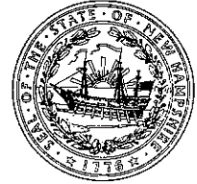




State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-3503 FAX (603) 271-2867



January 13, 2003

Roland White, d/b/a Statewide Drilling Inc.
395 Milford Street
Manchester, NH 03102

NOTICE OF DECISION
ADMINISTRATIVE FINE
NO. AF 01-156 (WATER DIVISION)

Dear Mr. White:

As you are aware, by Notice of Proposed Administrative Fine No. AF 01-156 issued December 12, 2001, the Water Division sought administrative fines totaling \$18,000 against you for alleged violations of RSA 482-B:5 arising from unauthorized work conducted on nine properties located in New Hampshire. Pursuant to RSA 482-B:16, II, and based on my review of the evidence presented at the hearing held on this matter on December 9, 2002, I have concluded that a fine of \$18,000 is appropriate as set forth below:

- ▶ A fine in the amount of \$2,000 is imposed against you for installing a well pump at 2 Bedford Road, New Boston, NH without first obtaining a pump installer license.
- ▶ A fine in the amount of \$2,000 is imposed against you for installing a well pump at 20 West Alice Avenue, Hooksett, NH without first obtaining a pump installer license.
- ▶ A fine in the amount of \$2,000 is imposed against you for installing a well pump at 4 Sharon Drive, New Boston, NH without first obtaining a pump installer license.
- ▶ A fine in the amount of \$2,000 is imposed against you for installing a well pump at 6 Sharon Drive, New Boston, NH without first obtaining a pump installer license.
- ▶ A fine in the amount of \$2,000 is imposed against you for installing a well pump at 56 Halfpenny Lane, Exeter, NH without first obtaining a pump installer license.
- ▶ A fine in the amount of \$2,000 is imposed against you for installing a well pump at 263 Cochran Hill Road, New Boston, NH without first obtaining a pump installer license.
- ▶ A fine in the amount of \$2,000 is imposed against you for installing a well pump at 33 Farrwood Drive, Hooksett, NH without first obtaining a pump installer license.
- ▶ A fine in the amount of \$2,000 is imposed against you for installing a well pump at 2 North River Road, Milford, NH without first obtaining a pump installer license.
- ▶ A fine in the amount of \$2,000 is imposed against you for installing a well pump at 53 Foster Road, Milford, NH without first obtaining a pump installer license.

The \$18,000 fine shall be paid within 30 days of the date of the decision, or at your election, in six

equal payments of \$3,000 each in accordance with the following schedule:

First payment due:	February 12, 2003	Fourth payment due:	May 14, 2003
Second payment due:	March 14, 2003	Fifth payment due:	June 13, 2003
Third payment due:	April 14, 2003	Sixth payment due:	July 14, 2003

Fine payments shall be by check or money order payable to "Treasurer-State of NH" and sent to the attention of the DES Legal Unit/Office of the Commissioner, PO Box 95, Concord, NH 03302-0095.

The purpose of RSA 482-B is to regulate water well contractors and pump installers. RSA 482-B:5 requires a person to obtain a pump installer license from the Water Well Board prior to engaging in the business of installing a well pump.

You violated RSA 482-B:5 by installing well pump systems on nine properties in New Hampshire without first obtaining a license from the Water Well Board. By conducting this unauthorized activity you endangered public health.

This decision is based on the following findings and conclusions:

1. Roland White d/b/a/ Statewide Drilling, Inc. ("Statewide Drilling") is a New Hampshire corporation having a mailing address of 395 Milford Street, Manchester, NH.
2. RSA 482-B:5 requires a person to obtain a pump installer license from the Water Well Board ("the Board") prior to engaging in the business of installing a pump.
3. In 1988, the Board suspended Mr. White's license.
4. Mr. White and Statewide Drilling, are not licensed water well contractors or licensed pump installers in New Hampshire.
5. In July 1999, Statewide Drilling entered into an agreement with Mitch Construction Co. ("Mitch Construction") to install a well pump system at 2 Bedford Road, New Boston, NH.
6. In August 1999, Mr. White was observed installing a well pump system at 2 Bedford Road, New Boston, NH.
7. On August 24, 1999, Statewide Drilling entered into an agreement with James Flynn to drill a well and install a pump system at 20 West Alice Avenue in Hooksett, NH.
8. In September 1999, Mr. White was observed installing the pump system at 20 West Alice Avenue, Hooksett, NH.
9. On November 4, 1999, Statewide Drilling entered into an agreement with Mitch

Construction to drill wells and install pump systems for all wells located in a new housing development located in New Boston, NH. 4 and 6 Sharon Drive are located in the new housing development.

