



**State of Tennessee  
Department of State**

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**October 17, 2025**

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**RE: TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION V.  
CROSSVILLE BNRV REALTY, LLC D/B/A BOAT N RV, APD Case No. 04.44-  
245018J**

Enclosed is an *Initial Order*, including a *Notice of Appeal Procedures*, rendered in this case.

Administrative Procedures Division  
Tennessee Department of State

Enclosure(s)

**State of Tennessee**  
**Underground Storage Tanks & Solid Waste Disposal Control Board**

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*In the Matter of*

Department of Environment and  
Conservation,  
*Petitioner,*

v.

Crossville BNRV Realty, LLC,  
*Respondent.*

Division of Underground Storage Tanks

Case No. FDA24-0007

Docket No. 04.44-245018J

Administrative Judge Begley

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**INITIAL ORDER GRANTING MOTION FOR SUMMARY JUDGMENT**

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Currently pending is a Motion for Summary Judgment filed by the Petitioner on August 1, 2025. Respondent did not file a response. Based upon the facts and law, the Petitioner's Motion for Summary Judgment is **GRANTED**, and the scheduled hearing is **CANCELED**.

In support of its motion, Petitioner filed a Memorandum of Law, Respondent's Tenn. R. Civ. P. 56.03 Statement of Undisputed Facts, and the affidavits of Stacey Clark, Paige Ottenfeld; and Shelby Ward with supporting exhibits.

**SUMMARY JUDGMENT STANDARD**

Summary judgment is appropriate where "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." TENN. R. CIV. P. 56.04; *Rye v. Women's Care Ctr. of Memphis*, 477 S.W.3d 235, 250-52, 264-65 (Tenn. 2015).

The party seeking summary judgment has the burden of persuading the court that its motion satisfies the requirements of Rule 56. *Rye*, 477 S.W.3d at 250-52, 264-65. Further, when considering a summary judgment motion, the court must view the evidence in the light most favorable to the nonmoving party and must draw all reasonable inferences in that party’s favor. *Huggins v. McKee*, 500 S.W.3d 360, 364 (Tenn. Ct. App. 2016). A motion for summary judgment must be supported by admissible evidence. TENN. R. CIV. P. 56.06.

Courts consistently have emphasized that a party opposing a motion for summary judgment may not simply rest on its pleadings but must affirmatively oppose the motion. *Holland v. City of Memphis*, 125 S.W.3d 425, 428 (Tenn. Ct. App. 2003). See, e.g., *Staples v. CBL & Assocs., Inc.*, 15 S.W.3d 89 (Tenn. 2000); *McCarley v. W. Quality Food Serv.*, 960 S.W.2d 585, 588 (Tenn. 1998). Such opposition may be made by pointing to the evidence in the record which indicates disputed material facts. *McCarley*, 960 S.W.2d at 588.

Summary judgment should therefore be granted only if the uncontroverted facts presented, and conclusions to be drawn from the facts, make it so clear that a reasonable person can reach only one conclusion. *Yount v. FedEx Express*, 2016 WL 1056958, at \*3 (Tenn. Ct. App. March 17, 2016).

**FINDINGS OF FACT**

1. Crossville BNRV Realty, LLC dba Boat-N-RV (“Respondent”) owned the Underground Storage Tank (“UST”) systems located at 2475 Westel Road, Rockwood, Tennessee 37854 (“the Facility”) on June 14, 2023. (Aff. of Paige Ottenfeld ¶ 3, Ex. 9, Aff. of Shelby Ward ¶ 7, Ex. 11)

2. On June 14, 2023, Respondent owned the property where the Facility is located. (Aff. of P. Ottenfeld ¶ 4, Ex. 10)
3. The Facility has three UST systems: Tank 1A, Tank 1B, and Tank 2A. (Aff. of Stacey Clark ¶ 8, Aff. of S. Ward ¶ 8, *See also* Ex. 4, p. 3)
4. Division of Underground Storage Tanks (“Division”) personnel conducted a UST Operation Inspection at Respondent’s Facility on June 14, 2023. (Aff. of S. Clark ¶ 7, Ex. 7, Aff. of S. Ward ¶ 9)
5. One of the inspection’s purposes was to ensure compliance with the Tennessee Petroleum Underground Storage Tank Act and implementing rules. (Aff. of S. Clark ¶ 6)
6. During the June 14, 2023 inspection, the inspector examined portions of the three UST systems at the Facility and on-site documentation related to the UST systems. (Aff. of S. Clark ¶ 8)
7. At the time of the inspection, the line leak detector on Tank 1A (14,000 gallon regular gas) would not move into the slow flow position. (Aff. of S. Ward ¶ 10, Ex. 16; *see also* Aff. of S. Clark ¶ 9)
8. At the time of the inspection, leak detector testing results were not provided for review. (Aff. of S. Clark ¶ 10, Aff. of S. Ward ¶ 11, Ex. 16)
9. At the time of the inspection, the results of an Interstitial Monitoring (IM) sensor function test performed in the last twelve months were not provided. (Aff. of S. Clark ¶ 11, Aff. of S. Ward ¶ 13, Ex. 16)

