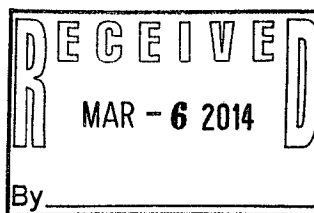




State of Vermont
Department of Environmental Conservation
Waste Management & Prevention Division
1 National Life Drive – Davis 1
Montpelier, VT 05620-3704
(802) 828-1138

AGENCY OF NATURAL RESOURCES



March 4, 2015

Mr. Paul Gillies
Tarrant, Gillies & Richardson
44 East State Street
P.O. Box 1440
Montpelier, VT 05601-1440

RE: Access to Public Records Request for 150 Shelburne Street, Burlington

Dear Mr. Gillies:

On February 26, 2015, the Agency of Natural Resources (Agency) received your request for public records, which was submitted on behalf of your client, Ms. Margaret Murray. Your request sought copies of all Agency records relating to Ms. Murray's house, located at 150 Shelburne Street, Burlington. On March 4, 2015, you clarified that your request sought all records available since Ms. Murray's last records request of 2011. The Agency is now producing records that are relevant to your request.

The Agency has determined that two of the records requested are records which "if made public...would cause the custodian to violate any statutory or common law privilege" and therefore are exempt from public inspection and copying under 10 V.S.A. § 317(c)(4). These include records subject to the attorney client privilege and/or work product immunity. The records which the Agency is withholding from inspection and copying include records from the following divisions and departments of the Agency:

- Department of Environmental Conservation Waste Management & Prevention files;
- Department of Environmental Conservation (DEC) General Counsel files; and
- Agency General Counsel files.

You have a right to appeal this decision to withhold documents from public inspection and copying. You may appeal to Deborah Markowitz, Secretary, Vermont of Agency of Natural Resources, 1 National Life Drive, Davis 2, Montpelier, VT 05602-3901.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jordan Gonda".

Jordan Gonda, Esq., Associate General Counsel
Department of Environmental Conservation



From: [Coppolino, Patricia](#)
To: [Desmond, Ashley](#)
Subject: FW: 150 Shelburne Brownfield Meeting Canceled
Date: Wednesday, November 05, 2014 12:06:26 PM
Attachments: [image002.png](#)

I guess you know what you need to do now.....

Trish Coppolino, Brownfields Program Manager
p. 802.249.5822

1 National Life Drive - Davis 1
Montpelier, VT 05620-3704

<http://www.anr.state.vt.us/dec/wastediv/SMS/brownfields-home.htm>

From: Tom Harrington [mailto:tomharrington@burlingtonrenovations.com]
Sent: Wednesday, November 05, 2014 12:02 PM
To: Coppolino, Patricia; Desmond, Ashley; Miles E. Waite, Phd, PG
Cc: ninaruth@me.com
Subject: 150 Shelburne Brownfield Meeting Canceled

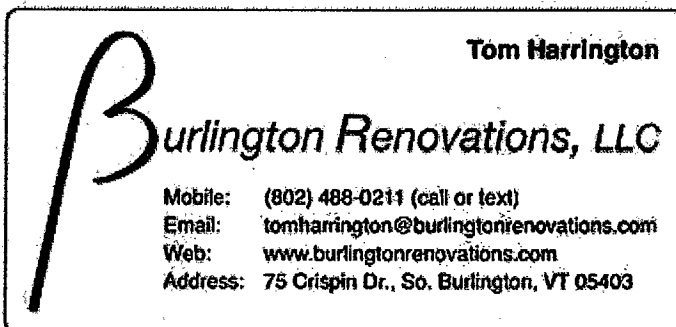
Hi Trish, Ash, Miles,

Unfortunately, the Burlington City Attorney just received a redemption payment for 150 Shelburne Street which means the current owner will keep the property. This timing is coincidental and the redemption is unexpected. Your assistance in helping us understand the site issues and how to proceed with a Brownfield has been very much appreciated. The redevelopment would have been a win/win and great opportunity to create additional housing in Burlington...

Again, thank you for everything.

