

STATE OF VERMONT

ENVIRONMENTAL COURT
DOCKET NO.

SECRETARY, VERMONT AGENCY
OF NATURAL RESOURCES,
Plaintiff

v.

A.R. SANDRI, INC.,
J.W. SANDRI, INC.,
W.A. SANDRI, INC.
Respondent

ADMINISTRATIVE ORDER

Having found that A.R. Sandri, Inc., J.W. Sandri, Inc., and W.A. Sandri, Inc. (Respondents) have 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:

VIOLATIONS

1. VHWMR § 7-302(c): failure to prevent the release of hazardous material onto the land of the state.
2. VHWMR § 7-307(c)(2): failure of a small quantity generator to transport hazardous waste off site within 180 days.
3. VHWMR § 7-307(c)(9): failure of a small quantity generator to comply with emergency preparedness requirements.
4. VHWMR § 7-309(a)(1-4): failure of a small quantity generator to make emergency response arrangements with local authorities.
5. VHWMR § 7-311(a)(1,2,4): failure of a small quantity generator to:
 - (1) store hazardous waste on an impervious surface.
 - (2) place hazardous waste containers, stored outdoors, within a structure that sheds rain and snow.
 - (4) employ mechanical or physical means to prevent freezing and expansion of hazardous wastes stored out-of-doors.
6. VHWMR § 7-311(d)(1-2): failure of a small quantity generator to conduct daily inspections and to maintain an inventory log.
7. VHWMR § 7-311(b)(2)(e)(1-2): failure of a small quantity generator to post signs, visible from at least 25 feet, with the legends, "Danger-Hazardous Waste Storage Area-

Authorized Personnel Only” and “No Smoking.”

8. VHWMR § 7-311(f)(1): failure of a small quantity generator to properly mark hazardous waste containers with the generator’s name, address, EPA identification number, the waste codes, and the date when the container was first used to accumulate waste.
9. VHWMR § 7-311(f)(4)(B): failure of a small generator to store hazardous waste containers in a manner that prevents leaks.
10. Vermont Underground Storage Tank Regulation (VUSTR) §8-407(1)(a): failure to provide spill prevention.
11. VUSTR §8-504(1)(c): failure to monitor underground storage tank (UST) release detection systems and maintain release detection documentation.
12. VUSTR §8-504(2): failure to conduct tank release detection.
13. VUSTR §8-504(3): failure to conduct piping release detection.
14. VUSTR §8-603(1): failure to investigate a suspected release.
15. VUSTR §8-602(3): failure to report a suspected release.

STATEMENT OF FACTS AND DESCRIPTION OF VIOLATIONS

1. Respondents are Vermont registered corporations with principal offices at 400 Chapman Street in Greenfield, Massachusetts.
2. Respondent A.R. Sandri, Inc., owns and operates the following gasoline dispensing facilities in Vermont:
 - a. Middlebury Sunoco located at 49 Court Street in Middlebury, EPA ID No. VTR 000 003 509;
 - b. Pittsford Sunoco (formerly Logan’s Sunoco) located on Main Street in Pittsford, EPA ID No. VTR 000 003 772;
 - c. Tom’s Sunoco located on East Main Street in Wilmington, UST Facility ID No. 1101; and
 - d. Village Sunoco located on Westminster Street in Bellows Falls, UST Facility ID No. 1092.
3. Respondent J.W. Sandri, Inc., owns and operates J & M Sunoco located at 329 Washington Street in Barre, EPA ID No. VTR 000 003 673; and Sunoco Station located at 707 Putney Road in Brattleboro, EPA ID No. VTD 988 366 266.

