

**STATE OF VERMONT**  
**SUPERIOR COURT**  
**ENVIRONMENTAL DIVISION**

Agency of Natural Resources, )  
Petitioner, )  
)  
v. )  
)  
Enviro Tech of VT Septic )  
Services, Inc, )  
Respondent. )

Docket # 172- 12-17 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(s) in accordance with 10 V.S.A. §8008(a).
2. The Respondent(s) has/have 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 December 28, 2017, has become a final Judicial Order pursuant to 10 V.S.A. §8008(d)(2).

Dated this 29th day of December 2017.



Thomas S. Durkin, Judge  
Vermont Superior Court  
Environmental Division

STATE OF VERMONT

SUPERIOR COURT

ENVIRONMENTAL DIVISION  
Docket No.

SECRETARY, VERMONT  
AGENCY OF NATURAL RESOURCES,  
Plaintiff

v.

ENVIRO TECH OF VT SEPTIC SERVICES, LLC,  
Respondent

**ADMINISTRATIVE ORDER**

Having found that Enviro Tech of VT Septic Services, LLC (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. 10 V.S.A. § 6607a(d): failure to obtain a waste transporter permit
2. 3 V.S.A. § 2822(J)(33): failure to submit septage management fee
3. Solid Waste Management Rules § 6-703(e): failure to submit quarterly reports of waste management activities
4. Solid Waste Management Rules § 6-302(d): storage of solid waste outside of a certified facility

**STATEMENT OF FACTS**

1. Respondent is a Vermont limited liability company with a principal place of business at 2061 Main Street, Colchester, Vermont (the Property).
2. Respondent is a commercial hauler of solid waste that transports septage within the State for disposal.
3. Under 10 V.S.A. § 6607a, Respondent is required to obtain a Vermont Waste Transporter Permit from the Secretary prior to transporting septage upon public highways in the State.
4. Respondent last held a valid Waste Transporter Permit on June 30, 2006, yet continued to operate without a permit.
5. Respondent obtained a Waste Transporter Permit on March 6, 2017, but this Permit lapsed on July 1, 2017, when Respondent failed to file a complete annual renewal application for the

period between July 1, 2017 and June 30, 2018.

6. Between July 1, 2006, and March 6, 2017, and from July 1, 2017, to the present date, Respondent transported septage on Vermont highways without a Vermont Waste Transporter Permit, in violation of 10 V.S.A. § 6607a.
7. By operating without a Waste Transporter Permit, Respondent avoided at least \$300 in permit application fees.
8. Between 2012 and January 2017, Respondent delivered at least 3,712,500 gallons of septage to wastewater treatment facilities located in Vermont.
9. Estimating that Respondent profited \$0.01 per gallon of septage managed between 2012 and 2017, Respondent earned approximately \$37,125 in profit while hauling septage without a Vermont Waste Transporter Permit.
10. Solid Waste Management Rule § 6-703(e) requires that Respondent submit to the Secretary quarterly reports of its waste management activities.
11. Respondent failed to submit quarterly reports of its waste management activities between October 2005 and July 2017, in violation of Solid Waste Management Rules § 6-703(e).
12. Under 3 V.S.A. § 2822(J)(33), Respondent must submit to the Secretary a fee equal to \$10 per 1000 gallons of septage managed, which includes all septage disposed of in Vermont regardless of its location of origin, and all septage generated in Vermont regardless of its location of disposal.
13. Between July 1, 2015, and July 31, 2017, Respondent disposed of at least 1,136,000 gallons of septage at wastewater treatment facilities located in Vermont.
14. Respondent accumulated at least \$11,360.00 in unpaid fees owed to the Agency in connection with the septage disposed of between July 1, 2015, and July 31, 2017.
15. On March 1, 2017, Respondent paid \$9,785.00 of the \$11,360.00 in known past due fees.
16. Solid Waste Management Rule § 6-302(d) requires that solid waste be stored at a certified solid waste management facility.
17. Prior to March 2017, Respondent periodically stored solid waste on the Property using an unregistered motor vehicle with a storage capacity of 4,000 gallons, in violation of Solid Waste Management Rules § 6-302(d).
18. By failing to obtain a permit authorizing the storage of solid waste at the Property, Respondent avoided \$125 in permit application fees.



