

OFFICE OF ADJUDICATIONS

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

BEVERAGE TRUCKING, INC. : **JUNE 18, 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 June 18, 2008 in the DEP Welch Meeting Room, 79 Elm Street in Hartford. The following persons were present and sworn: Charles Dufresne and Raymond Dufresne for Beverage Trucking, Inc. (facility); and Lori Saliby and Omar Tyson (staff) for the DEP Storage Tank Enforcement Unit.
2. The Department disabled (“red tagged”) one 10,000 underground fuel storage tank and four dispensers connected to that tank at the facility on June 16, 2008. DEP staff served a “Notice of Disabled UST Systems” on Charles Dufresne, 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 Storage Tank Enforcement Unit Inspection Checklist on file with the DEP. (Test. DEP staff.)

3. The DEP conducted a compliance inspection on June 16, 2008. At that time it was noted that the facility had in operation a 10,000 gallon diesel tank that was constructed of single-walled bare steel. Use of this type of tank was a violation as of December 22, 1998. Regs., Conn. State Agencies § 22a-449 (d)-110. The facility does not contest that this violation occurred. At this time, the 10,000 gallon tank remains on the property so the violation is continuing. However, the facility will work with DEP staff to remove the tank in question in compliance with applicable regulations. Available product has been sufficiently removed from this tank. The facility will provide Mr. Tyson with estimates of the work to be completed at the site as well as sufficient notice of the removal date so DEP staff can be present. (Test. DEP staff; test. C. & R. Dufresne)
4. The facility will work with the DEP to bring its system into compliance.

CONCLUSION

There was probable cause to support and sustain this enforcement action taken by the DEP with regard to the disabled tank and dispensers owned and operated by Beverage Trucking, Inc.

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

APPENDIX A
PARTY LIST

FINAL DECISION
In the Matter of Beverage Trucking, Inc.
UST Facility No. 11-4276

PARTY

UST Facility
Beverage Trucking, Inc.
Advanced Gas Co., Inc.
129 West Dudley Street
Bloomfield, CT 06002

Department of Environmental Protection

UST Enforcement
79 Elm Street
Hartford, CT 06106

REPRESENTED BY

Owner/Operator
Raymond Dufresne
Charles Dufresne

Lori Saliby
Omar Tyson