

STATE OF VERMONT

SUPERIOR COURT  
ADDISON UNIT

CIVIL DIVISION  
Docket No.

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

v.  
NOP BROTHERS AND SONS, HANK NOP,  
WARREN NOP, GERRIT NOP,  
WILLIAM NOP, and JOHN NOP,  
Defendants.

**PLEADINGS BY AGREEMENT**

The State of Vermont, by and through Vermont Attorney General Thomas J. Donovan, Jr., and Defendants, Nop Brothers and Sons, Hank Nop, Gerrit Nop, Warren Nop, William Nop, and John Nop, hereby submit these pleadings by agreement pursuant to Vermont Rule of Civil Procedure 8(g).

**THE STATE'S ALLEGATIONS**

***The Parties***

1. The Agency of Natural Resources (ANR) and the Agency of Agriculture, Food, and Markets (AAFM) are agencies of the State of Vermont created through 3 V.S.A. § 2802 and 3 V.S.A. § 2350, respectively.

2. Nop Brothers and Sons is a business partnership between and among Hank Nop, Gerrit Nop, Warren Nop, William Nop, and John Nop, that operates a dairy farm comprised of seven separate facilities and nine fields of cropland in this State of Vermont.

3. Warren Nop, William Nop, and John Nop are the owners of the real property located at 499 Rt. 7, Salisbury, Vermont 05769. Nop Brothers and Sons operates the Gagnon Farm facility at this property.

4. Nops Dairy LLC is a limited liability company registered to do business in this State of Vermont and owns the real property located at 2386 Rt. 7, Salisbury, VT 05769. Nop Brothers and Sons operates the Cloutier Farm facility at this property. Warren Nop, William Nop, and John Nop are members of Nops Dairy LLC.

5. Omya, Inc., is a profit corporation registered to do business in this State of Vermont and owns the real property located at 381 West Salisbury Rd., Salisbury, Vermont 05769. Nop Brothers and Sons operates the Galvin Farm facility at this property by a Farm Lease and Operating Agreement.

6. John, Warren, and William Nop are the owners of the real property located in Middlebury, Vermont, and identified by SPAN 387-120-12606. Nop Brothers and Sons manages cropland on Field 1038-1 Brg-01 (Brg-01) at this property.

7. The Charles H. Roy Revocable Trust is the owner of a portion of the real property located in Middlebury, Vermont, identified by SPAN 387-120-12608, and in Salisbury, Vermont, identified by SPAN 561-177-10632. Nop Brothers and Sons manages cropland on Fields 829-11 Roy-03 (Roy-03) and 829-13a Roy-05 (Roy-05) on the parcels owned by the Trust.

8. Gerrit and Charlotte Nop are the owners of the real property located in Middlebury, Vermont, identified by SPAN 387-120-12196. Nop Brothers and Sons manages cropland on Field 11068-20 Riv-01 (Riv-01) at this property.

9. At the time of the events described below, Defendants on these properties operated a dairy farm at the Gagnon Farm, Cloutier Farm, and Galvin Farm, and managed cropland on Brg-01, Roy-03, Roy-05, and Riv-01 fields.

### ***Statutory and Regulatory Structure***

#### Title 10

10. ANR regulates the protection of Vermont's waters, the permitting and management of discharges, maintenance of water quality, and control of water pollution under 10 V.S.A. Chapter 47. AAFM regulates agricultural water quality under 6 V.S.A. Chapter 215. ANR and AAFM cooperate and coordinate their respective efforts relating to agricultural water quality pursuant to 10 V.S.A. § 1259(i) and 6 V.S.A. § 4810(d).

#### *Title 10 Prohibition against Discharge to Waters of the State*

11. Title 10 section 1259(a) provides, in part, that “[n]o person shall discharge any waste, substance, or material into waters of the state . . . without first obtaining a permit for that discharge from the Secretary [of ANR].”

12. Title 10 section 1251(8) provides that a “person” includes “any individual; partnership; company; corporation; association; joint venture; trust; [or] municipality.”

13. Title 10 section 1251(3) provides that a “discharge” is “the placing, depositing, or emission of any wastes, directly or indirectly, into . . . the waters of the State.”

14. Title 10 section 1251(12) provides that “waste” is “effluent, sewage or any substance or material, liquid, gaseous, solid or radioactive, including heated liquids, whether or not harmful or deleterious to waters.”

