

# State of Vermont

Department of Fish and Wildlife  
Department of Forests, Parks and Recreation  
Department of Environmental Conservation  
State Geologist  
Natural Resources Conservation Council



AGENCY OF NATURAL RESOURCES  
103 SOUTH MAIN STREET  
Waterbury, Vermont 05676

Department of Environmental Conservation

## MEMORANDUM

TO: John A. Malter, Director, Hazardous Materials Management Division

THRU: Cedric Sanborn, Chief, ERMS  
John F. Anadon, Soils Scientist, Hazardous Materials Management Division

FROM: John Brabant, Hazardous Materials Management Division *ADB*

DATE: July 12, 1988

I am writing this memo to you in response to the decision to send a 1932 Order to Sherman V. Allen, Incorporated only and not to Texaco, Incorporated and Walker Motors, Incorporated, the other two PRPs.

It has been my understanding and the common practice defined in the LUST Trust Program Enforcement Plan that 1283 orders (now 1932 orders), are to be sent to all parties we deem as "potentially responsible." Based on information I obtained from Mr. Wade Walker himself, Walker Motors, Incorporated was deemed without a doubt, a potentially responsible party. I wish to underline the fact that we are neither accusing nor exonerating Walker Motors, Incorporated of the charges in this order, but are indicating to them that they are potentially at fault, either wholly or partially. The Walker Motors tank history described in the following paragraphs was given by Mr. Wade Walker of Walker Motors, Incorporated.

Between 1953 and June 1978, all fuel was purchased from the then tank owners, Texaco, Incorporated. Beginning July 1, 1978, the tanks ownership and fueling responsibility was transferred to Aungst, Incorporated. It was during this July that "1 (one) load" was purchased by Walker Motors, Incorporated (hereinafter referred to as "Walker").

Subsequent to this, in August, 1978, Walker decided to purchase their fuel from Agway. Fuel purchases were made from Agway on a scheduled basis until a final fueling on August 1979. No additional fuel was purchased until November 1979 when Walker began to purchase fuel from Foti Fuels, Incorporated of Montpelier. Walker bought fuel from Foti until July, 1981 when, according to Mr. Wade Walker, all fueling was terminated. The tanks were pumped to the bottom of the intake lines and left inactive until the May, 1988 removal.

I would like to point out that by their own decision Walker Motors, Incorporated began fueling tanks owned by Aungst, Incorporated and later Sherman V. Allen, Incorporated with fuel bought from Agway and Foti Fuels. The last fueling was with gasoline purchased from Foti Fuels, not Sherman V. Allen. Therefore, it is very likely that the fuel that leaked was not Sherman V. Allen fuel but Foti fuel. Sherman V. Allen never fueled these tanks, as corroborated by both Mr. Wade Walker and Sherman V. Allen. Furthermore, Sherman V. Allen would have had no indication that their tanks were active beyond the Aungst fueling of July, 1978.

I believe that this very deliberate action by Walker Motors to purchase fuels to fill Sherman V. Allen tanks from Agway and Foti fuels directs the burden of responsibility, if not fully, at least partially, to Walker. Evidence indicates that the leaked gasoline was bought from Foti Fuels and not from Sherman V. Allen. In addition, this fueling procedure may exonerate Sherman V. Allen from environmental responsibility.

I hope the preceding information clarifies my argument that Walker Motors, more so than either Texaco or Sherman V. Allen, is a potentially responsible party. Please note that the potentially incriminating evidence mentioned above was never included in any correspondence to us from Mr. Ponsetto. If you have any questions, please contact me.

# State of Vermont



Department of Fish and Wildlife  
Department of Forests, Parks and Recreation  
Department of Environmental Conservation  
State Geologist  
Natural Resources Conservation Council

AGENCY OF NATURAL RESOURCES  
103 SOUTH MAIN STREET  
Waterbury, Vermont 05676

Department of Environmental Conservation

June 22, 1988

CERTIFIED MAIL

Texaco Oil Corporation  
Comptrollers Department  
P.O. Box 4582  
Atlanta, Georgia 30302

Re: Petroleum Contamination at Walker Motors, Inc.;  
Montpelier, Vermont

Dear Sir:

On May 25, 1988, Department of Environmental Conservation (DEC) personnel responded to a request by Lee's Oil, a tank removal contractor, to be present during the underground storage tank pulling operations at Walker Motors, Inc. on Route 2 in Montpelier. Greg Leech and John Brabant from the DEC oversaw the removal of two (2) 1000 gallon gasoline tanks and documented gasoline vapors emanating from the excavation. Soil removed from the bottoms of both excavations displayed a grey, greasy appearance and yielded a strong petroleum (gasoline) odor.

To minimize the health and explosive hazard, all contaminated soils were returned to the excavation and the area was closed up after the tank removals.

