



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Environmental Management  
OIL POLLUTION/UNDERGROUND STORAGE TANK PROGRAM  
301 Promenade Street  
Providence, R.I. 02908 - 5787

277-2234

CERTIFIED MAIL

September 11, 1992

DFSP (Defense Logistics Agency)  
c/o Lt. Col. Judith ANNA  
Building 24-04  
McGuire Air Force Base  
New Jersey 08641-5000 (Operator)

Dear Lt. Col. Anna:

Enclosed is a Notice of Violation and Order directed to NETC and DFSP in connection with the underground storage tanks located on property at Melville Defense Fuel Support Point, Portsmouth, Rhode Island. Please direct all correspondence and inquiries concerning the Order to:

David Sheldon  
Division of Underground Tanks/Oil Pollution Control  
Department of Environmental Management  
291 Promenade Street  
Providence, RI 02908  
Telephone: (401) 277-2234

If you would like to request a formal hearing as indicated in the Order you should make that request to the Administrative Adjudication Division as indicated in the notice.

This Order shall also be recorded with Land Evidence Records of the local city or town as required by law.

Very truly yours,

Bruce T. Catterall, P.E.  
Supervising Engineer  
Oil Pollution/Underground Storage Tanks

BTC:km  
Enclosure

cc: James Fester, P.E., Associate Director, Air Solid and Hazardous Waste Management  
Brian Wagner, Legal Counsel, DEM  
Town of Portsmouth  
Administrative Adjudication Division, DEM  
File LS#2704

OPTIONAL FORM 99 (7-90)		# of pages ▶ 6
<b>FAX TRANSMITTAL</b>		
To	From	
Francis Calgera	Rachel Marina	
Dept. Agency	Phone #	
No Div	AV 948-2735	
Fax #		Fax #
AV 443-0555		4594
<small>U.S. POSTAL SERVICE 5099 10'</small>		<small>GENERAL SERVICES ADMINISTRATION</small>

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

LEAKING UNDERGROUND STORAGE TANK PROGRAM

In Re: NETC (US Navy)  
Commander  
61 Cappadano Drive  
Newport, RI 02841 (Owner)

File No: LS2704

DFSP (Defense Logistics Agency)  
c/o Lt. Col. John Anna  
Building 24-04  
McGuire Air Force Base  
New Jersey 08641-5000 (Operator)

NOTICE OF VIOLATION AND ORDER

A. INTRODUCTION

Pursuant to Rhode Island General Laws 1956 (1988 Reenactment) ch. 42-17.6 and 42-17.1-2 and 46-12-9, as amended, you are hereby notified that the Director of the Department of Environmental Management (the "Director") has reasonable grounds to believe that the above-named respondent(s) has/have violated certain provisions of the Water Pollution Act, R.I. Gen. Laws ch. 46-12, as amended; the Oil Pollution Control Rules and Regulations (1990), as amended (the "Oil Regulations"); and/or the Regulations for Underground Storage Facilities Used for Petroleum Products and Hazardous Materials (1007), as amended (the "UST Regulations"), as indicated below.

B. FINDINGS OF FACT

1. The Defense Logistics Agency of the U.S. Department of Defense is the operator of a fuel tank farm owned by the U.S. Navy, Naval Education and Training Center. The site is managed by Management Engineering Associates located at the Defense Fuel Support Point in Melville, Town of Portsmouth, Rhode Island (the facility).
2. One or more underground storage tanks are located at the facility, which underground tanks are used for the storage of petroleum products located at the facility. DEM records indicate that the tanks are registered to Defense Logistics Agency, Defense Fuel Supply Center, McGuire Air Force Base, New Jersey, and identified as Facility ID # 00095.
3. An environmental site assessment performed by Clean Harbors Environmental Engineering Corp., on behalf of the Defense Logistics Agency, was submitted to the Department subsequent to report completion, August 1989.
4. The assessment report indicates that elevated levels of petroleum products are present in the groundwater in the vicinity of buildings S41, C35, 226(266), and in sewer lines located in the vicinity of these buildings.
5. On 9 March 1992, Management Engineering Associates reported a loss of petroleum product, JP-4, from Tank 17 located in Tank Farm 1 easterly of contamination zone identified in Part 4 of this ORDER.

6. On 11 August 1992, Clean Harbors Inc., a contractor performing work at the facility reported free phase petroleum was entering a sewer lift station located on the facility.
7. Currently investigatory and remedial work is being performed under emergency contract through Defense Logistics Agency by Groundwater Technology Inc. in the vicinity of previously identified contamination areas at the facility.
8. On 8 September 1992, an additional suspected leaking tank was identified as Tank 70 in Tank Farm #3 at the facility.

C. VIOLATION

Based on the foregoing findings of fact, the Director has reasonable grounds to believe that you have violated the following statutes and/or regulations:

- (1) RIGL Section 46-12-5(a) and (b) which read as follows:

**46-12-5 Prohibitions**

- (a) It shall be unlawful for any person to place any pollutant in a location where it is likely to enter waters or to place or cause to be placed any solid waste materials, junk, debris of any kind whatsoever, organic or non-organic in any waters.
- (b) It shall be unlawful for any person to discharge any pollutant into the water except as in compliance with the provisions of this Chapter and any rules and regulations promulgated hereunder and pursuant to the terms and conditions of a permit.

- (2) Section 6 of the Oil Regulations:

**Prohibited Activities**

- (a) No person shall place oil or pollutants into the waters of the state or in a location where they are likely to enter the waters of the State except in compliance with the terms and conditions of a permit or order of approval issued by the Director.

