

**STATE OF VERMONT  
AGENCY OF NATURAL RESOURCES**

**ENVIRONMENTAL COURT  
DOCKET NO.**

**SECRETARY, VERMONT AGENCY  
OF NATURAL RESOURCES,  
Plaintiff**

**v.**

**GATES SALVAGE YARD, INC.  
Respondent**

**ADMINISTRATIVE ORDER**

Having found that Gates Salvage Yard, Inc. (Respondent) has committed a violation as defined in 10 V.S.A. §8002(9), the Secretary (Secretary) of the Agency of Natural Resources (Agency), pursuant to the authority set forth in 10 V.S.A. §8008, hereby issues the following Administrative Order:

**VIOLATIONS**

- i. 10 V.S.A. §6616 and Vermont Hazardous Waste Management Regulations (VHWMR), §7-302(c) – Release of hazardous materials onto the land of the state without a permit.
- ii. VHWMR, §7-306(c)(2) – Improper disposal of hazardous waste.
- iii. VHWMR §7-105(b) – Failure to perform a site assessment to determine the extent and degree of contamination.

**STATEMENT OF FACTS**

1. Respondent is a Vermont registered corporation that operates a salvage yard on approximately 65 acres of property on the westerly side of Route 14 in Hardwick, Vermont, EPA ID number VTR 000 012 096.

2. On April 21, 1999, inspectors from the Waste Management Division (WMD) of the Vermont Agency of Natural Resources conducted a partial compliance evaluation inspection at Respondent's location.
3. During the inspection, an employee of Respondent informed WMD representatives that the crusher unit had been moved to its current location about two weeks prior to the inspection visit and that the containment pan had not been placed under the crusher drain at that time, nor since its movement. The fluids remaining in the cars during crushing operations were released onto the ground under the crushing unit, due to the absence of the containment pan. These fluids included crankcase oil, gasoline, transmission fluid, and radiator fluid which are classified as hazardous waste under the VHWMR (Hazardous Waste Codes D001/D018, VT02, and VT08).
4. On October 5, 1999, Respondent crushed a vehicle that contained several drums. These drums contained waste oil. This waste oil was released onto the ground during crushing.
5. Automotive fluids that are disposed of onto the land of the state, such as crankcase oil, gasoline, transmission fluid, and radiator fluid, are classified as hazardous waste under the VHWMR (Hazardous Waste Codes D001/D018, VT02, and VT08).
6. By allowing the fluids from car crushing to be released onto the land of the state Respondent violated 10 V.S.A. §6616, VHWMR §7-302(c) and VHWMR §7-306(c)(2).
7. As a consequence of these releases Respondent was contacted by the WMD Sites Management Section (SMS) and told that a site investigation was needed to determine the degree and extent of the contamination. Respondent did hire a consultant and a work plan for the site investigation was submitted and approved

by the SMS on March 27, 2000. However, Respondent failed to complete the required site investigation as specified in the approved work plan.

8. By failing to complete the site investigation Respondent violated VHWMR §7-105(b).

#### ORDER

Upon receipt of this Administrative Order, the Respondent shall:

- A. Pay a penalty of \$21,225 within thirty (30) consecutive calendar days of the receipt of this order. Payment shall be by check made payable to the "Treasurer, State of Vermont" and forwarded to:

Becky Buchanan, Administrative Assistant  
Environmental Enforcement Division  
Agency of Natural Resources  
103 South Main Street, 2 South  
Waterbury, VT 05671-0401

The above penalty amount does not include the costs incurred by the Secretary for the enforcement of the above described violation(s) or the amount of economic benefit gained by the Respondent from the violation(s). The Secretary reserves the right to augment the above stated penalty through evidence presented at hearing. In accordance with 10 V.S.A. §8010, the penalty may be increased by the costs incurred by the Secretary for the enforcement of this matter and by the amount of economic benefit gained by the Respondent from the violation(s), each according to proof at the hearing.

- B. Respondent shall hire a consultant whom the Respondent shall require to perform the following work:

- (1) Perform the site investigation contained within the approved work plan no later than ninety (90) days after this Administrative Order becomes final. The

site investigation shall define the nature, degree and extent of the contamination, the nature, degree and extent of the surface water run off from the site that may result in a discharge into Hardwick Lake, and shall assess potential impacts on human health and the environment. A report detailing the findings of this work, including the nature, extent and degree of contamination shall be sent to the secretary for review;

(2) Submit a corrective action plan, no later than thirty (30) days from the date of final acceptance of the site investigation report by the secretary;

(3) Implement the corrective action plan no later than ninety (90) days upon approval of the plan by the secretary. The corrective action plan shall be continued until the contamination is remediated to levels approved by the secretary;

(4) Submit to the secretary all investigative, corrective action and monitoring reports, including all analytical results related to subdivisions (1)-(3) of this section, as they become available.

#### RESPONDENT'S RIGHT TO A HEARING

#### BEFORE THE ENVIRONMENTAL COURT

The Respondent has the right to request a hearing on this Administrative Order before the Environmental Court under 10 V.S.A. §8012 by filing a Notice of Request for Hearing within fifteen (15) days of the date the Respondent receives this Administrative Order. The Respondent must timely file a Notice of Request for Hearing with both the Secretary and the Environmental Court at the following addresses:

1. Secretary, Agency of Natural Resources  
c/o: Enforcement Division, 2 South  
103 South Main Street  
Waterbury, Vermont 05671-0411

2. Clerk, Environmental Court  
225 North Main Street  
Barre, Vermont 05641

EFFECTIVE DATE OF THIS ADMINISTRATIVE ORDER

This Administrative Order shall become effective on the date it is received by the Respondent unless the Respondent files a Notice of Request for Hearing within fifteen (15) days of receipt as provided for in the previous section hereof. The timely filing of a Notice of Request for Hearing by the Respondent shall stay the provisions (including any penalty provisions) of this Administrative Order pending a hearing by the Environmental Court. If the Respondent does not make a timely filing of a Notice of Request for Hearing, this Administrative Order shall become a final Administrative Order.

COMPLIANCE WITH THIS ADMINISTRATIVE ORDER

If the Respondent fails or refuses to comply with the conditions of a final Administrative Order, the Secretary shall have cause to initiate an enforcement action against the Respondent pursuant to the provisions of 10 V.S.A. Chapters 201 and 211.

Dated at Waterbury, Vermont this 17<sup>th</sup> day of November, 2000.

SECRETARY, VERMONT AGENCY OF NATURAL RESOURCES

By: \_\_\_\_\_

*Canute E. Dalmasse*  
Canute E. Dalmasse, Commissioner  
Department of Environmental Conservation

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Affidavit of Sherri Kasten

I, Sherri Kasten, being duly sworn do attest:

1. I am of legal age and a resident of the State of Vermont.
2. I am an employed by the Waste Management Division of the Agency of Natural Resources and perform hazardous waste inspections.
3. Based upon information and belief the violations described in the Statement of Facts section of the above entitled Administrative Order occurred on the date set forth therein.

Dated at WATERBURY, Vermont this 17<sup>TH</sup> day of NOVEMBER, 2000.

  
Sherri Kasten - Affiant

Subscribed and sworn before me on the 17 of November, 2000.

  
Notary Public

My Commission Expires: Feb 2003