

STATE OF VERMONT

SUPERIOR COURT
ADDISON UNIT

CIVIL DIVISION
Docket No. Adcv

STATE OF VERMONT, AGENCY OF
AGRICULTURE, FOOD and MARKETS,
and AGENCY OF NATURAL RESOURCES,
Plaintiffs,

v.

DOUGLAS BUTLER and BUTLER FARM,
Defendants.

STIPULATION FOR THE ENTRY OF CONSENT ORDER
AND FINAL JUDGMENT ORDER

Plaintiffs State of Vermont, Agency of Agriculture, Food and Markets
and Agency of Natural Resources (the State), by and through Vermont Attorney
General Thomas J. Donovan, Jr., and Defendants, Douglas Butler and Butler
Farm (Defendants), by and through their counsel, Peter F. Langrock, Esq.,
hereby stipulate and agree as follows:

WHEREAS, the State alleges in the Pleadings by Agreement filed in
this action that Defendants have committed violations of 10 V.S.A., Chapter 47;
6 V.S.A., Chapter 215; and Vermont's Required Agricultural Practices (RAPs) by
mismanaging manure and discharging manure to waters of the State;

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;

WHEREAS, under 10 V.S.A. § 8221, Defendants are potentially liable for civil penalties of up to \$85,000.00 for each violation of Vermont's environmental laws (Title 10) and up to \$42,500.00 for each day the violation continues;

WHEREAS, under 6 V.S.A. § 4995, Defendants are potentially liable for civil penalties up to \$85,000 per violation of Vermont's agricultural water quality laws (Title 6) and up to \$42,500 for each day the violation continues;

WHEREAS, the State considered the factors in 10 V.S.A. § 8010(b) and 6 V.S.A. § 4995(e) in arriving at the proposed penalty amount, including the degree of actual or potential impact on public health, safety, welfare, and the environment resulting from the violations, and that Defendants knew or had reason to know the violations existed;

WHEREAS, in light of Defendants' demonstrated inability to pay, to wit, Defendant Douglas Butler's pending Chapter 12 bankruptcy proceeding in United States Bankruptcy Court for the District of Vermont, the State agrees to waive payment of the penalty under certain conditions specified in the Consent Order and Final Judgment Order;

WHEREAS, the Attorney General believes that this settlement is fair, reasonable, and in the State's interest as it upholds the statutory regime of 10 V.S.A., Chapter 47 and 6 V.S.A., Chapter 215, under which the violations occurred; and

WHEREAS, the Consent Order has been negotiated by the State and Defendants in good faith and the Parties 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 Defendants hereby stipulate and agree as follows:

1. Without formally admitting or denying liability, Defendants agree to this settlement of the violations alleged in the Pleadings by Agreement in order to resolve this dispute;
2. Defendants agree that the violations alleged are deemed proved and established as a "prior violation" in any future state proceeding that requires consideration of Defendants' past record of compliance, such as permit proceedings and calculating civil penalties under Title 6 or Title 10;
3. The State and Defendants 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 agreements 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.

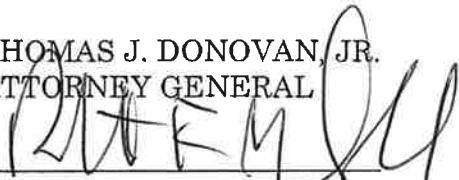
[SIGNATURE PAGE FOLLOWS]

Dated at Montpelier, Vermont, this 11th day of February 2020.

STATE OF VERMONT

THOMAS J. DONOVAN, JR.
ATTORNEY GENERAL

By:



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Dated at Middlebury, Vermont, this 11th day of February 2020.

DOUGLAS BUTLER
BUTLER FARM

DOUGLAS BUTLER AND
BUTLER FARM

By:


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