

**STATE OF VERMONT
AGENCY OF NATURAL RESOURCES**

**ENVIRONMENTAL COURT
Docket No. _____**

**SECRETARY, VERMONT
AGENCY OF NATURAL RESOURCES
Plaintiff**

v.

**SUGAR RUN ASSOCIATION, INC.,
Respondent**

ADMINISTRATIVE ORDER

Having found that Sugar Run Association, Inc. (Respondent) has committed a violation as defined in 10 V.S.A. § 8002(9), the Secretary (Secretary) of the Agency of Natural Resources (Agency), pursuant to the authority set forth in 10 V.S.A. § 8008, hereby issues the following Administrative Order:

VIOLATIONS

- A. Vermont Water Supply Rules (VWSR) Chapter 21, Subchapter 21-6: failure to conduct water quality monitoring.
- B. Vermont Water Supply Rules (VWSR) Chapter 21, Subchapter 21-10: failure to provide public notification.
- C. VWSR Chapter 21 § 7.6.1 and Appendix A Part 3: failure to submit a Source Protection Plan.
- D. VWSR, Subchapter 21-9 § 9.1.2: failure to submit monthly reports.

STATEMENT OF FACTS AND DESCRIPTION OF VIOLATIONS

- 1. Sugar Run Condominium Association, Inc. owns and operates the Sugar Run Association Water System.
- 2. The water supply system (System) provides water to more than twenty-five year round residents in Fayston, Vermont through fifteen (15) or more service connections. The Water

Supply Division at the Agency has identified the System as WSID #5268.

3. A system which serves at least fifteen (15) service connections, or regularly serves at least twenty-five (25) individuals daily at least (60)days out of the year, is a public water system pursuant to 10 V.S.A. §1671(5) and (10).
4. Respondent failed to complete some of the required water quality monitoring for the System in violation of VWSR Chapter 21, Subchapter 21-6. Specifically, Respondent failed to conduct monitoring for Inorganic Chemicals, Synthetic Organic Chemicals, Volatile Organic Chemicals, Cyanide, and Radionuclides from 1994 to January of 1998. Respondent also failed to submit results of required water quality samples of nitrate, coliform, and lead and copper. Respondent has since conducted water quality monitoring and has submitted the results to the Water Supply Division.
5. On November 20, 1998, the Water Supply Division issued a Temporary Operating Permit (TOP). Section IV (3)(B) and (C) direct Respondent to conduct microscopic particulate analysis (MPA). To date, in spite of numerous reminder letters, Respondent has failed to submit the monitoring results of MPA testing. Therefore, Respondent has violated VWSR Chapter 21, Subchapter 21-6.
6. On July 9, 1997, the Water Supply Division directed Respondent to issue public notice to the water supply customers regarding the failure to submit the required number of bacteriological records for the month of June 1997. Respondent failed to issue public notice to the customers of the system.
7. On February 2, 1999, the Water Supply Division issued a Notice of Alleged Violation

- (NOAV) to the Respondent for failure to monitor for nitrate in 1998. The NOAV directed the Respondent to deliver public notice to the water supply customers within thirty (30) days. Respondent failed to issue public notice to the customers of the system.
8. On March 18, 1999, the Water Supply Division directed Respondent to issue public notice to the water supply customers regarding the failure to submit the required number of lead and copper samples during 1998. Respondent failed to issue public notice to the customers of the system.
 9. On July 19, 1999, the Water Supply Division issued a Notice of Alleged Violation (NOAV) to the Respondent for failure to monitor for Inorganic Chemicals, Synthetic Organic Chemicals, Volatile Organic Chemicals, Cyanide, and Radionuclides. The NOAV directed the Respondent to deliver public notice to the water supply customers within fourteen (14) days. Respondent received the NOAV on August 3, 1999. Respondent failed to issue public notice to the customers of the system. Therefore, based on the facts set forth in paragraphs 6 through 9, Respondent violated VWSR Chapter 21, Subchapter 21-10, §10.2.
 10. To date, Respondent has failed to submit a Source Protection Plan for well #1 of the System in violation of VWSR Chapter 21, §7.6.1 and VWSR Appendix A Part 3.
 11. VWSR, Subchapter 21-9 § 9.1.2 requires all public water systems to submit monthly reports with information regarding water supply quantities and daily free chlorine residual amounts in the water distribution system. Respondent has failed to submit monthly reports since October of 1998.