15. Title 10 section 1251(13) provides that “waters” include “all rivers, streams, creeks, brooks, reservoirs, ponds, lakes, springs, and all bodies of surface waters, artificial or natural, which are contained within, flow through or border upon the State or any portion of it.”

## Title 6

### *Title 6 Required Agricultural Practices*

16. The Secretary of AAFM in furtherance of the purposes of Title 6 Chapter 215 governing Agricultural Water Quality “may...make, adopt, revise, and amend reasonable rules which define practices described in section 4810 of [Title 6] as well as other rules deemed necessary to carry out the provisions of [Chapter 215].” 6 V.S.A. § 4811(1).

17. Pursuant to Title 6 section 4810, the Secretary of AAFM adopted Required Agricultural Practices (RAPs) to “address activities which have a potential for causing agricultural pollutants to enter the groundwater and waters of the State, including dairy and other livestock operations plus all forms of crop and nursery operations and on-farm or agricultural fairground, registered pursuant

to 20 V.S.A. § 3902, livestock and poultry slaughter and processing activities.”

Vermont’s RAPs “shall be management standards to be followed by all persons engaged in farming in this State.” 6 V.S.A. § 4810(b).

18. Under the RAPs at section 2.16, “[f]arming” includes:

(a) the cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural, viticultural, and orchard crops; or

(b) the raising, feeding, or management of livestock, poultry, fish, or bees...”

19. Under the RAPs at section 6.01(b), “[p]roduction areas, barnyards, animal holding or feedlot areas, manure storage areas, and feed storage areas shall utilize runoff and leachate collection systems, diversion, or other management strategies in order to prevent the discharge of agricultural wastes to surface water or groundwater.”

20. Under the RAPs at section 6.02(a), “[a]ll agricultural wastes shall be managed in a manner to prevent runoff or leaching of wastes to waters of the State or across property boundaries.”

21. Under the RAPs at section 6.07, “[a] vegetative buffer zone of perennial vegetation shall be maintained between croplands and the top of the bank of adjoining surface waters and ditches.” Specifically, RAP 6.07(a) states, “[a]djacent surface waters shall be buffered from croplands by 25 feet of perennial vegetation.”

22. Under the RAPs at section 2.25, “[m]anure” is defined as “livestock waste in solid or liquid form that may also contain bedding, spilled feed, water, milkhouse waste, or soil.”

23. Under the RAPs at section 2.38, “[w]aste or [a]gricultural [w]aste” is defined as “material originating or emanating from a farm that is determined by the Secretary or the Secretary of Natural Resources to be harmful to the waters of the State, including: sediments; minerals, including heavy metals; plant nutrients; pesticides; organic wastes, including livestock waste, animal mortalities, compost, feed and crop debris; waste oils; pathogenic bacteria and viruses; thermal pollution; silage runoff; untreated milkhouse waste; and any other farm waste as the term “waste” is defined in 10 V.S.A. § 1251(12).” *See supra* at ¶12.

24. Under the RAPs at section 2.42, “[w]aters of the State include, for the purposes of this rule, surface water and groundwater as applied.”

*Title 6 Regulation of Large Farm Operations*

25. Pursuant to Title 6 sections 4811(1) and 4852, the Secretary of AAFM adopted “rules pursuant to 3 V.S.A. chapter 25” for “standards for waste management and waste storage, setbacks or siting criteria for new construction or expansion, groundwater contamination, odor, noise, traffic, insects, flies, and other pests in order to implement [Subchapter 4. Regulation of Large Farm Operations].” The Secretary’s “siting criteria...adopted by rule shall be consistent with the standards for the quality of State waters and standards for [RAPs].” 6 V.S.A. § 4852.

26. Vermont’s Large Farm Operations (LFO) Rules pursuant to subchapter 2 “apply to all large farm operations in Vermont.” LFOs must comply with the LFO Rules, their LFO permit, “and any additional conditions or

requirements as specified by the Secretary in accordance with state law.” *Id.* The LFO Rules “shall also apply to all large farm operations that meet the definition of a Large Farm, but are not yet permitted.” *Id.*

27. Pursuant to Vermont’s LFO Rule 6.A.4, “[t]he permittee shall ensure that the LFO facility, cropland, and non-cropland will be managed in compliance with all applicable [RAPs] and these Rules.”

