



The State of New Hampshire  
**Department of Environmental Services**



**Robert R. Scott, Commissioner**

REGULAR MAIL

July 17, 2019

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

**Subject Site:**       **Keene – Kingsbury Acquisition, LLC, 80 Laurel Street**  
                              NHDES Site #199102028, UST Facility #0110849

**Reference:**           **RED TAGGED UST SYSTEMS – ACTION NEEDED**

Dear Mr. Thibeault:

RSA 146-C authorizes the New Hampshire Department of Environmental Services (“NHDES”) to regulate the installation, maintenance, operation, licensing and closure of underground storage tanks (“USTs”). Pursuant to RSA 146-C:9, NHDES has adopted NH CODE ADMIN. RULES Env-Or 400 to set forth the requirements for UST facilities by establishing criteria for registration and permitting, standards for design, installation, operation, maintenance, and monitoring of such facilities (“UST Rules”).

Effective October 10, 2018, NHDES re-adopted the UST Rules, with significant changes pertaining to any UST system that has been red-tagged. In particular, Env-Or 408.05(f) states:

*"[t]he owner of any UST system that has been red-tagged in accordance with RSA 146-C:15 shall bring the UST system into compliance with all applicable requirements or permanently close the UST system **within one year** of the date the red tag was placed."*

According to our records, the following UST system was red-tagged on **August 8, 2017** and is subject to the newly adopted rule, Env-Or 408.05(f).

Tank #6, 12,000-gallon #2 heating oil.

Please notify NHDES **within 30 days** of your intent to either: 1) bring the UST system into compliance or 2) permanently close the UST system. A list of UST design engineers, installation and maintenance companies, tank testing companies, and tank removal contractors can be found on the NHDES website at <https://www4.des.state.nh.us/WasteReports/Menu.aspx> in the bottom right hand corner.

NHDES expects that you can achieve compliance with Env-Or 408.05(f) by **October 10, 2019**.

The Commissioner of NHDES 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 the UST rules. NHDES also has the authority to issue an administrative order to require you to correct the deficiencies and refer the case to the New Hampshire Department of Justice for injunctive relief and civil penalties up to \$10,000 per violation and \$10,000 per each day for a continuing violation. **In addition,**

**[www.des.nh.gov](http://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

**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 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,



Matthew A. Jones, Compliance & Enforcement Subsection Chief  
Oil Compliance Section  
Tel. No. (603) 271-2986  
Fax No. (603) 271-2181  
Email: [Matthew.Jones@des.nh.gov](mailto:Matthew.Jones@des.nh.gov)

cc: NHDES Legal Unit

ec: Keene Administration and Health Officer  
Robert Bishop, Administrator, ORCB  
Charles Corliss, P.E., Supervisor, Oil Compliance Section, ORCB  
Steve Scotton, Compliance Manager, ORCB  
Emily Szmyt, Enforcement Specialist, ORCB