10. At the time of the inspection, the results of an annual Automatic Tank Gauge (ATG) operability test performed in the last twelve months was not provided for review. (Aff. of S. Clark ¶ 12, Aff. of S. Ward ¶ 14, Ex. 16)
11. At the time of the inspection, twelve months of sensor status reports were not available for all three piping systems. (Aff. of S. Clark ¶ 15, Aff. of S. Ward ¶ 16, Ex. 16)
12. At the time of inspection, the IM sensors beneath dispensers 1/2, 3/4, and satellite 7 were not placed in the lowest portion of the dispenser sumps. (Aff. of S. Clark ¶ 16, Aff. of S. Ward ¶ 17, Ex. 16)
13. At the time of inspection, the secondary piping for the STP sumps associated with Tank 1B and Tank 2A was plugged. (Aff. of S. Clark ¶ 17; Aff. of S. Ward ¶ 18, Ex. 16)
14. At the time of the inspection, the secondary piping for the dispenser sumps associated with 1/2, 3/4, 5/6, satellite 6/7, satellite 7 was plugged. (Aff. of S. Clark ¶ 18, Aff. of S. Ward ¶ 19, Ex. 16)
15. At the time of the inspection, the secondary piping for the transition sump near dispenser 1/2 was plugged.(Aff. of S. Clark ¶ 19, Aff. of S. Ward ¶ 20, Ex. 16)
16. At the time of inspection, the transition sump nearest dispenser 1/2 contained a wireless IM sensor that was not monitored by the ATG. (Aff. of S. Clark ¶ 20, Aff. of S. Ward ¶ 21, Ex. 16)
17. At the time of the inspection, a four-inch crack was in the bottom of the STP sump associated with Tank 1A. (Aff. of S. Clark ¶ 21, Aff. of S. Ward ¶ 22, Ex. 16)
18. At the time of the inspection, the STP sump associated with Tank 1B (6,000-gallon premium gas) contained two inches of water. (Aff. of S. Clark ¶ 22, Aff. of S. Ward ¶ 23, Ex. 16)

19. At the time of the inspection, the polyethylene lid of the STP sump associated with Tank 1B (6,000-gallon premium gas) had a hole. (Aff. of S. Clark ¶ 23, Aff. of S. Ward ¶ 24, Ex. 16)
20. At the time of the inspection, the transition sump near dispenser 1/2 was completely filled with water. (Aff. of S. Clark ¶ 24, Aff. of S. Ward ¶ 25, Ex. 16)
21. At the time of the inspection, the ball float overfill device associated with Tank 1B activated at 95%. (Aff. of S. Clark ¶ 25, Aff. of S. Ward ¶ 26, Ex. 16)
22. At the time of the inspection, the overfill devices associated with Tank 1A and 2A (10,000-gallon diesel) were missing. (Aff. of S. Clark ¶ 26, Aff. of S. Ward ¶ 27, Ex. 16)
23. At the time of the inspection, the Class B operator designated for the facility reported that they no longer were associated with the facility. (Aff. of S. Clark ¶ 27, Aff. of S. Ward ¶ 28, Ex. 16)
24. On June 16, 2023, the Division sent a Results of Inspection – Action Required letter to the Respondent. In the letter, the Division cited violations observed during the inspection and informed the Respondent of what actions needed to be done to correct the violations. (Aff. of S. Clark ¶ 29, Ex. 5)
25. The Respondent made two compliance extension requests which the Division granted. (Aff. of S. Clark ¶ 32-34, Ex. 6 and 7)
26. On July 20, 2023, the Division received an Application for Fund Eligibility from the Respondent for the June 8, 2023 release at the facility. (Aff. of P. Ottenfeld ¶ 5, Ex. 11)
27. To correct the violations observed during the inspection, the Division instructed the Respondent to complete the following by August 18, 2023:

