

**STATE OF VERMONT
AGENCY OF NATURAL RESOURCES**

**ENVIRONMENTAL COURT
DOCKET NO.**

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

v.

**HARVEY BURDICK d/b/a BURDICK MOBILE HOME PARK,
Respondent**

ADMINISTRATIVE ORDER

Having found that Harvey Burdick (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

1. Vermont Water Supply Rule (VWSR) Ch. 21, Subch. 21-6; 40 C.F.R., Pt. 141, Subpt. C: Failure to monitor and report total coliform or e.coli., and to submit an approved sampling plan
2. VWSR Subch. 21-12: Failure to employ a certified operator
3. VWSR Ch. 21, App. A, Pt. 8: Failure to provide adequate water pressure.
4. VWSR Ch. 21, App. D: Failure to submit an adequate distribution plan
5. VWSR Ch. 21, App. A, Pt. 8: Failure to equip the distribution system with an approved flushing device, and to develop a complete flushing program
6. VWSR Subch. 21-7 & App. D: Failure to prepare an approved Operation & Maintenance Manual
7. VWSR Subch. 21-9: Failure to submit monthly water production reports
8. VWSR Subch. 21-6; 40 C.F.R., Pt. 141: Failure to maintain a chlorine residual test kit onsite

STATEMENT OF FACTS

1. Respondent is a resident of Pownal, Vermont.
2. Respondent owns the Burdick Mobile Home Park (BMHP), WSID 21076, located in Pownal.

3. Under Vermont Water Supply Rule (VWSR) Ch. 21, a consecutive public community water system is one that serves at least 15 connections used by year-round residents, or serves at least 25 residents.
4. In July of 2006, the Water Supply Division (WSD) determined that the BMHP system qualifies as a consecutive public community water system.
5. On July 13, 2006, WSD Compliance Chief Jean Nicolai informed Respondent in writing that the BMHP system is a consecutive public community water system.
6. Nicolai informed Respondent of what he must do to comply with the Water Supply Rules.
7. On August 15, 2006, WSD Hydrologist/Systems Specialist Robert Farley conducted a sanitary survey of the BMHP system.
8. In his September 26, 2006 report, Farley noted the following deficiencies:
 - a. The BMHP system does not have a certified operator in violation of VWSR Subch. 21-12.
 - b. The BMHP has failed to perform regular bacteriological sampling and to submit a sampling plan in violation of VWSR Subch. 21-6.
 - c. The BMHP has failed to provide adequate water pressure to system users in violation of VWSR Ch. 21, App. A, Pt. 8.
 - d. The BMHP has failed to develop and submit adequate distribution plans in violation of VWSR CH. 21, App. D.
 - e. The BMHP has failed to equip its distribution system with an approved flushing device, and to develop a complete flushing program in violation of VWSR Ch. 21, App. A, Pt. 8.
 - f. The BMHP has failed to submit an approvable Operation & Maintenance Manual in violation of VWSR Subch. 21-7, and App. D.
 - g. The BMHP has failed to submit monthly reports reflecting its total water production for the previous month in violation of VWSR Subch. 21-9.
 - h. The BMHP has failed to maintain a chlorine residual test kit onsite in violation of VWSR Subch. 21-6; 40 C.F.R., Pt. 141.

9. Farley requested in his sanitary survey letter of September 26, 2006 that Respondent submit a compliance schedule relative to these deficiencies by no later than October 31, 2006.
10. Respondent did not comply with the sanitary survey letter.
11. On September 27, November 2, November 27 and December 15, 2006, January 31, February 23, March 16, and April 16, 2007, Respondent received NOAVs for failing to monitor and report total coliform or e.coli in violation of VWSR Ch. 21, Subch 21-6 and 40 C.F.R., Pt. 141, Subpt. C.
12. Each NOAV directed Respondent to issue a public notice informing users of his failure to monitor, and to submit a copy of the notice and a completed public notice certification form to the WSD.
13. Respondent did not comply with the NOAVs.
14. On February 9, 2007, Respondent received a NOAV for failing to employ a certified operator to run the system.
15. The NOAV directed Respondent to issue public notice, hire a certified operator and submit documentation to the WSD by no later than March 9, 2007.
16. Respondent did not comply with the NOAV.
17. On February 26, 2007, Respondent received a NOAV for failing to monitor and report initial Lead & Copper results.
18. The NOAV directed Respondent to issue public notice, and meet monitoring and reporting requirements for two consecutive six-month periods.
19. Respondent did not issue the public notice.