19. Respondent has ceased storing solid waste in the unregistered motor vehicle on the Property.

**ORDER**

Upon receipt of this Administrative Order, the Respondent shall:

A. Pay a penalty of \$58,550.00 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  
Agency of Natural Resources  
Compliance & Enforcement Division  
1 National Life Drive, Davis 2  
Montpelier, VT 05620-3803

The Secretary reserves the right to augment the above stated penalty based upon the evidence adduced at the hearing in this matter. The penalty may be increased by the total costs incurred by the Secretary for the enforcement of this matter, by the total amount of economic benefit gained by the Respondent from the violations(s) and by further consideration of any other component of penalty found in 10 V.S.A. § 8010, each according to proof at hearing.

B. No later than thirty (30) consecutive calendar days following the effective date of this Order, Respondent shall submit to the Agency's Waste Management and Prevention Division a fee of \$10 per 1000 gallons of septage that Respondent managed since July 1, 2015, excluding the \$9,785.00 paid on March 1, 2017, in connection with the septage disposed of between July 1, 2015, and the effective date of this Order. The fee, together with the relevant Vermont Residuals Management Quarterly Reports, shall be submitted to:

Residual Waste & Emerging Contaminants Program  
Waste Management & Prevention Division  
1 National Life Drive, Davis 1  
Montpelier, VT 05620-3704

C. Respondent shall cease hauling solid waste until it successfully renews its Vermont Waste Transporter Permit and submits the information omitted from the initial renewal application, including a complete 2017-2018 Vehicle Report Form and a notarized Annual Statement.

- D. Respondent shall comply with the terms and conditions of the Vermont Waste Transporter Permit received on March 6, 2017.
- E. Respondent shall not store solid waste on its Colchester property unless allowed under the Solid Waste Management Rules. The use of the unregistered, unpermitted septic truck for septage storage is prohibited without a solid waste facility certification.

**RESPONDENT'S RIGHT TO A HEARING**

**BEFORE THE ENVIRONMENTAL DIVISION OF THE SUPERIOR COURT**

The Respondent has the right to request a hearing on this Administrative Order before the Superior Court, Environmental Division, 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 Division at the following addresses:

1. Secretary, Agency of Natural Resources  
c/o: Enforcement and Litigation Section  
1 National Life Drive, Davis 2  
Montpelier, VT 05620-3803
  
2. Clerk, Superior Court, Environmental Division  
32 Cherry St. 2<sup>nd</sup> Floor, Suite 303  
Burlington, VT 05401

**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 Division. If the 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 Division.

**COMPLIANCE WITH THIS ADMINISTRATIVE ORDER**

If the 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 the 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 5 day of September, 2017.

SECRETARY, VERMONT AGENCY OF NATURAL RESOURCES

By:   
Emily Boedecker, Commissioner  
Department of Environmental Conservation

STATE OF VERMONT

SUPERIOR COURT

ENVIRONMENTAL DIVISION  
Docket No.

SECRETARY, VERMONT  
AGENCY OF NATURAL RESOURCES,  
Plaintiff

v.

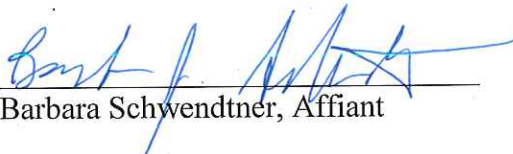
ENVIRO TECH OF VT SEPTIC SERVICES, LLC,  
Respondent

Affidavit of Barbara Schwendtner

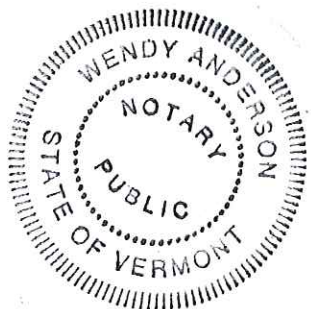
I, Barbara Schwendtner do attest that the following is true to the best of my knowledge:

1. I am of legal age and a resident of the State of Vermont.
2. I am employed by the Agency of Natural Resources (Agency) as an Environmental Analyst in the Waste Management & Prevention Division of the Department of Environmental Conservation.
3. Based upon personal observations, review of the relevant Waste Management & Prevention Division program file, and conversations with witnesses, the Respondent, and Agency staff, the violations described in the Statement of Facts section of the above-entitled Administrative Order occurred during the time periods set forth therein.

Dated at Montpelier, Vermont this 29<sup>th</sup> day of August, 2017.

  
Barbara Schwendtner, Affiant

Subscribed and sworn before me on the 29<sup>th</sup> of AUGUST, 2017.



  
Wendy Anderson  
Notary Public

My Commission Expires: 2/9/2019