10. In December 1999, Mr. White was observed installing the pump system at 4 Sharon Drive, New Boston, NH.
11. In December 1999, Mr. White was observed installing the pump system at 6 Sharon Drive, New Boston, NH.
12. On November 4, 1999, Statewide Drilling entered into an agreement with Park Avenue Development to drill a well and install a pump system at 56 Halfpenny Lane, Exeter, NH.
13. In November 1999, Mr. White was observed installing the pump system at 56 Halfpenny Lane, Exeter, NH.
14. In March 2000, Statewide Drilling entered into an agreement with Mitch Construction to drill a well and install a pump system at 263 Cochran Hill Road, New Boston, NH.
15. In April 2000, Mr. White was observed installing the pump system at 263 Cochran Hill Road, New Boston, NH.
16. In April 2000, Mr. White was observed installing the pump system at 2 North River Road, Milford, NH.
17. In April 2000, Mr. White was observed installing the pump system at 53 Foster Road, Milford, NH.
18. In Spring 2000, Statewide Drilling entered into an agreement with NH Builders to install a well at 33 Farrwood Drive, Hooksett, NH.
19. In May 2000, Mr. White was observed installing the pump system at 33 Farrwood Drive, Hooksett, NH.
20. Mr. White violated RSA 482-B:5 by installing a well pump at 2 Bedford Road, New Boston, New Hampshire without first obtaining a pump installer license.
21. For a violation of RSA 482-B:5, Env-C 616.02(d) authorizes a fine of \$2,000.
22. Mr. White violated RSA 482-B:5 by installing a well pump at 20 West Alice Avenue, Hooksett, NH without first obtaining a pump installer license.
23. For a violation of RSA 482-B:5, Env-C 616.02(d) authorizes a fine of \$2,000.
24. Mr. White violated RSA 482-B:5 by installing a well pump at 4 Sharon Drive, New Boston, NH without first obtaining a pump installer license.

25. For a violation of RSA 482-B:5, Env-C 616.02(d) authorizes a fine of \$2,000.
26. Mr. White violated RSA 482-B:5 by installing a well pump at 6 Sharon Drive, New Boston, NH without first obtaining a pump installer license.
27. For a violation of RSA 482-B:5, Env-C 616.02(d) authorizes a fine of \$2,000.
28. Mr. White violated RSA 482-B:5 by installing a well pump at 56 Halfpenny Lane, Exeter, NH without first obtaining a pump installer license.
29. For a violation of RSA 482-B:5, Env-C 616.02(d) authorizes a fine of \$2,000.
30. Mr. White violated RSA 482-B:5 by installing a well pump at 263 Cochran Hill Road, New Boston, NH without first obtaining a pump installer license.
31. For a violation of RSA 482-B:5, Env-C 616.02(d) authorizes a fine of \$2,000.
32. Mr. White violated RSA 482-B:5 by installing a well pump at 33 Farrwood Drive, Hooksett, NH without first obtaining a pump installer license.
33. For a violation of RSA 482-B:5, Env-C 616.02(d) authorizes a fine of \$2,000.
34. Mr. White violated RSA 482-B:5 by installing a well pump at 2 North River Road, Milford, NH without first obtaining a pump installer license.
35. For a violation of RSA 482-B:5, Env-C 616.02(d) authorizes a fine of \$2,000.
36. Mr. White violated RSA 482-B:5 by installing a well pump at 53 Foster Road, Milford, NH without first obtaining a pump installer license.
37. For a violation of RSA 482-B:5, Env-C 616.02(d) authorizes a fine of \$2,000.
38. Under Env-C 601.09(c), the imposed fine must be reduced by 10 percent if the Respondent proves certain mitigating factors by a preponderance of the evidence.
39. None of the factors identified in Env-C 601.06(c)(1) through (4) apply to reduce the amount of fine that can be imposed for the violations noted in #20, 22, 24, 26, 28, 30, 32, 34, and 36 above, because the burden of proof for these factors is on Mr. White, and he did not attend or present evidence at the hearing.

