

STATE OF VERMONT
SUPERIOR COURT
ENVIRONMENTAL DIVISION


ANR v New England Kurn Hattin Homes

24-ENV-00013

AOD ORDER

The Assurance of Discontinuance, signed by the Respondent(s) on the 19th day of January, 2024 and filed with the Superior Court, Environmental Division, on the 26th day of February, 2024, is hereby entered as an order of this Court, pursuant to 10 V.S.A. 8007(c).

Electronically signed April 15, 2024 pursuant to V.R.E.F. 9(D).

A handwritten signature in black ink that reads "Tom Walsh". The signature is stylized and cursive.

Thomas G. Walsh, Judge
Superior Court, Environmental Division

STATE OF VERMONT

SUPERIOR COURT

**ENVIRONMENTAL DIVISION
Docket No.**

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

v.

**NEW ENGLAND KURN HATTIN HOMES,
Respondent**

VIOLATIONS

1. Construction Permit #3849-20.0 (Condition A.9) and Permit to Operate #5452-22.0 (Condition II.B.1): failure to complete in-plant testing of the filter vessels
2. Permit to Operate #5452-22.0 (Condition II.B.2) and Vermont Water Supply Rule § 7.1.1: failure to have an approved Operation and Maintenance Manual

ASSURANCE OF DISCONTINUANCE

Pursuant to the provisions of 10 V.S.A. § 8007, the Secretary (“Secretary”) of the Agency of Natural Resources (“Agency”) and New England Kurn Hattin Homes (“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 a public drinking water system in Westminster, Vermont, that serves approximately 200 residential users through 26 service connections (the “Water System”).
2. The Water System (WSID #VT0005452) qualifies as a Public Community Water System under the Vermont Water Supply Rule (the “VWSR”).
3. On August 31, 2020, the Agency issued Respondent Permit to Construct #3849-20.0. Condition A.9 of the Permit to Construct required Respondent to complete in-plant testing of the filter vessels to verify the maximum treatment flow rate and establish the required redundancy of treatment.
4. During a routine sanitary survey on March 8, 2022, the Agency observed that in-plant testing of the filter vessels had not yet occurred. The Agency also observed that the Water System’s

Operation and Maintenance Manual did not reflect the then-existing configuration and operational control of the wells and storage tank that serve the Water System.

5. On June 16, 2022, the Agency issued Respondent Permit to Operate #5452-22.0 for the Water System. Condition II.B.1 required that Respondent complete in-plant testing of the filter vessels before October 1, 2022. Condition II.B.2 required that Respondent submit an updated Operation and Maintenance Manual before October 1, 2022. VWSR § 7.1.1 requires that Respondent have an approved Operation and Maintenance Manual.
6. As of December 13, 2022, Respondent had neither completed in-plant testing of the filter vessels nor submitted an updated Operation and Maintenance Manual. The Agency sent Respondent a Notice of Alleged Violation (“NOAV”), directing Respondent address the deficiencies by March 13, 2023.
7. The Agency alleges that the above conduct constitutes a violations of Condition A.9 of Construction Permit #3849-20.0, Conditions II.B.1 and II.B.2 of Permit to Operate #5452-22.0, and VWSR § 7.1.1.
8. Respondent admits the factual findings described above solely for purposes of resolving this case.

AGREEMENT

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

A. For the violation described above, Respondent shall pay a total penalty of \$ 6,750.00. Payment shall be made by either:

1. Check made payable to the “Treasurer, State of Vermont” and forwarded to:

Administrative Assistant
Agency of Natural Resources
Environmental Compliance Division
1 National Life Drive, Davis 3
Montpelier, VT 05620-3803

Or

2. Credit card or electronic check payment through the Agency’s online system at:
https://anronline.vermont.gov/?formtag=ANR_EnforcementPenaltyPayment

Payment shall be received no later than thirty (30) consecutive calendar days following the Effective Date of this Assurance (as defined in Paragraph G).

- B. Respondent shall bring the Water System into compliance with the VWSR, including by performing the following actions:
 - 1. No later than sixty (60) consecutive calendar days following the Effective Date, Respondent shall either (i) submit pilot testing data that demonstrates that the existing greensand filtration equipment for the Water System has adequate treatment capacity; or (ii) submit a technically complete Permit to Construct application for the installation of additional greensand filtration capacity.
 - 2. No later than sixty (60) consecutive calendar days following the satisfaction of Paragraph B.1, Respondent shall revise and submit a complete Operation & Maintenance Manual documenting the final configuration of equipment and components of the Water System.
- C. Without formally admitting or denying wrongdoing or liability, Respondent agrees to this settlement of the violation alleged above in order to resolve all outstanding disputes.
- D. Respondent agrees that the violation alleged is deemed proved and established as a “prior violation” in any future state proceeding that requires consideration of Respondent’s past record of compliance, such as permit review proceedings and calculating civil penalties under 10 V.S.A. § 8010.
- E. 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.
- F. 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.

- G. This Assurance shall become effective only after it is signed by all parties and entered as an order of the Environmental Division of the Superior Court (the “Effective Date”). When so entered by the Environmental Division, this Assurance shall become a judicial order. In the event that such order is vacated, the Assurance shall be null and void.
- H. The 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 the Respondent fully complies with the agreements set forth above.
- I. 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 Division of the Superior 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.
- J. 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.
- K. This Assurance is subject to the provisions of 10 V.S.A. §§ 8007 and 8020.

[Signatures on following pages.]

SIGNATURES

The provisions set forth in this Assurance of Discontinuance are hereby agreed to and accepted. Further, I, Stephen Harrison, the undersigned, hereby state under oath that I am the Executive Director of New England Kurn Hattin Homes, that I have the power to contract on behalf of New England Kurn Hattin Homes, and that I have been duly authorized to enter into the foregoing Assurance of Discontinuance on behalf of that entity.

Dated at WESTMINSTER, Vermont, this 19TH day of JANUARY 2024.

NEW ENGLAND KURN HATTIN HOMES

By: Stephen Harrison
Stephen Harrison, Executive Director

STATE OF VERMONT

COUNTY OF WINDHAM, ss.

At WESTMINSTER, Vermont, this 19th, day of JANUARY 2024, the above signatory personally appeared, signed, and swore to the truth of the foregoing. Before me,

Martha Ruffe
Notary Public State of Vermont

Printed Name MARTHA RUFFLE

Commission No. 157.0002700

My Commission Expires 01/31/2025



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

Dated at Montpelier, Vermont, this 26th day of January, 2024.

SECRETARY, AGENCY OF NATURAL RESOURCES

BY: Jason M. Batchelder
Jason Batchelder, Commissioner
Department of Environmental Conservation