Regards,

Tom



From: [Tom Harrington](#)
To: [Desmond, Ashley](#)
Cc: [Coppolino, Patricia](#)
Subject: SMS Site 94-1631, 150 Shelburne Street - Brownfield Public Notice
Date: Wednesday, November 05, 2014 10:09:33 AM
Attachments: [image002.png](#)
[Brownfield Public Notice Final 110514.doc](#)

Hi Ashley,

Attached is a copy of the public notice I plan to run in tomorrow's Burlington Free Press for the Brownfield Redevelopment at 150 Shelburne Street in Burlington. You are listed as the Case Manager and I want to be sure you review and approve before publication.

I will send you and Trish a scanned copy of the Brownfield application and mail the original to Trish after I have my signature notarized. Waite-Heindel Environmental Management is on track to complete a Phase I ESA by November 12th (I take ownership on November 13th).

Trish mentioned that we may arrange a meeting or phone call sometime on Monday. Please let me know what works best for you. Would it make sense to invite the person in Burlington that oversees local Brownfield redevelopment (can't recall his name but my wife, Nina, is going to try to meet with him today) as well as Miles Waite of Waite-Heindel?

Regards,

Tom



From: [Tom Harrington](#)
To: [Desmond, Ashley](#)
Cc: ["Miles E. Waite, Phd, PG"; Coppolino, Patricia](#)
Subject: RE: Site 941631 - Follow Up
Date: Tuesday, October 21, 2014 9:31:48 AM
Attachments: [image004.png](#)
[image002.png](#)

Ash,

Thank you for taking the time to gather and post the files. Very helpful! I'll keep you informed about our progress..

Regards,

Tom



From: Desmond, Ashley [<mailto:Ashley.Desmond@state.vt.us>]
Sent: Monday, October 20, 2014 12:18 PM
To: 'tomharrington@burlingtonrenovations.com'
Cc: Miles E. Waite, Phd, PG; Coppolino, Patricia
Subject: RE: Site 941631 - Follow Up

Good Afternoon, Tom-

I am going to upload the files for the site to our FTP site, which includes subsurface investigation reports and subsequent monitoring reports. The files will be in my folder (Ash Desmond) in the subfolder titled '150 Shelburne Rd'. I think it would be good if Miles can have a look at the recent reports and then determine if any additional info is needed from us. We have identified an area of contamination on the western side of the property near Route 7/Shelburne Rd, and some additional work is needed to determine the limit of the contamination on the western boundary of the site.

Here is the link to the FTP site:

<ftp://ftp.anr.state.vt.us/>

Username: wmd

Password: Flu\$h3d

Let me know if you have any trouble with the FTP site.

Best,
Ash

Ashley Desmond, Environmental Analyst
Hazardous Sites Management Section/Spill Team
WASTE MANAGEMENT & PREVENTION DIVISION
VT DEPT. OF ENVIRONMENTAL CONSERVATION
MONTPELIER, VERMONT
PHONE #: 802.249.5307

From: Tom Harrington [<mailto:tomharrington@burlingtonrenovations.com>]
Sent: Thursday, October 16, 2014 12:35 PM
To: Desmond, Ashley
Cc: Miles E. Waite, Phd, PG; Coppolino, Patricia
Subject: Site 941631 - Follow Up

Hi Ashley,

At the end of last year we spoke about Hazardous Site #941631 which is a property located at 150 Shelburne Street in Burlington, Vermont. I purchased the property in a tax lien sale and will take title on November 13, 2014 (i.e., next month). This date is the end of a one year redemption period after which time the City of Burlington is able to transfer title.

To begin the process of addressing the environment issues and redeveloping the site, I am completing a Brownfield redevelopment application to send to Trish Coppolino, DEC Brownfield Response Program, and, additionally, have engaged Miles Waite of Waite-Heindel to perform a Phase I ESA. (both are copied on this email)

The current owner will not allow access to the property nor provide information to assist with Phase I work. At this point, information we have is limited and I'd like to ask if you would speak with Mr. Waite and, if DEC policy allows, provide documentation of work done to-date to help us gain a more complete understanding of the contamination.

Any assistance you are able to provide will be greatly appreciated. Please feel free to respond to this email or call me directly at (802) 488-0211.