28. Pursuant to subchapter 3 of the LFO Rules, “LFO [f]acility” is defined as “the production area, the barns, the land devoted to waste storage and other agricultural structures, including those created as waste management systems constructed to prevent direct discharges to waters of the state or to prevent groundwater from exceeding state groundwater quality standards, designed, adapted, or used to operate a farm in which the barn or barns are designed to house more than:

- 700 mature dairy animals, whether milked or dry; or
- 700 bulls; or
- 1000 cattle, cow/calf pairs, young stock, or heifers; or
- 1000 veal calves; or
- 2500 swine weighing over 55 pounds; or
- 10,000 swine weighing less than 55 pounds; or
- 500 horses; or
- 10,000 sheep or lambs; or
- 55,000 turkeys; or
- 30,000 laying hens with a liquid manure handling system; or
- 82,000 laying hens without a liquid manure handling system;
- 125,000 chickens other than laying hens without a liquid manure handling system; or
- 5000 ducks with a liquid manure handling system; or
- 30,000 ducks without a liquid manure handling system; or
- any other animal type and number that the Secretary may deem to fit this category if:

1. Such livestock or domestic fowl are confined:  
  
    for more than 45 days; and  
    in an area where vegetation is not sustained during the  
    growing season; and
2. Such livestock or domestic fowl are in a barn or adjacent  
barns owned by the same person; or
3. The barns, collectively designed to house the threshold  
number of livestock or domestic fowl, owned by the same  
person, share a common border or
4. The barns, owned by the same person, which have the  
potential to collectively house the threshold number of  
livestock or domestic fowl, share a common waste disposal  
system; or,
5. If any barns, owned by any person, where the threshold  
number of livestock or domestic fowl are collectively housed,  
share a common waste disposal system or fields.

#### Civil Enforcement

29. Pursuant to Title 10 section 8221, the State may bring an action in superior court to enforce Vermont's environmental laws, including violations of Chapter 47. Among other things, the court may grant injunctive relief, order compliance activities, and assess civil penalties up to \$85,000 per violation or, for continuing violations, up to \$42,500 for each day the violation continues.

30. Pursuant to Title 6 section 4995, the State may bring an action in superior court to enforce Vermont's agricultural water quality law, including violations of Chapter 215 and the rules adopted thereunder. Among other things, the court may grant injunctive relief, order corrective actions, and assess civil



penalties up to \$85,000 per violation or, for continuing violations, up to \$42,500 for each day the violation continues.

***Facts Relating to Defendants***

31. At the time of the violations described below, Defendants' farm was subject to AAFM regulations as an LFO, however permitted under two separate MFOs for 200-699 mature dairy cows, 300-999 youngstock or heifers, and 300-999 calves. Defendants' application for an LFO permit remains pending before AAFM.

32. Defendants' farm included seven facilities and nine cropland fields: the Home Farm, the Galvin Farm, the Devoid Farm, the Cloutier Farm, the Gagnon Farm, the Dog Team Farm, the Roy Farm, and Fields Brg-01, Riv-03, Roy-03, Roy-05, Roy-07, Dev-05, Will-01, Riv-02, and Riv-01. The violations particular to this matter occurred at the Gagnon Farm, Cloutier Farm, and Galvin Farm facilities, and on Fields Brg-01, Roy-03, Roy-05, and Riv-01.

33. At the time of the violations described below, the Gagnon Farm was comprised of features including a barn and a pasture area. Defendants operated the Gagnon Farm with a herd of approximately 240 mature dairy cows.

34. At the time of the violations described below, the Cloutier Farm was comprised of features including a barn, barnyard, and a waste pit. Defendants operated the Cloutier Farm with a herd of approximately 80 mature cows and 80 beef cows.

35. At the time of the violations described below, the Galvin Farm was comprised of features including three barns, one concrete barnyard, one denuded

barnyard, and a manure pile. Defendants operated the Galvin Farm with a herd of approximately 250 heifers and 200 calves.

36. At the time of the violations described below, Defendants grew corn and applied nutrients to Fields Brg-01, Roy-03, Roy-05, and Riv-01.

37. Defendants' cornfields Brg-01, Roy-03, Roy-05, and Riv-01 are each situated near waters of the State including the Halnon Brook, tributaries to the Halnon Brook, Middlebury River, and other waters of the Otter Creek, Little Otter Creek, and Lewis Creek watershed basins. The eventual destination of the receiving water from these waters of the State is Lake Champlain.

38. Defendants' Galvin Farm facility is situated near waters of the State including the Leicester River, tributaries to the Leicester River, and other waters of the Otter Creek, Little Otter Creek, and Lewis Creek watershed basins. The Cloutier Farm and Gagnon Farm are also situated near waters of the State including the Halnon Brook, tributaries to the Halnon Brook, Middlebury River, and other waters of the Otter Creek, Little Otter Creek, and Lewis Creek watershed basins. The eventual destination of the receiving water from these waters of the State is Lake Champlain.

