



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

May 16, 2019

CERTIFIED MAIL # 7018 0680 0000 7433 4290

Anna Z. Tilton, Register
Cheshire County Registry of Deeds
33 West Street
Keene, NH 03431

Subject Site: **Winchester** – J&G Service, 7 Back Ashuelot Road
DES Site #199411023; UST Facility ID #0110712

Reference: **Recording of Administrative Order No. 19-002 WMD**

Dear Ms. Tilton:

Pursuant to RSA 146-C:9-a, the Department of Environmental Services, Waste Management Division (DES) has enclosed for recording Administrative Order No. 19-002 WMD (Order). The Order was issued to George C. Morse, PO Box 57, Winchester, NH 03470.

The property for which the Order is being recorded is located at 7 Back Ashuelot Road in Winchester, New Hampshire. George C. Morse is the owner of record for this property identified on Winchester Tax Map No. 5 and Lot 22.

Also enclosed is a postage-paid self-addressed return envelope for you to use in returning the Order to us.

Please do not hesitate to contact me if you have any questions regarding this letter.

Sincerely,

Robert Bishop, Administrator
Oil Remediation and Compliance Bureau
Tel No. (603) 271-3645
Fax No. (603) 271-2181
Email: Robert.Bishop@des.nh.gov

cc: Winchester Town Administrator & Assessing, Board of Selectmen and Health Officer
Public Information Officer, PIP Office
K. Allen Brooks, Chief, AGO-Environmental Protection Bureau
Charles Corliss, P.E., Supervisor, Oil Compliance Section, ORCB

www.des.nh.gov

PO Box 95, 29 Hazen Drive, Concord, NH 03302-0095
Telephone: (603) 271-3899 Fax: (603) 271-2181 TDD Access: Relay NH 1-800-735-2964



The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner



George C. Morse
P.O. Box 57
Winchester, NH 03470

Re: J & G's Service
7 Back Ashuelot Road, Winchester, NH
UST #0110712/DES Site #199411023

**ADMINISTRATIVE ORDER
No. 19-002 WMD**

February 13, 2019

A. INTRODUCTION

This Administrative Order is issued by the Department of Environmental Services, Waste Management Division, to George C. Morse under the authority of RSA 146-C:9-a. This Administrative Order is effective upon issuance.

B. PARTIES

1. The Department of Environmental Services, Waste Management Division, is a duly-constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive in Concord, New Hampshire.
2. George Morse is an individual, doing business as J & G's Service, having a mailing address of P.O. Box 57, Winchester, NH 03470.

C. STATEMENTS OF FACTS AND LAW

1. RSA 146-C authorizes the New Hampshire Department of Environmental Services ("DES") to regulate the installation, maintenance, operation, licensing and closure of underground storage facilities. The Commissioner of DES has adopted NH CODE ADMIN. RULES Env-Or 400 to set forth the requirements for underground storage facilities by establishing criteria for registration and permitting and standards for design, installation, operation, maintenance, and monitoring of such facilities (the "UST Rules") in accordance with RSA 146-C:9. The UST Rules were amended and readopted effective October 10, 2018.
2. George Morse is the recorded owner of real property located at 7 Back Ashuelot Road in Winchester, New Hampshire; more particularly identified on Winchester Tax Map 05 as Lot 22 (the "Property").
3. One 6,000-gallon diesel, double-walled underground storage tank ("UST") without continuous secondary containment or leak monitoring ("Tank #8"); one 8,000-gallon gasoline, double-walled UST with double-walled pressure piping and leak monitoring ("Tank #9"); and one 5,000-gallon gasoline, double-walled UST with double-walled pressure piping and leak monitoring ("Tank #10") were previously constructed on the Property, further identified by DES as UST #0110712 at DES Site #199411023 (the "Facility").