The Secretary of the Agency of Natural Resources has concluded that the migration of this waste gasoline (which is classified as hazardous waste) may present an imminent and substantial danger to the environment. He has concluded that it is necessary to take appropriate interim actions to minimize the immediate impact of such releases to the public health and environment. 10 V.S.A., Section 1283 provides, however, that before expending state funds to do the mitigation referred to above, the Agency may provide parties who are potentially responsible for the threat to the environment with an opportunity to voluntarily perform the necessary actions under the direction of the Department of Environmental Conservation.

The State hereby gives notice that it believes Texaco Oil Corporation is a responsible party under 10 V.S.A. Section 1283. The Secretary has concluded that the following actions are necessary to mitigate the situation:

1. Retain a qualified consultant approved by the state to:

- A. determine the extent and degree of soils and groundwater contamination in the former tank area, and
- B. if deemed necessary by the DEC following the initial investigation, develop a long range plan to remediate any significant environmental contamination at the site.

Please advise this office, in writing, within ten (10) days of receipt of this notice as to whether you intend to complete the work described above voluntarily. If you agree to complete the work described above, you are requested to initiate these actions within ten (10) days of receipt of this letter. If you decline to do so, the Secretary may expend state funds to have the work done. If he does so, he will move, pursuant to 10 V.S.A., Section 1283, to have Texaco Oil Corporation reimburse the State of Vermont for the costs of mitigation described above.

If you agree to perform the work described above, you are requested to initiate these actions within ten (10) days of receipt of this letter. Failure to initiate these actions by this date will result in the expenditure of State funds to have this work done.

Sincerely,

Patrick A. Parenteau  
Commissioner  
Department of Environmental Conservation

# State of Vermont

Department of Fish and Wildlife  
Department of Forests, Parks and Recreation  
Department of Environmental Conservation  
State Geologist  
Natural Resources Conservation Council



AGENCY OF NATURAL RESOURCES  
103 SOUTH MAIN STREET  
Waterbury, Vermont 05676

Department of Environmental Conservation

June 22, 1988

CERTIFIED MAIL

Mr. Donald Walker  
Walker Motors, Inc.  
265 River Street  
Montpelier, Vermont 05602

Re: Petroleum Contamination at Walker Motors, Inc.;  
Montpelier, Vermont

Dear Sir:

On May 25, 1988, Department of Environmental Conservation (DEC) personnel responded to a request by Lee's Oil, a tank removal contractor, to be present during the underground storage tank pulling operations at Walker Motors, Inc. on Route 2 in Montpelier. Greg Leech and John Brabant from the DEC oversaw the removal of two (2) 1000 gallon gasoline tanks and documented gasoline vapors emanating from the excavation. Soil removed from the bottoms of both excavations displayed a grey, greasy appearance and yielded a strong petroleum (gasoline) odor.

To minimize the health and explosive hazard, all contaminated soils were returned to the excavation and the area was closed up after the tank removals.

The Secretary of the Agency of Natural Resources has concluded that the migration of this waste gasoline (which is classified as hazardous waste) may present an imminent and substantial danger to the environment. He has concluded that it is necessary to take appropriate interim actions to minimize the immediate impact of such releases to the public health and environment. 10 V.S.A., Section 1283 provides, however, that before expending state funds to do the mitigation referred to above, the Agency may provide parties who are potentially responsible for the threat to the environment with an opportunity to voluntarily perform the necessary actions under the direction of the Department of Environmental Conservation.

The State hereby gives notice that it believes Walker Motors, Inc. is a responsible party under 10 V.S.A. Section 1283. The Secretary has concluded that the following actions are necessary to mitigate the situation:

1. Retain a qualified consultant approved by the state to:
  - A. determine the extent and degree of soils and groundwater contamination in the former tank area, and
  - B. if deemed necessary by the DEC following the initial investigation, develop a long range plan to remediate any significant environmental contamination at the site.

Please advise this office, in writing, within ten (10) days of receipt of this notice as to whether you intend to complete the work described above voluntarily. If you agree to complete the work described above, you are requested to initiate these actions within ten (10) days of receipt of this letter. If you decline to do so, the Secretary may expend state funds to have the work done. If he does so, he will move, pursuant to 10 V.S.A., Section 1283, to have Walker Motors, Inc. reimburse the State of Vermont for the costs of mitigation described above.

If you agree to perform the work described above, you are requested to initiate these actions within ten (10) days of receipt of this letter. Failure to initiate these actions by this date will result in the expenditure of State funds to have this work done.

Sincerely,

Patrick A. Parenteau  
Commissioner  
Department of Environmental Conservation

NOTE TO THE FILE:

DOE TO FORCES BEYOND MY CONTROL,  
THESE 2 PRP 1982/1283 LETTERS  
~~WERE~~ WERE NEVER SENT OUT WITH ONLY  
ONE BEING SENT TO SHERMAN V. ALLEN.  
THE MEMORANDUM WAS ALSO DISREGARDED  
BY MR. MALTER

ADB