

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER**

IN THE MATTER OF:

SPS PROPERTIES LLC

UST NO. 199918086

**ADMINISTRATIVE
CONSENT ORDER
NO. 2009-UT-07**

Mail To: SPS PROPERTIES LLC
ATTN: PAUL FAUSER
106 CENTER STREET
ELGIN, IA 52141

I. SUMMARY

The Iowa Department of Natural Resources (Department) and SPS Properties LLC have entered into this administrative consent order (Order) for the purpose of resolving violations of the Department's underground storage tank (UST) compliance inspection rules.

For questions regarding this Order contact the following:

Relating to technical requirements:

Paul Nelson
Iowa Department of Natural Resources
502 E 9th Street
Des Moines, Iowa 50319-0034
Ph: 515/281-8779

Relating to Legal Issues:

Tamara Mullen, Attorney
Iowa Department of Natural Resources
502 E 9th Street
Des Moines, Iowa 50319-0034
Ph: 515/281-8934

II. JURISDICTION

This Order is issued pursuant to Iowa Code sections 455B.474(1)(f)(11) and 455B.476 which authorize the Director to issue any order necessary to secure compliance with Iowa Code Chapter 455B, Division IV, Part 8 and Environmental Protection Commission (Commission) rules contained in 567 Iowa Administrative Code (I.A.C.) Chapter 135. Iowa Code section 455B.109 and Commission rules at 567 I.A.C. Chapter 10 authorize the Director to assess administrative penalties up to \$10,000. Iowa Code section 17A.10 authorizes the use of informal settlements.

III. STATEMENT OF FACTS AND CONCLUSIONS OF LAW

1. Iowa Code section 455B.474(1)(i) authorizes the Commission to adopt rules to establish an UST certified compliance inspection program. Commission rule 567 I.A.C. 135.20 requires owners and operators of USTs to retain a compliance inspector certified by the Department pursuant to 567 I.A.C. Chapter 134, Part B, to complete a facility inspection and submit a report by December 31, 2007. Compliance inspections are subsequently required to be performed on a biennial basis.
2. SPS Properties LLC owns Guppy's on the Go, a service station with 2 active tanks, both 12,000 gallons, located at 1532 Ellis Blvd. NW, Cedar Rapids, Iowa.
3. On January 9, 2007, the Department mailed a letter informing SPS Properties LLC of the December 31, 2007 deadline for a compliance inspection.
4. The Department mailed a second letter on October 17, 2007 reminding SPS Properties LLC that it had not completed its inspection and that the inspection report was due no later than December 31, 2007.

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5. On November 5, 2007, the Department posted a list of uninspected sites, including this site, on its webpage for compliance inspectors to contact.
6. On June 10, 2008 the Department mailed a "Notice of Violation" letter to SPS Properties LLC for its failure to complete an inspection report and submit the report by December 31, 2007.
7. SPS Properties LLC is insured by the Petroleum Marketers Management Insurance Company (PMMIC), who performed an in-depth site inspection on February 25, 2009.
8. The Department's Field Office #1 did a site audit of this property on June 25, 2009 and noticed four deficiencies, all of which have been addressed as of August 2009.
9. The Department has agreed to accept the PMMIC inspection and the Field Office Inspection, combined, as sufficient under the third-party compliance inspection rules. However, the PMMIC inspection was performed more than 14 months past the original inspection deadline.

IV. ORDER

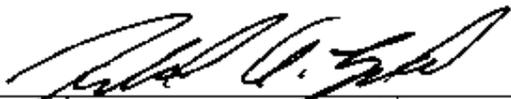
1. SPS Properties LLC agrees to pay a penalty of \$1,000 due to the late submission of the compliance inspection report to the order of the "Iowa Department of Natural Resources" within 30 days after receipt of this Order.

V. WAIVER OF APPEAL RIGHTS

Iowa Code section 455B.476 and 567 I.A.C. Chapter 7 authorize a written notice of appeal to the Commission. By signing this Order, SPS Properties LLC waives all rights to appeal.

VI. NONCOMPLIANCE

Failure to comply with this Order may result in the imposition of administrative or civil penalties and referral to the Iowa Attorney General to obtain appropriate relief pursuant to Iowa Code sections 455B.476 and 455B.477. Compliance with the terms and conditions of this Order constitutes full satisfaction of all requirements pertaining to the violations described in this Order.



RICHARD A. LEOPOLD, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES
Dated this 6 day of Sept., 2009.



PAUL FAUSER, on behalf of SPS PROPERTIES LLC
Dated this 17th day of August, 2009

SPS PROPERTIES LLC: Elaine Douskey, Paul Nelson; V.C.