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4. The Facility is subject to the requirements of RSA 146-C and the UST rules.
5. RSA 146-C:3 requires the owner of each existing UST facility to register the facility on forms provided by DES.
6. On November 26, 2013, DES received a Registration for Underground Storage Tank Systems form for the Facility. The registration form, dated November 22, 2013, was signed by George Morse, Sr. Mr. Morse listed himself as the Facility Owner on the registration form.
7. On August 11, 2015, DES personnel inspected the Facility to determine compliance with RSA 146-C and the UST Rules. During the inspection of the Facility, DES staff observed and documented deficiencies at the Facility.
8. Env-Or 402.06, formerly Env-Or 402.04, defines “cathodic protection system” as the totality of components used to reduce the corrosion of a metal surface by making that surface the cathode of an electrochemical cell, using either a sacrificial anode or impressed current system.
9. Env-Or 406.10, formerly Env-Or 406.17, requires testing of cathodic protection systems within six months of installation and every three years thereafter. Env-Or 406.10(e) states that “when a cathodic protection test is performed, the owner shall send the test report to [DES] no later than 30 days after the date of the test.”
10. During the inspection of the Facility conducted on August 11, 2015, DES personnel observed and documented that the corrosion protection system for Tank #8 had not been tested within the past three years.
11. Env-Or 504.04(a) requires the owner or operator of a gasoline dispensing facility to conduct monthly maintenance inspections of all stage I equipment at the facility as specified in Env-Or 504.05.
12. Per Env-Or 504.05(a), the owner or operator shall perform the monthly maintenance inspections required by Env-Or 504.04(a) once in each calendar month, but not sooner than 23 days after and not later than 37 days after the prior monthly inspection.
13. Per Env-Or 504.05(b), the owner or operator shall document each monthly maintenance inspection, including all findings and repairs made, with written or electronic records kept in accordance with Env-Or 506.04.
14. Env-Or 504.04(b) requires the owner or operator of a gasoline dispensing facility to conduct annual maintenance inspections of all stage I equipment at the facility as specified in Env-Or 504.06.
15. Env-Or 504.06 requires that the owner or operator shall perform the annual maintenance inspections required by Env-Or 504.04(b), no later than September 30th of each calendar year, and no sooner than 10 months after the prior annual inspection.
16. Per Env-Or 504.06(c), the owner or operator shall document each annual maintenance inspection, including all findings and repairs made, with written or electronic records kept in accordance with Env-Or 506.04.

17. During the inspection of the Facility conducted on August 11, 2015, DES personnel observed and documented that at least two monthly inspections of stage I equipment associated with Tanks #9 and #10 had not been conducted during the calendar year, and that monthly and annual stage I maintenance and inspection records for Tanks #9 and #10 were not being maintained.

18. Env-Or 405.09, and Env-Or 406.02 [formerly Env-Or 406.08], require that leak monitoring systems for piping be properly installed, operated, and maintained to continuously monitor to detect water and regulated substances.

19. Env-Or 406.13, formerly Env-Or 406.20, sets out the requirements for testing of leak monitoring equipment serving UST systems. Env-Or 406.13(a) requires the owner of a UST system to test all leak monitoring equipment annually for proper operation. Env-Or 406.13(d) requires the owner of a UST system to submit specific leak monitor testing information in writing no later than 30 days after the date of the test.

20. During the inspection of the Facility conducted on August 11, 2015, DES personnel observed and documented that leak monitoring system for Tanks #8, #9, and #10 had not been tested annually; and that the leak monitoring sensor for Tank #9 was not operating, or not operating properly.

21. Env-Or 406.01(a)(1), formerly Env-Or 406.06(a), requires that all piping and dispenser containment sumps shall be maintained free of liquid and debris.

22. Env-Or 406.04, formerly Env-Or 406.10, sets out the requirements for reporting unusual operating conditions of UST systems to DES. Env-Or 406.04(a) requires the owner to report any unusual operating condition(s) to DES within 24 hours. Per Env-Or 406.04(b), unusual operating conditions shall include, but are not limited to water or regulated substance gain or loss in a tank, sump, or system component that might indicate a problem with system tightness; and a monitoring system indicates that a leak might have occurred. Env-Or 406.04(e) requires an owner to investigate the cause of any unusual operating condition within 24 hours of becoming aware of the condition; implement measures to prevent or minimize a release, eliminate the leak, or otherwise correct the deficiency; and submit a written report to DES within 7 days that describes the investigation and its conclusions.

23. During the inspection of the Facility conducted on August 11, 2015, DES personnel observed and documented that the leak monitors for piping for Tanks #9 and #10 were in alarm condition; and there was liquid, or evidence of liquid, accumulating in the sumps of Tanks #9 and #10.