Best regards,

Tom

From: [Tom Harrington](#)
To: [Desmond, Ashley](#)
Cc: [Miles E. Waite, Phd, PG](#); [Coppolino, Patricia](#)
Subject: Site 941631 - Follow Up
Date: Thursday, October 16, 2014 12:35:29 PM
Attachments: [image002.png](#)

Hi Ashley,

At the end of last year we spoke about Hazardous Site #941631 which is a property located at 150 Shelburne Street in Burlington, Vermont. I purchased the property in a tax lien sale and will take title on November 13, 2014 (i.e., next month). This date is the end of a one year redemption period after which time the City of Burlington is able to transfer title.

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Any assistance you are able to provide will be greatly appreciated. Please feel free to respond to this email or call me directly at (802) 488-0211.

Best regards,

Tom



From: [Eugene Bergman](mailto:Eugene.Bergman@state.vt.us)
To: [Desmond Ashley](mailto:Desmond.Ashley@state.vt.us)
Cc: [Chapman, Matt](mailto:Chapman.Matt@state.vt.us); [Jeffrey A. Herwood](mailto:Jeffrey.A.Herwood@state.vt.us); [Nick Warner](mailto:Nick.Warner@state.vt.us); [Bob Rusten](mailto:Bob.Rusten@state.vt.us); [Brian Pine](mailto:Brian.Pine@state.vt.us); [John Vickery](mailto:John.Vickery@state.vt.us)
Subject: RE: SMS #94-1631: 150 Shelburne St. Tax Sale Notice
Date: Friday, October 11, 2013 11:53:31 AM

Ashley,

Below is how I've changed the notice to leave open the eligibility for the PCF. The variables are too many to put into a notice and the DEC is the one to decide eligibility so I think leaving it at stating there may be eligibility and having them contact you is the right thing to put in the notice.

Thanks for your insight. The notice will not have this section bolded but it will be its own paragraph.

Gene

In addition, this property is listed on the VT Active Hazardous Sites list (SMS Site #94-1631) and has undergone monitoring to track residual petroleum contamination from a former underground storage tank system. Contamination at this site appears to be focused near the western property boundary and there does not appear to be any impact to the current onsite dwelling. Monitoring and remediation work may be eligible for coverage under the VT Petroleum Cleanup Fund (VPCF). Prior to conducting any subsurface work, excavation, or groundwater extraction in the vicinity of the contamination on this property, the Agency of Natural Resources, Department of Environmental Conservation, Waste Management Division must be notified. Information on the site's status or the VPCF may be obtained from Ashley Desmond, Waste Management & Prevention Division, 1 National Life Drive – Davis, Montpelier, VT 05620-3704, (802) 828-1138.

From: Desmond, Ashley [<mailto:Ashley.Desmond@state.vt.us>]
Sent: Friday, October 11, 2013 10:07 AM
To: Eugene Bergman
Cc: Chapman, Matt; Jeffrey A. Herwood; Nick Warner; Bob Rusten; Brian Pine; John Vickery
Subject: RE: SMS #94-1631: 150 Shelburne St. Tax Sale Notice

The owners of contaminated properties are required to prove to the State that they have made a claim to their insurance company for pollution and that the claim was denied. The Petroleum Cleanup Fund does not pay for insured costs for investigation/remediation. Ms. Murray has never made an attempt to obtain PCF coverage and we do not have any insurance information on file for this property.

From: Eugene Bergman [<mailto:EBergman@burlingtonvt.gov>]
Sent: Friday, October 11, 2013 9:52 AM
To: Desmond, Ashley
Cc: Chapman, Matt; Jeffrey A. Herwood; Nick Warner; Bob Rusten; Brian Pine; John Vickery
Subject: RE: SMS #94-1631: 150 Shelburne St. Tax Sale Notice

Excellent Ashley. I will make the change in the notices in the address.

I'll look at the PCF references as well but can you give me a little more detail on the insurance point you are making?

Gene

From: Desmond, Ashley [<mailto:Ashley.Desmond@state.vt.us>]
Sent: Friday, October 11, 2013 9:49 AM
To: Eugene Bergman
Cc: Chapman, Matt
Subject: RE: SMS #94-1631: 150 Shelburne St. Tax Sale Notice

Good Morning, Eugene-

The ANR contact info should be revised as we have moved to new headquarters. Here is the new contact info:

Ashley Desmond
Waste Management & Prevention Division
1 National Life Drive – Davis 1
Montpelier, VT 05620-3704
(802) 828-1138

The credit toward the PCF would also be contingent upon obtaining the insurance policy for the site dating back to 1994. We might also request a copy of all or some of the invoices for previous site work. I am not certain that any additional work would exceed the \$10,000 deductible for the site.

