

**STATE OF VERMONT
SUPERIOR COURT
ENVIRONMENTAL DIVISION**

Agency of Natural Resources,
Petitioner,

v.

Slimain Handy's Convenience
Stores, Inc,
Respondent.

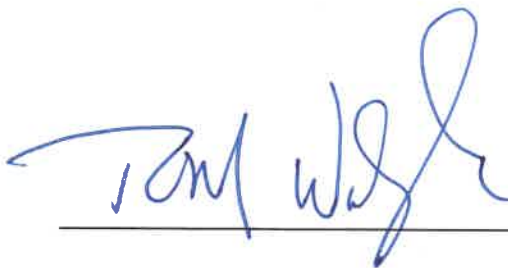
)
)
)
)
)
)
)

Docket # 67-6-19 Vtec

ORDER

The Assurance of Discontinuance signed by the Respondent on April 24th, 2019, and filed with the Superior Court, Environmental Division, on June 6th, 2019, is hereby entered as an order of this Court, pursuant to 10 V.S.A. 8007(c).

Dated this 7th day of June 2019.



Thomas G. Walsh, Judge
Vermont Superior Court
Environmental Division

STATE OF VERMONT

SUPERIOR COURT

ENVIRONMENTAL DIVISION.

Docket No.

SECRETARY, VERMONT
AGENCY OF NATURAL RESOURCES,
Plaintiff

v.

SLIMAIN HANDY'S CONVENIENCE
STORES, INC.,
Respondent

VIOLATIONS

1. Vermont Underground Storage Tank Regulation (VUSTR) § 8-502(c); § 8-505(a); § 8-505(h); § 8-506(a); § 8-506(c)(2)(B): Failure to conduct in-tank monitoring
2. VUSTR § 8-502(c); § 8-505(a); § 8-505(h); § 8-507(a): Failure to monitor piping sumps

ASSURANCE OF DISCONTINUANCE

Pursuant to the provisions of 10 V.S.A. § 8007, the Secretary (Secretary) of the Agency of Natural Resources (Agency) and Slimain Handy's Convenience Stores, Inc. (Respondent) hereby enter into this Assurance of Discontinuance (Assurance), and stipulate and agree as follows:

STATEMENT OF FACTS AND DESCRIPTION OF VIOLATIONS

1. Respondent is an incorporated business with its principal office located at 75 South Winooski Avenue, Burlington, Vermont.
2. Respondent is the owner of the Simon's Store located at 974 Shelburne Road, South Burlington, Vermont, and is the owner and permittee of Category I underground storage tanks (UST) located at 974 Shelburne Road, South Burlington, Vermont, UST ID #161 (the facility).
3. On August 8, 2017, an inspector from the Agency's UST Program (inspector) conducted a site visit at the facility.
4. At the time, Respondent's USTs had a capacity of 8,000 gallons and all three USTs contained gasoline.
5. During the visit, the inspector requested leak detection documentation for the facility's USTs

and reviewed documentation for dates from January 2017 to July 2017. The inspector learned that Respondent's in-tank leak tests were consistently showing invalid or failing results and that Respondent had not consistently maintained a weekly record of release detection monitoring activities in the form of in-tank leak tests. In addition, the inspector learned that Respondent had not been maintaining records of weekly leak detection for the piping sumps.

6. The Agency issued a Notice of Alleged Violation (NOAV) on August 9, 2017 requesting
 - a. Respondent immediately consult a qualified UST contractor to investigate and resolve the problem of invalid or failing in-tank leak tests;
 - b. Respondent immediately begin performing and documenting weekly monitoring of the tanks' piping systems;
 - c. Respondent send a brief report to the Agency by September 27, 2017 of the steps taken to address the above requested actions and provide a copy of the last six weeks of in-tank leak detection and piping sump monitoring results.
7. Respondent submitted leak detection documentation to the Agency on October 13, 2017 and verified that a qualified UST contractor had determined the cause of the invalid and failing reports and enabled Respondent to resolve the issue. The October 13, 2017 report also included documentation of leak detection monitoring results for the USTs from August 22, 2017 to September 25, 2017.
8. Respondent admits the factual findings described above, solely for purposes of resolving this case.
9. The Agency alleges that Respondent's failure to conduct release detection for the USTs for a time period between January 2017 and July 2017 constitutes a violation of VUSTR § 8-502(c); § 8-505(a); § 8-505(h); § 8-506(a); and § 8-506(c)(2)(B).
10. The Agency alleges that Respondent's failure to monitor underground piping connected to the USTs for a time period prior to August 2017, constitutes a violation of VUSTR § 8-502(c); § 8-505(a); § 8-505(h); and § 8-507(a).