24. Env-Or 406.09, formerly Env-Or 406.16, sets out the requirements for testing automatic line leak detectors serving UST systems. Env-Or 406.09(a) requires that automatic line leak detectors shall be tested annually in accordance with the manufacturer's requirements to confirm that they are operating in accordance with their designed function. Env-Or 406.09(d) requires that when an automatic line leak detector test is performed, the owner shall send the line leak detector test report to DES no later than 30 days after the date of the test.

25. During the inspection of the Facility conducted on August 11, 2015, DES personnel observed and documented that the automatic line leak detector for tanks #9 and #10 had not been tested in the past year.

26. RSA 146-C:19, II, requires that monthly visual inspections meeting certain listed minimum requirements shall be conducted at all underground storage facilities; inspections shall be conducted by or under the direction of a class A or B operator; the results of each inspection shall be recorded in a monthly inspection report; and the records shall be maintained and made available for DES inspection and copying for a period of not less than 3 years.

27. Per RSA 146-C:19, II, (c)(7) owners shall inspect each motor fuel dispenser hose for tears, leaks, holes, kinks, crimps, or defects of any kind and replace as necessary.

28. Per RSA 146-C:19, II, (d), deficiencies discovered during the monthly visual inspection shall be repaired or otherwise resolved within 30 days.

29. During the inspection of the Facility conducted on August 11, 2015, DES personnel observed and documented that the monthly visual inspections were not being properly conducted; and the breakaway on the dispensing hose for dispenser #5-6 (diesel) was not being properly operated or maintained, or was not installed.

30. On August 11, 2015, a DES inspector provided a copy of the inspection report to George Morse. Mr. Morse signed the report, acknowledging receipt. In the report, the DES inspector noted the deficiencies and the corrective actions required to achieve compliance. In the report, DES requested that the corrective actions be taken within 30 days, and that documentation showing the dates of action, and action taken, be submitted to DES within 45 days.

31. RSA 146-C:15 requires DES to perform an on-site inspection to determine whether a storage tank or facility is non-compliant with DES rules for spill prevention, overfill protection, release detection, leak monitoring, or corrosion protection. Upon determining non-compliant status, DES shall provide written notification to the facility owner and facility operator on the nature of the operational deficiencies, the applicable regulatory requirements, options available for correcting the deficiencies, and the deadline for completion of the work. Upon failure of a facility owner or operator to correct such operational deficiencies to the satisfaction of DES by the established deadline, DES shall issue a written notice of "Intent to Red-Tag" to the facility owner and facility operator, and shall provide notification to all oil delivery companies that have requested to receive such notifications. The notice shall include the deadline after which date DES personnel will red-tag the non-compliant storage tank or facility. Before affixing a red tag to the fill pipe of an underground storage tank or facility, DES shall document the level of stored product in the tank or facility.

32. RSA 146-C:14 prohibits any person to deliver or cause the delivery of oil to a non-compliant storage tank or facility which has been red-tagged. No owner or operator of a facility may deposit or allow the deposit of oil into an underground storage tank or facility that has a red tag affixed to the tank or facility's fill pipe. No person may deposit oil into an underground storage tank or facility that has a red tag affixed to the fill pipe. No person shall deface, alter, or otherwise tamper with a red tag so that the information contained is not legible.

33. On October 8, 2015, DES issued Notice of Intent to Red Tag No. 15-022, and LOD No. WMD 15-082, to George C. Morse under the authority of RSA 146-C:15. In the Notice/LOD, DES cited the failure to comply with cathodic protection, leak monitoring, leak detection, and stage I system requirements.

