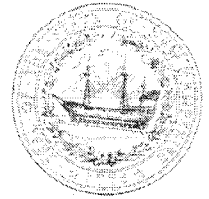


The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

July 10, 2008

CERTIFIED MAIL # 7006 0810 0003 2417 6162

LETTER OF DEFICIENCY

WMD# 08- 045

Kevin Price
Attn: Tim Cupka
PO Box 154
Londonderry, NH 03053-0154

Subject Site: Freedom, Ossipee Lake Marina, 65 Marina Road
DES Site #198805002, AST Facility #880502A, Project Type AST

Reference: Secondary Containment Upgrade Requirement for Existing Aboveground Petroleum Storage Tank Systems

Dear Tim Cupka:

A review of the New Hampshire Department of Environmental Services (DES) database indicates that the following AST systems at the subject facility do not meet the secondary containment upgrade requirements of Env-Wm 1402.35 of the New Hampshire Code of Administrative Rules Env-Wm 1402, Control of Aboveground Petroleum Storage Facilities (AST Rules): tank #3 (requires interstitial monitoring, overfill shutoff valve, and spill bucket on fill connection), underground piping for tanks #2 and #3, and dispensers require liquid tight sumps with leak monitoring.

Please be advised that **because your facility is in violation of the secondary containment upgrade requirements of the AST Rules, you are not currently eligible for reimbursement of cleanup costs incurred should a spill occur at your facility.** Furthermore, **inaction on your part to bring your facility into compliance with the AST Rules will result in enforcement action** per New Hampshire RSA 146-A:15 and New Hampshire Code of Administrative Rules Env-C 600 for those deficiencies. Enforcement action may include administrative orders and/or administrative fines of not more than \$2,000 per violation per day.

1. If you correct the above noted secondary containment deficiencies within 30-days, you will avoid enforcement action per New Hampshire RSA 146-A:15 and New Hampshire Code of Administrative Rules Env-C 600 for those deficiencies. Enforcement action may include administrative fines of not more than \$2,000 per violation per day and/or administrative orders.

2. If you can not correct the deficiencies within 30-days but instead submit a detailed written compliance plan to DES within 30-days that DES finds acceptable, you may be able to avoid some degree of enforcement action. A compliance plan that DES could find acceptable would include one or more of the following compliance options as applicable:

A. For secondary containment surrounding a tank, beneath a tank on cradles, beneath a tank having a capacity of less than 5,100-gallons and resting on the ground, and for underground/over-water piping, a specific plan and timeline, to include the names of the retained professional engineer and contractor, to complete the secondary containment upgrades no later than calendar year 2008.

DES Web Site: www.des.nh.gov

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

Telephone: (603) 271-3644 Fax: (603) 271-2181 TDD Access: Relay NH 1-800-735-2964

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B. For secondary containment directly beneath a tank having a capacity of 5,100-gallons or more and resting on the ground, a specific plan and timeline, to include the names of the retained professional engineer and contractor, to complete the secondary containment upgrades no later than calendar year 2008, or an indicated willingness to enter into an administrative order by consent (AOC) with DES to perform the planned secondary containment upgrade no later than the calendar year in which the next interior tank inspection is due pursuant to Env-Wm 1402.29, but no later than calendar year 2013. The AOC would include a stipulated penalty of \$2,000 per calendar month or portion thereof that compliance with each provision is not achieved by the agreed upon deadline in the AOC.

C. For any non-compliant tank and/or pipe for which the owner does not plan to upgrade the secondary containment by the deadlines listed in paragraphs 2.A and 2.B above, a plan to take the non-compliant tank and/or pipe systems out of service in accordance with Env-Wm 1402.12(c), (d), and (e) either permanently or until such time as compliance with the secondary containment standards can be met.

For your reference, a list of frequently asked questions (FAQs) regarding secondary containment upgrade requirements is enclosed. Note that certain upgrades require that an AST construction application first be submitted and approved. Once work has been approved and completed, an amended AST registration form must be submitted to DES. Where applicable, an engineer's certification shall also be provided to establish the adequacy of existing or upgraded secondary containment permeability and containment volume, pursuant to Env-Wm 1402.35(b).

This letter of deficiency is being sent as a follow up because DES has not yet received the documentation required to show compliance. Since the compliance deadline of May 28, 2008 has passed, respond to this office in writing within 30-days regarding your status for upgrading secondary containment at this facility pursuant to items 1 and 2 above. If you feel that you have already achieved compliance with the secondary containment upgrade requirements of Env-Wm 1402.35, then please notify DES of how compliance was achieved and include professional engineer certifications as applicable. **If a written reply pursuant to items 1 and 2 above is not received by DES within 30-days, DES will initiate enforcement action** per New Hampshire RSA 146-A:15 and New Hampshire Code of Administrative Rules Env-C 600. Enforcement action may include administrative orders and/or administrative fines of not more than \$2,000 per violation per day.

Should you have any questions concerning the content of this letter, please contact either the undersigned or Robert A. Daniel, P.E. in the Waste Management Division of DES at (603) 271-0686 or by e-mail at Robert.daniel@des.nh.gov. DES appreciates your willingness to comply with the AST program in an effort to preserve New Hampshire's environment.

Sincerely,



Michael W. Juranty, P.E., Supervisor
Oil Compliance Section
Tel No. (603) 271-6058
Email: michael.juranty@des.nh.gov

Encl: Secondary Containment Upgrade FAQs