D. ORDER & ASSESSMENT OF PENALTY

Pursuant to RI Gen. Laws 42-17.1-2(1) you are hereby ORDERED to:

- (1) Within ten (10) days of receipt of the Order, submit to this office documentation that the Defense Logistic Agency has retained the services of a qualified environmental consultant to conduct a detailed field investigation and prepare a plan for the remediation and removal of all petroleum products from the waters of the State which may exist at the facility.
- (2) Within thirty (30) days of receipt of this Order, submit to this office a DETAILED time schedule prepared by the environmental consultant for completion of the following tasks:
  - a. Installation of additional monitor wells to further delineate the full extent of oil contamination both on and off site of the subject property;

petroleum release -  
HM release  
8/25/06  
POB

- b. Proposed sampling schedule and chemical parameter sampling methodology for new and existing monitor wells;
  - c. Completion of all groundwater aquifer testing required to develop a groundwater treatment system;
  - d. Submittal of a FINAL Corrective Action Plan that details and specifies a groundwater treatment system capable of removal of dissolved phase petroleum products from waters of the State;
  - e. Schedule for installation and implementation of the proposed groundwater treatment system; and
  - f. Such other documentation, data or information as the Director may require.
- (3) Notify the DEM, Oil Pollution/Underground Tank Section, at least 48 hours prior to commencing any excavation, well installation, or replacement or repair of any facility component so that a DEM representative may be present at the site.
- (4) Provide for a permanent facility to store petroleum removed from the sewer lift station and provide documentation that the facility is approved by the appropriate regulatory agency.
- (5) Submit within fifteen (15) days a detailed proposal for investigation of release of petroleum product at Tank 17 and 70 located in Tank Farm 1 and 3, respectively, at the facility. Proposal shall include a sufficient number of monitor wells to identify the extent of groundwater contamination present surrounding the tank.
- (6) Immediately precision test using best available technology the currently out of service Tank 17 and 70 and submit results of testing directly to the Department.
- (7) Monthly status reports of all remedial and investigatory work shall be submitted to DEM directly by the Defense Logistics Agency.

This notice does not constitute a notice of intent to assess an administrative penalty, pursuant to R.I. Gen. Laws ch. 42-17.6, provided, however, that the Director does not by this notice waive any right to later assess administrative penalties based on the acts or omissions herein described. Such administrative penalties may be up to Twenty-Five Thousand Dollars (\$25,000) for each day during which the violation occurs, see R.I. Gen. Laws 42-17.6-7, 46-12-13, and 46-12-14.

**E. RIGHT TO ADMINISTRATIVE HEARING**

Pursuant to R.I. Gen. Laws 42-17.1-2(u), 42-17.6-4 and ch.42-35, each named respondent is entitled to request a hearing before the Director or his/her designee. Any request for hearing must:

- (1) Be in writing pursuant to R.I. Gen. Laws 42-17.1-2(u)(1);
- (2) Be received by the Department of Environmental Management, Administrative Adjudication Division within ten (10) days of receipt of this Notice of Violation pursuant to R.I. Gen. Laws 42-17.1-2(u)(1) and 42-17.1-2(w)(3)(b);

- (3) Indicate whether the alleged violations are denied and/or whether the administrative penalty is believed to be excessive pursuant to R.I. Gen. Laws 42-17.6-4;
- (4) State clearly and concisely the specific issues which are in dispute, the facts in support thereof and the relief, license or permit sought or involved, if any, pursuant to Rule 7.00(b) of the Administrative Rules of Practice and Procedure for the Administrative Adjudication Division of Environmental Matters (1990).
- (5) All written requests for hearing must be forwarded to:

Chief Hearing Officer  
 DEM - Administrative Adjudication Division  
 One Capitol Hill, Third Floor  
 Providence, RI 02908

All named respondents have the right to be represented by legal counsel at all administrative proceedings relating to this matter.

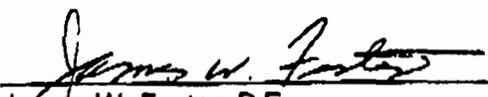
If any respondent fails to request a hearing in the above-described time or manner, this Notice of Violation shall automatically become a Compliance Order as to that respondent enforceable in Superior Court; similarly, any proposed administrative penalty shall also be final as to that respondent. See R.I. Gen. Laws 42-17.1-2(u) and 42-17.6-4. Failure to comply with this Notice of Violation may subject respondents to (additional) civil and/or criminal penalties of up to Twenty-Five Thousand Dollars (\$25,000) per day. See R.I. Gen. Laws 42-17.6-7, 46-12-13, and 46-12-14.

An original signed copy of this Notice of Violation is being recorded in the City/Town Office of Land Evidence Records where the facility is located pursuant to R.I. Gen. Laws ch. 34-13, and Section 42-17.1-2(ee), as amended.

This Notice of Violation does not preclude the Director from taking additional enforcement action nor does it preclude any other local, state, or federal governmental entity from initiating enforcement action based on the acts or omissions described herein.

If you have any questions, please contact David R. Sheldon at (401) 277-2234.

FOR THE DIRECTOR:

  
 \_\_\_\_\_  
 James W. Foster, P.E.  
 Associate Director for Regulation  
 Oil Pollution/Underground Storage Tank Program

Date: 11 Sept 92

cc: City/Town Land Evidence Records  
 DEM - Administrative Adjudication Division

CERTIFICATION

I hereby certify that I mailed this Notice of Violation and Order, return receipt request to

\_\_\_\_\_ with a copy to DEM Legal

Services by Inter-office mailed this day of \_\_\_\_\_, 1992.

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