Esquire  
DEM - Office of Legal Services  
235 Promenade Street, Suite 425  
Providence, RI 02908-5767

- (3) Each named respondent has the right to be represented by legal counsel at all administrative proceedings relating to this matter.
- (4) Each respondent must file a separate and timely request for an administrative hearing before DEM's Administrative Adjudication Division as to each violation alleged in the written NOV. If any respondent fails to request a hearing in the above-described time or manner regarding any violation set forth herein, then the NOV shall automatically become a Final Compliance Order enforceable in Superior Court as to that respondent and/or violation and any associated administrative penalty proposed in the NOV shall be final as to that respondent. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and (vi) and 42-17.6-4(b) and (c).

- (5) Failure to comply with the NOV may subject each respondent to additional civil and/or criminal penalties.
- (6) An original signed copy of the NOV is being forwarded to the Town of North Providence, Rhode Island, wherein the Property is located, to be recorded in the Office of Land Evidence Records pursuant to R.I. Gen. Laws Chapter 34-13 and Section 42-17.1-2 (31), as amended.
- (7) The NOV does not preclude the Director from taking any additional enforcement action nor does it preclude any other local, state, or federal governmental entities from initiating enforcement actions based on the acts or omissions described herein.

If you have any legal questions, you may contact (or if you are represented by an attorney, please have your attorney contact) Susan Forcier of DEM's Office of Legal Services at (401) 222-6607. All other inquiries should be directed to Tracey Tyrrell of DEM's Office of Compliance and Inspection at (401) 222-1360, ext. 2777407 or at [tracey.tyrrell@dem.ri.gov](mailto:tracey.tyrrell@dem.ri.gov).

Please be advised that any such inquiries do not postpone, eliminate, or otherwise extend the need for a timely submittal of a written request for a hearing, as described in Section G above.

FOR THE DIRECTOR

By: \_\_\_\_\_  
David E. Chopy, Administrator  
DEM Office of Compliance and Inspection

Dated: \_\_\_\_\_

CERTIFICATION

I hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_  
the within Notice of Violation was forwarded to:

Jeane Tannous  
6 City View Circle  
North Providence, RI 02911

Deeb Tannous  
6 City View Circle  
North Providence, RI 02911

by Certified Mail.

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## ADMINISTRATIVE PENALTY SUMMARY

Program: OFFICE OF COMPLIANCE AND INSPECTION, UST  
 File No.: OCI-UST-21-9-00317  
 Respondents: Jeane Tannous and Deeb Tannous

<b>GRAVITY OF VIOLATION</b>					
SEE ATTACHED "PENALTY MATRIX WORKSHEETS."					
VIOLATION NO. & CITATION	APPLICATION OF MATRIX		PENALTY CALCULATION		AMOUNT
	Type	Deviation	Penalty from Matrix	Number or Duration of Violations	
D (1)(a) and D(2)(a) – Single-Walled USTs	Type II <i>(\$12,500 Max. Penalty) *</i>	Moderate	\$2,500	3 UST systems	\$7,500
D (1)(b), D(1)(c), D(2)(b), and D(2)(c) – Abandonment of USTs	Type I <i>(\$25,000 Max. Penalty) *</i>	Minor	\$4,375	3 UST systems	\$13,125
<b><i>SUB-TOTAL</i></b>					<b>\$20,625</b>

\*Maximum Penalties represent the maximum penalty amounts per day, per violation.

<b>ECONOMIC BENEFIT FROM NON-COMPLIANCE</b>		
COSTS OF COMPLIANCE, EQUIPMENT, O&M, STUDIES OR OTHER DELAYED OR AVOIDED COSTS, INCLUDING INTEREST AND/OR ANY COMPETITIVE ADVANTAGE DERIVED OVER ENTITIES THAT COMPLY. NOTE: ECONOMIC BENEFIT MUST BE INCLUDED IN THE PENALTY UNLESS:		
- THERE IS NO IDENTIFIABLE BENEFIT FROM NON-COMPLIANCE; OR - THE AMOUNT OF ECONOMIC BENEFIT CANNOT BE QUANTIFIED.		
DESCRIPTION OF BENEFIT	CALCULATION	AMOUNT
Failing to permanently close the USTs within six months of the date they were removed from service. The economic benefit of non-compliance was determined by using an EPA computer model titled <i>BEN</i> that performs a detailed economic analysis. The dates, dollar amounts and values used in this analysis are listed in this table.	<ul style="list-style-type: none"> <li>▪ Profit Status</li> <li>▪ Filing Status</li> <li>▪ Initial Capital Investment</li> <li>▪ One-time Non-depreciable Expense</li> <li>▪ First Month of Non-compliance</li> <li>▪ Compliance Date</li> <li>▪ Penalty Due Date</li> <li>▪ Useful Life of Pollution Control</li> <li>▪ Equipment Annual Inflation Rate</li> <li>▪ Discount Compound Rate</li> </ul>	For profit, other than a C Corp.  \$26,500  September 2011  1 March 2022  1 March 2022      7.4%
<b><i>SUB-TOTAL</i></b>		<b>\$15,361</b>