4. Respondent W.A. Sandri, Inc., owns and operates Champlain Valley Sunoco located at 1143 Williston Road in South Burlington, EPA ID No. VTD 988 366 282; and Sports West Sunoco located at South Side, Route 4A in West Rutland, EPA ID No. VTD 988 366 258.
5. On December 31, 1999, Sherri Kasten of the Waste Management Division of the Agency (Division) conducted a partial evaluation inspection (inspection) at the J & M Sunoco and observed the following conditions:
 - a. One closed 55 gallon drum of gasoline tank bottoms (hazardous waste codes D001/D018) with a faded label was located on the bare ground in the open, unprotected from the weather, and covered in snow in violation of VHWMR §§ 7-311(a)(1,2,4) and 7-311(f)(4)(B).
 - b. The full drum referenced above was generated on October 5, 1998, (55 gallons) and was subsequently shipped off site on January 7, 2000. Respondent failed to transport hazardous waste off site within 180 days in violation of VHWMR § 7-307(c)(2).
 - c. There were no signs in the storage area containing the statements "Danger Hazardous Waste Storage Area - Authorized Personnel Only" and "No Smoking" in violation of VHWMR §7-311(b)(2)(e)(1,2).
 - d. Respondent, J.W. Sandri, Inc., was unable to provide any documentation that emergency preparedness requirements had been met with respect to J & M Sunoco, during the time that the small quantity generator hazardous waste was in storage on site, in violation of VHWMR §§ 7-307(c)(9), 7-309(a)(1-4).
 - e. Respondent, J.W. Sandri, Inc., failed to maintain an inventory log, to conduct daily inspections and to maintain inspection logs during the time that the 55 gallons of hazardous waste was in storage on site at J & M Sunoco in violation of VHWMR § 7-311(d)(1-2).
6. On December 21, 1998, a drum of hazardous waste (codes D001/D018) was generated at the Sunoco Station in Brattleboro (707 Putney Rd). The drum was subsequently shipped off site on October 22, 1999. Respondent, J.W. Sandri, Inc., failed to transport hazardous

waste off site within 180 days in violation of VHWMR § 7-307(c)(2).

7. On January 3, 2000, Ms. Kasten conducted an inspection at the Middlebury Sunoco and observed the following conditions:

- a. Two full and two empty drums located behind the shop on an unpaved surface in the open, unprotected from the weather in violation of VHWMR §§ 7-311(a)(1,2,4) and 7-311(f)(4)(B).
- b. Staining on the ground near one of the empty drums referenced above indicating leakage in violation of VHWMR §7-302(c).
- c. One of the full drums referenced above was identified as tank bottom/diesel with the hazardous waste codes (D001/D018). The other full drum was labeled but, the label was either blank or entirely faded, in violation of VHWMR § 7-311(f)(1).
- d. The two full drums were generated on October 10, 1998 (110 gallons) and were subsequently shipped off site on January 7, 2000, manifested as gas/water/tank bottoms (waste codes D001/D018). Respondent, A.R. Sandri, Inc., failed to transport hazardous waste off site within 180 days in violation of VHWMR § 7-307(c)(2).
- e. There were no signs in the storage area containing the statements "Danger Hazardous Waste Storage Area - Authorized Personnel Only" and "No Smoking" in violation of VHWMR §7-311(b)(2)(e)(1,2).
- f. Respondent, A.R. Sandri, Inc., was unable to provide any documentation that emergency preparedness requirements had been met with respect to Middlebury Sunoco, during the time that the small quantity generator hazardous waste was in storage on site, in violation of VHWMR §§ 7-307(c)(9), 7-309(a)(1-4).
- g. Respondent, A.R. Sandri, Inc., failed to maintain an inventory log, to conduct daily inspections and to maintain inspection logs during the time that the 110 gallons of hazardous waste was in storage on site at Middlebury Sunoco in violation of VHWMR § 7-311(d)(1-2).

8. On January 3, 2000, Ms. Kasten conducted an inspection at Pittsford Sunoco and observed the following conditions:

1. Two 55 gallon drums of gasoline tank bottoms (hazardous waste codes D001/D018) were located indoors and dated 9/14/98.

