

STATE OF VERMONT  
ENVIRONMENTAL COURT

FILED

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VERMONT  
ENVIRONMENTAL COURT

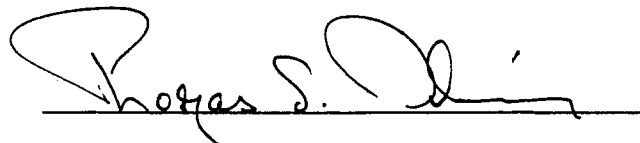
Agency of Natural Resources, )  
Petitioner, )  
v. )  
Guy E. Nido, Inc., )  
Respondent. )

Docket # 2-1-07 Vtec

ORDER

The Assurance of Discontinuance signed by the Respondent on December 6, 2006, and filed with the Environmental Court on January 5, 2007, is hereby entered as an order of this Court, pursuant to 10 V.S.A. 8007 (c).

Dated this 10th day of January 2007.



Thoms S. Durkin,  
Environmental Judge

STATE OF VERMONT  
AGENCY OF NATURAL RESOURCES

ENVIRONMENTAL COURT  
Docket No.

SECRETARY, VERMONT  
AGENCY OF NATURAL RESOURCES  
Plaintiff

v.

GUY E. NIDO, INC.,  
Respondent

**VIOLATIONS:**

1. 10 V.S.A. §1927(d): Delivering a regulated substance to an un-permitted underground storage tank (UST).

**ASSURANCE OF DISCONTINUANCE**

Pursuant to the provisions of 10 V.S.A. Section 8007, the Secretary (Secretary) of the Agency of Natural Resources (Agency) and Guy E. Nido, 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 a duly-registered Vermont corporation, with its principal place of business in Wilmington, Vermont.
2. Respondent operates a fuel oil delivery service.
3. Investigation by Environmental Enforcement Officer Tim McNamara ("EEO McNamara") revealed that for a number of years after December 22, 1998, Respondent delivered diesel fuel to an unpermitted category one underground storage tank (UST) located at 241 Pike Hollow Road in Stratton, Vermont. The UST was approximately 20 to 30 years old and was not designated by the Agency as having satisfied construction standards necessary to prevent

releases of hazardous materials to the environment, typically demonstrated by the presence of a green sticker.

4. During the course of the investigation, EEO McNamara observed the presence of diesel fuel on the ground in the vicinity of the UST dispenser. Soil contamination was subsequently confirmed, excavated, and properly disposed.
5. Delivering a regulated substance, such as diesel fuel, to a category one UST that is not visibly designated as meeting the construction standards necessary to prevent releases of hazardous materials to the environment is a violation of 10 V.S.A. §1927(d).

### AGREEMENT

Based on the foregoing Statement of Facts and Description of Violations, the parties agree as follows:

- A. For the violations described above, Respondent shall pay a penalty of \$3,500.00. Payment shall be by check made payable to the "Treasurer, State of Vermont" and forwarded to:

Ms. Becky Buchanan, Administrative Assistant  
Environmental Enforcement Division  
Agency of Natural Resources  
103 South Main Street/Old Cannery  
Waterbury, VT 05671-4910

Payment shall be received no later than thirty (30) consecutive calendar days following the date this Assurance is entered as an Order by signature of the Environmental Court.

- B. Respondent shall comply with 10 V.S.A. §1927(d) and the Underground Storage Tank Regulations, as well as all other applicable environmental laws and regulations, in the operation of its business.

- C. 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.
- D. 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 business.
- E. 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.
- F. 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.
- G. 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.
- H. 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.

I. This Assurance is subject to the provisions of 10 V.S.A. Section 8007.

**SIGNATURES**

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

Dated at Wilmington, Vermont, this 6<sup>th</sup> day of December 2006.

Guy E. Nido, Inc.

By: Guy E. Nido Jr  
Guy Nido, Jr., President

STATE OF VERMONT  
COUNTY OF Windham, ss.

At Wilmington, Vermont, this 6<sup>th</sup> day of December 2006,  
Guy Nido, Jr. personally appeared and swore to the truth of the foregoing. Before me,

Ann O'Brien  
Notary Public

Term expires: 2-10-07

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

Dated in Waterbury, Vermont, this 2nd day of January ~~2006~~ <sup>2007</sup>

SECRETARY, AGENCY OF NATURAL RESOURCES

By: Jeffrey Wennberg  
Jeffrey Wennberg, Commissioner  
Department of Environmental Conservation