## **ADMINISTRATIVE PENALTY SUMMARY (continued)**

### **COST RECOVERY**

**ADDITIONAL OR EXTRAORDINARY COSTS INCURRED BY THE DIRECTOR DURING THE INVESTIGATION, ENFORCEMENT AND RESOLUTION OF AN ENFORCEMENT ACTION (EXCLUDING NON-OVERTIME PERSONNEL COSTS), FOR WHICH THE STATE IS NOT OTHERWISE REIMBURSED.**

A review of the record in this matter has revealed that DEM has not incurred any additional or extraordinary costs during the investigation, enforcement and resolution of this enforcement action (excluding non-overtime personnel costs), for which the State is not otherwise reimbursed.

**TOTAL PENALTY PROPOSED UNDER PENALTY REGULATIONS = \$35,986**

# PENALTY MATRIX WORKSHEET

CITATION: Single-Walled USTs  
 VIOLATION NOs.: D (1)(a) and D(2)(a)

<b>TYPE</b>		
<p style="text-align: center;"><u>    </u> <b>TYPE I</b></p> <p><u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;"><u>  X  </u> <b>TYPE II</b></p> <p><u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;"><u>    </u> <b>TYPE III</b></p> <p><u>INCIDENTAL</u> to protecting health, safety, welfare or environment.</p>
<b>DEVIATION FROM THE STANDARD</b>		
THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.		
<p><b><u>FACTORS CONSIDERED:</u></b></p> <p>Taken from Part 1.10(A)(1)(b) of the Penalty Regulations.</p> <ol style="list-style-type: none"> <li>(1) <b>The extent to which the act or failure to act was out of compliance:</b> Respondents failed to permanently close UST Nos. 001, 002 and 003 by the statutory deadline. Single-walled USTs and pipelines present a threat to the environment and public health and safety as there is no secondary containment to prevent releases of petroleum products and hazardous materials directly to the subsurface. Failure to comply increases the likelihood of a release of the regulated substance to the environment and the resultant threats to groundwater resources and public health and safety.</li> <li>(2) <b>Environmental conditions:</b> The Facility is in a densely developed area with numerous potential vapor receptors including commercial and residential structures and underground utilities. The Facility is in a GB groundwater classification zone, which are groundwater resources designated as unsuitable for drinking water use without treatment. The tanks are, however, located within 45 feet of a GA groundwater classification zone, which are groundwater resources designated as suitable for drinking water use without treatment. The Facility is in the Woonasquatucket River watershed. The tanks are located within 540 feet of freshwater wetlands.</li> <li>(3) <b>Amount of the pollutant:</b> Considered, but not utilized for this calculation.</li> <li>(4) <b>Toxicity or nature of the pollutant:</b> The volatile nature of gasoline presents both a potential public health hazard (due to potential inhalation of benzene) and a potential public safety hazard (due to the potential for explosion). Gasoline can cause significant soil and groundwater contamination if released to the environment. Benzene, a component of gasoline, is a known human carcinogen. Certain other petroleum constituents are potentially harmful to human health and safety and the environment.</li> <li>(5) <b>Duration of the violation:</b> Approximately 4 years – Respondents have been in violation of the rule since 22 December 2017.</li> <li>(6) <b>Areal extent of the violation:</b> Considered, but not utilized for this calculation.</li> </ol>		
(continued)		

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- (7) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the non-compliance:** Respondents failed to take reasonable and appropriate steps to prevent the non-compliance by permanently closing the USTs before 22 December 2017. Respondents have yet to take any steps to mitigate the violation.
- (8) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law which the Department has the authority or responsibility to enforce:** Considered, but not utilized for this calculation.
- (9) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** Negligence is attributable to Respondents for the failure to comply. Respondents, as owners of the Property and Facility, had full control over the occurrence of the violation.
- (10) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not utilized for this calculation.

