

STATE OF VERMONT

SECRETARY, VERMONT AGENCY
OF NATURAL RESOURCES,
Plaintiff

ENVIRONMENTAL COURT
DOCKET NO.

v.

MOUNTAIN VALLEY MARKETING, INC.
Respondent

ADMINISTRATIVE ORDER

Having found that Mountain Valley Marketing, 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

1. Air Pollution Control Regulations (APCR) § 5-253.7(c)(1): Failure to install Stage II vapor recovery system. Transfer of gasoline to motor vehicles after December 31, 2000, without first installing and properly using a Stage II vapor recovery system.
2. APCR § 5-253.7(e)(1)(iii): Failure to test Stage II vapor recovery system.

STATEMENT OF FACTS AND DESCRIPTION OF VIOLATIONS

1. Respondent is a Vermont registered corporation with principal offices located at 32 San Remo Drive in South Burlington, Vermont.
2. Respondent owns and operates Champlain Farms Exxon, UST ID# 1478, located in Waitsfield, Vermont.
3. The annual gasoline throughput of Champlain Farms Exxon (UST ID# 1478) in Waitsfield, has exceeded 400,000 gallons since 1994. Facilities with an annual gasoline

throughput of 400,000 gallons per year or greater were required to be in compliance with APCR §5-253.7 (*Stage II Vapor Recovery Controls at Gasoline Dispensing Facilities*) by December 31, 2000. Specifically, Stage II vapor recovery controls were required to be installed and tested for compliance by December 31, 2000.

4. On March 7, 2001, Dave Shepard, an Environmental Analyst in the Agency's Air Pollution Control Division (APCD) conducted a compliance inspection at the Champlain Farms Exxon (UST ID# 1478) facility in Waitsfield. Mr. Shepard determined that Stage II vapor recovery controls were not installed or tested at the facility in violation of APCR §5-253.7(c)(1).
5. On March 21, 2001, the APCD issued a Notice of Alleged Violation directed to the President of Respondent corporation, stating that Stage II vapor recovery controls had not been installed or tested at the Champlain Farms Exxon (UST ID# 1478) facility in Waitsfield.
6. Respondent completed the installation of Stage II vapor recovery controls at the Champlain Farms Exxon (UST ID# 1478) facility on or about July 13, 2001. The required Stage II compliance tests were performed and subsequently passed at this facility on or about August 6, 2001.
7. Respondent is in violation of APCR §5-253.7 in that Respondent transferred gasoline to motor vehicles at the Champlain Farms Exxon (UST ID# 1478) facility after December 31, 2000, without first installing Stage II controls and passing functional tests of said controls at said station.

ORDER

Upon receipt of this Administrative Order, the Respondent shall:

- A. Pay a total penalty of \$27,500.00 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 violation(s) or the full 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.

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

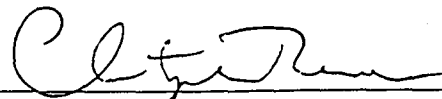
This Administrative Order shall become effective on the date it is received by the Respondent unless the Respondent files a Notice of Request for Hearing within fifteen (15) days of receipt as provided for in the previous section hereof. The timely filing of a Notice of Request for Hearing by the Respondent 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 24th day of January, 2002.

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.

MOUNTAIN VALLEY MARKETING, INC.,
Respondent

Affidavit of David Shepard

I, David Shepard, being duly sworn do attest:

1. I am of legal age and a resident of Vermont.
2. I am employed as an Environmental Analyst with the Air Pollution Control Division of the Agency of Natural Resources.
3. Based upon personal observations, review of Agency files, and conversations with witnesses, the violations described in Administrative Order occurred on or about the dates set forth therein.

Dated at Waterbury, Vermont this 18th day of January 2002.

Dave Shepard
Dave Shepard Affiant

Subscribed and sworn before me on the 18 day of January 2002.

Kevin H. Wilson
Notary Public

My Commission Expires:

January 2003