



The State of New Hampshire
Department of Environmental Services



Thomas S. Burack, Commissioner

July 7, 2016

BY CERTIFIED MAIL # 7012 0470 0001 6069 0126

BY EMAIL AT: JOSEPHEQUIPMENT@AOL.COM

Brian Thibeault
Kingsbury Acquisition LLC
300 Gay Street
Manchester, NH 03103

**NOTICE OF
INTENT TO RED TAG
IRT #16-115**

**LETTER OF DEFICIENCY
WMD LOD #16-109**

Subject Site/Facility: Keene – Kingsbury Acquisition LLC, 80 Laurel St.
DES Site #199102028, UST Facility #0110849

Reference: Intent to Red Tag #16-115
Letter of Deficiency WMD LOD #16-109

Dear Mr. Thibeault:

This letter contains important information that affects the continued operation of the subject site/facility. Specifically:

DES will red-tag the non-compliant UST system(s) if deficiency #1 is not corrected by August 31, 2016 and if deficiencies #2, #3, #4, #5, #6, and #7 are not corrected within 10 days of the date of this letter or, if specific interim steps for deficiency #1 to reduce the risk of a release of regulated substance to the environment are not completed by August 31, 2016; and

Because the facility is not in compliance with RSA 146-C, you currently are not eligible for reimbursement of cleanup costs incurred should a spill or release occur or be discovered at your facility.

DES conducts compliance inspections and file reviews of underground storage tank ("UST") facilities to determine the facility's compliance with N.H. RSA 146-C, Underground Storage Tank Facilities, and the N.H. Code of Admin. Rules Env-Or 400, Underground Storage Tank Facilities ("UST Rules"). Our inspections and review indicate that double-walled UST(s) with secondarily contained safe suction piping that is not monitored exists at the subject site and that DES has not received information that the double-walled non-monitored piping at the subject site has been permanently closed in accordance with the requirements of Env-Or 408.05(c).

In addition, on December 16, 2013, DES staff conducted a compliance inspection of the subject UST facility at the subject site (December Inspection). By inspection report dated December 16, 2013, DES provided you with a list of the deficiencies that were discovered, and informed you that the deficiencies should be corrected within 30 days and verification should be submitted to DES within 45 days. Furthermore, a file review indicates that certain periodic testing and reporting requirements have not been accomplished. Therefore, pursuant to RSA 146-C:15, DES hereby notifies you of its **intent to red-tag** the non-compliant UST systems if **deficiency #1** as listed below is not corrected by **August 31, 2016** and if **deficiencies #2, #3, #4, #5, #6, and #7** are not corrected within **10 days** of the date of this letter or **if specific interim steps for deficiency #1 to reduce the risk of a release of regulated substance to the environment are not completed by August 31, 2016**. This letter also serves as a Letter of Deficiency regarding those deficiencies and deficiencies #8 and #9, as listed beginning on page 4.

DES Web Site: www.des.nh.gov

P.O. Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095

Telephone: (603) 271-3899 Fax: (603) 271-2181 TDD Access: Relay NH 1-800-735-2964

RSA 146-C:14, Delivery Prohibition, prohibits any person from delivering or causing the delivery of oil to a non-compliant UST that has been red-tagged, and prohibits the owner or operator of a facility from depositing or allowing the deposit of oil into a UST that has a red tag affixed to the tank or facility's fill pipe.

The deficiencies for all tanks are listed below.

Deficiency #1: Failure to permanently close existing single-walled system(s) or system component(s) by December 22, 2015.

DES has determined that tank #6, 12,000-gallon #2 heating oil UST with double-walled, non-monitored safe suction piping at the subject site has not been permanently closed in accordance with the requirements of Env-Or 408.06 through Env-Or 408.10. Env-Or 408.05(c) states "with the exception of vent piping, any part of an existing single wall UST system that routinely contains regulated substance without secondary containment and leak monitoring shall be permanently closed by December 22, 2015." To correct this deficiency, permanently close the existing double-wall, non-monitored safe suction piping at the subject site in accordance with Env-Or 408.06 through Env-Or 408.10 and temporarily close tank #6 in accordance with Env-Or 408.04(a through d, and h).

Deficiency #2: Failure to test leak monitoring system.

Based on a subsequent review of DES records, the annual leak monitoring for tank #6 has not been tested since December 16, 2013. Env-Or 406.20 requires owners to test all leak monitoring equipment annually for proper operation. To correct this deficiency, conduct an annual leak monitoring test.

Deficiency #3: Failure to submit leak monitoring system report.

Based on a subsequent review of DES records, the annual leak monitoring test report for tank #6 has not been submitted since December 16, 2013. Env-Or 406.20 requires owners to submit the leak monitoring test to DES no later than 30 days after the test was performed. To correct this deficiency, submit an annual leak monitoring test.

Deficiency #4: Failure to provide three-year tightness testing for piping.