2. The two drums referenced above were generated on September 14, 1998, and were subsequently shipped off site on January 7, 2000 (100 gallons). Respondent failed to transport hazardous waste off site within 180 days in violation of VHWMR § 7-307(c)(2).
 3. There were no signs in the storage area containing the statements "Danger Hazardous Waste Storage Area - Authorized Personnel Only" and "No Smoking" in violation of VHWMR §7-311(b)(2)(e)(1,2).
 4. Respondent, A.R. Sandri, Inc., was unable to provide any documentation that emergency preparedness requirements had been met with respect to Pittsford Sunoco, during the time that the small quantity generator hazardous waste was in storage on site, in violation of VHWMR §§ 7-307(c)(9), 7-309(a)(1-4).
 5. Respondent, A.R. Sandri, Inc., failed to maintain an inventory log, to conduct daily inspections and to maintain inspection logs during the time that the 100 gallons of hazardous waste was in storage on site at Pittsford Sunoco in violation of VHWMR § 7-311(d)(1-2).
9. On November 28, 1998, Gerald Noyes of the Division conducted a site visit at the Champlain Valley Sunoco in South Burlington and observed the following conditions:
- a. Five 55 gallon drums labeled as gasoline tank bottoms that appeared to be full, sitting on plywood, in the open, unprotected from the weather in violation of VHWMR §§ 7-311(a)(1,2,4), 7-311(f)(4)(B).
 - b. Two additional drums were sitting in the trash enclosure with yellow hazardous waste labels that failed to contain a date or content description in violation of VHWMR § 7-311(f)(1).
 - c. On October 19, 1999, 3 drums (180 gallons) of gasoline/water (waste codes D001/D018) were shipped off site. On January 6, 2000, 7 drums (385 gallons) of gas/water/tank bottoms (hazardous waste codes D001/D018) were shipped off site. Respondent, W.A. Sandri, Inc., failed to transport hazardous waste off site within 180 days in violation of VHWMR § 7-307(c)(2).
 - d. There were no signs in the storage area containing the statements "Danger Hazardous Waste Storage Area - Authorized Personnel Only" and "No Smoking" in violation of VHWMR §7-311(b)(2)(e)(1,2)

- e. Respondent, W.A. Sandri, Inc., was unable to provide any documentation that emergency preparedness requirements had been met with respect to Champlain Valley Sunoco on Williston Road, during the time that the small quantity generator hazardous waste was in storage on site, in violation of VHWMR §§ 7-307(c)(9), 7-309(a)(1-4).
 - f. Respondent, W.A. Sandri, Inc., failed to maintain an inventory log, to conduct daily inspections and to maintain inspection logs during the time that the 110 gallons of hazardous waste was in storage on site Champlain Valley Sunoco in violation of VHWMR § 7-311(d)(1-2).
10. On October 26, 1999, the Sports West Sunoco in West Rutland generated a drum of gasoline tank bottoms. Gasoline tank bottoms are hazardous waste (codes D001/D018). The hazardous waste drum containing the tank bottoms was subsequently shipped off site on May 26, 2000. Respondent, W.A. Sandri, Inc., failed to transport hazardous waste off site within 180 days in violation of VHWMR § 7-307(c)(2).
11. Tom's Sunoco has three permitted USTs on site. On October 31, 1996, the Waste Management Division issued a UST facility permit to Respondent, A.R. Sandri, Inc., for Tom's Sunoco. The permit specifies that the primary method of release detection is electronic monitoring of the interstitial space of the double wall tanks and piping system. The secondary method of release detection consists of in tank monitoring systems. Each UST is equipped with a spill containment manhole (bucket) and float vent valve. The piping is double wall with containment sumps housing the submersible turbine pump (STP). Each STP has a mechanical line leak detector. Two USTs are manifolded together for increased storage capacity; one UST acts as the primary pumping unit while the second UST acts as a "slave" and feeds fuel to the primary UST.
12. On June 28, 2001, Andy Shively of the Division conducted a routine UST facility

inspection (inspection) at Tom's Sunoco. Mr. Shively observed the following conditions at the facility:

