The State of New Hampshire

Department of Environmental Services

Michael P. Nolin
Commissioner

December 17, 2004

Michael K. Butler
ExxonMobil Fuels Marketing
3225 Gallows Road
Fairfax, VA 22037

NOTICE OF PERMIT REVOCATION - PR # 04-034

RE: SOMERSWORTH, MOBIL 11483, EXISTING UNDERGROUND STORAGE TANK FACILITY (UST # A-0113815) (DES # 200011050)

Dear Mr. Butler:

On October 3, 2003 representatives of the New Hampshire Department of Environmental Services, Waste Management Division ("DES") visited the above-referenced petroleum underground storage tank ("UST") facility and conducted an inspection to determine the facility's operational compliance with the requirements of NH Admin. Rules Part Env-Wm 1401 Underground Storage Facilities. A written description of the deficiencies noted during the inspection was provided and you were given 45 days to correct the deficiencies and notify DES, in writing, that the facility is in compliance.

On February 11, 2004, due to failure on your part to correct the noted deficiencies and submit the required notification, DES issued a **Notice of Non-Compliance Permit Revocation (NCPR # 04-016)** ("the Notice") to you. The Notice required that you attain compliance by May 11, 2004 or forfeit your Permit-to-Operate the subject UST facility. The Notice also provides you with an opportunity to appeal the permit revocation to the Waste Management Council.

As of this date, DES has not received notification that the facility has been returned to a compliance status nor has the Waste Management Council received a request to appeal the Notice. **Therefore, we regretfully must inform you that as of May 11, 2004 your Permit-to-Operate the subject UST facility has been revoked. No product may be delivered to the facility, nor shall any product be sold or used from this facility. Further, all product must be removed from the USTs at this facility within 30 days of the receipt of this letter.**

In addition, NH Administrative Rules Part Env-Wm 1401.10(a) requires owners of underground storage facilities for oil to maintain financial responsibility for costs associated with cleanup of releases from systems, the implementation of corrective measures, and compensation for third party damages in the amount equal to or greater that $1,000,000 per occurrence. Env-Wm 1401.10(c) provides that the financial responsibility requirement may be satisfied if the owner is eligible for reimbursement of costs associated with cleanup of releases from the Oil Discharge and Disposal Cleanup Fund ("the Fund"). Eligibility for the Fund is contingent upon achieving and maintaining compliance with statutory (RSA 146-C) and regulatory (Env-Wm 1401) requirements. Because this facility no longer has a valid Permit-to-Operate, due to non-

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compliance with the regulatory requirements, the Fund is no longer available to you for any releases that are discovered after June 4, 2004.

Once the facility has been returned to compliance, you may petition the Oil Fund Disbursement Board for reinstatement to the Fund as your financial responsibility mechanism. If denied, it will be necessary to obtain an alternate financial responsibility mechanism (for example, a private insurance policy) in the amount of $1,000,000 before DES can reissue a Permit-to-Operate for this facility.

Failure to comply with the requirements noted above will result in administrative fines and/or civil penalties, and referral to the New Hampshire Department of Justice for injunctive relief.

If there are any questions concerning the above, please contact Lynn A. Woodard, P.E. at the Waste Management Division at (603) 271-1165 or at lwoodard@des.state.nh.us.

Sincerely,

COPY

Anthony P. Giunta, P.G.
Director
Waste Management Division

CERTIFIED MAIL # 7099 3400 0002 9773 8617

CC: Michael P. Nolin, Commissioner
Gretchen R. Hamel, Legal Unit Administrator
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Health Officer, Town of Somersworth