

STATE OF VERMONT

SUPERIOR COURT
ORLEANS UNIT

CIVIL DIVISION
Docket No. 218-8-12 Oscv

STATE OF VERMONT,)
Plaintiff,)
)
v.)
)
RICHARD M. NELSON, CYRIL)
NELSON, and NELSON FARMS, INC,)
Defendants.)

FILED
SEP 23 2014
VERMONT SUPERIOR
COURT
ORLEANS UNIT

FINAL JUDGMENT ORDER

This action came before the Court pursuant to the parties filing of a Stipulation for the Entry of Final Judgment Order. Based upon that Stipulation, and pursuant to 6 V.S.A. § 1(a)(7), 6 V.S.A. § 4812(c), 10 V.S.A. § 8221 and the Court’s inherent equitable powers, it is hereby ADJUDGED, ORDERED and DECREED as follows:

DISMISSAL OF DEFENDANTS CYRIL NELSON AND NELSON FARMS, INC.

1. Pursuant to V.R.C.P. 41(a), Defendants Cyril Nelson and Nelson Farms, Inc. are hereby dismissed with prejudice from this action.

ADJUDICATION FOR VIOLATIONS

2. Defendant Richard M. Nelson is adjudged liable for violating at the agricultural operations on Coventry Station Road in Coventry, Vermont:
 - Vermont’s Accepted Agricultural Practices (AAPs) section 4.01(a) at various times from 2009-2011 by direct discharging waste into the surface waters of the state via a pipe which led from a silage bunker drain to a nearby stream, without a permit from the Secretary of the Agency of Natural Resources;

Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609

- Vermont AAP section 4.01(b) from 2009-2011 by failing to manage his feed bunks in a manner to prevent runoff of wastes into waters of the state by using a feed bunker at the farm which was designed in such a way to cause silage leachate runoff to drain into a pipe and discharge into waters of the state; and
- 10 V.S.A. § 1259(a) at various times from 2009-2011 by discharging waste in the form of silage runoff from the agricultural operations into the waters of the state without a permit from the Secretary of the Agency of Natural Resources.

PENALTIES

3. For the violations described above, Defendant Richard M. Nelson shall pay a civil penalty of thirty-three thousand dollars (\$33,000.00).
4. Payment of the thirty-three thousand dollar (\$33,000.00) penalty shall be made by check to the “State of Vermont” and shall be sent to: Robert F. McDougall, Assistant Attorney General, Office of the Attorney General, 109 State Street, Montpelier, VT 05609. Payment of the thirty-three thousand dollar (\$33,000.00) penalty shall be as follows: at the time that Defendant Richard M. Nelson signs the Stipulation for the Entry of Final Judgment Order, he shall provide the State with two checks, one for eleven thousand dollars (\$11,000.00) dated on or before the date he signs the Stipulation, and a second for twenty-two thousand dollars (\$22,000.00) dated August 20, 2014. Both checks shall be held in trust by the State until such time as the Court has approved and entered the Final Judgment Order. If for any reason the Final Judgment Order is not entered within sixty (60) days of the date that the last party signs the Stipulation, the checks shall be returned to Defendant Richard M. Nelson and

full payment shall be due within ten (10) days following the Entry of Final Judgment Order, whenever that occurs.

5. In the event that Richard M. Nelson fails to pay the penalty described in paragraphs 3 and 4, such failure shall constitute a breach of this Final Judgment Order and interest shall accrue on the entire unpaid balance at twelve percent (12%) per annum.

Defendant Richard M. Nelson shall also be liable for costs incurred by the State to collect any unpaid penalty amount.

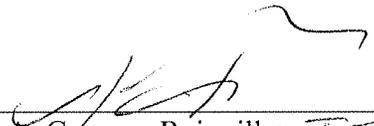
OTHER PROVISIONS

6. The parties waive: (a) all rights to contest or appeal this Final Judgment Order; and (b) all rights to contest the obligations imposed upon Defendant Richard M. Nelson under this Final Judgment Order in this or any other administrative or judicial proceeding involving the State of Vermont.
7. This Final Judgment Order is binding upon the parties and all their successors and assigns.
8. Nothing in this Final Judgment Order shall be construed to create or deny any rights in, or grant or deny any cause of action to, any person not a party to this Final Judgment Order, including any State agencies, sub-divisions or other State entities.
9. This Final Judgment Order shall become effective only after it is entered as an order of the Court. When so entered by the Court, the Judgment Order shall be final.

10. Any violation of this Final Judgment Order shall be deemed to be a violation of a judicial order, and may result in the imposition of injunctive relief and/or penalties, including penalties for contempt, as set forth in 10 V.S.A. Chapters 201 and 211.
11. Nothing in this Final Judgment Order shall be construed as having relieved, modified, or in any manner affected Defendant Richard M. Nelson's obligations to comply with all other federal, state, or local statutes, regulations, permits or directives applicable to Defendant Richard M. Nelson.
12. This Final Judgment Order may only be altered, amended, or otherwise modified only by subsequent written agreements signed by the parties hereto or their legal representatives and approved by this Court. Any representations not set forth in this Final Judgment Order, whether written or oral, shall not be binding upon any party hereto, and such alleged representations shall be of no legal force or effect.
13. Defendant Richard M. Nelson shall not be liable for additional civil or criminal penalties with respect to the specific facts described herein or in the Stipulation for the Entry of Final Judgment Order occurring before the effective date of the Order.

SO ORDERED, and ENTERED as FINAL JUDGMENT.

DATED at Newport, Vermont this 18th day of Sept., 2014.



Hon. ~~A. Gregory Rainville~~ T. Tomasi
Orleans Superior Court Judge

Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609