

STATE OF VERMONT

SUPERIOR COURT
RUTLAND UNIT

CIVIL DIVISION
Docket No. 597-10-15 Rdcv

STATE OF VERMONT, AGENCY OF)
 AGRICULTURE, FOOD and MARKETS,)
 and AGENCY OF NATURAL)
 RESOURCES,)
 Plaintiff,)
)
 v.)
)
 WILLIAM and ROBIN HANFIELD,)
 Defendants.)

FILED
JUL 23 2018
 VERMONT SUPERIOR COURT
 RUTLAND

ORDER ON MOTION FOR CONTEMPT

The Complaint in this action was filed on October 8, 2015. The State moved for Default Judgment on Liability on March 21, 2016 with supporting affidavits and exhibits establishing the liability of Defendants. On April 27, 2016, the Court granted the State’s Motion for Default Judgment and found Defendants liable for violations of Vermont’s environmental and agricultural laws and regulations. On June 28, 2016, a hearing on injunctive and monetary remedies was held and an Order on Injunctive and Monetary Remedies (the “Order”) issued by this Court.

On June 19, 2018, the State filed a Motion for Contempt alleging that Defendants failed to comply with the Order. On June 20, 2018, the Court issued an Order to Show Cause. The Court held an ^(a) ~~evidentiary~~ hearing on the Order to Show Cause on July 23, 2018.

SHJ

~~evidence~~ ^(agreement of the parties) presented at the hearing on the Order to Show Cause, the Court

hereby FINDS as follows:

1. On November 14, 2016, Defendants were served with a copy of the Order.

2. In violation of ¶ 5 of the Order, Defendants did not pay the \$24,750.00 civil penalty assessed. The State was able to obtain \$752.39 through a tax set-off, leaving a current outstanding balance due to the State of \$23,997.61.
3. In violation of ¶¶ 3(i) and (ii) of the Order, Defendants failed to have an outside consulting engineer review the construction, use, and capacity of the manure pit and milk house waste system, and failed to provide the consultant's findings and recommendations to the Agency of Agriculture Food and Markets (AAFM) as required.
4. In violation of ¶ 3(iii) of the Order, Defendants failed to make any alterations or construction to the manure pit and milk house waste system necessary to comply with Vermont statutes and regulations.
5. In violation of ¶ 2 of the Order, Defendants failed to certify in writing to AAFM by November 1st each year for 3 years following the date of the order that there is at least 180 days of storage at the manure pit or that they made arrangements for alternative storage capabilities. Although Defendants were served with the Order mid-November of the first year, Defendants have since failed to submit any writing to AAFM for purposes of complying with the directive of ¶ 2.
6. In February 2018, AAFM representatives responded to complaints regarding the manure pit at Defendants' Farm and observed that manure was leaking and/or overflowing from Defendants' manure pit.
7. Defendants have failed to manage the manure pit in order to prevent overflow of manure, risking discharge of manure to State waters.

8. In violation of ¶ 1 of the Order, Defendants have failed to follow all applicable Vermont statutes and regulations, including that they manage the manure pit properly and so as to not overflow.
9. As set forth above, Defendants have knowingly and willfully failed to comply with the June 28, 2016 Order on Injunctive and Monetary Remedies.

Based on the foregoing findings supported by clear and convincing evidence, and pursuant to 6 V.S.A. § 4995, 10 V.S.A. § 8221, and 12 V.S.A. § 122, the Court hereby ORDERS as follows:

1. Defendants, William and Robin Hanfield, are each in civil contempt for violating this Court's June 28, 2016 Order on Injunctive and Monetary Remedies, a copy of which is attached and incorporated in this Order.
2. Defendants shall comply with the June 26, 2016 Order as set forth below, while all terms not specifically addressed shall remain in full force and effect:
 - a. Defendants shall comply with ¶ 3 of the June 28, 2016 Order, as follows:
 - i. ¶ 3(i) (Defendants shall "hire an outside consulting engineer, approved in advance by AAFM, to review the construction, use and capacity of the manure pit and milk house waste system") on or before September 1, 2018;
 - ii. Defendants shall empty the manure pit on or before November 15, 2018, in order to facilitate the consulting engineer to review the construction, use and capacity of the manure pit.
 - iii. ¶ 3(ii) (Defendants shall "provide the consultant's findings and recommendations to AAFM") on or before April 15, 2019;

iv. ¶ 3(iii) (Defendants shall “make any alterations or construction to the manure pit and milk house waste system deemed necessary by AAFM”) as directed by AAFM, if deemed necessary by AAFM.

*of each month, beginning on August 15, 2018,

b. Defendants shall comply with ¶ 5 of the June 28, 2016 Order, as follows:

i. On or before the 15th day*, Defendants shall pay \$800.00 toward ~~the total amount~~ Defendants’ remaining civil penalty of \$23,997.61 ~~plus interest at the statutory rate of 12% per annum.~~

3. Should Defendants fail to comply with ~~any of the above listed requirements, which shall include the remaining terms of the June 28, 2016 Order not otherwise addressed above,~~ the requirements set forth in paragraph 2a. above Defendants shall be liable for an additional \$100.00 per day in coercive penalties.

4. The Court hereby reserves the right to require Defendants to reimburse the State of Vermont for the costs of bringing the motion for contempt, including reasonable attorney’s fees.

5. The Court hereby reserves the right to impose further coercive monetary sanctions and all other coercive measures allowable by law should Defendants fail to comply with this Order.

6. Defendants shall comply with all terms of the June 28, 2016 order not otherwise addressed above.
SO ORDERED.



Hon. Samuel Hoar, Jr.
Superior Court, Civil Division, Rutland Unit

7/23/18

Date