- a. The spill bucket of the "slave" UST was observed to have a crack in the bottom of bucket which would allow release of fuel product into the environment. Therefore, Respondent, A.R. Sandri, Inc., failed to provide spill protection in violation of VUSTR §8-407(1)(a).¹
- b. The operator of the system indicated that "System Status" printouts generated by the electronic monitoring system regarding release detection were collected on a daily basis. However, the printouts were not maintained. Respondent, A.R. Sandri, Inc., was not able to provide release detection documentation for March through June of 2001, in violation of VUSTR §504(1)(4).
- c. During the site inspection, it was discovered that the position of the electronic monitoring sensors in the three containment sumps was not in accordance to the manufacturers requirements. Two of the sensors were in alarm state. These deficiencies rendered the piping release detection method inadequate. Therefore, Respondent, A.R. Sandri, Inc., failed to properly conduct piping release detection in violation of VUSTR § 8-504(3)(a).
- d. The alarm state of two of the sensors located in the containment sumps constituted a suspected release. The owner of an UST is required to report any suspected releases to the Agency within 24 hours, unless the monitoring equipment is found to be defective, is repaired and replaced, and subsequent testing indicates that a release did not occur. At least one of the alarm states had been in existence at the facility for up to two (2) years. The facility operator indicated that there had been no audible alarm for some time and that he thought that the audible alarm had been disconnected by Respondent personnel. Therefore, Respondent, A.R. Sandri, Inc., failed to report a suspected or confirmed release in violation of VUSTR § 8-602(3).
- e. Pursuant to VUSTR § 8-603, the owner of an UST must investigate and confirm all suspected releases within 72 hours of reporting the release. Respondent, A.R. Sandri, Inc., failed to investigate the suspected release (or the cause of the alarm states) in violation of VUSTR § 8-603(1).

13. Village Sunoco has two permitted USTs on site. One UST is a split compartment tank

¹ Respondent, A.R. Sandri, Inc., replaced the defective spill bucket immediately upon notice.

with two separate storage vessels within one tank. On September 1, 1999, the Waste Management Division issued a UST facility permit to Respondent, A.R. Sandri, Inc., for Village Sunoco. The permit specifies that the primary method of release detection is electronic monitoring of the interstitial space of the double wall tanks and piping system. The secondary method of release detection consists of in tank monitoring systems. Each UST is equipped with a spill containment manhole (bucket) and float vent valve. The piping is double wall with containment sumps housing the STP. Each STP has a mechanical line leak detector. Two USTs are manifolded together for increased storage capacity; one UST acts as the primary pumping unit while the second UST acts as a "slave" and feeds fuel to the primary UST.

14. On June 28, 2001, Andy Shively of the Division conducted a routine UST inspection at Village Sunoco. Mr. Shively observed the following conditions at the facility:

- a. The operator of the system indicated that "System Status" printouts generated by the electronic monitoring system regarding release detection were collected on a daily basis. However, the printouts were not maintained. Respondent, A.R. Sandri, Inc., was not able to provide release detection documentation for March through June of 2001, in violation of VUSTR §504(1)(4).
- b. During the site inspection, it was discovered that the position of the electronic monitoring sensors in the three containment sumps was not in accordance to the manufacturers requirements. One of the sensors was in alarm state. The "slave" sump had measurable thickness of free phase gasoline. These deficiencies rendered the piping release detection method inadequate. Therefore, Respondent, A.R. Sandri, Inc., failed to properly conduct piping release detection in violation of VUSTR § 8-504(3)(a).
- c. During the site inspection, it was discovered that the monitoring sensor for one of the double wall tanks was in an alarm state. The facility manager indicated that there had been no audible alarm for some time and that she thought that the audible alarm had been disconnected by Respondent personnel. Respondent, A.R. Sandri, Inc., failed to appropriately respond to the alarm state of the double wall

tank monitoring sensor. The consequence of that failure is that Respondent, A.R. Sandri, Inc., was not monitoring and conducting adequate tank release detection in violation of VUSTR §8-504(1)(c) and VUSTR §8-504(2).