Thanks,
Ash

From: Eugene Bergman [<mailto:EBergman@burlingtonvt.gov>]
Sent: Thursday, October 10, 2013 5:08 PM
To: Desmond, Ashley
Cc: Chapman, Matt
Subject: SMS #94-1631: 150 Shelburne St. Tax Sale Notice

Dear Matt and Ashley,

The above referenced site continues to have an owner who refuses to pay taxes. The City is putting it up for tax sale again and we are seeking city council authorization to be a bidder if bids do not cover the delinquency, pursuant to 32 VSA s. 5259. Attached is the draft notice of tax sale for the Nov. 13th sale date. The posting deadline is Oct. 15. The notice's reference to the SMS site designation substantially matches the previous notice that was vetted by Ashley and ok'd (see 12/21/10 4:16 p.m. email from Ashley to me). Please let me know if you have any objection to the wording of the current notice or suggested changes.

Thank you.

103 South Main Street
Center Building
Waterbury, VT 05671-0301

Tel: (802) 241-3600
Fax: (802) 244-1102

www.anr.state.vt.us



State of Vermont
Agency of Natural Resources

RECEIVED
Deborah L. Markowitz
Agency Secretary
Christopher Recchia
Deputy Secretary

WVMD

March 8, 2011

Ms. Margaret Murray
150 Elm St.
Montpelier, VT 05602

RE: Murray Property, 150 Shelburne Rd., Burlington, VT (SMS Site #94-1631)

Dear Ms. Murray:

The VT Agency of Natural Resources has received your letter addressed to the Secretary of Administration regarding the conditions surrounding your property in Burlington. I understand that you are frustrated with how long this process has taken and with some of the decisions made at this site. I will try and provide you with some additional information which may clarify some of the issues and options. I have conferred with the Sites Management Section (SMS) of the Waste Management Division who has been coordinating the investigation work at the property.

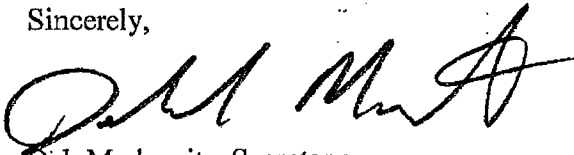
Gasoline contamination at this site originated from a former gasoline retail operation that ended in the 1970's. After contamination was discovered in 1994, the SMS sent you a request to investigate contamination to satisfy the applicable state statutes. In 2003, soil and groundwater monitoring points were installed at the site and it was determined that groundwater contamination was in excess of the Vermont Groundwater Enforcement Standards (VGES). Several groundwater monitoring events were conducted at the site in recent years to track contaminant levels. While contamination has been shown to be on the decline, contaminant levels at the property boundary continue to exceed the VGES. At these concentrations, pollution at this site poses a potential threat to neighboring properties and the utility corridor. The limits of this contamination have not been properly identified. Although a Site Management Activities Completed (SMAC) was discussed at this property, once it was understood that the contamination had migrated off-site it was clear that a SMAC with a notice to the land records was not appropriate.

Given the aforementioned conditions for this property, the requirement for additional investigation work still stands. The Agency's request for additional investigation work is not in any way connected to your tax dispute with the City of Burlington, and the ensuing tax sale. You are the responsible party for conducting the investigation work, as you assumed liability for the contamination upon purchasing a contaminated property. I would encourage you to submit any invoices and payments you have made for site investigation work to the SMS, which could be applied toward the VT Petroleum Cleanup Fund deductible for this site. When the deductible of

Murray
Page 2

\$10,000 is met, all approved work would be eligible for reimbursement from the PCF up to \$1 million. A request for PCF reimbursement will not change your legal obligation to monitor and potentially clean up the contamination at the site. The staff in the SMS are available to assist you in bringing this site into compliance and toward eventual closure. Please contact Chuck Schwer at 802-241-3731 for assistance in moving this forward.

Sincerely,

A handwritten signature in black ink, appearing to read "Deb Markowitz". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Deb Markowitz, Secretary
Agency of Natural Resources

-cc: Jeb Spaulding, Secretary, Agency of Administration
Chuck Schwer, SMS Section Chief, Agency of Natural Resources