

STATE OF VERMONT
SUPERIOR COURT
ENVIRONMENTAL DIVISION

FILED

AUG 19 2013

VERMONT
SUPERIOR COURT
ENVIRONMENTAL DIVISION

Agency of Natural Resources,)
Petitioner,)
)
v.)
)
South Village Owners Association,)
Respondent.)

Docket # 104-8-13 Vtec

FINDINGS

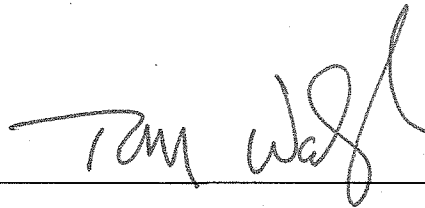
PURSUANT TO 10 V.S.A. §8008(d) THE COURT FINDS AS FOLLOWS:

1. The Administrative Order in this matter has been properly served on the Respondent in accordance with 10 V.S.A. §8008(a).
2. The Respondent has not timely requested a hearing in this matter in accordance with 10 V.S.A. §8008(b).
3. The order otherwise meets the requirements of 10 V.S.A. Chapter 201.

ORDER

By the Court's signature below, the Administrative Order in this matter, filed with the Superior Court, Environmental Division, on August 5, 2013, has become a final Judicial Order pursuant to 10 V.S.A. §8008(d)(2).

Dated this 19th day of August, 2013.



Thomas G. Walsh
Environmental Judge

STATE OF VERMONT

SUPERIOR COURT

**ENVIRONMENTAL DIVISION
Docket No.**

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

v.

**SOUTH VILLAGE OWNERS
ASSOCIATION
Respondent**

ADMINISTRATIVE ORDER

Having found that South Village Owners Association (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

1. Indirect Discharge Permit No. 9-0129, Condition D(2): Failure to timely submit an implementation schedule for required repairs and maintenance
2. Indirect Discharge Permit No. 9-0129, Condition E(1): Failure to submit required monthly monitoring with water meter readings
3. 10 V.S.A. §§1259(a), 1263: Discharge into waters of the state without a permit

STATEMENT OF FACTS

1. Respondent owns and operates the South Village Condominium Development (the development) in Warren, Vermont.
2. The Agency issued Respondent Indirect Discharge Permit No. 9-0129 (the permit) on February 13, 2008, authorizing it to discharge treated domestic sewage from the development.

3. Condition D(2) of the permit required Respondent to provide the Secretary with an implementation schedule for required repairs and maintenance prior to July 1 of each year. Respondent did not provide the implementation schedule prior to July 1, 2012.
4. On October 18, 2012, the Agency notified Respondent via email that the implementation schedule had not been received and requested that Respondent provide the delinquent schedule by October 26, 2012.
5. Condition E(1) of the permit requires Respondent to record daily water meter readings and submit these readings to the Secretary monthly. Respondent did not timely submit the readings for October or November, 2012.
6. On November 26, 2012, the Agency sent Respondent a Notice of Alleged Violation (NOAV) via certified mail requesting the delinquent implementation schedule and water meter readings by December 4, 2012.
7. On December 10, 2012, the Agency sent Respondent a second NOAV via certified mail requesting the delinquent items by December 17, 2012.
8. On December 31, 2012, Respondent's permit expired. Respondent submitted an administratively incomplete permit application on April 9, 2013. On April 10, 2013, Respondent was notified that the application was incomplete but has not submitted an administratively complete application.
9. In April and May 2013, Respondent submitted water meter readings for the months of October 2012, November 2012, December 2012, January 2013, and February 2013.
10. Respondent failed to timely submit water meter readings for the months of March 2013 and April 2013.
11. By failing to submit the implementation schedule, Respondent violated Indirect Discharge Permit No. 9-0129, Condition D(2).
12. By failing to submit the monthly water meter readings, Respondent violated Indirect Discharge Permit No. 9-0129, Condition E(1).
13. By discharging to waters of the state without a discharge permit, Respondent violated 10 V.S.A. §§1259(a) and 1263.

ORDER

Upon receipt of this Administrative Order, Respondent shall:

A. Pay a penalty of \$29,750 no later than thirty (30) consecutive calendar days following the effective date of this Order. Payment shall be by check made payable to the "Treasurer, State of Vermont" and forwarded to:

Administrative Assistant
Compliance & Enforcement Division
Agency of Natural Resources
1 National Life Drive, Davis 2
Montpelier, VT 05620-3803

B. No later than five (5) consecutive calendar days after the effective date of this Order, Respondent shall submit the condition-by-condition permit review necessary to complete the application for an indirect discharge permit.

C. Respondent shall comply with Vermont's environmental laws and the permit in the operation of the indirect discharge system, including timely filing of required reports.

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 the Respondent receives this Administrative Order. 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: Compliance and Enforcement Division,
1 National Life Drive, Davis 2
Montpelier, VT 05620-3803
2. Clerk, Environmental Court
2418 Airport Road, Suite 1
Barre, Vermont 05641

EFFECTIVE DATE OF THIS ADMINISTRATIVE ORDER


This Administrative Order shall become effective on the date it is received by Respondent unless 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 Respondent shall stay the provisions (including any penalty provisions) of this Administrative Order pending a hearing by the Environmental Court. If Respondent does not make a timely filing of a Notice of Request for Hearing, this Administrative Order shall become a final Judicial Order when filed with and signed by the Environmental Court.

COMPLIANCE WITH THIS ADMINISTRATIVE ORDER

If Respondent fails or refuses to comply with the conditions of a final Judicial Order, the Secretary shall have cause to initiate any further legal action against Respondent including but not necessarily limited to, those available to the Secretary pursuant to the provisions of 10 V.S.A. Chapters 201 and 211.

Dated at Montpelier, Vermont this 19th day of June, 2013.

SECRETARY, VERMONT AGENCY OF NATURAL RESOURCES

By: 
David Mears, Commissioner
Department of Environmental Conservation