

STATE OF VERMONT  
WASHINGTON COUNTY, SS.

SUPERIOR COURT  
DOCKET NO.

STATE OF VERMONT, AGENCY )  
OF NATURAL RESOURCES )  
 )  
Plaintiff )  
 )  
v. )  
 )  
 )  
C & S WHOLESALE GROCERS, )  
INC. )  
 )  
 )  
Defendant. )

**STIPULATION FOR THE ENTRY OF CONSENT DECREE  
AND CONSENT DECREE**

Plaintiff, the State of Vermont, Agency of Natural Resources (the "State"), through the Office of the Attorney General, and defendant, C & S Wholesale Grocers, Inc. ("C & S" or "Defendant"), individually, and through the undersigned counsel, stipulate and agree as follows:

WHEREAS, the State alleges in the Pleadings by Agreement filed in this action ("Pleadings by Agreement") that C & S violated hazardous waste management and underground storage tank regulations; and,

WHEREAS, C & S has admitted in the Pleadings by Agreement that it committed hazardous waste management and underground storage tank violations: and,

NOW, THEREFORE, the State and C & S hereby stipulate and agree as follows:

1. The consent decree which follows immediately below ("the Consent Decree") may be entered by the Court;

2. The Consent Decree has been negotiated by and among the State and C & S in good faith and is in the public interest;

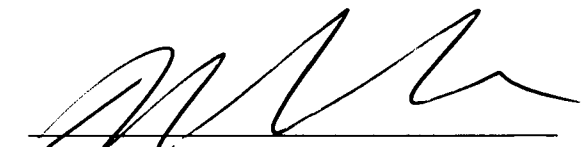
3. The State and C & S hereby waive all rights to contest or appeal the Consent Decree and they shall not challenge, in this or any other proceeding, the validity of any of the terms of the Consent Decree or of this Court's jurisdiction to enter the Consent Decree; and

4. The Consent Decree 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' legal representatives and incorporated in an order issued by the Court.

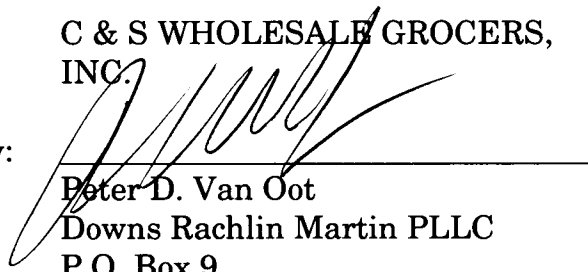
STATE OF VERMONT

WILLIAM H. SORRELL  
ATTORNEY GENERAL

Dated: 6/08/09

By:   
John Beling  
Assistant Attorney General  
Attorney General's Office  
109 State Street  
Montpelier, VT 05609-1001

Dated: 06/03/09

C & S WHOLESALE GROCERS,  
INC.  
By:   
Peter D. Van Oot  
Downs Rachlin Martin PLLC  
P.O. Box 9  
28 Vernon Street, Suite 501  
Brattleboro, VT 05302-0009

## **CONSENT DECREE**

Based upon the parties' Pleadings by Agreement in this action and the Stipulation for the Entry of Consent Decree, and pursuant to 10 V.S.A. § 8221 and the court's inherent equitable powers, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

### **ADJUDICATION OF HAZARDOUS WASTE AND UNDERGROUND STORAGE TANK VIOLATIONS**

1. The Agency of Natural Resources ("ANR") conducted inspections of the facility on December 5, 6, 10, 20 and 21, 2007, January 18, 2008 and July 2, 2008. During the December 5, 6, 10, 20 and 21, 2007 and January 18, 2008 inspections, ANR found violations of the following: Sections 7-303 and 7-308(h)(I); Section 7-308(b)2); Sections 7-308(b)(3) and 7-304(b); Section 7-308(b)(4); Section 7-308(b)(9); Section 7-308(b)(10); Section 7-309(a)(1); Section 7-309(a)(4); Section 7-309(b)(6); Sections 7-310(a)(3) & (5); Section 7-311(a)(1); Section 7-311(a)(2); Section 7-311(a)(4); Section 7-311(a)(5); Section 7-311(b)(2); Section 7-311(b)(3); Section 7-311(d)(1); Section 7-311(d)(2); Section 7-311(e)(1); Section 7-311(e)(2); Section 7-311(f)(1); Section 7-311(f)(2); Section 7-311(f)(3); Section 7-311(f)(3); Section 7-504(a); Section 7-702(b)(5); Section 7-708(a); 7-806(b)(1-8); Sections 7-806(d)(2) & (4), and Section 7-912(e)(8) of Vermont's Environmental Protection Rules, and 10 V.S.A. § 6610a. C & S is adjudged liable to the State for these violations.

2. During the July 2, 2008 violation, ANR found violations of

the following: Sections 8-505(f), 506(c)(1) and 507(a); Section 8-507(a); Sections 8-503(c)(1-3); Sections 8-503(a) & (c); Section 8-507(a)(5); Section 8-506(b)(1); Section 8-503(e), and Sections 8-509(a) & (c) of Vermont's Environmental Protection Rules. C & S is adjudged liable to the State for these violations.

### **PENALTIES**

3. For the violations described above, Defendant shall pay a penalty of \$215,000.

4. Penalties owing to the State as of the date of this Consent Decree shall be paid as follows:

Payment of \$215,000 shall be by certified check made payable to "Treasurer, State of Vermont" and forwarded to:

Vermont Office of the Attorney General  
Environmental Protection Division  
109 State Street  
Montpelier, VT 05609-1001

Payment shall be received no later than thirty (30) consecutive calendar days following the date this Consent Decree is entered as an Order by signature of the Court (effective date).

5. Failure to make payment by the date specified shall constitute a breach of this consent decree, and interest shall accrue on the entire unpaid balance at Twelve Per Cent (12%) per annum.

### **MISCELLANEOUS PROVISIONS**

6. Defendant hereby waives: 1) all rights to contest or appeal this Consent Decree; and 2) all rights to contest the obligations imposed

upon Defendant under Paragraphs 3 - 5 of this Consent Decree in this or any other administrative or judicial proceeding involving the State of Vermont.

7. This Consent Decree is binding upon Defendant and its successors and assigns.

8. Nothing in this Consent Decree 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 Decree.

9. This Order shall become effective only after it is signed by all parties and entered as an order of the Court. When so entered by the Court, this Consent Decree shall become a judicial order.

10. Any violation of this Consent Decree 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. 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.

12. Nothing in this Consent Decree 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.

13. This Consent Decree may only be altered, amended, or otherwise modified only by subsequent written agreements signed by the parties hereto or their legal representatives and incorporated into an order issued by the Washington Superior Court. Alleged representations not set forth in this Consent Decree, whether written or

oral, shall not be binding upon any party hereto, and such alleged representations shall be of no legal force or effect.

14. 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 Decree set forth above.

15. The Court hereby finds that the State and Defendant have negotiated this Consent Decree in good faith, that implementation of this Consent Decree will avoid prolonged and complicated litigation between the parties, and that this Consent Decree is fair, reasonable and in the public interest. The Court hereby enters this Consent Decree as an Order of the Court.

IT IS SO ORDERED at Montpelier, Vermont this \_\_\_\_ day of \_\_\_\_\_, 2009.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Helen M. Toor, Superior Court Judge