

STATE OF VERMONT  
AGENCY OF NATURAL RESOURCES

ENVIRONMENTAL COURT  
Docket No. \_\_\_\_\_

SECRETARY, VERMONT  
AGENCY OF NATURAL RESOURCES  
Plaintiff

v.

WATERVILLE WATER COOPERATIVE,  
Respondent

**ADMINISTRATIVE ORDER**

Having found that Waterville Water Cooperative (Respondent) has committed violations 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 Rule (VWSR) Chapter 21, Subchapter 21-16: Failure to recommend or install optimal corrosion control treatment for lead or copper within 24 months after the State designated or approved treatment.
- B. VWSR Chapter 21, Subchapter 21-10, 10.2: failure to provide prompt and adequate public notification.
- C. VWSR Chapter 21, Subchapter 21-6: failure to conduct water quality monitoring.
- D. VWSR Chapter 21 § 7.6.1 and Appendix A Part 3: failure to submit a source protection plan.
- E. VWSR, Subchapter 21-9 § 9.1.2: failure to submit monthly reports.

**STATEMENT OF FACTS**

1. Waterville Water Cooperative owns and operates a Water Supply System (System) located in Waterville, Vermont.

2. The System regularly provides water to more than twenty-five year round residents through fifteen (15) or more service connections. The Water Supply Division at the Agency has identified the System as WSID #5169.
3. A system which serves at least fifteen (15) service connections, or regularly serves at least twenty-five (25) individuals daily at least sixty (60) days out of the year, is a public water system pursuant to 10 V.S.A. §1671(5).
4. On April 17, 1995, the Water Supply Division forwarded a letter to the Respondent stating that the latest monitoring results indicated that the Maximum Contamination Level for copper had been exceeded. The letter directed the Respondent to recommend optimal corrosion control no later than July 1, 1995.
5. On January 13, 1998, the Water Supply Division forwarded a letter to the Respondent stating that the System was required to install corrosion control by January 1, 1998 and requesting a status report by February 15, 1998.
6. On October 1, 1999, the Water Supply Division issued a Notice of Alleged Violation (NOAV) to the Respondent for failure to install corrosion control treatment. The NOAV directed the Respondent to deliver public notice to the water supply customers within fourteen (14) days. Respondent received the NOAV on October 5, 1999. Respondent failed to issue public notice to the customers of the system. Therefore, Respondent violated VWSR Chapter 21, Subchapter 21-10, §10.2
7. To date, Respondent has failed to install corrosion control for copper in violation of VWSR Chapter 21, Subchapter 21-16.

8. On August 7, 1997, the Water Supply Division issued a Temporary Operating Permit (TOP). Section III (4)(D) and (E) 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.
9. To date, Respondent has failed to submit a Source Protection Plan for the System in violation of VWSR Chapter 21, §7.6.1 and VWSR Appendix A Part 3.
10. 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. To date, Respondent has failed to submit monthly reports in violation of VWSR, Subchapter 21-9 § 9.1.2.

**ORDER**

- A. Upon receipt of this Order Respondent shall pay a penalty of \$15,050.00, 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 Respondents from the violations, each according to proof at the hearing.

- B. No later than ten (10) days from the effective date of this Order, Respondent shall hire a Vermont registered engineer to prepare a corrosion control treatment proposal.
- C. No later than sixty (60) days from the effective date of this Order, Respondent shall submit a corrosion control treatment proposal to the Water Supply Division of the Agency.
- D. Within sixty (60) days of receiving approval from the Secretary, Respondent shall install the approved corrosion control treatment system for the water supply system. The installation shall be supervised by a Vermont registered engineer. An extension may be granted at the discretion of the Secretary to address any difficult construction issues or in the event of inclement weather.
- E. Respondent shall conduct all water quality testing in accordance with VWSR Chapter 21, Subchapter 21-6.
- F. 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.
- G. No later than sixty (60) 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.

- H. Unless an exemption for MPA testing is applied for and granted, Respondent shall conduct MPA sampling between April 1, 2001 and June 1, 2001, and between September 1, 2001 and November 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. All such testing shall be completed in accordance with all applicable state, federal and local statutes, rules and regulations.

**RESPONDENTS 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 Respondent 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 Respondent 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 7<sup>th</sup> day of November 2000.

**SECRETARY, AGENCY OF NATURAL RESOURCES**

**BY:**

Canute E. Dalmasse

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

AFFIDAVIT OF JEAN NICOLAI

I, Jean 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 of the Compliance and Certification Section 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 Waterville Water Cooperative 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 24 day of October 2000.

By: Jean M. Nicolai  
Jean Nicolai

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STATE OF VERMONT  
COUNTY OF Washington, ss.

At Waterbury, Vermont, this 24 day of October 2000, Jean Nicolai personally appeared and swore to the truth of the foregoing. Before me,

Lucia A. Wilson  
Notary Public

Term expires: February 2003