

**OFFICE OF ADJUDICATIONS**

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

**ROB'S AUTO SERVICE, INC.** : **FEBRUARY 6, 2008**

**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 6, 2008 in the DEP Russell Room, 79 Elm Street in Hartford. The following persons were present and sworn: Robert and Deborah Panfili for Rob's Auto Service, Inc. (facility); and Lori Saliby and Omar Tyson (staff) for the DEP Storage Tank Enforcement Unit.
2. The Department disabled (“red tagged”) three underground fuel storage tanks at the facility on February 4, 2008. The red-tagged tanks include one, 3000-gallon diesel fuel tank and two, 3000-gallon gasoline tanks. DEP staff served a “Notice of Disabled UST Systems” on Mr. Panfili, and he accepted service on behalf of the facility. General Statutes §22a-449(g). This Notice, which included the date,

- time and place of the hearing, was placed into evidence, along with a copy of the facility summary information on file with the DEP, and the Department's UST Inspection Checklist (Test. DEP staff.)
3. The DEP conducted a compliance inspection on December 12, 2007. The tank was found to lack an automatic tank gauging system to monitor for leakage or other problems, the facility's inventory reconciliation did not comply with regulation, and the piping leading from the tank to the dispensing unit had failed a cathodic protection test and need to be updated or replaced. The facility 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. (Test. DEP staff; test. Panfili, R & D.; Notice of Disabled UST Systems)
  4. The regulations require facilities to have some method of leak detection for underground storage tanks and to employ inventory reconciliation methods in compliance with DEP regulations. Automatic tank-gauging systems are typically employed to meet these requirements. If this is not in place, manual testing in compliance with the regulations must be performed. Failure to use such a system and employ such methods means the DEP has no assurance of the integrity of the tank. Any piping that consistently contains product must pass cathodic protection tests. A failure of the cathodic protection test gives DEP no assurance that these pipes are not leaking. A leaking tank or pipe can result in serious consequences, including groundwater contamination that could affect drinking water supplies. (Test. DEP staff.)

5. The Panfilis have arranged for the product remaining in the tanks to be pumped out of the tanks in a time period that is satisfactory to DEP. DEP directed and the Panfilis agreed to contact Mr. Tyson when the actual pump-out will occur so that he can ensure that the tanks are disabled after the pump-out is complete. The Panfilis have indicated that they will explore their options for complying with DEP regulations. DEP staff presented various options for continuing the use of the tanks as well as options for temporary and permanent closure of the tanks. (Test. DEP staff; test. Panfili, R and D.)

### ***CONCLUSION***

There was probable cause to support and sustain this enforcement action taken by the DEP with regard to the three disabled tanks owned and operated by Rob's Auto Service, Inc.

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

February 6, 2008  
Date

APPENDIX A  
PARTY LIST

*FINAL DECISION*  
*In the Matter of Rob's Auto Service, Inc.*

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PARTY

REPRESENTED BY

Rob's Auto Service  
21 Town Street  
East Haddam, CT 06439

Rob and Deborah Panfili

Department of Environmental Protection

UST Enforcement  
79 Elm Street  
Hartford, CT 06106

Lori Saliby  
Omar Tyson