39. Defendants do not have a permit from the Secretary of ANR to make any discharge of waste to waters of the State.

*December 8, 2016, Inspection*

40. On December 8, 2016, AAFM and ANR conducted an inspection of Defendants' farm. Warren Nop was present for the entire inspection, as was

Jonathan Chamberlin from Bordeau Brothers, Inc., who developed the farm Nutrient Management Plan (NMP).

41. The inspections of Cloutier Farm, Gagnon Farm, and Galvin Farm raised concerns for ANR and AAFM in relation to conservation practices, waste runoff, and waste discharges to waters of the State.

42. The State observed that the Gagnon Farm did not have a formal waste storage structure. They observed that manure is scraped from the bottom of the barn into a dump trunk daily for transportation to other of Defendants' farms. Upon inspection of the farm, the State found that spillage from such actions was accumulated on the ground around the manure loading area. To the west of this area, these wastes flowed down a channel to a cattle crossing under Rt. 7. The wastes then reached a ditch that is connected to surface waters of the State.

43. At the Cloutier Farm, the State observed waste runoff reaching surface waters. The north barnyards lacked adequate curbing to prevent manure and manure runoff from reaching surface waters. The runoff was observed flowing down the pasture access road to meet surface waters that frame the access road. No conservation practices to keep wastes from traveling to these surface waters were observed. Further, clean water was not diverted from this area.

44. At the Galvin Farm, AAFM noted a visible manure pile at the southwest end of the red barn. There were no conservation practices or collection systems in place to prohibit runoff from the pile. Manure waste was observed flowing from the pile, down the access road and into an actively flowing conveyance.

45. In addition, there was no formal manure pit or waste storage structure at the Galvin Farm. Instead, ANR observed a former earthen silage bunk acting as an unmaintained waste storage pit. The pit captured manure by either gravity or by manure being pushed in. ANR observed evidence of prior discharge. From this unmaintained manure waste pit, waste was observed flowing overland, through channels, and converging at the access road. From there, the grade of the road allowed the wastewater to flow into an unnamed surface water.

46. At the Galvin Farm, runoff from the heifer barn and barnyard was visible and flowing into a drainage ditch that leads to flowing surface water. The barnyard did not have a curb or any other conservation practices that would prevent runoff from reaching surface water of the State.

47. Also at the Galvin Farm, waste was seen exiting the calf barn through a hole in the barn wall. Waste from the hole flowed from the barn downhill to a ditch that reaches surface water. No conservation practices or collection systems were in place to prevent runoff from reaching surface water.

48. At Defendants' cornfields Brg-01 and Roy-03, AAFM observed only 15 feet of perennial vegetated buffer between the cropland and the top of the bank of adjoining surface waters.

49. At Defendants' cornfield Riv-01, AAFM observed only 10 feet of perennial vegetated buffer between the cropland and the top of the bank of adjoining surface waters.

50. At Defendants' cornfield Roy-05, AAFM observed only 4 feet of perennial vegetated buffer between the cropland and the top of the bank of adjoining surface waters.

*May 3, 2018, Inspection*

51. On May 3, 2018, AAFM and ANR inspectors conducted a follow-up to their December 8, 2016, inspection of the Gagnon Farm, Cloutier Farm, and Galvin Farm.

52. At the Gagnon Farm, the State observed wastewater flowing from the manure loading area into the ground and then re-emerging downslope. From downslope, the water flowed through channels until it reached waters of the State. The farm was largely unchanged from the State's December 8, 2016, visit.

53. At the Cloutier Farm, runoff continued to be a concern, as the installed diversion channel directed clean water away from the barnyard and the road, and limited the amount of water reaching the barnyard. The channel subsequently conveyed runoff from a treatment pen to waters of the State. The channel was unstable and likely contributing to the turbidity in the waters of the State.

54. Also at the Cloutier Farm, waste from the barnyard and the road continued to discharge to waters of the State. Near a collection of drums, AAFM and ANR observed a dark liquid emerging from the ground, reaching the diversionary channel, and flowing into waters of the State.

55. At the Galvin Farm, the barnyard lacked adequate containment to prevent discharge of manure to waters of the State through channels, overland flow

paths, and a drop inlet and culvert. Per the Defendants' proposed corrective action plan, a berm had been installed, but the berm failed to effectively and permanently eliminate discharge from reaching the waters of the State. At a denuded barnyard north of this barnyard, further discharges of waste to waters of the State were observed.

