

**OFFICE OF ADJUDICATIONS**

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

**FRED & GEORGE'S GARAGE, 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 Welch Meeting Room, 79 Elm Street in Hartford. The following persons were present and sworn: George Germini for Fred and George's Garage, 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, 2000-gallon diesel fuel tank and two, 6000-gallon gasoline tanks. DEP staff served a “Notice of Disabled UST Systems” on Mr. Germini, 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 February 4, 2008. The tanks were found to lack an automatic tank gauging system to monitor for leakage or other problems and the facility did not perform proper inventory reconciliation. 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. Germini, G.)
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. A leaking tank can result in serious consequences, including groundwater contamination that could affect drinking water supplies. (Test. DEP staff.)
5. The facility will work with the DEP to bring its system into compliance. Mr. Germini has scheduled the installation of an automatic tank gauging system and will conduct a cathodic protection test upon completion of this installation. DEP staff indicated that as long as the scheduled work is completed by February 15, 2008 and the tanks are in compliance with all applicable regulations, including

cathodic protection requirements, then the facility does not need to pump out the fuel currently in the tanks. The DEP directed Mr. Germini to provide a written a schedule for compliance that demonstrates his intent to achieve compliance by February 15, 2008. Mr. Germini agreed to provide this schedule upon consultation with the vendors providing the necessary services. (Test. DEP staff; test. Germini, G.)

***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 Fred & George's Garage, Inc.

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

February 6, 2008  
Date

APPENDIX A  
PARTY LIST

*FINAL DECISION*

*In the Matter of Fred and George's Garage, Inc.*

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PARTY

REPRESENTED BY

Fred and George's Garage, Inc.  
457 Main Street  
Deep River, CT 06417

George Germini

Department of Environmental Protection

UST Enforcement  
79 Elm Street  
Hartford, CT 06106

Lori Saliby  
Omar Tyson