- d. The alarm states of the sensor located in the containment sump and the monitoring sensor for the double wall tank, constituted suspected releases. The owner of a UST is required to report any suspected releases to the Agency within 24 hours, unless the monitoring equipment is found to be defective, is repaired and replaced, and subsequent testing indicates that a release did not occur. Respondent, A.R. Sandri, Inc., failed to report a suspected or confirmed release in violation of VUSTR § 8-602(3).
- e. Pursuant to VUSTR § 8-603, the owner of a UST must investigate and confirm all suspected releases within 72 hours of reporting the release. Respondent, A.R. Sandri, Inc., failed to investigate the suspected release (or the cause of the alarm states) in violation of VUSTR § 8-603(1).

ORDER

Upon receipt of this Administrative Order, the Respondents shall:

- A. Pay a total penalty of \$65,000.00 within thirty (30) consecutive calendar days of the effective date 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 05681-0401

The above penalty amount does not necessarily include all the costs incurred by the Secretary for the enforcement of the above-described violations or the full amount of economic benefit gained by the Respondents from the violations. 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 Respondents from the violations, each according to proof at the hearing.

- B. No later than thirty (30) consecutive calendar days following the effective date of this Order, Respondents shall design, implement, and execute all necessary policies and measures in order to ensure compliance with the VHWMR in the operation of its business, including, but not limited to, VHWMR §§ 7-302, 7-307, 7-309, 7-311, and VUSTR §§8-504, 8-602 and 8-603.
- C. No later than forty-five (45) consecutive calendar days following the effective date of this Order, Respondents shall submit a report to the Division outlining the steps taken in Paragraph B above to ensure compliance with the applicable rules and regulations.
- D. No later than thirty (30) consecutive calendar days following the effective date of this Order, Respondent, A.R. Sandri, Inc., shall complete the following directives with respect to the electronic release detection monitoring systems installed at the Village Sunoco and Tom's Sunoco described in Paragraphs 12(b), 12(c), 12(d), 14(a), 14(b) and 14(c) of the Statement of Facts above;
- a. confirm operation of all the sensors and electronic monitoring systems installed at the facilities,
 - b. investigate the cause of the alarm states identified in the above Paragraphs of the Statement of Facts,
 - c. replace, repair, or reinstall a functioning sensor in accordance with manufacturer's recommendations, and
 - d. submit a detailed report regarding the results of the investigation and procedures employed to confirm sensor operation.

- E. No later than thirty (30) consecutive calendar days following the effective date of this Order, Respondent, A.R. Sandri, Inc., shall conduct an environmental assessment(s) to determine whether there was a release of hazardous waste or hazardous material at the Middlebury Sunoco as described in Paragraph 7(b) of the Statement of Facts above; in the area of the spill bucket of the "slave" UST at Tom's Sunoco described in Paragraph 12(a) of the Statement of Facts above); and in the area of the "slave" UST tank top containment sump at Village Sunoco described in Paragraph 14(b) of the Statement of Facts above). The environmental assessment(s) shall be conducted by a qualified third party consultant, experienced in UST system operation, closure of UST systems, and hazardous waste, hazardous material, and petroleum release investigations, in accordance with the applicable VHWMR (7-105(b)) and VUSTR (§8-604).
- F. No later than ten (10) consecutive calendar days following the effective date of this Order, Respondents shall hire an independent qualified environmental consultant to audit its Vermont facilities for compliance with the VUSTRs in the operation of its facilities, including, but not limited to; VUSTR §8-405 (secondary containment of all piping that routinely contains a regulated substance, including fittings, connectors and submersible pumps), VUSTR, §8-407, VUSTR §8-504, VUSTR §8-602 and VUSTR §8-603.
- G. No later than ninety (90) consecutive calendar days following the effective date of this Order, Respondents shall submit a report(s) prepared by its independent qualified consultant(s). The report shall include the following:
- a. The status of compliance of each facility with respect to: tank release detection, piping release detection, release detection monitoring and maintenance documentation, and secondary containment integrity.