ORDER

- A. Upon receipt of this Order Respondent shall pay a penalty of \$13,020.00, within thirty (30) consecutive calendar days of the receipt of this order. Payment shall be by check made payable to the "Treasurer, State of Vermont" and forwarded to :

Becky Buchanan, Administrative Assistant
Environmental Enforcement Division
Agency of Natural Resources
103 South Main Street, 2 South
Waterbury, VT 05671-0410

The above penalty amount does not include the costs incurred by the Secretary for the enforcement of the above described violations or all of the amount of economic benefit gained by the Respondent from the violations. The Secretary reserves the right to augment the above stated penalty through evidence presented at hearing. In accordance with 10 V.S.A. § 8010, the penalty may be increased by the costs incurred by the Secretary for the enforcement of the above described violations and by the amount of economic benefit gained by the Respondent from the violations, each according to proof at the hearing.

- B. Respondent shall conduct all water quality testing in accordance with VWSR Chapter 21, Subchapter 21-6.
- C. Respondent shall submit the required monthly reports for the System. In addition to all other required information, Respondent shall also include in each report the supplemental information concerning residual chlorine in the System.
- D. No later than ninety (90) days from the effective date of this Order, Respondent shall submit to the Water Supply Division, a Source Protection Plan, which delineates a source

protection area, for the System in accordance with VWSR Chapter 21, §7.6.1 and VWSR Appendix A Part 3.

- E. Unless an exemption for MPA testing is applied for and granted, Respondent shall conduct MPA sampling between September 1, 2000 and November 1, 2000, and between April 1, 2001 and June 1, 2001. Respondent shall submit the results of the MPA testing to the water Supply Division, no later than ten (10) days after the receipt of test results. Respondent shall conduct additional sampling as required based on the MPA results. All testing shall be completed in accordance with all applicable state, federal and local statutes, rules and regulations.

RESPONDENT'S RIGHT TO A HEARING BEFORE THE ENVIRONMENTAL COURT

Respondent has the right to request a hearing on this Administrative Order before the Environmental Court under 10 V.S.A. § 8012 by filing a Notice of Request for Hearing within fifteen (15) days of the date Respondent receives the Administrative Order. The Respondents must file, within the time limit, a Notice of Request For Hearing with both the Secretary and Environmental Court at the following addresses:

Secretary, Agency of Natural Resources
c/o Environmental Enforcement Division
103 South Main Street, 2 South
Waterbury, VT 05601-0401

Clerk, Environmental Court
255 N. Main Street
1st Floor
Barre, VT 05641

EFFECTIVE DATE OF THIS ADMINISTRATIVE ORDER

This Administrative Order shall become effective on the date it is received by the Respondens unless the Respondent files a Notice of Request for Hearing within fifteen (15) days of receipt as provided for in the previous section hereof. The timely filing of a Notice of Request for Hearing by the Respondent shall stay the provisions (including any penalty provisions) of this Administrative Order pending a hearing by the Environmental Court. If the Respondent does not make a timely filing of a Notice of Request for a Hearing, this Administrative Order shall become a final Administrative Order.

COMPLIANCE WITH THIS ADMINISTRATIVE ORDER

If the Respondent fails or refuses to comply with the conditions of a final Administrative Order, the Secretary shall have cause to initiate an enforcement action against the Respondent pursuant to the provisions of 10 V.S.A. Chapters 201 and 211.

Dated at Waterbury, Vermont this 23rd day of September 2000.

SECRETARY, AGENCY OF NATURAL RESOURCES

BY: _____

Canute E. Dalmasse
**Canute E. Dalmasse, Commissioner
Department of Environmental Conservation**

AFFIDAVIT OF JEANNE NICOLAI

I, Jeanne Nicolai, being first duly sworn, hereby state that:

1. All statements contained herein are made upon my personal knowledge, information and belief, and to the extent that such statements are made upon knowledge or belief, I believe them to be true.
2. I am of legal age and a resident of the State of Vermont.
3. I am the Chief Compliance and Certification Coordinator for the Water Supply Division of the State of Vermont Agency of Natural Resources Department of Environmental Conservation. My duties require me to be familiar with the operation of the Sugar Run Association Water System.
3. Based on my personal knowledge of the site and a review of the file, the violations described in the Administrative Order's Statements of Facts, occurred on or about the dates set forth therein.

Dated at Waterbury, Vermont, this 27 day of September 2000.

By: Jeanne M. Nicolai
Jeanne Nicolai

STATE OF VERMONT
COUNTY OF Washington, ss.

At Waterbury, Vermont, this 27 day of September 2000,
Jeanne Nicolai personally appeared and swore to the truth of the foregoing. Before me,

Louis A. Allen
Notary Public

Term expires: February 2003