

STATE OF VERMONT
AGENCY OF NATURAL RESOURCES

ENVIRONMENTAL COURT
Docket No. _____

SECRETARY, VERMONT
AGENCY OF NATURAL RESOURCES
Plaintiff

v.

SHADY PINES, INC.,
Respondent

ADMINISTRATIVE ORDER

Having found that Shady Pines, Inc. (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:

VIOLATIONS

- I. Vermont Water Supply Rule (VWSR) Chapter 21, Subchapter 21-16: Failure to recommend or install optimal corrosion control treatment for lead or copper within 24 months after the State designated or approved treatment.
- II. VWSR Chapter 21 §16: failure to submit a source protection plan.

STATEMENT OF FACTS AND DESCRIPTION OF VIOLATIONS

1. Shady Pines, Inc. owns and operates the Shady Pines Mobile Home Park located in Westminster, Vermont. The Mobile Home Park is served by a water supply system (System).
2. The System regularly provides water to twenty-five or more year round residents at the Shady Pines Mobile Home Park through fifteen (15) or more service connections. The Water Supply Division at the Agency has identified the System as WSID #5309.

3. A system which serves at least fifteen (15) service connections, or regularly serves at least twenty-five (25) individuals daily at least sixty (60) days out of the year, is a public water system pursuant to 10 V.S.A. §1671(5).
4. On February 4, 1994 and April 17, 1995, the Water Supply Division forwarded a letter to the Respondent stating that the latest monitoring results indicated that the Maximum Contamination Level for copper had been exceeded. The letters directed the Respondent to recommend optimal corrosion control treatment.
5. On February 9, 1999, the Water Supply Division issued a Public Water System Temporary Permit to Operate (TOP) to the Respondent. Section IV of the TOP set forth the following conditions:
 - a. Special Condition 3A, of the Permit required the Respondent to recommend optimal corrosion control treatment no later than March 15, 1999.
 - b. Special Condition 3C required Respondent to install corrosion control treatment facilities by July 31, 1999.
 - c. Special Condition 3B required the Respondent to submit a Source Protection Plan to the Division for review and approval no later than July 31, 1999.
6. On October 1, 1999, the Water Supply Division issued a Notice of Alleged Violation (NOAV) to the Respondent for failure to install corrosion control treatment. The NOAV directed the Respondent to contact Water Supply personnel within five (5) days. Respondent received the NOAV on October 6, 1999.
7. To date, Respondent has failed both to recommend and to install corrosion control for

copper in violation of VWSR Chapter 21, Subchapter 21-16.

8. To date, Respondent has failed to submit a Source Protection Plan for the System in violation of VWSR Chapter 21, §16.

ORDER

- A. Respondent shall pay a penalty of \$16,750.00 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 05671-0410

The above penalty amount does not include the costs incurred by the Secretary for the enforcement of the above described violations or all of the amount of economic benefit gained by the Respondent 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 the above described violations 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 ten (10) days from the effective date of this Order, Respondent shall hire a Vermont registered engineer to prepare a corrosion control treatment proposal.
- C. No later than sixty (60) days from the effective date of this Order, Respondent shall submit a corrosion control treatment proposal to the Water Supply Division of the Agency.

- D. Within sixty (60) days of receiving approval from the Secretary, Respondent shall install the approved corrosion control treatment system for the water supply system. The installation shall be supervised by a Vermont registered engineer. An extension may be granted at the discretion of the Secretary to address any difficult construction issues or in the event of inclement weather.
- E. Respondent shall conduct all water quality testing in accordance with VWSR Chapter 21, Subchapter 21-6.
- F. No later than sixty (60) days from the effective date of this Order, Respondent shall submit to the Water Supply Division a source protection plan which delineates a source protection area for the System, in accordance with VWSR Chapter 21, §16.

RESPONDENTS RIGHT TO A HEARING BEFORE THE ENVIRONMENTAL COURT

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 Respondent receives the Administrative Order. The Respondent must file, within the time limit, a Notice of Request For Hearing with both the Secretary and Environmental Court at the following addresses:

Secretary, Agency of Natural Resources
c/o Environmental Enforcement Division
103 South Main Street, 2 South
Waterbury, VT 05601-0401

Clerk, Environmental Court
255 N. Main Street
1st Floor
Barre, VT 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 a 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 13th day of March 2001.

SECRETARY, AGENCY OF NATURAL RESOURCES

BY: _____

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

AFFIDAVIT OF JEAN NICOLAI

I, Jean Nicolai, being first duly sworn, hereby state that:

1. All statements contained herein are made upon my personal knowledge, information and belief, and to the extent that such statements are made upon knowledge or belief, I believe them to be true.
2. I am of legal age and a resident of the State of Vermont.
3. I am the Compliance and Certification Chief for the Water Supply Division of the State of Vermont Agency of Natural Resources Department of Environmental Conservation. My duties require me to be familiar with the operation of the Shady Pines, Inc. Water System.
3. Based on my personal knowledge of the site and a review of the file, the violations described in the Administrative Order's Statements of Facts, occurred on or about the dates set forth therein.

Dated at Waterbury, Vermont, this 9 day of March 2001.

By: Jean M. Nicolai
Jean Nicolai

STATE OF VERMONT
COUNTY OF Washington, ss.

At Waterbury, Vermont, this 9th day of March 2001, Jean Nicolai personally appeared and swore to the truth of the foregoing. Before me,

Carlynn B. Buchanan
Notary Public

Term expires:

2-10-03