

**STATE OF VERMONT
AGENCY OF NATURAL RESOURCES**

**ENVIRONMENTAL COURT
DOCKET NO.**

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

v.

**JUDGE COMPANIES, INC.
Respondent**

ADMINISTRATIVE ORDER

Having found that Judge Companies (Respondent) has committed violations 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:

VIOLATION

- I. 10 V.S.A. §6615(c): failure to promptly comply with Agency requests for investigation and corrective action.
- II Failure to comply with Conditions of Discharge Permit 3-1426.

STATEMENT OF FACTS AND DESCRIPTION OF VIOLATION

1. Judge Companies is a Vermont registered corporation with principal offices at 2 Market Street in South Burlington, Vermont.
2. Judge Companies owns property located at the intersection of Williston Road and Vermont Route 2A, known as the Taft Corner Shopping Center (site).
3. In 1984, the Town of Williston reported petroleum contamination at the site to the Waste Management Division (Division) of the Agency. The Division subsequently contacted

Respondent and directed Respondent to address the contamination at the site.

4. In 1994, the Agency reimbursed Respondent from the Petroleum Clean-up Fund (PCF) for environmental site assessment and remediation work which was initiated at the site.
5. In 1995, the Site Management Section (SMS) became aware that Respondent had entered into a settlement agreement with Hartford Insurance company relating to the contamination at the site. The Agency refused to continue to reimburse Respondent from the PCF pursuant to 10 V.S.A. §1941(b), which prohibits reimbursement for insured costs.
6. In July of 1995, the State of Vermont and Respondent settled the dispute over insurance costs and entered into an agreement regarding PCF reimbursement. The State agreed pay one third of the PCF costs not to exceed \$44,000.00 and Respondent agreed to implement a Corrective Action Plan (CAP).
7. On February 22, 2000, SMS sent a certified letter to Respondent directing Respondent to restart the remedial system at the site, and to conduct and submit quarterly monitoring pursuant to the approved CAP.
8. To date, Respondent has failed to consistently conduct and submit quarterly monitoring as directed by SMS and as set forth in the approved CAP. To date, Respondent has failed to restart the remedial system at the site as directed by SMS and as set forth in the approved CAP. Therefore, Respondent failed to promptly comply with Agency requests for an investigation and corrective action at the site, in violation of 10 V.S.A § 6615 (c).
9. Respondent has failed to consistently submit monthly monitoring reports as required by its Discharge Permit 3-1426. On March 19, 1998, SMS issued a Notice of Alleged

Violation (NOAV) to Respondent for failure to comply with monitoring and reporting requirements as set forth in Discharge Permit 3-1426.

ORDER

Pursuant to the provisions of this Administrative Order, Respondent is ordered to comply with the following directives:

- A. No later than thirty (30) consecutive calendar days following the date this Order becomes effective, Respondent shall pay a penalty of \$20,000.00. 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 05671-0410

The above penalty amount does not include the costs incurred by the Secretary for the enforcement of the above described violations or the amount of economic benefit gained by the Respondent from the Violation. 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 the above described violations and by the amount of economic benefit gained by the Respondent from the violations, each according to proof at the hearing.

- B. No later than thirty (30) consecutive calendar days following the date this Order becomes effective, Respondent shall:
1. design, implement, and execute all measures necessary to ensure compliance with the VUSTR §8-604 and VHWMR § 7-105 (2) in the operation of its facilities, and

2. submit a written report of the measures taken to ensure compliance. The written report shall be directed to:

Michael Smith
Hazardous Materials Management Section
Agency of Natural Resources
103 South Main Street
Waterbury, Vermont 05676

- C. No later than thirty (30) consecutive calendar days following the date this Order becomes effective, Respondent shall restart the remedial system at the site. Respondent shall abide by SMS site investigation and remediation deadlines pursuant to 10 V.S.A. §6615.
- D. Respondent shall conduct and submit quarterly monitoring pursuant to the approved CAP and comply with monitoring and reporting requirements as set forth in Discharge Permit 3-1426.

**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 8th day of November, 2000.

SECRETARY, VERMONT AGENCY OF NATURAL RESOURCES

By: Canute E. Dalmasse
Canute E. Dalmasse, Commissioner
Department of Environmental Conservation