- a. Ensure Tank 1A had a functioning line leak detector and submit documentation to the Division for review;
- b. Conduct a line leak detector test and submit the results to the Division for review;
- c. Perform an annual Interstitial Monitoring (IM) sensor function test and submit the results to the Division for review;
- d. Perform an annual ATG operability test and submit the results to the Division for review;
- e. Submit the IM sensor function test, ATG operability test, and the line leak detector test results for the previous three years to the Division for review;
- f. Submit the previous twelve months IM tank sensor status reports or, if those reports are unavailable, submit the requested report for the next consecutive month to the Division for review;
- g. Submit the previous twelve months IM piping sensor status reports or, if those reports are unavailable, submit the requested report for the following month.
- h. Ensure the IM sensors are placed in the lowest portion of all sumps, remove all caps from the secondary piping entries, and begin interstitially monitoring the transition sump near dispenser 1/2 and submit documentation to the Division for review.
- i. Repair and retest the STP sumps associated with Tank 1A and Tank 1B and the transition sump near dispenser 1/2 according to manufacturer's instructions and submit documentation to the Division for review;
- j. Provide documentation of proper installation of overfill prevention to the Division for review; and

- k. Conduct overfill prevention equipment test following the repair/replacement of the defective overfill prevention devices and submit the results to the Division for review. (Aff. of S. Clark ¶ 30, 33-34, Ex. 5, 6, and 7)
28. The Division also required the Respondent to complete operator retraining by September 14, 2023. (Aff. of S. Clark ¶ 31, 33-34, Ex. 5, 6, and 7)
29. The Respondent failed to complete operator re-training by September 14, 2023. (Aff. S. Clark ¶ 36, Aff. of S. Ward ¶ 29, Ex. 11)
30. The Respondent did not submit documentation to the Division by September 18, 2023, documenting correction of the violations Division personnel observed during the June 14, 2023 inspection. (Aff. of S. Clark ¶ 35, Aff. of S. Ward ¶ 30, Ex. 11)
31. On September 26, 2023, the Division sent a Follow-up Letter and Enforcement Action Notice letter to the Respondent. The letter cited the violations discovered during the inspection and the Respondent's failure to return to compliance. (Aff. K. Clark ¶ 37, Ex. 8)
32. On December 11, 2023, the Division issued Order and Assessment FDA24-0007 ("Order") against Respondent. (Aff. of S. Ward ¶ 2, Ex. 15, Attachment A)
33. The Order approved the application for fund eligibility with a deductible of \$20,000.00. (Aff. of P. Ottenfeld ¶ 6, Ex. 12)
34. The Order's total civil penalty equals \$51,200.00. (Aff. of P. Ottenfeld ¶ 7)
35. The Order's civil penalty amounts were assessed according to the facts of the June 14, 2023 inspection and the Respondent's failure to submit required compliance documentation in accordance with TDEC policy and guidance. (Aff. of P. Ottenfeld ¶ 8-10)

36. On August 5, 2025, the Department served its Motion for Summary Judgment to Respondent’s registered agent, Corporate Creations Network Inc., via United States Certified Mail. (Docket #8 - Notice of Proof of Service)

**APPLICABLE LAW**

The Petroleum Underground Storage Tank Act makes it unlawful to construct, alter, or operate a petroleum underground storage tank in violation of the Act or the rules or regulations established under the Act.<sup>1</sup> Responsible parties for violations of the Act include owners or operators of underground storage tank (“UST”) system sites.<sup>2</sup>

Rules governing USTs have been promulgated and are effective as Tenn. Comp. R. & Regs. 0400-18-01-.01 to -.17.<sup>3</sup> These Rules are enforceable standards dictating how UST systems must be operated and maintained. These standards include various requirements, including the following:

- Installing line leak detectors for pressurized underground piping.<sup>4</sup>
- Testing line leak detectors annually.<sup>5</sup>
- Providing a release detection method capable of detecting a release from tanks that routinely contain product.<sup>6</sup>
- Testing electronic and mechanical components at least annually for proper operation.<sup>7</sup>
- Conducting monthly monitoring on pressurized underground piping.<sup>8</sup>
- Having 100% double walled or to secondarily contained piping that ends in sumps if the piping was installed after July 25, 2007.<sup>9</sup>
- Installing or providing adequate overfill prevention systems.<sup>10</sup>
- Inspecting overfill prevention equipment at least once every three years.<sup>11</sup>

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<sup>1</sup> Tenn. Code Ann. § 68-215-104(2).