56. Also at the Galvin Farm, AAFM and ANR observed that the calf barn still had a hole in the foundation that allowed waste to discharge from that point and flow into waters of the State. Additional discharge was visible and flowing into waters of the State from the liquid waste storage area.

57. At the Galvin Farm manure loading area, AAFM and ANR observed inadequate containment of manure and a resulting discharge of manure waste flowing into waters of the State.

58. Unless and until Defendants implement successful corrective actions to permanently eliminate the discharges identified above, they are likely to recur.

*July 5, 2018, Inspection*

59. On July 5, 2018, AAFM inspectors conducted a follow-up inspection to their December 8, 2016, inspection of Defendants' cornfields. AAFM's August 18, 2017, Corrective Action Letter required that the farm by June 15, 2018, establish its 25-foot vegetative buffers between cornfields Brg-01, Roy-03, Roy-05, and Riv-01, and the top of the bank of adjoining surface waters.

60. On cornfield Brg-01, inspectors observed only 18-20 feet of vegetation between the planted corn and top of the bank of the surface water. AAFM

inspectors noted further that approximately half of the 18-20 feet of buffer area contained perennial vegetation.

61. On cornfield Roy-03, inspectors observed buffer areas with as little as 9 feet of vegetation between the corn and top of the bank of the surface water. In one area of the field, AAFM inspectors observed erosion resulting in the formation of a channel approximately 2 feet deep.

62. On cornfield Roy-05, inspectors observed only 4-14 feet of vegetation between annual crops and the top of the bank of the surface water.

63. On cornfield Riv-01, inspectors observed buffer areas with 3-17 feet of vegetation between annual crops and the top of the bank of the surface water.

**Violations of 10 V.S.A. § 1259(a) prohibition against unpermitted discharges to waters of the State**

64. By discharging spillage from manure scraping and transport operations to waters of the State of Vermont at the Gagnon Farm on December 8, 2016, Defendants violated 10 V.S.A. § 1259(a).

65. By discharging manure and manure laden runoff from the barnyards to surface waters of the State of Vermont at the Cloutier Farm on December 8, 2016, Defendants violated 10 V.S.A. § 1259(a).

66. By discharging waste from the denuded barnyard and informal waste pit to waters of the State of Vermont at the Galvin Farm on December 8, 2016, Defendants violated 10 V.S.A. § 1259(a).

67. By discharging waste from the manure pile located south of the farm to waters of the State of Vermont at the Galvin Farm on December 8, 2016, Defendants violated 10 V.S.A. § 1259(a).

68. By discharging waste from the calf barn through a hole in the barn to waters of the State of Vermont at the Galvin Farm on December 8, 2016, Defendants violated 10 V.S.A. § 1259(a).

69. By discharging spillage from manure scraping and transport operations to waters of the State of Vermont at the Gagnon Farm on May 3, 2018, Defendants violated 10 V.S.A. § 1259(a).

70. By discharging wastes from the barnyard through the laneway, and a dark liquid emerging from the ground to waters of the State of Vermont at the Cloutier Farm on May 3, 2018, Defendants violated 10 V.S.A. § 1259(a).

71. By discharging wastes from the calf barn to waters of the State of Vermont at the Galvin Farm on May 3, 2018, Defendants violated 10 V.S.A. § 1259(a).

72. By discharging wastes from the manure loading area to waters of the State of Vermont at the Galvin Farm on May 3, 2018, Defendants violated 10 V.S.A. § 1259(a).

73. By discharging wastes from the concrete barnyard to a drop inlet to waters of the State of Vermont at the Galvin Farm on May 3, 2018, Defendants violated 10 V.S.A. § 1259(a).



74. Defendants did not have a permit from ANR for these discharges to waters of the State of Vermont.

### **Violations of Vermont's Required Agricultural Practices**

75. By creating a direct discharge of waste into waters of the State at the Gagnon Farm on December 8, 2016, and May 3, 2018, Defendants failed to utilize runoff and leachate collection systems, diversion, or other management strategies in order to prevent the discharge of agricultural wastes to surface water or groundwater, in violation of section 6.01(b) of the RAPs.

