
**UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WATER QUALITY**

IN THE MATTER OF:

LW Miller Transportation Services, Inc.
1020 West 200 North,
Logan, Utah 84321

STIPULATED COMPLIANCE ORDER

Docket No. UGW11-01

This Stipulated Compliance Order (“Agreement” or “Order”) is entered into voluntarily by and between the Director of the Utah Division of Water Quality (“Director”), under the Director’s legal authorities described below and LW Miller Transportation Services, Inc. (“LW Miller”) in its capacity as the operator who is legally responsible for the operation of the LW’s Truck Stop (“Facility”), jointly referred to hereafter as “the Parties.”

By entering into this Agreement, the parties wish, without further administrative or judicial proceedings, to establish compliance requirements and stipulate to civil penalties arising out of alleged violations of the Utah Water Quality Act, Utah Code §§ 19-5-101 through 19-5-126 (the “Act”), and corresponding regulations in the Utah Administrative Code R317-1-1 through R317-801-6 and R305-7-101 through R305-7-611 (the “Water Quality Rules”).

STATUTORY AND REGULATORY AUTHORITY

1. The Director has authority to administer the Act pursuant to Utah Code § 19-1-105(1)(e), and to enforce the Water Quality Rules in Utah Administrative Code R317 through the issuance of orders, as specified in Utah Code §§ 19-5-106(2)(d) and -111. The Director also has authority to settle any civil action initiated to compel compliance with the Act and implementing regulations pursuant to Utah Code § 19-5-106(2)(k).

FACTS AND FINDINGS

The Director relies upon the following Facts and Findings from the for purposes of this Agreement:

1. LW Miller is the responsible party for LW’s Truck Stop facility located at 1020 West 200 North in Logan, Utah. LW’s Truck Stop operates a retail gasoline and diesel fuel dispensing system with four aboveground storage tanks (ASTs). Two of the ASTs have a storage capacity of 10,000 gallons and the other two ASTs have a storage capacity of 15,000 gallons. On November 30, 2022 (recorded December 1, 2022) Brent L. Miller as Trustee of the Brent L. Miller 101 Trust acquired title to the real property where the Facility is located from LW Miller, LLC. On November 29, 2022 (recorded December 1, 2022) Brent L. Miller Enterprises LLC acquired title to the real property from the Brent L. Miller 101 Trust where the Facility is located and Brent L. Miller Enterprises LLC is the current record title owner to the property and Facility. Brent L. Miller Enterprises

LLC acquired the business operations on the Property from LW Miller Transportation Services, Inc. in July, 2015 and is responsible for operations since that date, but that does not change the obligations of L.W. Miller to the State under this Agreement.

2. LW Miller is a “person” as that term is defined in Utah Code § 19-1-103(4).
3. A petroleum release from the ASTs at LW’s Truck Stop was reported to the Division of Environmental Response and Remediation (“DERR”) on December 18, 2009. The release was reported to DERR based on an unknown quantity of gasoline observed on the ground inside the concrete berm/enclosure.
4. A second petroleum release at LW’s Truck Stop was reported to DERR on April 13, 2010 when Questar encountered petroleum impacted soil and ground water in trenches and borings while extending the natural gas lines to new dispensers. On June 23, 2010 LW Miller declined to sign an agreement with DERR for regulatory oversight of this release and DERR transferred the case to the Division of Water Quality (“Division”) on July 28, 2010.
5. On January 3, 2011, the Division received a report of a gasoline release to ground water on the adjoining property located immediately south of LW’s Truck Stop. The release was discovered during a soil characterization investigation conducted on the adjoining property when elevated concentrations of petroleum hydrocarbons exceeding the DERR Initial Screening Levels (“ISLs”) and the Risk Based Corrective Action (“RCBA”) Tier 1 Screening Levels (“Tier 1 SLs”) were reported in a soil boring located approximately 50 feet southwest of LW’s Truck Stop ASTs.
6. The extent and degree of contamination has not yet been determined.
7. The Director issued a Notice of Violation and Compliance Order, Docket Number UGW11-01 (“NOV/CO”) to LW Miller Transportation Services Inc. on January 27, 2011. The NOV/CO is attached hereto as Appendix A and ordered LW Miller to comply with the following requirements:
 - a. Submit a Contamination Investigation and Corrective Action Plan to the Executive Secretary within 60 days of receipt of this order in accordance with R317-6-6.15.D.
 - b. Provide within 120 days of receipt of this order a Spill Prevention, Control, and Countermeasure Plan approved by EPA Region 8 for the AST dispenser system at LW’s Truck Stop.
8. LW Miller submitted a Spill Prevention, Control, and Countermeasure Plan to the Division on December 31, 2012.
9. Subsurface investigations were completed in September 2010 and November 2011. A total of 16 soil borings were advanced, 15 of the borings were converted into monitoring wells. During these investigations, nearly all of the groundwater samples collected from

the onsite and offsite monitoring wells reported petroleum hydrocarbon concentrations above the DERR Tier 1 SLs and/or the ISLs. The investigation reports concluded that the extent of petroleum hydrocarbon impacts in the soil and groundwater exceeding Utah screening levels have not been fully delineated and may require additional investigation.