<sup>2</sup> Tenn. Code Ann. § 68-215-103.

<sup>3</sup> Tenn. Code Ann. § 68-215-107(f).

<sup>4</sup> TENN. COMP. R. & REGS. 0400-18-01-.04(2)(b)1.(i).

<sup>5</sup> TENN. COMP. R. & REGS. 0400-18-01-.04(4)(a).

<sup>6</sup> TENN. COMP. R. & REGS. 0400-18-01-.04(1)(a)1.

<sup>7</sup> TENN. COMP. R. & REGS. 0400-18-01-.04(1)(a)3.

<sup>8</sup> TENN. COMP. R. & REGS. 0400-18-01-.04(2)(b)1.(ii).

<sup>9</sup> TENN. COMP. R. & REGS. 0400-18-01-.02(2)(b)1.(ii).

<sup>10</sup> TENN. COMP. R. & REGS. 0400-18-01-.02(3)(a)1.(ii)(II).

<sup>11</sup> TENN. COMP. R. & REGS. 0400-18-01-.02(3)(c)2.

- Having one or more persons designated as Class A, Class B, and Class C Operators for select sites.<sup>12</sup>

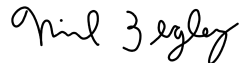
The Division is authorized to assess civil penalties and damages against any person who violates or fails to comply with the Act.<sup>17</sup>

### **CONCLUSIONS OF LAW**

1. It is **CONCLUDED** that, considering the totality of the evidence, the Department has demonstrated that the facts relevant to this case are undisputed and that it is entitled to summary judgment.
2. Upon review of the pleadings and arguments of the parties, it is determined Petitioner's motion is well taken and is hereby **GRANTED**. Accordingly, Respondent's Petition for Appeal of the Director's Order and Assessment is hereby **DISMISSED**.
3. It is therefore **ORDERED** that the remedy for the violations of the Act and accompanying regulations is the civil penalty assessed in the Director's Order and Assessment issued on December 11, 2023, and to keep the \$20,000.00 fund deductible.

It is so **ORDERED**.

This INITIAL ORDER entered and effective this the 17th day of **October, 2025**.



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Michael Begley  
Administrative Judge  
Administrative Procedures Division  
Office of the Secretary of State

Filed in the Administrative Procedures Division, Office of the Secretary of State, this the \_\_\_\_\_ day of October, 2025.

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<sup>12</sup> TENN. COMP. R. & REGS. 0400-18-01-16(1)(a).

**Certificate of Service**

The undersigned certifies that a true and correct copy of “**PROPOSED INITIAL ORDER GRANTING MOTION FOR SUMMARY JUDGMENT**” has been sent October 2, 2025 to the following:

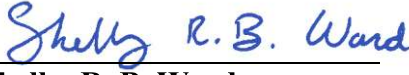
**Corporate Creations Network Inc.**

5865 Ridgeway Center Pkwy  
Suite 395  
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Shelby R. B. Ward

**Shelby R. B. Ward**

TN SOS-APD Thu, Oct 02, 2025 04:00 PM : 10 of 10 pages filed

NOTICE OF APPEAL PROCEDURES

**REVIEW OF INITIAL ORDER**

The Administrative Judge's decision in your case **BEFORE THE TENNESSEE BOARD OF UNDERGROUND STORAGE TANKS AND SOLID WASTE DISPOSAL CONTROL (the Board)**, called an Initial Order, was entered on **October 17, 2025**. The Initial Order is not a Final Order but shall become a Final Order unless:

1. **A Party Files a Petition for Reconsideration of the Initial Order:** You may ask the Administrative Judge to reconsider the decision by filing a Petition for Reconsideration with the Administrative Procedures Division (APD). A Petition for Reconsideration should include your name and the above APD case number and should state the specific reasons why you think the decision is incorrect. APD must **receive** your written Petition no later than 15 days after entry of the Initial Order, which is no later than **November 3, 2025**. A new 30 day period for the filing of an appeal to the Board (as set forth in paragraph (2), below) starts to run from the entry date of an order ruling of a Petition for Reconsideration, or from the twentieth day after filing of the Petition if no order is issued. Filing instructions are included at the end of the document.<sup>1</sup>

The Administrative Judge has 20 days from receipt of your Petition to grant, deny, or take no action on your Petition for Reconsideration. If the Petition is granted, you will be notified about further proceedings, and the timeline for appealing (as discussed in paragraph (2), below) will be adjusted. If no action is taken within 20 days, the Petition is deemed denied. As discussed below, if the Petition is denied you may file an appeal, which must be **received** by APD no later than 30 days after the date of denial of the Petition. *See* TENN. CODE ANN. §§ 4-5-317 and 4-5-322.

