



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



**Robert R. Scott, Commissioner**

November 14, 2023

**CORRECTED LETTER 11/21/2023**

**NOTICE OF INTENT TO RED-TAG**

NHDES IRT #23-004

**BY CERTIFIED MAIL #7021 0350 0000 6404 4068**

**BY EMAIL: [prashgandhi@yahoo.com](mailto:prashgandhi@yahoo.com)**

Mr. Prashant Gandhi  
Rohvih Corp.  
219 Main Street  
Hampstead, NH 03841

Subject Site/Facility: **HAMPSTEAD – Don's Mart**, 219 Main Street  
NHDES Site No. 199611004, UST Facility No. 0110065

Dear Mr. Gandhi:

This Notice contains important information that affects the continued operation of UST Facility No. 0110065. Please carefully read the entirety of this Notice as it requires your **immediate attention**.

The New Hampshire Department of Environmental Services (NHDES) provides regulatory oversight of underground storage tank (UST) facilities operating in New Hampshire to ensure their compliance with NH Statute RSA 146-C, Underground Storage Facilities; and, with the New Hampshire Code of Administrative Rules in Env-Or 400, Underground Storage Tank Facilities (UST Rules).

Pursuant to RSA 146-C:5, NHDES staff conducted a routine compliance inspection of the UST system(s) at the Subject Site on May 12, 2023 and subsequently provided you with a copy of the completed UST Facility Inspection Report (Report), also dated May 12, 2023. If you have misplaced your Report, an electronic copy can be found at [Onestop Search \(state.nh.us\)](https://onestopsearch.state.nh.us), by selecting the "underground storage tank" box within the Area of Interest and scrolling down and typing "0110065" in the facility ID box. Click the "Underground Storage Tank Program" in the Interest(s) column, and scroll to the "Documents" section where you will find the Report.

In that Report, NHDES summarized discovered deficiencies, cited applicable regulatory requirements, provided the option(s) available for correcting the deficiencies; and, informed you of the deadline(s) by which the deficiencies must be resolved. Once the deficiencies were corrected at the Facility, all associated verifying information was required to be submitted to NHDES within the timeframe specified in the Report. As of the date of this Notice, NHDES **has not** received all required verifying information.

Therefore, pursuant to specific guidelines in NH Statute RSA 146-C:15 ([Section 146-C:15 Red-Tagging Procedure](#)), NHDES has prepared this **Notice of Intent to Red-Tag** (IRT) to initiate formal proceedings to address your facility's non-compliant status and instruct you to take immediate action to resolve the remaining deficiencies of Rule and Statute. If you do not correct the below summarized deficiencies

[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

within **15 days** from the date of this Notice, NHDES staff will affix a dedicated **Red-Tag** to each fill pipe of those below-mentioned UST system(s) that remain out of compliance. Affixing a **Red-Tag** to a fill pipe lawfully signifies **FUEL DELIVERY PROHIBITION**.

The deadline to achieve compliance is by the close of business day on **Wednesday, November 29, 2023**. Moreover, because the facility is not in compliance with RSA 146-C, reimbursement of cleanup costs through the NH Petroleum Reimbursement Fund Program, authorized by NH Statute [RSA 146-D \(Oil Discharge and Disposal Cleanup Fund\)](#) and administered under [NH Administrative Rules Odb 400](#), may not be available to you if a spill or release occurs.

Based on the findings of our most recent inspection and review of current NHDES submittal records, the following deficiencies pertaining to spill prevention, overfill protection, release detection, leak monitoring, and/or corrosion protection remain outstanding and must be immediately resolved in order to avoid this pending **Red-Tag** event:

**TANK #5 (Containing REGULAR MASTER with Capacity of 6,000 gallons)**

- The NHDES inspector has determined the tank and piping leak monitoring equipment was not tested annually for proper operation. Past due as of 01/12/2023; **Verifying Information PAST DUE as of June 27, 2023**
- The NHDES inspector has determined the line leak detector was not tested annually for proper operation. Past due as of 03/14/2021; **Verifying Information PAST DUE as of June 27, 2023**

**DISPENSERS #1-2 & #3-4**

- The NHDES inspector has determined one or more boots in the dispenser sump is/are torn and therefore the sump may not be tight. **Verifying information PAST DUE as of June 27, 2023**
- The NHDES inspector has determined the dispenser sump for the tank system is not maintained in good working order and may not be tight. **Verifying information PAST DUE as of June 27, 2023**
- The NHDES inspector has determined the containment sump integrity testing for all dispenser pans has not been conducted. Past due as of 10/14/2021; **Verifying information PAST DUE as of June 27, 2023**

