

STATE OF VERMONT

SUPERIOR COURT
Windham Unit

CIVIL DIVISION
Docket No.

STATE OF VERMONT, AGENCY
OF NATURAL RESOURCES
Plaintiff,

v.

DOUGLAS J. DIX, d/b/a DEERFIELD VALLEY
PROPERTY MAINTENANCE, ERIC B.
JOHNSON, and TAWYNA J. JOHNSON,
Defendants.

STIPULATION FOR THE ENTRY OF CONSENT ORDER

The State of Vermont, by and through Attorney General Thomas J. Donovan, Jr., and Defendants Douglas Dix, d/b/a Deerfield Valley Property Maintenance, Eric B. Johnson, and Tawyna J. Johnson, by and through undersigned counsel, hereby stipulate and agree as follows:

WHEREAS, the State alleges in the Pleadings by Agreement filed in this action that Defendants committed violations of 10 V.S.A. Chapter 49A, the Shoreland Protection Act.

WHEREAS, Defendants solely for purposes of resolving this case have admitted the factual allegations of the Pleadings by Agreement and, without formally admitting or denying liability, have agreed to the settlement of these violations of Vermont law, which violations shall qualify as “prior violations” for purposes of any future State action considering Defendants’ compliance records;

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 and \$42,500.00 per violation for each day the violation continued;

WHEREAS, the State considered the criteria in 10 V.S.A. §§ 8010(b) and (c) 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, 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 49A, in which the violations occurred; and

WHEREAS, the Consent Order has been negotiated by the State and Defendants in good faith and that the implementation of this Consent Order will avoid prolonged and complicated litigation between the parties;

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 any Defendant’s 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.

DATED at Montpelier, Vermont this 12 day of November 2020.

STATE OF VERMONT

THOMAS J. DONOVAN, JR.
ATTORNEY GENERAL

By: 

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DATED at POVER, Vermont, this 12th day of November 2020.

DOUGLAS J. DIX, d/b/a DEERFIELD
VALLEY PROPERTY MAINTENANCE,
ERIC B. JOHNSON, and TAWYNA J.
JOHNSON

By: 

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d/b/a Deerfield Valley Property Maintenance;
Eric B. Johnson, and Tawnya J. Johnson