34. Per Env-Or 504.07(b), the owner or operator of each gasoline dispensing facility being tested or retested shall notify DES in writing at least 7 working days prior to performing a stage I system test of the planned test date, test time, and if applicable, the testing consultant being used.
35. On October 27, 2015, DES received notification of stage I pressure decay testing at the Facility scheduled for 11am on October 29, 2015.
36. On October 30, 2015, DES received passing annual line leak detector testing results for Tanks #9 and #10 conducted at the Facility on October 29, 2015.
37. Env-Or 408.05(c) requires that 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.
38. DES has no record of receiving notice, on or before December 22, 2015, that Tank #8 at the Facility, a UST without continuous secondary containment or leak monitoring, had been placed in temporary or permanent closure.
39. Env-Or 408.04(a) requires that temporary closure of a UST system shall be accomplished by removing all regulated substances from the system so that no more than one inch of residue remains in the tank; and equipping each opening or access point, such as fill risers, with a lock to secure against unauthorized use or tampering. Per Env-Or 408.04(b), all removed substances shall be handled and disposed of in accordance with applicable local, state, and federal requirements. Per Env-Or 408.04(c), the owner of a temporarily closed system shall comply with the cathodic protection requirements specified in Env-Or 405.12, Env-Or 405.13, and Env-Or 406.10. Env-Or 408.04(d) requires that within 30 days of meeting the requirements for temporary closure of a UST system, the owner shall report the change in operational status by submitting an amended registration form to DES in accordance with Env-Or 404.01.
40. Per Env-Or 408.06(a), the owner shall notify DES at least 14 days prior to any UST system permanent closure. Per Env-Or 408.06(b), the closure of any part of a UST system shall be supervised by a certified tank remover. Per Env-Or 408.06(c), the certified tank remover shall be present on site during all removal activities; and comply with applicable safety, testing, sampling, and reporting requirements such as described in the listed publications.
41. Env-Or 408.07(f)(1), formerly Env-Or 408.07(g)(1), requires that to permanently close a UST system, the owner must remove the UST system unless removing the system would undermine the integrity of any overlying structure or compromise the structural integrity of an adjacent UST system. Env-Or 408.07(h) requires that, for any UST system that is closed in place based on Env-Or 408.07(f)(1), the owner must completely fill each tank with a solid inert material such that no voids remain in the tank. Env-Or 408.07(g), formerly Env-Or 408.07(i), requires that after permanently closing a UST system, the owner must perform an assessment as specified in Env-Or 408.08 to determine whether any contamination is present.
42. Env-Or 408.08 states that the site assessment required by Env-Or 408.07(g) shall be conducted in accordance with Env-Or 600, and the following:
- a. Test pits shall be excavated in the immediate vicinity of the tank and piping to a depth as close to the bottom of the tank and piping as possible;
 - b. Representative samples of soil and, when encountered, groundwater, shall be obtained from:

- (1) The test pits;
 - (2) The excavation zone resulting from the removal of the UST and the piping, for USTs and piping that are removed;
 - (3) Representative locations adjacent to and beneath the UST, including access points through the tank wall, for any UST that will be closed in place; and
 - (4) Locations adjacent to the system's piping that could not be removed, unless the piping passes a tightness test in accordance with Env-Or 408.07(d)(2), including:
 - a. At multiple locations along the piping run, separated by no more than 10 feet; and
 - b. At piping connections, bends and joints.
 - c. If soil that normally would remain in or be returned to the excavation is removed from the site by the owner as a presumptive remedy during tank closure activities, additional samples shall be taken from beneath the excavated area;
 - d. The excavation zone where the UST system was located shall be screened in the field for the presence of contamination by visual and olfactory observation and headspace analysis performed with equipment such as a portable organic vapor meter (OVM) or portable gas chromatograph (GC);
 - e. Soil samples shall be collected for laboratory analysis as follows:
 - (1) If field screening does not indicate a release, a minimum of one composite soil sample comprised of at least 5 discrete grab samples shall be collected from representative locations immediately beneath and adjacent to each tank and piping system; and
 - (2) If field screening or physical observations, or both, indicate a potential release, a minimum of 2 discrete soil samples shall be collected from representative locations immediately beneath and adjacent to each closed tank or piping system with the highest observed contamination;
 - f. If field screening or physical observations, or both, indicate a potential release and the facility is served by a water supply well, a water supply well sample shall be collected prior to any treatment system for laboratory analysis;
 - g. Each sample taken shall be analyzed for constituents of the regulated substance stored in the system by a laboratory certified under Env-C 300 for those constituents; and
 - h. If soil or groundwater contamination from a regulated substance is detected by observation or analysis during closure of a UST system, any owner or operator or other individual shall immediately notify DES as required by RSA 146-A:5.
43. Env-Or 408.09(a) states that the owner of a UST system shall not backfill the excavation zone or remove the UST from the site until DES has inspected the soil and groundwater in the vicinity of the UST and piping for evidence of contamination, and the UST for evidence of corrosion and leakage.
44. Env-Or 408.10 requires the owner of a UST system to submit a closure report to DES within 30 days of samples being taken. The report shall include the specific and detailed information set out in Env-Or 408.10(b). The owner shall retain all documents pertaining to the closure of the UST system, including contractor's invoices, manifests for disposal of materials, testing and analytical reports, and any other documents generated from the closure for not less than 3 years. If

the owner transfers ownership of the facility during the 3-year document retention period, whether by sale, gift, or other mechanism; the transferor shall provide all retained documents to the transferee at the time of transfer.