Based on a subsequent review of DES records, the three-year tightness test for piping for tank #6 has not been conducted since December 10, 2007. Env-Or 406.02(a)(1) requires the owner of an on-premise use heating oil UST system that has suction, return, or pressurized piping without secondary containment and leak monitoring must conduct a piping tightness test once every three years in accordance with Env-Or 406.11 through Env-Or 406.14. To correct this deficiency, conduct a tightness test for piping for tank #6.

Deficiency #5: Failure to submit three-year tightness test results for piping.

Based on a subsequent review of DES records, the three-year tightness test results for piping for tank #6 has not been submitted to DES since July 8, 2008. Env-Or 406.02(a)(2) requires the owner of an on-premise use heating oil UST system that has suction, return, or pressurized piping without secondary containment and leak monitoring to submit piping tightness test results to DES within 30 days of the date of the test. To correct this deficiency, submit test results for the three-year tightness test for piping.

Deficiency #6: Failure to provide audible overfill protection alarm.

During the December Inspection, the DES inspector determined the overfill audible alarm horn was not working. Env-Or 405.06(i) requires all high level alarms must have both visual and audible alarms. To correct this deficiency, repair the alarm horn, confirm audible alarm is functioning correctly, and submit test results to DES.

Deficiency #7: Failure to maintain spill containment device in good working order.

During the December Inspection, the DES inspector determined that the corrosion protection device wires were installed through spill containment device for tank #6, so that the spill containment device may not be maintained in good working order. Env-Or 405.05(c)((1) requires all spill containment equipment have a liquid capacity of 5 gallons or more. Env-Or 406.06(b) requires spill containment equipment be maintained: free of liquid and debris; in good working order to perform its original design function; and liquid tight. To correct this deficiency, test the spill containment device for tank #6 for tightness, replace or repair the device to collect and hold a minimum 5-gallon spill during product delivery and submit spill containment maintenance results.

DES will red-tag the non-compliant UST system(s) if deficiency #1 is not corrected by August 31, 2016 and if deficiencies #2, #3, #4, #5, #6 and #7 are not corrected within 10 days of the date of this letter or, as noted above, if specific interim steps for deficiency #1 to reduce the risk of a release of regulated substance to the environment are not completed by August 31, 2016.

The specific interim steps, as identified in Env-Or 408.04(a, b, and d) are as follows:

- 1) remove all regulated substances from the system so that no more than one inch of residue remains in the tank;
- 2) equip each opening or access point, such as fill risers, with a lock to secure against unauthorized use or tampering;
- 3) handle and dispose of all removed substances in accordance with applicable local, state, and federal requirements; and
- 4) submit an amended registration form to DES to report the change in operational status to temporary closure in accordance with Env-Or 404.01.

If the above described interim steps are taken by **August 31, 2016**, deficiency #1 will still remain outstanding. However, DES believes you can achieve full compliance with Env-Or 408.05(c) by **September 30, 2016** by taking the following actions:

- 1) submit a UST closure notification form for the non-monitored piping associated with tank #6 to DES by **August 1, 2016**;
- 2) permanently close the non-monitored piping associated with tank #6 in accordance with Env-Or 408.06 through Env-Or 408.10 by **August 31, 2016**; and
- 3) submit a closure report to DES for the non-monitored piping associated with tank #6 in accordance with Env-Or 408.10 by **September 30, 2016**.

In addition to the deficiencies explained above, which form a basis to red-tag the facility, the following deficiencies remain outstanding:

Deficiency #8: Failure to post UST certificate.

During the December Inspection, the DES inspector determined that an UST certificate was not posted. Env-Or 405.01(g) of the UST Rules requires that a UST certificate be permanently affixed on the facility premises and visible to a DES inspector. Please post the UST certificate on the facility premises and submit in writing that the certificate has been posted.

Deficiency #9: Failure to recertify class A and B operator.

During the file review of DES records, the current class A and/or B operator at the subject site is past due for Operator Training recertification. RSA 146-C:18 requires class A and B operator training at least biennially after their initial training. Lee Gray is currently listed as the class A/B

operator with a certification expiration date of November 28, 2014. To correct this deficiency, please have at least one employee that has primary responsibility for operating and maintaining the Facility to attend UST Operator Training or submit a new statement of training (enclosed) designating new certified class A and B operators for the subject site. Please visit the UST Operator Training website at <http://des.nh.gov/organization/divisions/waste/orcb/ocs/ustp/operator-training/index.htm> to view a list of upcoming classes offered by DES and other approved class A and B training programs.

DES believes you can correct deficiencies #8 and #9 as noted in this letter within **30 days**.