- b. An evaluation of existing training of operators
 - c. Recommendations regarding compliance; including a schedule for repair, replacement or maintenance of equipment, and the development of policies and procedures designed to ensure compliance with the VUSTRs.
 - d. A description and schedule of additional training for operators.
- H. Respondents shall implement any additional compliance measures directed by the Division.

**RESPONDENT'S RIGHT TO A HEARING
BEFORE THE ENVIRONMENTAL COURT**

The Respondents have 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 Respondents receive this Administrative Order. The Respondents 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 Respondents file 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 Respondents shall stay the provisions (including any penalty provisions) of this

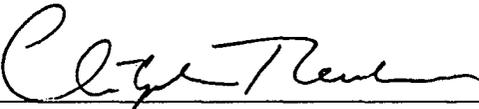
Administrative Order pending a hearing by the Environmental Court. If the Respondent does not make a timely filing of a Notice of Request for Hearing, this Administrative Order shall become a final Administrative Order.

COMPLIANCE WITH THIS ADMINISTRATIVE ORDER

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

Dated at Waterbury, Vermont this 28th day of November, 2001.

SECRETARY, VERMONT AGENCY OF NATURAL RESOURCES

By: 
Christopher Recchia, Commissioner
Department of Environmental Conservation

STATE OF VERMONT

ENVIRONMENTAL COURT
Docket No. _____

SECRETARY, VERMONT
AGENCY OF NATURAL RESOURCES
Plaintiff

v.

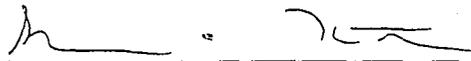
A.R. SANDRI, INC.,
J.W. SANDRI, INC.,
W.A. SANDRI, INC.
Respondents

Affidavit of Sherri Kasten

I, Sherri Kasten, being duly sworn do attest:

1. I am of legal age and a resident of Vermont.
2. I am employed as an Environmental Analyst III with the Waste Management Division of the Agency of Natural Resources.
3. Based upon personal observations and conversations with witnesses, the violations described in Paragraphs 1 through 10 of the Statement of Facts and Description of Violations of Administrative Order occurred on or about the dates set forth therein.

Dated at Waterbury, Vermont this 26TH day of NOVEMBER 2001.



Sherri Kasten - Affiant

Subscribed and sworn before me on the 26 day of November 2001.



Notary Public

My Commission Expires: February 2003

STATE OF VERMONT

ENVIRONMENTAL COURT
Docket No. _____

SECRETARY, VERMONT
AGENCY OF NATURAL RESOURCES
Plaintiff

v.

A.R. SANDRI, INC.,
J.W. SANDRI, INC.,
W.A. SANDRI, INC.
Respondents

Affidavit of Andrew Shively

I, Andrew Shively, being duly sworn do attest:

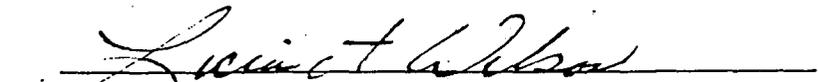
1. I am of legal age and a resident of Vermont.
2. I am employed as an Environmental Analyst II with the Waste Management Division of the Agency of Natural Resources.
3. Based upon personal observations and conversations with witnesses, the violations described in Paragraphs 11 through 14 of the Statement of Facts and Description of Violations of Administrative Order occurred on or about the dates set forth therein.

Dated at Waterbury, Vermont this 26th day of November 2001.



Andrew Shively - Affiant

Subscribed and sworn before me on the 26 day of November 2001.


Notary Public

My Commission Expires: February 2003