45. On June 10, 2016, DES issued Notice of Intent to Red Tag No. 16-092, and LOD No. WMD 16-090, to George Morse under the authority of RSA 146-C:15. In the Notice/LOD, DES cited among other conditions at the Facility his failure to permanently close the non-monitored piping system for Tank #8.

46. On August 8, 2017, DES red-tagged Tanks #8, #9, and #10 at the Facility under the authority of RSA 146-C:15, citing failure to comply with cathodic protection, leak monitoring, leak detection, and failure to permanently close the non-monitored piping system for Tank #8.

47. On August 11, 2017, DES received passing results for annual line leak detector and annual leak monitoring tests conducted on Tanks #9 and #10 at the Facility on August 10, 2017.

48. On August 24, 2017, DES was notified by a contractor for Mr. Morse that the water in the sumps was surface water, and that the contractor had installed gaskets on the sumps for Tanks #9 and #10 to prevent further surface water intrusion.

49. On August 24, 2017, DES removed the red tags from Tanks #9 and #10 at the Facility, because Mr. Morse had corrected violations of the UST Rules for leak monitoring and leak detection for those USTs.

50. On October 19, 2017, DES issued LOD No. WMD 17-219 to George Morse, citing his failure to: comply with monthly and annual stage I inspection and recordkeeping requirements for Tanks #9 and #10; replace the hose with proper breakaway at dispenser #5-6; submit an amended UST registration form placing Tank #8 in temporary closure; maintain cathodic protection requirements; and maintain the Facility in significant operational compliance with release prevention and release detection requirements, other requirements of RSA 146-C, and the UST Rules. In LOD #WMD 17-219, DES requested that the deficiencies at the Facility be corrected within 30 days.

51. DES has no record of receiving a response to LOD #WMD 17-219 within the timeframe specified.

52. To date, DES has not received the required notice that Tank #8 at the Facility has been temporarily or permanently closed.

53. Env-Or 405.06 sets out the requirements for overfill protection devices for UST systems to prevent the fittings on the top of the tank from being exposed to regulated substances due to overfilling. Per Env-Or 405.06(c), the primary overfill protection device shall alert the transfer operator when the tank is no more than 90% full by one of two specified means; or automatically and completely shut off flow into the tank when the tank is no more than 95% full.

54. Env-Or 405.10, formerly Env-Or 405.12, sets out the requirements for a UST to be considered cathodically protected at Env-Or 405.10(b). Per Env-Or 405.10(c), when a cathodic protection system does not meet the requirements of Env-Or 405.10(b), the owner shall repair or replace the system in accordance with Env-Or 405.11; or if the failed cathodic system is not repaired within 90 days, permanently close the UST system in accordance with Env-Or 408.06 through Env-Or 408.10.

55. Per Env-Or 406.12, formerly Env-Or 406.19, no later than December 22, 2017, and triennially thereafter, all spill containment equipment shall be tested for tightness as specified in Env-Or 406.05 through Env-Or 406.08; subject to the exceptions set out in Env-Or 406.12(b), Env-Or 406.12(d), and Env-Or 406.12(e).

56. Env-Or 406.17, formerly Env-Or 406.24, sets out the testing requirements for UST primary containment systems. Per Env-406.17(b), the owner of a motor fuel dispensing UST system shall test the primary containment system for tightness no later than December 22, 2017, and triennially thereafter using specified testing methods.

57. On August 31, 2018, DES personnel inspected the Facility to determine compliance with RSA 146-C and the UST Rules. During the inspection of the Facility, DES staff observed and documented the following deficiencies at the Facility:

- a. Tank #8 was not in use (remained red-tagged) but contained more than 1" of liquid;
- b. Required documentation showing corrosion protection installation and testing was not available for Tank #8;
- c. The overfill protection device for Tank #8 was not installed at the required 90% alert or 95% shut off level;
- d. Required documentation showing annual testing of leak monitoring equipment and devices was not available for Tanks #8, #9, and #10;
- e. Leak monitoring for piping for Tank #8 was not installed;
- f. A piping sump sensor was not installed at the low point in the sump of Tank #8;
- g. Required testing of spill containment integrity for Tanks #8, #9, and #10 had not been conducted;
- h. Required testing of primary containment tightness for Tanks #8, #9, and #10 had not been conducted;
- i. Required annual testing of the line leak detectors for Tanks #9 and #10 had not been conducted;
- j. An electrical conduit or work boxes in the sumps of Tanks #9 and #10 were severely corroded and/or damaged; and
- k. Required documentation showing annual testing of piping leak monitoring equipment and devices for Tanks #9 and #10 were not available.