76. By creating a direct discharge and allowing runoff and leaching of wastes at the Cloutier Farm into waters of the State on December 8, 2016, and May 3, 2018, Defendants failed to utilize runoff and leachate collection systems, diversion, or other management strategies in order to prevent the discharge of agricultural wastes to surface water or groundwater, in violation of section 6.01(b) of the RAPs.

77. By creating a direct discharge of waste and allowing runoff and leaching of wastes at the Galvin Farm into waters of the State on December 8, 2016, and May 3, 2018, Defendants failed to utilize runoff and leachate collection systems, diversion, or other management strategies in order to prevent the discharge of agricultural wastes to surface water or groundwater, in violation of section 6.01(b) of the RAPs.

78. By creating a direct discharge of waste and allowing runoff and leaching of wastes on their Gagnon Farm into waters of the State on December 8,

2016, and May 3, 2018, Defendants failed to manage agricultural wastes in a manner to prevent runoff or leaching of wastes to waters of the State or across property boundaries, in violation of section 6.02(a) of the RAPs.

79. By creating a direct discharge of waste and allowing runoff and leaching of wastes on their Cloutier Farm into waters of the State on December 8, 2016, and May 3, 2018, Defendants failed to manage agricultural wastes in a manner to prevent runoff or leaching of wastes to waters of the State or across property boundaries, in violation of section 6.02(a) of the RAPs.

80. By creating a direct discharge of waste and allowing runoff and leaching of wastes on their Galvin Farm into waters of the State on December 8, 2016, and May 3, 2018, Defendants failed to manage agricultural wastes in a manner to prevent runoff or leaching of wastes to waters of the State or across property boundaries, in violation of section 6.02(a) of the RAPs.

81. By maintaining less than 25 feet of perennial vegetation between Defendants' annual crops and the top of the bank of surface waters of the State on Defendants' cornfields Brg-01, Roy-03, Roy-05, and Riv-01 on December 8, 2016, Defendants violated section 6.07(a) of the RAPs.

82. By maintaining less than 25 feet of perennial vegetation between Defendants' annual crops and the top of the bank of surface waters of the State on Defendants' cornfields Brg-01, Roy-03, Roy-05, and Riv-01 on July 5, 2018, Defendants violated section 6.07(a) of the RAPs.

## **Violations of Vermont's rules regulating Large Farm Operations**

83. By creating a direct discharge of waste and allowing runoff and leaching of wastes on their farm into waters of the State on December 8, 2016, and May 3, 2018, Defendants failed to ensure that the LFO facility was managed in compliance with Vermont's RAPs, in violation of section 6.A.4 of the LFO Rules.

84. By maintaining less than 25 feet of perennial vegetation between Defendants' annual crops and the top of the bank of surface waters of the State on Defendants' cornfields Brg-01, Roy-03, Roy-05, and Riv-01 on December 8, 2016, and July 5, 2018, Defendants failed to ensure that the LFO facility was managed in compliance with Vermont's RAPs, in violation of section 6.A.4 of the LFO Rules.

### **DEFENDANTS' RESPONSE TO THE ALLEGED VIOLATIONS**

Defendants answer the preceding allegations as follows:

85. Defendants admit the factual allegations set forth in paragraphs 31-63 solely for purposes of resolving this case.

86. Without formally admitting or denying liability, Defendants agree to this settlement of the above violations alleged in paragraphs 64-84 in order to resolve this case.

87. Defendants agree that the violations alleged above are deemed proven and established as a "prior violation" for purposes of penalty assessment in any future State proceedings arising under Titles 10 or 6 of the Vermont Statutes Annotated against Defendants, their successors, and assigns. State proceedings

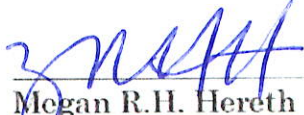
shall include permit proceedings and enforcement actions for administrative and civil penalties.

DATED at Montpelier, Vermont, this 6<sup>th</sup> day of NOVEMBER, 2020.

Respectfully submitted,

THOMAS J. DONOVAN, JR.  
ATTORNEY GENERAL

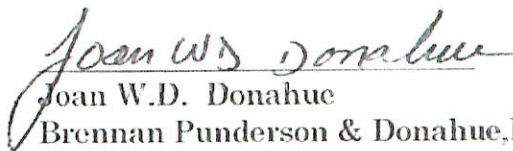
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DATED at Middlebury, Vermont, this 5<sup>th</sup> day of November, 2020.

NOP BROTHERS AND SONS, HANK  
NOP, WARREN NOP, GERRIT NOP,  
WILLIAM NOP, and JOHN NOP

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