

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.

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

The Parties, including Plaintiff, 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 stipulate and agree as follows:

WHEREAS, the State alleges in the Pleadings by Agreement filed in this action that Defendants violated Vermont water quality laws on December 8, 2016, and May 3, 2018, by discharging agricultural waste into waters of the State of Vermont from their Gagnon Farm at 499 Rt. 7, Salisbury, Vermont, Cloutier Farm at 2386 Rt. 7, Salisbury, Vermont, and Galvin Farm at 381 West Salisbury Rd., Salisbury, Vermont, without a permit from the Secretary of the Agency of Natural Resources;

WHEREAS, the State also alleges in the Pleadings by Agreement that Defendants violated Vermont's water quality laws on December 8, 2016, May 3,

2018, and July 5, 2018, by failing to follow Vermont's Required Agricultural Practices and Large Farm Operations Rules at their Gagnon, Cloutier, and Galvin Farms, and on their Fields located in Salisbury and Middlebury, Vermont, identified as 1038-1 Brg-01, 829-11 Roy-03, 829-13a Roy-05, and 11068-20 Riv-01;

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 and 6 V.S.A. § 4995, Defendants are potentially liable for civil penalties up to \$85,000 for each violation and \$42,500 per violation for each day the violation continued;

WHEREAS, the State considered the factors in 10 V.S.A. § 8010(b) and 6 V.S.A. § 4995(e)-(f) in arriving at the proposed penalty amount, including the degree of the violations' 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 regimes 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 and between the State and Defendants in good faith, and the State and Defendants 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 wrongdoing or liability, Defendants agree to this settlement of the violations alleged above in order to resolve this dispute;
2. Defendants agree that the violations alleged 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;
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 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 6<sup>th</sup> day of NOVEMBER, 2020.

THOMAS J. DONOVAN, JR.  
ATTORNEY GENERAL

By:



Megan R.H. Hereth  
Assistant Attorney General  
109 State Street  
Montpelier, VT 05609  
(802) 828-4605  
megan.hereth@vermont.gov  
ERN #7475

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

By:



Joan W.D. Donahue  
Brennan Punderson & Donahue, PLLC  
The Marbleworks  
99 Maple Street, Suite 10B  
Middlebury, VT 05753  
Phone - 802-989-7342  
Fax - 802-989-7441  
[joan@bpd.legal](mailto:joan@bpd.legal)  
ERN # 4857