You violated RSA 482-B:5 by installing well pumps on nine properties in New Hampshire without first obtaining a pump installer license. Thus, for the reasons discussed above, I have concluded that the \$18,000 fine imposed is appropriate.

As you know, the hearing on this matter was scheduled for December 9, 2002. The hearing was held as scheduled, however, you were not present, nor was anyone else present on your behalf. Moreover, because you did not inform the presiding officer of the absence prior to

the hearing, the hearing was held pursuant to Env-C 204.09, subject to a motion to reconvene. Subsequently, you failed to file a motion to reconvene the hearing.

Even though you did not attend the hearing, I believe it is proper for this decision to issue. I want to remind you, however, that you and any party aggrieved by this decision may file a motion for reconsideration within 30 days of the date of this decision, in accordance with NH RSA 541 and Env-C 206 (copy enclosed).

Very truly yours,

COPY

George Dana Bisbee
Acting Commissioner

Enclosure

cc: Water Well Board
Anthony P. Giunta, P.G., Administrator, WSEB
Harrison Mackey, Licensing Coordinator, DES
Anne Edwards, Esq., NHAGO
Michael Walls, Esq., NHAGO
Mark Harbaugh, DES Enforcement Attorney
Gretchen Rule, DES Legal Unit
Susan Weiss Alexant, DES Hearings and Rules Attorney

PART Env-C 206 MOTIONS FOR RECONSIDERATION

Env-C 206.01 Purpose. The rules in this part are intended to supplement any statutory provisions, such as RSA 541, which require or allow a person to request reconsideration of a decision of the department prior to appealing the decision. These rules do not create the right to request reconsideration of a decision where it does not otherwise exist under law.

Source. #6960, eff 3-25-99

Env-C 206.02 Applicability. The rules in this part shall apply whenever any person has a right under applicable law to request a reconsideration of a decision prior to filing an appeal of the decision with the applicable court or council having appellate jurisdiction.

Source. #6960, eff 3-25-99

Env-C 206.03 Time for Filing. As specified in RSA 541:3, any motion for reconsideration shall be filed no later than 30 days after the date the decision that is the subject of the motion was issued.

Source. #6960, eff 3-25-99

Env-C 206.04 Filing.

(a) Any person wishing to request reconsideration of a decision of the commissioner shall file the original and 2 copies of a motion for reconsideration at the following address:

Office of the Commissioner, Enforcement Unit

Department of Environmental Services

6 Hazen Drive

Concord, NH 03301

(b) Any person wishing to request reconsideration of a decision of a division relating to a matter for which the commissioner has delegated the decision-making authority to the division shall file the original and 2 copies of a motion for reconsideration with the director of the division at the following address:

Department of Environmental Services

6 Hazen Drive

Concord, NH 03301

(c) For purposes of this section, a "decision of the commissioner" means a decision that is signed by the commissioner, or by the assistant commissioner on behalf of the commissioner, either alone or in conjunction with a division director, such as an administrative order.

(d) For purposes of this section, a "decision of a division" means a decision that is signed by a division director or other authorized division staff, but not signed by the commissioner or by the assistant commissioner on behalf of the commissioner, such as a decision to issue or deny a permit.

Source. #6960, eff 3-25-99

Env-C 206.05 Format and Content of Motion. The person filing a motion for reconsideration shall provide the following information:

(a) The exact legal name of each person moving for reconsideration and the residence address or principal place of business of the person;

(b) A clear and concise statement of the reason(s) why the person believes the decision to be in error;

(c) A concise and explicit statement of the facts upon which the department is expected to rely in granting relief;

(d) A clear and concise statement of the specific relief or ruling requested;

(e) A copy of the decision which is the subject of the motion; and

(f) Such other information as the party filing the motion deems pertinent and relevant, including sworn written testimony and other evidence that was not available for the hearing.

Source. #6960, eff 3-25-99