<b>MAJOR</b>	<u>  X  </u> <b>MODERATE</b>	<b>MINOR</b>
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Penalty Matrix where the applicable statute provides for a civil penalty up to \$25,000		TYPE I	TYPE II	TYPE III
DEVIATION FROM STANDARD	<b>MAJOR</b>	\$12,500 to \$25,000	\$6,250 to \$12,500	\$2,500 to \$6,250
	<b>MODERATE</b>	\$6,250 to \$12,500	\$2,500 to \$6,250 <b>\$2,500</b>	\$1,250 to \$2,500
	<b>MINOR</b>	\$2,500 to \$6,250	\$1,250 to \$2,500	\$250 to \$1,250

# PENALTY MATRIX WORKSHEET

CITATION: Abandonment of USTs  
 VIOLATION NOs.: D (1)(b), D(1)(c), D(2)(b), and D(2)(c)

<b>TYPE</b>		
<u>  X  </u> <b>TYPE I</b> <u>DIRECTLY</u> related to protecting health, safety, welfare or environment.	<u>      </u> <b>TYPE II</b> <u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.	<u>      </u> <b>TYPE III</b> <u>INCIDENTAL</u> to protecting health, safety, welfare or environment.

**DEVIATION FROM THE STANDARD**  
 THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.

**FACTORS CONSIDERED:**

Taken from Part 1.10(A)(1)(b) of the Penalty Regulations.

- (1) **The extent to which the act or failure to act was out of compliance:** Respondents removed the USTs from service in 2006 and abandoned them. Prohibiting the abandonment of underground storage tanks is of primary importance to the regulatory program. Failure to comply could result in the release of hazardous materials to the groundwater and pollution of public drinking water supplies. Abandoned tanks present a threat to the environment and public safety if subsequent owners attempt to put them back into service or if they take on surface or ground water that is then released to subsurface.
- (2) **Environmental conditions:** The Facility is in a densely developed area with numerous potential vapor receptors including commercial and residential structures and underground utilities. The Facility is in a GB groundwater classification zone, which are groundwater resources designated as unsuitable for drinking water use without treatment. The tanks are, however, located within 45 feet of a GA groundwater classification zone, which are groundwater resources designated as suitable for drinking water use without treatment. The Facility is in the Woonasquatucket River watershed. The tanks are located within 540 feet of freshwater wetlands.
- (3) **Amount of the pollutant:** Considered, but not utilized for this calculation.
- (4) **Toxicity or nature of the pollutant:** The volatile nature of gasoline presents both a public health hazard (due to the potential inhalation of benzene vapors) and a potential public safety hazard (due to the potential for explosion). Petroleum products can cause significant soil and groundwater contamination if released to the environment. Benzene, a component of gasoline, is a known carcinogen.
- (5) **Duration of the violation:** Approximately 15 years – the tanks have been maintained in an abandoned state since approximately November 2006. The penalty is being assessed for the non-compliance that has occurred since 2011.
- (6) **Areal extent of the violation:** Considered, but not utilized for this calculation.
- (7) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the non-compliance:** Respondents failed to prevent the non-compliance by permanently closing the USTs or applying to DEM for approval for temporary closure immediately after removing them from service. Upon information and belief, Respondents have made no attempt to mitigate the non-compliance.

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- (8) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law which the Department has the authority or responsibility to enforce:** Considered, but not utilized for this calculation.
- (9) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** As owners of the Property and Facility, Respondents had full control over the occurrence of the violation. Abandonment of USTs is expressly prohibited.
- (10) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Internal inspection of the tanks in 2006 revealed that they were unfit for further use as their steel walls were found to be heavily corroded. Holes were cut into the tanks and they have since filled with stormwater. The corrosion protection system was found to be deactivated at the time of a DEM inspection in 2005.

<b>MAJOR</b>	<b>MODERATE</b>	<u><b>X</b></u> <b>MINOR</b>
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Penalty Matrix where the applicable statute provides for a civil penalty up to \$25,000		<b>TYPE I</b>	TYPE II	TYPE III
DEVIATION FROM STANDARD	<b>MAJOR</b>	\$12,500 to \$25,000	\$6,250 to \$12,500	\$2,500 to \$6,250
	<b>MODERATE</b>	\$6,250 to \$12,500	\$2,500 to \$6,250	\$1,250 to \$2,500
	<b>MINOR</b>	\$2,500 to \$6,250 <b>\$4,375</b>	\$1,250 to \$2,500	\$250 to \$1,250