58. On August 31, 2018, a DES inspector provided a copy of the inspection report to George Morse. Mr. Morse signed the report, acknowledging receipt. In the report, the DES inspector noted the deficiencies and the corrective actions required to achieve compliance. In the report, DES requested that the corrective actions be taken within 30 days; that documentation showing the dates of action, and action taken, be submitted to DES within 45 days; and noted that RSA 146-C authorizes permit revocation, administrative fines, administrative orders, delivery prohibition, injunctive relief, and civil penalties for violations of RSA 146-C and the UST Rules.

59. On September 10, 2018, DES received passing testing results for the line leak detectors serving Tanks #9 and #10.

60. On October 9, 2018, DES staff met with Mr. Morse at the Facility to review the inspection report, to discuss the deficiencies observed at the Facility on August 31, 2018; and to discuss the requested corrective actions. Mr. Morse told DES staff that he was working on obtaining quotes for the replacement of hoses and hose whips for the Facility.

61. On December 18, 2018, DES issued Notice of Intent to Red Tag No. 18-036 to George Morse under the authority of RSA 146-C:15. In the Notice, DES cited the failure to correct 11 specific deficiencies observed at the Facility and previously described in notices, LODs, and/or inspection reports. In the Notice, DES asserted that if the deficiencies were not corrected within 10 days, DES would red-tag the USTs at the Facility prohibiting delivery of oil or gas to the USTs.

62. DES has no record of a response to Notice of Intent to Red Tag #18-036 from George Morse within 10 days of the date of the notice.

63. DES staff telephoned Mr. Morse on December 28, 2018, to inquire about the status of compliance with RSA 146-C and the UST Rules at the Facility. Mr. Morse alleged that he did not receive the notice of intent to red-tag. DES staff offered to send the notice to him by email or FAX. Mr. Morse asserted that he had neither a fax machine nor email address. DES staff suggested that Mr. Morse could pick up the original notice sent by certified mail at his local U.S. post office. Mr. Morse stated that he had not been to the post office in a while. DES staff placed a copy of the notice in the regular mail to Mr. Morse. DES staff offered that once he received the notice, that he could call DES to discuss any questions he may have about achieving compliance with RSA 146-C and the UST Rules at the Facility.

64. DES staff contacted Mr. Morse on January 4, 2019, regarding the outstanding deficiencies at the Facility. Mr. Morse requested additional time to achieve compliance.

65. On January 11, 2019, DES staff telephoned Mr. Morse and offered to fund the closing of all three USTs at the Facility, including all aspects of UST removal, soil and groundwater testing, reporting, and site restoration through the MtBE Remediation Fund.

66. DES staff telephoned Mr. Morse on January 18, 2019, to inquire about the status of compliance with RSA 146-C and the UST Rules at the Facility. Mr. Morse stated that he had discussed testing with a tank testing firm, but had not scheduled testing. Mr. Morse asserted that he had ordered new whips and hoses, but had not received the new equipment. Mr. Morse suggested that he would like to wait until the spring to take the corrective actions needed to achieve compliance.

67. On February 1, 2019, DES red-tagged Tanks #9 and #10 at the Facility under the authority of RSA 146-C:15. DES staff confirmed that Tank #8 has remained red-tagged since August 7, 2017.

D. DETERMINATION OF VIOLATIONS

1. George Morse has violated RSA 146-C:19, II, by failing to conduct and record monthly visual inspections of the Facility meeting certain minimum requirements under the direction of the class A or B operator for the Facility; and by failing to repair or otherwise resolve deficiencies discovered at the Facility.

2. George Morse violated Env-Or 405.09, and Env-Or 406.08 [now Env-Or 406.02], by failing to repair or replace severely corroded or damaged electrical conduit or work boxes in the sumps for Tanks #9 and #10 at the Facility.