2. **A Party Files an Appeal of the Initial Order and/or Other Earlier Orders:** You may appeal the decision, together with any earlier order issued by the Administrative Judge you specifically choose to appeal, to the Board, by filing an Appeal of the Initial Order with APD. An Appeal of the Initial Order should include your name and the above APD case number and state that you want to appeal the decision to the Board, specifying any earlier order(s) issued by the Administrative Judge that you also want to appeal, along with the specific reasons for your appeal. APD must **receive** your written Appeal no later than 30 days after the entry of the Initial Order, which is no later than **November 17, 2025**.<sup>2</sup> The filing of a Petition for Reconsideration is not required before appealing. *See* TENN. CODE ANN. § 4-5-317.
3. **The Board Decides to Review the Initial Order:** In addition, the Board may give written notice of its intent to review the Initial Order within the longer of 30 days or 7 days after the first board meeting to occur after entry of the Initial Order. No later than 7 days after the entry of an Initial Order, TDEC shall file, and serve, a Notice of Filing containing the date of the next Board meeting. No later than 7 days after the next Board Meeting, TDEC shall file, and serve, a Notice of Filing setting forth what action, if any, the Board took with respect to the Initial Order.

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<sup>1</sup> See TENN. CODE ANN. §§ 68-201-108 (Air Pollution Control Board); 68-211-113, 68-212-113, 68-212-215, 68-215-115, 68-215-119 (Underground Storage Tanks and Solid Waste Disposal Control Board); TENN. CODE ANN. §§ 60-1-401, 69-3-110, 68-221-714 (Board of Water Quality, Oil & Gas).

<sup>2</sup> The deadline to file an appeal of the initial order (15 versus 30 days) in cases brought under the Tennessee Water Quality Control Act of 1977, TENN. CODE ANN. § 69-3-101, et seq., is an issue currently under review in a case before the Tennessee Supreme Court. *Jamesway Construction, Inc. v. David Salyers, P.E.*, No. M2023-01704-SC-R11-CV.

**NOTICE OF APPEAL PROCEDURES**

If either of the actions set forth in paragraphs (2) or (3) above occurs prior to the Initial Order becoming a Final Order, there is no Final Order until the Board renders a Final Order affirming, modifying, remanding, or vacating the administrative judge's Initial Order.

If none of the actions in paragraphs (1), (2), or (3) above are taken, then the Initial Order will become a Final Order. **In that event, YOU WILL NOT RECEIVE FURTHER NOTICE OF THE INITIAL ORDER BECOMING A FINAL ORDER.**

**STAY**

In addition, you may file a Petition asking the Administrative Judge for a stay that will delay the effectiveness of the Initial Order. A Petition for a stay must be **received** by APD within 7 days of the date of entry of the Initial Order, which is no later than **October 24, 2025**. *See* TENN. CODE ANN. § 4-5-316. A reviewing court also may order a stay of the Final Order upon appropriate terms. *See* TENN. CODE ANN. §§ 4-5-322 and 4-5-317.

**REVIEW OF A FINAL ORDER**

When an Initial Order becomes a Final Order, a person who is aggrieved by a Final Order in a contested case may seek judicial review of the Final Order by filing a Petition for Review "in the Chancery Court nearest to the place of residence of the person contesting the agency action or alternatively, at the person's discretion, in the chancery court nearest to the place where the cause of action arose, or in the Chancery Court of Davidson County," within 60 days of the date the Initial Order becomes a Final Order. *See* TENN. CODE ANN. § 4-5-322. The filing of a Petition for Reconsideration is not required before appealing. *See* TENN. CODE ANN. § 4-5-317.

**FILING**

Documents should be filed with the Administrative Procedures Division by email *or* fax:

Email: [APD.filings@tnsos.gov](mailto:APD.filings@tnsos.gov)

Fax: 615-741-4472

In the event you do not have access to email or fax, you may mail or deliver documents to:

Secretary of State  
Administrative Procedures Division  
William R. Snodgrass Tower  
312 Rosa L. Parks Avenue  
Nashville, TN 37243-1102