

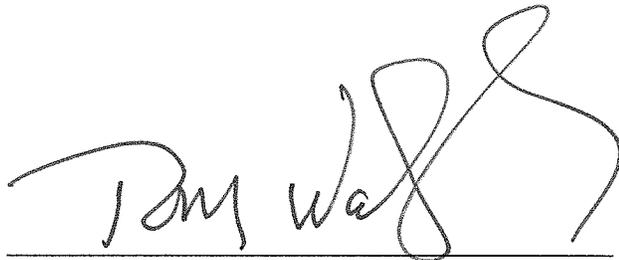
**STATE OF VERMONT**  
**SUPERIOR COURT**  
**ENVIRONMENTAL DIVISION**

Agency of Natural Resources,	)	
Petitioner,	)	
	)	
v.	)	Docket # 69-7-16 Vtec
Noyes ,	)	
Respondent.	)	

**ORDER**

The Assurance of Discontinuance signed by the Respondent on June 4, 2016, and filed with the Superior Court, Environmental Division, on July 7, 2016, is hereby entered as an order of this Court, pursuant to 10 V.S.A. 8007(c).

Dated this 7th day of July 2016.



Thomas G. Walsh  
Environmental Judge

**STATE OF VERMONT**

**SUPERIOR COURT**

**ENVIRONMENTAL DIVISION  
Docket No.**

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

**v.**

**WILLIE NOYES,  
Respondent**

**VIOLATIONS**

1. 24 V.S.A. § 2242: Operating a salvage yard without a certificate of registration.
2. Vermont Hazardous Waste Management Regulation (“HWMR”) §§ 7-311 and 7-806(b):  
Improper storage of used oil.
3. 10 V.S.A. §6616 and HWMR § 7-302(c): Prohibited release of hazardous materials.
4. HWMR § 7-311(a): Improper storage of spent lead acid batteries.

**ASSURANCE OF DISCONTINUANCE**

Pursuant to the provisions of 10 V.S.A. Section 8007, the Secretary (“Secretary”) of the Agency of Natural Resources (“Agency”) and Willie Noyes (“Respondent”) hereby enter into this Assurance of Discontinuance (“Assurance”), and stipulate and agree as follows:

**STATEMENT OF FACTS AND DESCRIPTION OF VIOLATION**

1. Respondent owns and operates Willie’s Village Auto located at 100 Weeks Hill Road, Stowe, VT (the “Facility”).
2. On August 6, 2014, the Agency conducted a site visit of the Facility. During the site visit:
  - a. Respondent stated he stores oil contaminated rags in a plastic bag that was not labeled. By failing to store oil contaminated rags in containers marked with words identifying the

contents as used rags destined for laundering and which are kept closed except to add or remove spent material, Respondent violated HWMR § 7-203(w)(3).

- b. Agency personnel observed that Respondent was storing spent lead acid batteries on surfaces that were not impervious and not under cover in violation of HWMR § 7-311(a).
- c. Agency personnel observed several areas of soil that had been stained from discharges of used oil and potentially other hazardous wastes. By discharging hazardous waste onto the ground, Respondent violated 10 V.S.A. § 6616 and HWMR § 7-302(c).
- d. Agency personnel observed spent Speedi-Dry that was being used for absorbing oil underneath a vehicle in the garage. Respondent stated that he routinely disposes of this absorbent in the trash. By disposing of this absorbent without first determining whether it constituted and therefore needed to be disposed of as a hazardous waste, Respondent violated HWMR §§ 7-303 and 7-306(c)(1)(A).
- e. Agency personnel observed numerous containers holding used oil that were: open; being stored either stacked or with heavy engine parts on top; rusting or bulging; not marked; stored on pervious surfaces; and/or stored outdoors and not under cover. By storing used oil in this manner Respondent violated HWMR §§ 7-311 and 7-806(b).
- f. Respondent acknowledged that he burns used oil, but does not evaluate it for total halogens. In doing so, Respondent violated HWMR § 812(c)(1).
- g. Agency observed at least four motor vehicles that appeared to be discarded, dismantled, wrecked, scrapped, or ruined. Respondent acknowledged that many vehicles had been abandoned at the Facility over the years due to their original owners not willing to pay for repairs once they are towed to the site. By keeping these cars at the facility without obtaining a certificate of registration from the Agency, Respondent violated 24 V.S.A. §

2242.

3. The Agency notified Respondent of these violations in Notices of Alleged Violation dated August 13, 2014 and November 3, 2014.
4. On September 16, 2014, Respondent provided the Agency with receipts indicating that he had arranged to have 27 batteries and 12 vehicles removed from the Facility.
5. Respondent retained Ross Environmental Associates, Inc. ("Ross") to address these violations. On November 7, 2014, Ross sent the Agency a letter in which it explained: (i) Respondent was now correctly storing and disposing of oil contaminated rages, spent lead acid batteries, used oil, and spent Speedi-Dry; (ii) in response to the hazardous waste releases, Ross had implemented a sampling plan to determine whether the soil, drinking well, and pond located at the Facility had been contaminated; (iii) Respondent was evaluating used oil prior to burning it; and (iv) Respondent would remove enough vehicles to eliminate the need to obtain a salvage yard certificate of registration.
6. On January 6, 2015, Agency personnel conducted a site visit to the Facility and observed that Respondent: (i) was storing hazardous waste in un-labeled, open, and/or outside storage drums that were not under cover in violation of HWMR § 7-311; and (ii) was still storing at least four discarded, dismantled, wrecked, scrapped, or ruined motor vehicles at the Facility without a certificate of registration in violation of 24 V.S.A. § 2242.
7. On February 22, 2015 and May 22, 2015, Agency personnel conducted site visits of the Facility and did not observe any violations of the HWMR. Respondent was, however, still storing at least four discarded, dismantled, wrecked, scrapped, or ruined motor vehicles at the Facility. The Agency notified Respondent that it was still in violation of 24 V.S.A. § 2242 in a June 5, 2015 Notice of Alleged Violation.