10. A Corrective Action Plan (“CAP”) was submitted to the Division in May 2012. The CAP proposed that groundwater be monitored for a period of one year to evaluate natural attenuation as a remediation alternative for the site. An updated CAP including a formal risk assessment was not submitted to the Division following the monitoring activities.
11. Groundwater monitoring events were completed in May 2011, November 2011, May 2012, October 2012, May 2013, October 2014, and June 2016.
12. A limited groundwater monitoring event was completed in March 2022. The sample results showed that concentrations of petroleum hydrocarbons exceeding the DERR ISLs and Tier 1 SLs were still present onsite, however the limited scope of the monitoring event did not evaluate the extent or degree of impacts across the site or downgradient from the source area.
13. In May 2022, LW Miller, LLC requested written assurance from the Division seeking to limit liability from the reported releases. The Division did not issue any written assurance.
14. In June 2022, LW Miller entered into a Voluntary Agreement with DERR to provide regulatory oversight for any additional required investigation and corrective action activities. The Voluntary Agreement is attached hereto as Appendix B.

ORDER

Based upon the foregoing Facts and Findings, the Agreement of LW Miller, and good cause appearing, the Director **ORDERS** as follows:

1. The Division recognizes that LW Miller has entered into a Voluntary Agreement with DERR to provide regulatory oversight for any remaining investigation or corrective action activities at the site. Based on the terms of the Voluntary Agreement, the Division will not seek additional enforcement action and will consider the original NOV/CO resolved as long as LW Miller remains in compliance with the terms of the Voluntary Agreement.
2. If LW Miller or DERR terminates the Voluntary Agreement, LW Miller shall notify the Director of the termination within fifteen (15) calendar days.
3. If the site ceases to be governed by the Voluntary Agreement, the Division will assume regulatory authority over the site, and the original NOV/CO will be reinstated.

GENERAL PROVISIONS

1. The Parties recognize that this Agreement has been negotiated in good faith. LW Miller agrees it will not contest the basis or validity of this Order or its terms.
2. The violations described herein will constitute part of LW Miller's compliance history where such history is relevant, including any subsequent violations. LW Miller understands and agrees that this Agreement is not and cannot be raised as a defense to any other action to enforce any federal, state or local law.
3. LW Miller agrees to the terms, conditions and requirements of this Order.
4. This Agreement is subject to a thirty (30) day notice and comment period. The Parties each reserve the right to withdraw from this Agreement if comments received during the notice period result in a modification to the terms and conditions.
5. The "Effective Date" shall be the date this Order is executed by the Director. The Director will not sign the Order until after the Division has provided public notice of the proposed Order and has solicited and reviewed any public comments received.
6. The dates set forth in the Order section of this Order may be extended in writing by the Director, in the Director's sole discretion, based on the LW Miller's showing of good cause. Good cause for an extension generally means events outside of the reasonable control of the LW Miller, such as force majeure, inclement weather, contractor or supplier delays, and similar circumstances. However, the Director expects LW Miller to employ reasonable means to limit foreseeable causes of delay. The timeliness of LW Miller's request for an extension shall constitute an important factor in the Director's evaluation.
7. Nothing in this Order shall preclude the Director from taking actions to include penalties against LW Miller for future violations of State or Federal law.
8. The Parties acknowledge that neither the Director nor the Water Quality Board has jurisdiction regarding natural resource damage claims, causes of action, or demands. Therefore, such matters are outside the scope of this Order.
9. The person signing this Order on behalf of LW Miller represents to the Director that they have the full legal authorization to do so and agrees that the Director may rely on that representation.
10. This Agreement is binding upon each of the Parties and their respective heirs, successors, and assigns. Any change in ownership or corporate or legal status, including but not limited to, any transfer of assets or real or personal property, shall in no way alter the status or responsibilities of the parties under this Agreement.
11. This Order may be amended in writing if signed by both Parties.

12. This Order may be signed in duplicate.

COMPLIANCE AND PENALTY NOTICE

As of the Effective Date, this Order shall constitute a final administrative order. Compliance with the provisions of this Order is mandatory. All violations of the Act, the Water Quality Rules, and this Order will be strictly enforced during the time that this Order remains in effect. The Act, Utah Code § 19-5-115, provides that any person who violates a rule or order made or issued pursuant to the Act may be subject, in a civil proceeding, to a state district judge imposing a civil penalty per day of violation.

[SIGNATURE PAGE FOLLOWS]

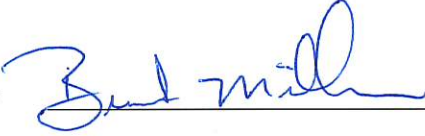
IT IS SO AGREED AND ORDERED:

FOR THE UTAH DIVISION OF WATER QUALITY

By: _____
John K. Mackey, P.E.
Director

Date: _____ (Effective Date)

FOR LW MILLER TRANSPORTATION SERVICES, INC.

By:  _____
Title: Owner _____
Date: 9/20/23 _____