

**STATE OF VERMONT  
AGENCY OF NATURAL RESOURCES**

**ENVIRONMENTAL COURT  
DOCKET NO.**

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

**v.**

**ABG CORPORATION,  
Respondent**

**ADMINISTRATIVE ORDER**

Having found that ABG Corporation (Respondent) has committed a violation 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. 10 V.S.A §1926(a): failure to remove underground storage tanks which have not been used for more than one year;
2. Vermont Underground Storage Tank Regulation ("VUSTR") §8-605(2): failure to permanently close underground storage tanks which have not been used for more than one year.

**STATEMENT OF FACTS**

1. Upon information and belief Respondent owns property in Plainfield, Vermont, formerly known as the Goddard College Northwood Campus ("the property"). Respondent operates the Northwood Apartments on the property.
2. The property contains two 10,000 gallon underground storage tanks ("USTs") that have been out of use since they were registered by the former owner of the property, Goddard College, in 1986.
3. Respondent received a letter from the Waste Management Division ("WMD") dated April 4, 2000, notifying Respondent that it was responsible

for the proper closure of the USTs, and requesting Respondent to voluntarily remove the USTs. The WMD provided Respondent with a list of contractors who perform tank removals, as well as a copy of the WMD's guidance document for tank removals, *UST Closure and Site Assessment Requirements*. Respondent failed to comply.

4. On April 8, 2003, Respondent received a letter by certified mail from the WMD dated April 3, 2003. The WMD again requested that Respondent voluntarily comply with the requirement to remove the USTs by May 1, 2003. Respondent failed to comply.
5. On May 9, 2005, Respondent received a letter by certified mail from the WMD dated May 6, 2005. The WMD requested that Respondent voluntarily comply with the requirement to remove the USTs and conduct an environmental site assessment within 45 days. A list of contractors who perform tank removals was faxed to Respondent on May 19, 2005.
6. To date Respondent has failed to comply with the requirement to permanently close the USTs, in violation of 10 V.S.A §1926(a) and VUSTR §8-605(2).

#### **ORDER**

Upon receipt of this Administrative Order, the Respondent shall:

- A. Pay a penalty of \$5,250.00 within thirty (30) consecutive calendar days of receipt 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 05671-0401

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 fifteen (15) days from the effective date of this Order, Respondent shall retain a contractor to perform a site assessment to measure for the presence of a release where contamination is most likely to be discovered on the property, and to either: 1) remove the USTs; or 2) permanently close the USTs in place after receiving approval from the WMD.
- C. No later than forty-five (45) days from the effective date of this Order, Respondent shall complete the site assessment described in paragraph B and either: 1) remove the USTs; or 2) permanently close the USTs in place after receiving approval from the WMD.
- D. No later than sixty (60) days from the effective date of this Order, Respondent shall submit a written report to the WMD, prepared by the contractor, documenting removal/closure of the USTs and the results of the site assessment.
- E. In the event a release is confirmed upon completion of the site assessment, Respondent shall take all necessary corrective action measures pursuant to VUSTR §8-604.
- F. Respondent shall promptly and fully respond, within the timelines specified, to any subsequent review comments, directives or requests for information from the WMD.

#### **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  
2418 Airport Road  
Barre, Vermont 05641

**EFFECTIVE DATE OF THIS ADMINISTRATIVE ORDER**

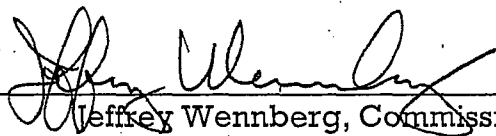
This Administrative Order shall become effective on the date it is received by the Respondent unless the Respondent files a Notice of Request for Hearing within fifteen (15) days of receipt as provided for in the previous section hereof. The timely filing of a Notice of Request for Hearing by the Respondent 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 2<sup>nd</sup> day of November, 2005.

SECRETARY, VERMONT AGENCY OF NATURAL RESOURCES

By:   
Jeffrey Wennberg, Commissioner  
Department of Environmental Conservation

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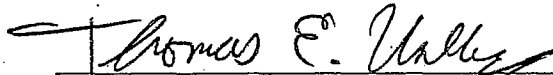
ABG CORPORATION,  
Respondent

Affidavit of Thomas E. Unkles

I, Thomas E. Unkles, being duly sworn do attest:

1. I am of legal age and a resident of Vermont.
2. I am employed as the UST Program Coordinator for the Waste Management Division in the Department of Environmental Conservation, of the Agency of Natural Resources.
3. Based upon personal review of the file maintained by the UST Program, and conversations with the Respondents, the violations described in the Administrative Order occurred on or about the dates set forth therein.

Dated at Waterbury, Vermont this 24 day of October 2005.



Thomas E. Unkles- Affiant

Subscribed and sworn before me on ~~the~~ October 24, ~~day of~~ 2005.

Notary Public



My Commission Expires:

2-10-07