

STATE OF VERMONT

ENVIRONMENTAL COURT
DOCKET NO.

SECRETARY, VERMONT
AGENCY OF NATURAL RESOURCES,
Plaintiff

v.

ROGERS CORPORATION,
Respondent

ADMINISTRATIVE ORDER

Having found that Rogers Corporation (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. Vermont Hazardous Waste Regulations (VHWMR) §7-303: Failure to determine if waste is hazardous.
2. VHWMR §7-306(c)(1)(C)(ii): Failure to close hazardous waste container.
3. VHWMR §7-306(c)(1)(C)(iii): Failure to adequately mark hazardous waste container.
4. VHWMR §7-306(c)(2): Failure to properly dispose of hazardous waste.
5. Paragraph B of 1996 Assurance of Discontinuance (AOD): Failure to close dug well.
6. Paragraphs C and D of 1996 AOD: Failure to sample monitoring wells and submit monitoring reports within the time lines specified by Court Order.
7. 10 V.S.A. §6615(b): failure to promptly comply with Agency requests for investigation, removal and remedial action.

STATEMENT OF FACTS AND DESCRIPTION OF VIOLATIONS

1. Respondent owns and operates a metal working facility located at 2738 Route 30 in Dorset, Vermont – EPA ID N^o VT5 000 000 687. Activities conducted on-site include grinding and finishing steel and brass metal parts.

2. Respondent generates waste including spent trichloroethylene (TCE) and solvent distillation wastes. These wastes are identified as hazardous in Section 7-210 of the VHWMR (waste code F001).
3. As a generator and handler of hazardous wastes, Respondent must comply with all State and Federal hazardous waste regulations.
4. Respondent entered into an Assurance of Discontinuance with the Agency of Natural Resources, entered as an order in the Environmental Court on May 6, 1996, as a result of an August 18, 1994, inspection by the Waste Management Division.
5. On January 8, 2002, Sherri Kasten, of the Vermont Waste Management Division, and Environmental Enforcement Officer Don Gallus, conducted a partial hazardous waste inspection of Respondent's facility.
6. The inspection revealed the following violations:
 - a. Respondent uses trichloroethylene (TCE) to degrease metal parts. Spent TCE is brought to another building on the same property to be treated in a solvent distillation unit, with solvent still bottoms (hazardous waste code F001), and is disposed of in regular trash. The failure to determine whether spent TCE is hazardous waste is a violation of VHWMR §7-303. The disposal of spent TCE in regular trash is a violation of §7-306(c)(2).
 - b. A 55-gallon drum used to collect spent TCE solvent (waste code F001) had an open bung hole, which is a violation of VHWMR §7-306(c)(1)(C)(ii) for failure to properly close hazardous waste containers. The drum was also marked with a faded label that read "clean solvent" which did not accurately identify the drum as containing hazardous waste in violation of §7-306(c)(1)(C)(iii). After Ms. Kasten pointed out the violation, Mr. Rumney wrote the words "Jan 02 Hazardous Waste Dirty Solvent" on the label.
 - c. The dug well at the residence across Route 30 from Rogers Corporation had not been closed, in violation of Paragraph B of the 1996 Assurance of Discontinuance (AOD) and Vermont Water Supply Rules (VWSR), Chapter 21, Appendix A, Part 12.

- d. Respondent failed to submit monitoring reports of monitoring wells in violation of Paragraphs C and D of the 1996 AOD. Paragraph C states, "Respondent shall sample the existing monitoring wells and any additional wells required by the Agency on a quarterly basis. Sampling or other corrective action shall continue under Agency oversight until the TCA contamination has been remediated to below Vermont Groundwater Enforcement Standards for four consecutive sampling rounds. Should site conditions change and contamination concentrations increase or additional sensitive receptors are found to be impacted, active remediation may be required to be performed by the Respondent or Respondent's consultant." Paragraph D states, "The Respondent, either directly or through its consultant, shall submit to the Agency all investigative reports and all analytical results related to Paragraph C, above, as they become available."
7. Respondent was issued a Notice of Alleged Violation (NOAV) on February 1, 2002, for the violations listed above.
8. Respondent hired a consultant to conduct sampling and a monitoring report dated May 17, 2002, was submitted to the Agency for review. The contaminant levels in the onsite monitoring wells were below the Vermont Groundwater Enforcement Standards and Respondent was not required to continue to monitor the wells at the site. Respondent was, however, required to close the unused dug well at the property and the monitoring wells in accordance with VWSR, Chapter 21, Section 12.3.5. To date, Respondent has not closed the wells in violation of 10 V.S.A. §6615(b).