3. George Morse violated Env-Or 406.16, now Env-Or 406.09, by failing to conduct annual testing of the automatic line leak detectors at the Facility.
4. George Morse violated Env-Or 406.19, now Env-Or 406.12, by failing to test the spill containment integrity of the USTs at the Facility.
5. George Morse violated Env-Or 406.20, now Env-Or 406.13, by failing to make available to DES documentation showing annual testing of all leak monitoring equipment and devices during the inspection of the Facility on August 31, 2018.
6. George Morse violated Env-Or 406.24(b), now Env-Or 406.17(b), by failing to test the primary containment tightness of the USTs at the Facility.
7. George Morse has violated Env-Or 408.05(c) by failing to permanently close Tank #8 on the Property by December 22, 2015.
8. George Morse has violated Env-Or 504.04(a), and Env-Or 504.05, by failing to conduct and document monthly maintenance inspections of all stage I equipment at the Facility.
9. George Morse has violated Env-Or 504.04(b), and Env-Or 504.06, by failing to conduct and document annual maintenance inspections of all stage I equipment at the Facility.

E. ORDER

Based on the above findings and determinations, DES hereby orders George Morse as follows:

1. **Within 15 days of the date of this Order**, George Morse shall temporarily close Tank #8 on the Property in accordance with Env-Or 408.04; **AND** George Morse shall notify DES of his intent to permanently close Tank #8 and its associated piping in accordance with Env-Or 408.06(a).
2. **Within 30 days of the date of this Order**, George Morse shall:
 - a. Conduct and document monthly and annual stage I system maintenance inspections of the Facility as required by Env-Or 504.04;
 - b. Conduct and document monthly visual inspections in accordance with RSA 146-C:19, II;
 - c. Conduct tightness testing on the primary containment system at the Facility;
 - d. Conduct testing of spill containment integrity at the Facility; and
 - e. Repair or replace damaged or corroded electrical conduit or work boxes in the sumps of Tanks #9 and #10 at the Facility.
3. **Within 45 days of the date of this Order**, George Morse shall:
 - a. Submit to DES all required documentation showing all testing, repairs, and replacement required to bring the Facility into compliance with RSA 146-C and the UST Rules; and
 - b. Permanently close Tank #8, and its associated piping, at the Facility in accordance with Env-Or 408.06 through Env-Or 408.10.

4. **Within 75 days of the date of this Order**, George Morse shall submit to DES a permanent closure report for Tank #8, and its associated piping, in accordance with Env-Or 408.10.
5. George Morse shall send **all** correspondence, data, reports, and other submissions made in connection with this Administrative Order, *other than appeals*, to DES as follows:

Laura Weit-Marcum, Enforcement Coordinator, Oil Compliance Section
Oil Remediation and Compliance Bureau
DES Waste Management Division
P.O. Box 95
Concord, NH 03302-0095
Fax: (603) 271-2181
e-mail: Laura.Weit-Marcum@des.nh.gov

F. APPEAL

Any person aggrieved by this Order may appeal the Order to the N.H. Waste Management Council ("Council") by filing an appeal that meets the requirements specified in RSA 21-O:14 and the rules adopted by the Council, Env-WMC 200. The appeal must be filed **directly with the Council within 30 days** of the date of this decision and must set forth fully **every ground** upon which it is claimed that the decision complained of is unlawful or unreasonable. Only those grounds set forth in the notice of appeal can be considered by the Council.

Information about the Council, including a link to the Council's rules, is available at <http://nhec.nh.gov/> (or more directly at <http://nhec.nh.gov/waste/index.htm>). Copies of the rules also are available from the DES Public Information Center at (603) 271-2975.

G. OTHER PROVISIONS

Please note that RSA 146-C:10, and RSA 146-C:10-a, provide for administrative fines, and civil penalties, for the violations noted in this Order, as well as for failing to comply with the Order itself. George Morse remains obligated to comply with all applicable requirements, in particular RSA 146-C and the UST Rules. DES will continue to monitor compliance with applicable requirements and will take appropriate action if additional violations are discovered.

This Order is being recorded in the Cheshire County Registry of Deeds so as to run with the land.



Robert R. Scott, Commissioner
Department of Environmental Services

cc: DES Legal Unit

ec: Public Information Officer, DES PIP Office
K. Allen Brooks, Chief, AGO-Environmental Protection Bureau
Winchester Select Board and Health Officer
Laura Weit-Marcum, Enforcement Coordinator, ORCB/WMD/DES