AGREEMENT

- A. For the violations described above, Respondent shall pay a total penalty of \$6,750.00. Payment shall be by check made payable to the "Treasurer, State of Vermont" and forwarded to:

Administrative Assistant
Environmental Compliance Division
Agency of Natural Resources
1 National Life Drive, Davis 2
Montpelier, VT 05620-3803

Payment shall be received no later than thirty consecutive calendar days following the date this Assurance is entered as an Order by signature of the Environmental Court (effective date).

- B. Without formally admitting or denying wrongdoing or liability, Respondent agrees to this settlement of the violations alleged above in order to resolve all outstanding disputes.
- C. Respondent agrees that the violations alleged are deemed proved and established as a "prior violation" in any future state proceeding that requires consideration of Respondent's past record of compliance, such as permit review proceedings and calculating civil penalties under 10 V.S.A. §8010.
- D. The State of Vermont and the Agency reserve continuing jurisdiction to ensure future compliance with all statutes, rules, and regulations applicable to the facts and violations set forth hereinabove.
- E. Nothing in this Assurance shall be construed as having relieved, modified, or in any manner affected the Respondent's on-going obligation to comply with all other federal, state or local statutes, regulations or directives applicable to the Respondent in the operation of their businesses.

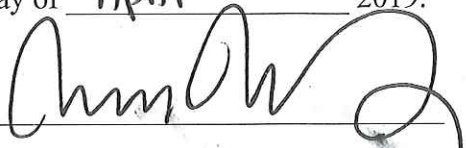
- F. This Assurance shall become effective only after it is signed by all parties and entered as an order of the Environmental Court. When so entered by the Environmental Court, this Assurance shall become a judicial order. In the event that such order is vacated, the Assurance shall be null and void.
- G. The Respondent shall not be liable for additional civil or criminal penalties with respect to the specific facts described herein occurring before the effective date of the Assurance, provided that the Respondent fully complies with the agreements set forth above.
- H. This Assurance sets forth the complete agreement of the parties, and it may be altered, amended, or otherwise modified only by subsequent written agreements signed by the parties hereto or their legal representatives and incorporated in an order issued by the Environmental Court. Alleged representations not set forth in this Assurance, whether written or oral, shall not be binding upon any party hereto, and such alleged representations shall be of no legal force or effect.
- I. Any violation of any agreement set forth herein will be deemed to be a violation of a judicial order and may result in the imposition of injunctive relief and/or penalties, including penalties set forth in 10 V.S.A. Chapters 201 and/or 211.
- J. This Assurance is subject to the provisions of 10 V.S.A. §§ 8007 and 8020.

[Remainder of Page Intentionally Left Blank]

SIGNATURES

The provisions set forth in this Assurance of Discontinuance are hereby agreed to and accepted. Further, I Joseph Handy, the undersigned, hereby state under oath that I am the President of Slimain Handy's Convenience Stores, Inc., and an authorized representative of Slimain Handy's Convenience Stores, Inc., and that I have the power to contract on behalf of that entity, and that I have been duly authorized to enter into the foregoing Assurance of Discontinuance on behalf of that entity.

Dated at Burlington, Vermont, this 24 day of April 2019.

By: 

Joseph Handy, President
Slimain Handy's Convenience Stores, Inc.

STATE OF VERMONT

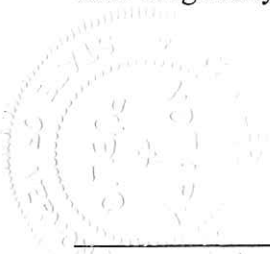
COUNTY OF Chittenden, ss.

At Burlington, Vermont, this 24, day of April 2019, the above signatory personally appeared and swore to the truth of the foregoing. Before me,



Notary Public

Term expires: 2/10/2023



The provisions set forth in this Assurance of Discontinuance are hereby agreed to and accepted.

Dated in Montpelier, Vermont, this 3, day of May 2019.

SECRETARY, AGENCY OF NATURAL RESOURCES

By: 

Emily Boedecker, Commissioner
Department of Environmental Conservation