

OFFICE OF ADJUDICATIONS

IN THE MATTER OF

**: UNDERGROUND STORAGE
TANK ENFORCEMENT**

HULL FOREST PRODUCTS

:NOVEMBER 29, 2007

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 November 28, 2007 in the DEP Russell Hearing Room, 79 Elm Street in Hartford. The following persons were present and sworn: Jeffrey Durst, President, Hull Forest Products, Inc. (facility); and Lori Saliby, George Purple and John Hirschfeld (staff) for the DEP Storage Tank Enforcement Unit.
2. The Department disabled (“red tagged”) a 1000-gallon underground fuel storage tank at the facility on November 26, 2007. A Notice of Disabled UST Systems was served on Mr. Durst at that time; he accepted service on behalf of Hull Products. 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, the Department's UST Compliance Evaluation and an Inspection Checklist regarding the same tank from 2004.¹ (Test. DEP staff.)

3. The DEP conducted inspections on November 5, 6, 19 and 26, 2007. The tank was found to lack an automatic tank gauging system to monitor for leakage or other problems. Other violations were noted,² including lack of current cathodic protection testing and other el. The facility does not contest that this violation occurred and is 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. Durst, J.)

4. The regulations require some method of leak detection for underground storage tanks; automatic tank-gauging systems are typically employed. If this is not in place, manual testing must be performed. Failure to have a protection system can result in serious consequences, including groundwater contamination. (Test. DEP staff.)

5. The gasoline in the tank will be pumped out. §22a-449(g)(1). The facility will work with the DEP to bring its system into compliance or to find an alternative method to provide fuel for its business. The DEP directed Mr. Durst and he agreed to provide dates outlining initial dates for compliance by the close of business on November 30, 2007. (Test. DEP staff; test. Durst, J.)

¹ This evidence is part of the administrative record in this matter and is in the files of the DEP Office of Adjudications.

² Including current cathodic testing and line tightness testing.

CONCLUSION

There was probable cause to support and sustain this enforcement action taken by the DEP with regard to the tank owned and operated by Hull Forest Products. Inc.

/s/ J Deshais
Janice B. Deshais, Hearing Officer

APPENDIX A
PARTY LIST

FINAL DECISION
In the Matter of Hull Forest Products

PARTY

REPRESENTED BY

Hull Forest Products, Inc.
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Jeffrey Durst, President

Department of Environmental Protection

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Lori Saliby
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