8. On November 24, 2015, Agency personnel conducted a site visit of the Facility, during which they observed: (i) Respondent was still storing at least four discarded, dismantled, wrecked, scrapped, or ruined motor vehicles at the Facility with a certificate of registration in violation of 24 V.S.A. § 2242; (ii) Respondent was storing drums containing used oil and antifreeze outside and not under cover in violation of HWMR §§ 7-311 and 7-806(b); and (iii) Respondent was storing at least one spent lead acid battery outside and not under cover in violation of HWMR § 7-311(a).

### AGREEMENT

Based on the foregoing Statement of Facts and Description of Violations, the parties agree as follows:

A. For the violations described above, Respondent shall pay an administrative penalty of \$18,000.00. Respondent shall pay this penalty in twenty-four (24) equal monthly installments of \$750.00. The first monthly payment shall be received no later than the fifteenth (15<sup>th</sup>) day of the month following the date this Assurance is entered as an Order by signature of the Environmental Court (“effective date”). All subsequent payments shall be made no later than the fifteenth (15<sup>th</sup>) calendar day of each consecutive month thereafter. All payments shall be by check made payable to the “Treasurer, State of Vermont” and forwarded to:

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

In the event Respondent fails to make any payment on time as set forth above, the Secretary, shall have the authority to accelerate all the remaining payments and make them due and

payable immediately. The decision to invoke this acceleration provision shall be in the sole discretion of the Secretary, and a decision not to invoke this provision on a single occasion shall not be deemed a waiver of the provision's future use.

- A. No later than thirty (30) consecutive calendar days following the effective date of this Order, Respondent shall either: (i) obtain the authorizations required under 24 V.S.A. § 2242 to operate a salvage yard; or (ii) remove enough junk motor vehicles from the Facility such that the Facility no longer meets the definition of "salvage yard" set forth in 24 V.S.A. § 2241. Should Respondent elect to pursue option (ii), then he shall submit a plan for the removal of the junk motor vehicles to Marc Roy, Hazardous Waste Management Section Chief, 1 National Life Drive, 1 Davis, Montpelier VT 05620-3704 for review and approval prior to removing any junk motor vehicles from the Facility. In addition, within fifteen (15) days after a sufficient number of junk motor vehicles have been removed, Respondent shall submit to Marc Roy any documentation necessary for him to verify that they were removed in accordance with the approved plan.
- B. Respondent shall comply with the HWMR in the operation of his business.
- C. The State of Vermont and the Agency reserve continuing jurisdiction to ensure future compliance with all statutes, rules, and regulations applicable to the facts and violations set forth hereinabove.
- D. Nothing in this Assurance shall be construed as having relieved, modified, or in any manner affected the Respondent's on-going obligation to comply with all other federal, state or local statutes, regulations or directives applicable to the Respondent in the operation of their business.
- E. This Assurance shall become effective only after it is signed by all parties and entered as an order of the Environmental Court. When so entered by the Environmental Court, this Assurance shall

become a judicial order. In the event that such order is vacated, the Assurance shall be null and void.

- F. Respondent shall not be liable for additional civil or criminal penalties with respect to the specific facts described herein occurring before the effective date of the Assurance, provided that Respondent fully complies with the agreements set forth above.
- G. This Assurance sets forth the complete agreement of the parties, and it may be altered, amended, or otherwise modified only by subsequent written agreements signed by the parties hereto or their legal representatives and incorporated in an order issued by the Environmental Court. Alleged representations not set forth in this Assurance, whether written or oral, shall not be binding upon any party hereto, and such alleged representations shall be of no legal force or effect.
- H. Any violation of any agreement set forth herein will be deemed to be a violation of a judicial order, and may result in the imposition of injunctive relief and/or penalties, including penalties set forth in 10 V.S.A. Chapters 201 and/or 211.
- I. This Assurance is subject to the provisions of 10 V.S.A. Sections 8007 and 8020.

**SIGNATURES**

The provisions set forth in this Assurance of Discontinuance are hereby agreed to and accepted.

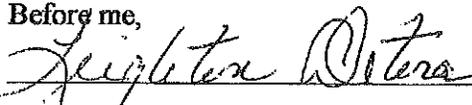
Dated at Stowe, Vermont, this 4<sup>th</sup> day of June 2016.

By:   
Willie Noyes

STATE OF VERMONT

COUNTY OF Windsor, ss.

At Stowe, Vermont, this 4<sup>th</sup> day of June 2016,  
the above-signatory personally appeared and acknowledged this instrument, by him sealed and  
subscribed, to be his free act and deed.

Before me,  
  
Notary Public  
Term expires 2-10-19

The provisions set forth in this Assurance of Discontinuance are hereby agreed to and accepted.

Dated at Montpelier, Vermont, this 7<sup>th</sup> day of June, 2016.

SECRETARY, AGENCY OF NATURAL RESOURCES

BY:   
Alyssa Schuren, Commissioner  
Department of Environmental Conservation