**TANK TOP SUMP TANK #5**

- The NHDES inspector has determined the containment sump integrity testing has not been conducted. Past due as of 10/14/2021; **Verifying information PAST DUE as of June 27, 2023**

The **below-mentioned** GENERAL OBSERVATION and FILE REVIEW deficiencies must also be resolved, but did not fall under the criteria by which **this** red-tag procedure was initiated. These deficiencies either do not pertain to spill prevention, overfill protection, release detection, leak monitoring, and/or corrosion protection **or** the deadline to achieve compliance occurred after our May 12, 2023 inspection. If these below-mentioned deficiencies are ignored, NHDES has the authority to perform follow-up on-site inspections which may be cause to issue supplemental enforcement actions.

### GENERAL OBSERVATIONS & DATABASE FILE REVIEW (**FR**)

- The NHDES inspector could not verify annual visual inspections are being conducted because the records were not available for the NHDES inspection per RSA 146-C:19, II. **Verifying Information PAST DUE as of June 27, 2023**
- **FR / TANK #5** - The triennial primary containment tightness testing has not been conducted. **PAST DUE as of October 10, 2023**

Pursuant to RSA 146-C:14, Delivery Prohibition - **I.** No person shall deliver or cause the delivery of oil to a non-compliant storage tank or facility which has been red-tagged; **II.** 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; **III.** No person may deposit oil into an underground storage tank or facility that has a red tag affixed to the fill pipe; and, **IV.** No person shall deface, alter, or otherwise tamper with a red tag so that the information contained is not legible.

NHDES has the authority to pursue additional enforcement actions for all outstanding deficiencies summarized in our Report, as well as any violations subsequently identified. In addition to our authority to Red-Tag a UST facility or system, the Commissioner of NHDES is authorized by RSA 146-C:10-a to impose administrative fines for any violation/s of RSA 146-C or Env-Or 400. NHDES also has the authority to issue an Administrative Order to the owner and/or operator; and, refer violations of Statute and Rule to the New Hampshire Department of Justice (NHDOJ) for injunctive relief. Generally, these referrals are considered only when our initial requests and requirements are ignored and/or if a pattern of behavior is identified. NHDES is confident that you will properly respond to this Notice of IRT and any future UST Facility Inspection Report in order to avoid formal enforcement actions, including those specified in this Notice.

Pursuant to RSA 146 C:16, a facility owner may request, in writing, that the department rescind the delivery prohibition imposed under RSA 146-C:14. The department shall approve a request to rescind the delivery prohibition upon determining the following: **(a)** the facility owner or operator has corrected the operational deficiencies identified during the inspection conducted under RSA 146-C:15, I; **(b)** fines and penalties assessed by the department against the facility owner or operator, if any, have been paid; and **(c)** the department has re-inspected the facility and determined the storage tank or facility is in compliance, or an owner or operator has provided satisfactory documentation that operational deficiencies were corrected.

Please address all deficiencies called out in the May 12, 2023 Report, including all General Observations of non-compliance. All deficiencies that are newly recognized as a result of a file review of the Facility's current regulatory status must also be resolved to achieve full compliance. NHDES appreciates your effort to address all recognized deficiencies, and would like to thank you in advance for your expected cooperation. Your efforts will serve to protect New Hampshire's public health, welfare, and environment.

Please contact Kevin Kaveny at ([Kevin.J.Kaveny@des.nh.gov](mailto:Kevin.J.Kaveny@des.nh.gov) or 603-271-7380) as soon as the above deficiencies are corrected, or if you already have corrected them. Please also contact Mr. Kaveny or the undersigned if you have any questions regarding this Notice.

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)

Enclosures:

*Form S-04-003 – Annual Line Leak Detector Test Form for AST & UST Systems*  
*Form S-04-016 – Registration of UST Systems*  
*Form S-04-035 – Annual Leak Monitoring Equipment Testing Form for UST Systems*  
*Form S-04-036 – Triennial Containment Sump Test Form for UST Systems*

cc: NHDES Legal Unit, Attorney Kerry Barnsley  
NHDES ORCB, Robert Bishop, Administrator  
NHDES ORCB, Kevin Kaveny, Enforcement Section Supervisor  
NHDES IRT List

HAMPTEAD Health Officer, Philip Boisvert, [inspector@hampsteadnh.us](mailto:inspector@hampsteadnh.us)  
Facility Class A and B Operator, Prashant Gandhi, [prashgandhi@yahoo.com](mailto:prashgandhi@yahoo.com)  
Wayne Dumas, Manager, *Don's Mart*, [wdumas@comcast.net](mailto:wdumas@comcast.net)