

STATE OF VERMONT

SUPERIOR COURT

CIVIL DIVISION

FRANKLIN UNIT

Docket No. 388-10-14Frcv

STATE OF VERMONT, AGENCY OF )  
AGRICULTURE, FOOD and MARKETS, )  
and AGENCY OF NATURAL )  
RESOURCES, )  
Plaintiff, )

Vermont Superior Court

NOV 19 2014

FILED: Franklin Civil

v. )

LEACH FARMS, INC., )  
Defendant. )

**CONSENT ORDER AND FINAL JUDGMENT ORDER**

This action came before the Court pursuant to the parties filing of Pleadings by Agreement under Vermont Rule of Civil Procedure 8(g). Based upon those Pleadings by Agreement and the Stipulation for the Entry of Consent Order and Final Judgment Order, and pursuant to 10 V.S.A. § 8221 and the Court's inherent equitable powers, it is hereby ADJUDGED, ORDERED and DECREED as follows:

**ADJUDICATION OF VIOLATIONS**

1. Defendant Leach Farms, Inc. (Defendant) is adjudged liable for violating 10 V.S.A. § 1259(a) by discharging manure-laden water into the Bogue Brook on November 19, 2013 without a permit from the Secretary of the Agency of Natural Resources. Each of the discharges from the three vehicles owned by Defendant, six discharges in total, is a separate violation of 10 V.S.A. § 1259(a) for which Defendant is adjudged liable.

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2. Defendant is adjudged liable for violating the following Vermont Accepted Agricultural Practices (AAPs) by discharging manure-laden water into Bogue Brook on November 19, 2013 without a permit:
  - Section 4.01(a) – direct discharge via a discrete conveyance to surface waters of the State; and
  - Section 4.05(a) – improper management of agricultural waste so as to not minimize adverse water quality impacts.

#### **PENALTIES**

3. For the violations described above, Defendant shall pay a civil penalty of forty thousand dollars (\$40,000.00) within five (5) business days of the Court's issuance of the Consent Order and Final Judgment Order.
4. Payment of the forty thousand dollar (\$40,000.00) penalty shall be made 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.

#### **OTHER PROVISIONS**

5. Defendant waives: (a) all rights to contest or appeal this Consent Order; and (b) all rights to contest the obligations imposed upon Defendant under this Consent Order in this or any other administrative or judicial proceeding involving the State of Vermont.
6. This Consent Order is binding upon Defendant and its successors and assigns.

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7. Nothing in this Consent 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 Consent Order.
8. This Consent Order shall become effective only after it is entered as an order of the Court. When so entered by the Court, this Consent Order shall become a Final Judgment Order.
9. Any violation of this Consent 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.
10. The State of Vermont and the Court reserve continuing jurisdiction to ensure future compliance with all statutes, rules, and regulations applicable to the facts and circumstances set forth herein.
11. Nothing in this Consent Order shall be construed as having relieved, modified, or in any manner affected Defendant's obligations to comply with all other federal, state, or local statutes, regulations, permits or directives applicable to Defendant. The State reserves all rights, claims and interests not expressly waived herein.
12. This Consent 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. Alleged representations not set forth in this Consent 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.

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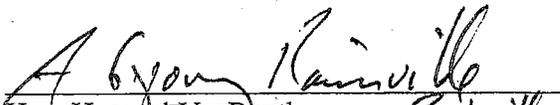
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13. Defendant shall not be liable for additional civil or criminal penalties with respect to the specific facts described herein or in the Pleadings by Agreement occurring before the effective date of the Order, provided that the Defendant fully complies with the terms of the Consent Order set forth above.

SO ORDERED, and ENTERED as FINAL JUDGMENT.

DATED at Montpelier, Vermont this 19 day of November, 2014.

  
Hon. Howard VanBenthuysen Rainville  
Franklin Superior Court Judge

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