ORDER

Upon receipt of this Administrative Order, the Respondent shall:

- A. Pay a total penalty of \$10,000.00 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 may 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 total costs incurred by the Secretary for the enforcement of this matter and by the total amount of economic benefit gained by the Respondent from the violation(s), each according to proof at the hearing.

- B. No later than (30) thirty days following the effective date of this Order, Respondent shall permanently seal the dug well located across the street from the Rogers Corporation at the Rumney residence in accordance with the requirements of Paragraph B of the May 1996 AOD and VWSR Chapter 21, Appendix A, Part 12.
- C. No later than (30) thirty days following the effective date of this Order, Respondent shall permanently seal the monitoring wells at the site in accordance with the requirements of VWSR Chapter 21, Appendix A, Part 12.
- D. No later than (60) sixty days following the effective date of this Order, Respondent shall submit a certification by a qualified consultant certifying that the wells have been properly closed in accordance with Paragraphs B and C above.

- E. Respondent shall design, implement, and execute all necessary measures in order to ensure compliance with all applicable portions of the Vermont Hazardous Waste Management Regulations (VHWMR) in the operation of its business.
- F. Respondent shall cease disposal of hazardous waste into the regular trash. Respondent may only dispose of hazardous waste in accordance with the requirements the applicable regulations 4, including VHWMR §7-306.
- G. No later than (30) thirty days following the effective date of this Order, Respondent shall inform the Waste Management Division of the status of the 55-gallon drum containing 1,1,1-TCA which Respondent had been using at the time of the 1994 inspection.
- H. Respondent shall inform the Waste Management Division how any waste from the distillation unit other than still bottoms is being managed.

**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

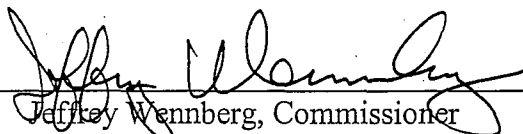
This Administrative Order shall become effective on the date it is received by the Respondent unless the Respondent files a Notice of Request for Hearing within fifteen (15) days of receipt as provided for in the previous section hereof. The timely filing of a Notice of Request for Hearing by the Respondent 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 10th day of July, 2003.

SECRETARY, VERMONT AGENCY OF NATURAL RESOURCES

By: 
Jeffrey Wennberg, Commissioner
Department of Environmental Conservation

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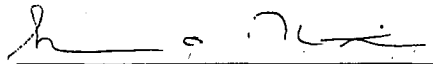
ROGERS CORPORATION,
Respondent

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 employed as an Environmental Analyst III with the Waste Management Division of the Agency of Natural Resources.
3. Based upon personal observations, Agency files, and conversations with witnesses, the violations described in the Administrative Order, paragraphs 1 through 7, occurred on or about the dates set forth therein.

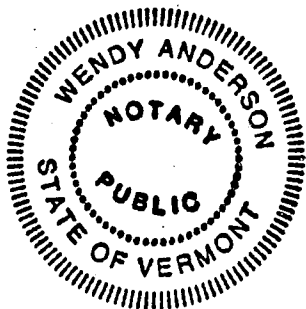
Dated at Waterbury, Vermont this 26th day of June, 2003.



Sherri Kasten - Affiant

STATE OF VERMONT
COUNTY OF Washington, ss.

At Waterbury, Vermont, this 26th day of June, 2003, Sherri Kasten personally appeared and swore to the truth of the foregoing. Before me,



Notary Public

My Commission Expires: 2/10/07

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Affidavit of Lynda Provencher

I, Lynda Provencher, being duly sworn do attest:

1. I am of legal age and a resident of Vermont.
2. I am employed as an Assistant Hazardous Materials Specialist for the Sites Management Section of the Waste Management Division of the Agency of Natural Resources.
3. Based upon personal observations the violations described in the Statement of Facts section, paragraph number 8, of the above Administrative Order occurred on or about the dates set forth therein.

Dated at Waterbury, Vermont this 26 day of June 2003.

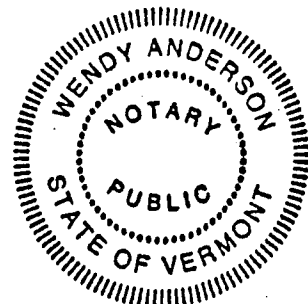
Lynda Provencher

Lynda Provencher - Affiant

Subscribed and sworn before me on the 26 day of June 2003.

Wendy Anderson

Notary Public



My Commission Expires: 2/10/07