ORDER

Upon receipt of this Administrative Order, the Respondent shall:

- A. Pay a penalty of \$19,300.00 within thirty (30) consecutive calendar days. 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/Cannery
Waterbury, VT 05671-4901

The above penalty amount may not necessarily include all the costs incurred by the Secretary for the enforcement of the above described violation(s) or the full amount of economic benefit gained by the Respondent from the violation(s). 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 total costs incurred by the Secretary for the enforcement of this matter and by the total amount of economic benefit gained by the Respondent from the violation(s), each according to proof at the hearing.

- B. By no later than fifteen (15) consecutive calendar days following the effective date of this Assurance, Respondent shall:
 - 1. Begin collecting monthly bacteriological samples from the distribution system.
 - 2. Submit to the Water Supply Division (WSD) a bacteriological sampling plan for approval, including a distribution system map.
 - 3. Obtain an approved, chlorine test kit to be stored onsite for the purpose of collecting chlorine residuals in the distribution system.

- C. By no later then thirty (30) consecutive calendar days following the effective date of this Assurance, Respondent shall:
 - 1. Obtain a certified water operator to operate the system.
 - 2. Begin submitting monthly water production reports.

- D. By no later than sixty (60) consecutive calendar days following the effective date of this Assurance, Respondent shall:

1. Provide the WSD with an engineer's assessment of distribution pressure, flows and condition, in order to address the issue of inadequate water system pressure.

E. By no later than December 31, 2007, Respondent shall:

1. Address the issue of inadequate system water pressure, to the satisfaction of WSD personnel.
2. Submit to the WSD record drawings of the distribution, accompanied by a letter from Respondent's engineer.
3. Equip the system with approved flushing devices.
4. Submit to the WSD a complete flushing program, which shall be included in the system's Operation and Maintenance (O&M) Manual.
5. Prepare and submit a complete O&M Manual for WSD approval.

RESPONDENT'S RIGHT TO A HEARING

BEFORE THE ENVIRONMENTAL COURT

The 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 the Respondent receives this Administrative Order. The Respondent must timely file a Notice of Request for Hearing with both the Secretary and the Environmental Court at the following addresses:

1. Secretary, Agency of Natural Resources
c/o: Enforcement Division/Cannery
103 South Main Street
Waterbury, Vermont 05671-4901
2. Clerk, Environmental Court
2418 Airport Road
Barre, Vermont 05641

EFFECTIVE DATE OF THIS ADMINISTRATIVE ORDER

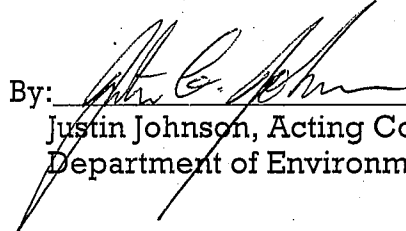
This Administrative Order shall become effective on the date it is received by the Respondent unless the Respondent files a Notice of Request for Hearing within fifteen (15) days of receipt as provided for in the previous section hereof. The timely filing of a Notice of Request for Hearing by the Respondent 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 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 2 day of October, 2007.

SECRETARY, VERMONT AGENCY OF NATURAL RESOURCES

By: 
Justin Johnson, Acting Commissioner
Department of Environmental Conservation

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Affidavit of Ellen Par Doering

I, Ellen ParDoering, being duly sworn do attest:

1. I am of legal age and a resident of the State of Vermont.
2. I am an employed as the Compliance and Certification Manager in the Water Supply Division of the Department of Environmental Conservation.
3. Based upon information discovered during my preparation of this case for enforcement the violations described in the Statement of Facts section of the above-entitled Administrative Order occurred during the dates set forth therein.

Dated at Waterbury, Vermont this 1st day of October, 2007.

Ellen E Par Doering
Ellen ParDoering - Affiant

Subscribed and sworn before me on the 1st of October, 2007.

Caroleyn B. Buchanan
Notary Public

My Commission Expires: 2-10-11