

STATE OF VERMONT

SUPERIOR COURT
FRANKLIN UNIT

CIVIL DIVISION
Docket No. Frcv

STATE OF VERMONT, AGENCY OF
NATURAL RESOURCES,
Plaintiff,

v.

KANE'S SCENIC RIVER FARMS, LLC,
Defendant.

**STIPULATION FOR THE ENTRY OF CONSENT ORDER AND
FINAL JUDGMENT ORDER**

The parties, State of Vermont, Agency of Natural Resources, by and through Vermont Attorney General Thomas J. Donovan, Jr., and Defendant Kane's Scenic River Farms, LLC, by and through Gravel & Shea PC, hereby stipulate and agree as follows:

WHEREAS, the State alleges in the Pleadings by Agreement filed in this action that Defendant violated Vermont's water pollution law by discharging waste, i.e. manure and silage leachate, into waters of the State, i.e. the Missisquoi River, without a permit from the Secretary of the Agency of Natural Resources;

WHEREAS, the Attorney General pursuant to 3 V.S.A. Chapter 7 has the general supervision of matters and actions in favor of the State and may settle such matters as the interests of the State require;

Office of the
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109 State Street
Montpelier, VT
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WHEREAS, under 10 V.S.A. § 8221, if found responsible Defendant is potentially liable for civil penalties up to \$85,000 for each violation and \$42,500 per violation for each day the violation continues;

WHEREAS, the State considered the factors in 10 V.S.A. § 8010(b) in arriving at the proposed penalty amount, including the degree of the violation's actual or potential impact on public health, safety, welfare, and the environment;

WHEREAS, the Attorney General believes that this settlement is in the State's interest as it upholds the statutory regime of 10 V.S.A. Chapter 47, under which the violation occurred; and

WHEREAS the Consent Order has been negotiated by and between the State and Defendant in good faith and the State and Defendant agree to execute the Consent Order in settlement of the State's allegations described and identified in the Pleadings by Agreement;

NOW, THEREFORE, the State and Defendant hereby stipulate and agree as follows:

1. Without formally admitting or denying wrongdoing or liability, Defendant agrees to this settlement of the violations alleged above in order to resolve this dispute;
2. Defendant agrees that the violation alleged is deemed proved and established as a "prior violation" in any future state proceeding that

requires consideration of Defendant's past record of compliance, such as permit review proceedings and calculating civil penalties under Title 10, section 8010;

3. The State and Defendant hereby waive all rights to contest or appeal the Consent Order and they shall not challenge, in this or any other proceeding, the validity of any of the terms of the Consent Order or of this Court's jurisdiction to enter the Consent Order;
4. The Consent Order sets forth the complete agreement of the parties, and it may be altered, amended, or otherwise modified only by subsequent written agreement signed by the parties and approved by the Court;
5. The Court should hold this Stipulation and the Consent Order for twenty-one (21) calendar days following their submission to the Court for the State to post them on its website to facilitate possible public participation in consideration of this settlement; and
6. Following expiration of the twenty-one (21) day period, the attached Consent Order may be entered as a final Judgment in this matter by the Court.

DATED at Montpelier, Vermont this 14th day of Sept, 2018.

Respectfully submitted,

THOMAS J. DONOVAN, JR.
ATTORNEY GENERAL

By:

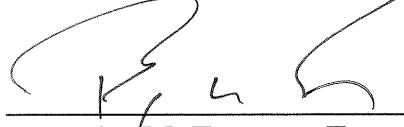


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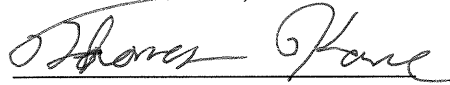
DATED at Burlington, Vermont this ^{10th} ~~10th~~ day of Sept, 2018.

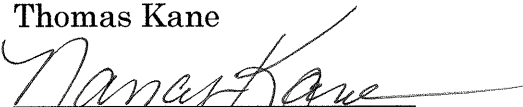
KANE'S SCENIC RIVER FARMS, LLC,

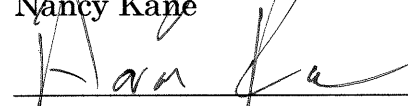
By: 
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For Defendant


As to paragraph 9 of the Consent Order:

THOMAS KANE, NANCY KANE,
AARON KANE, and ASHLEY SWAINBANK


Thomas Kane


Nancy Kane


Aaron Kane


Ashley Swainbank