The Commissioner of DES is authorized by RSA 146-C:10-a to impose administrative fines up to \$2,000 per offense for any violation of RSA 146-C or Env-Or 400. DES also has authority to issue an administrative order to require you to correct the deficiencies and to refer the case to the NH Department of Justice for civil penalties or criminal prosecution. In addition, because the subject facility is in violation of RSA 146-C, **you currently are not eligible for reimbursement of cleanup costs incurred should a spill or release occur or be discovered at your facility.**

Please contact the undersigned in the Waste Management Division of DES as soon as the above deficiencies are corrected, or if you already have corrected them. Please also contact the undersigned if you have any questions regarding this letter.

Sincerely,



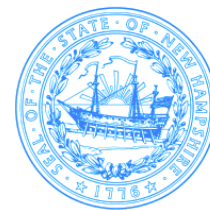
Michael W. Juranty, P.E., Supervisor
Oil Compliance Section
Tel No. (603) 271-6058
Fax No. (603) 271-2181
e-mail: Michael.Juranty@des.nh.gov

Attachments: December 16, 2013 UST Facility Inspection Report
UST Registration Form
Annual Leak Monitoring Test Form
Annual Line Leak Detector Test Form
Statement of Training
UST Closure Notification Form
RSA 146-C:14, 15, & 16: Delivery Prohibition

cc: DES Legal Unit
ec: Keene Health Officer
DES IRT List



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

12/16/2013

BRIAN THIBEAULT
KINGSBURY ACQUISITION LLC
300 GAY ST
MANCHESTER, NH 03103-

Subject Site: KEENE, KINGSBURY CORP, 80 LAUREL ST
DES Site # 199102028, UST Facility # 0110849

Reference: Underground Storage Tank Facility Inspection Report

On December 16, 2013 the New Hampshire Department of Environmental Services, Waste Management Division (DES) conducted an inspection of the underground storage tank (UST) system(s) at the subject site. The inspection was conducted to determine the level of compliance with key elements of the New Hampshire Code of Administrative Rules Env-Or 400 Underground Storage Facilities (UST Rules) and Env-Or 500, Recovery of Gasoline Vapors. These rules were established for the purpose of reducing the number of product releases to the environment from UST systems and to establish a leak detection system which would alert a facility owner or operator before significant environmental damage and economic loss occurs. The inspection conducted at this facility is part of the DES release prevention effort.

Deficiencies noted during this inspection warrant your facility to be considered in substantial non-compliance with applicable rules. This means they pose a threat of a release to the environment and may result in a release going undetected. The following deficiency(ies) requires your immediate attention:

GENERAL

Env-Or 405.01(g) requires that a UST certificate be permanently affixed and visible to the division inspector at the facility premises and RSA 146-C requires specific UST operator training postings and reporting.

The DES inspector could not document that a certificate was posted.

Please post the UST certificate on the facility premises and submit in writing that the certificate has been posted.

TANK #6 (Containing #2 HEATING OIL with Capacity of 12000 gallons)

Env-Or 405.05 and 406.06 require spill containment devices be installed and maintained in good working order on all UST systems.

Corrosion protection device wires were installed through spill containment device so that it may not be maintained in good working order.

The spill containment device shall be hydrostatic tested for tightness, replaced or repaired to enable the device to collect and hold a minimum 5-gallon spill during a product delivery. Please provide spill containment testing and maintenance results.

Env-Or 405.06 requires overfill protection devices be installed and maintained in good working order on all UST systems.

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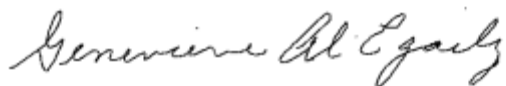
The DES inspector has identified that the overfill audible alarm horn was not working.

Please repair alarm horn and test to confirm audible alarm is functioning correctly. Provide DES with test results.

The above noted **deficiencies must be corrected within 30 days** of the date of this inspection. To verify that the proper corrective measures were taken, documentation, in the form of a report from the certified technician that effected the repair, testing results, invoices, inventory records, photographs, etc., indicating the date and description of the corrective measures taken must be **submitted to DES within 45 days** of the date of this inspection. Please be advised that failure to correct the deficiencies in a proper and timely manner will result in DES proceeding under the DES Compliance Assurance Response Policy to determine an appropriate enforcement response. Please note that New Hampshire RSA 125-C and 146-C authorize permit revocation, administrative fines not to exceed \$2,000 per violation, administrative orders, delivery prohibition, injunctive relief, and civil penalties not to exceed \$10,000 per violation per day of continuing violation, and \$25,000 for each continued day of a repeat violation.

Your signature below acknowledges that you were briefed by DES staff concerning the noted deficiencies. Should you have any questions concerning the content of this letter, please contact me in the Waste Management Division of DES at (603) 271-3899. DES appreciates your willingness to comply with the UST program in an effort to preserve New Hampshire's environment.

Sincerely,



12/16/2013

GENEVIEVE AL-EGAILY, Inspector

Date

BRIAN THIBEAULT, Facility Manager

Date