

DEC 17 2017

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STATE OF VERMONT

SUPERIOR COURT
FRANKLIN UNIT

CIVIL DIVISION
Docket No. Frcv

452-11-17

STATE OF VERMONT, AGENCY OF
NATURAL RESOURCES,
Plaintiff,

v.

PLEASANT VALLEY FARMS OF
BERKSHIRE, LLC,
Defendant.

CONSENT ORDER AND FINAL JUDGMENT ORDER

This action came before the Court pursuant to the parties filing Pleadings by Agreement under Vermont Rule of Civil Procedure 8(g). Based upon those Pleadings by Agreement and the parties' Stipulation for the Entry of Consent Order and Final Judgment Order, and pursuant to 10 V.S.A. § 8221 and the Court's inherent equitable powers, it is hereby ADJUDGED, ORDERED and DECREED as follows:

ADJUDICATION OF VIOLATION

1. Defendant Pleasant Valley Farms of Berkshire, LLC is adjudged liable for violating 10 V.S.A. § 1259(a) by discharging waste, i.e. silage leachate, from the Main Farm into waters of the State, i.e. Godin Brook, on July 25 and/or 26, 2016, without a permit from the Secretary of the Agency of Natural Resources (ANR).

RELIEF

2. For the violation described above, Defendant shall pay a civil penalty of fourteen thousand dollars (\$14,000). Payments shall be made in four parts, with the first payment of \$3,500 due within five (5) business days of the Court's issuance of this Consent Order and Final Judgment Order. Remaining payments of \$3,500 each shall be made on December 20, 2017, March 20, 2018, and June 20, 2018.
3. Payment of the fourteen-thousand-dollar (\$14,000) penalty shall be made to the "State of Vermont" and shall be sent to Laura B. Murphy, Assistant Attorney General, Environmental Protection Division, Vermont Attorney General's Office, 109 State Street, Montpelier, VT 05609.
4. In the event that Defendant fails to pay the amounts described in paragraphs 2 and 3 on the dates identified, such failure shall constitute a breach of this Consent Order and Final Judgment Order and interest shall accrue on the applicable overdue balance at twelve percent (12%) per annum, beginning on the first day after each such payment is due. Defendant shall also be liable for costs incurred by the State, including reasonable attorney's fees, to collect any unpaid penalty amount.
5. No later than the effective date of this Consent Order, in order to ensure there are no future discharges into waters of the State from the leachate pond through the valve system, Defendant shall not use the outlet valve

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and/or pipe in managing the silage leachate pond unless and until such use is approved by ANR.

OTHER PROVISIONS

6. Defendant waives: (a) all rights to contest or appeal this Consent Order; and (b) all rights to contest the obligations imposed upon Defendant under this Consent Order, in this or any other administrative or judicial proceeding involving the State of Vermont.
7. This Consent Order is binding upon Defendant and any and all of its successors and assigns. Any change in Defendant's ownership or corporate or other legal status, including but limited to any transfer of assets or real or personal property, shall in no way alter Defendant's, or any and all of Defendant's successor's and assign's, responsibilities under this Consent Order.
8. In the event Defendant becomes insolvent or any change in Defendant's ownership or corporate or other legal status makes it impracticable for Defendant to comply with this Consent Order, or for the State to collect the amounts described in paragraphs 2 and 3 or enforce the relief described in paragraph 5: (1) the real property at 1954 Richford Road, Berkshire, Vermont shall serve as the property upon which the State may pursue a lien; and (2) Mark and Amanda St. Pierre, as the owners of the real property at 1954 Richford Road, Berkshire, Vermont and the sole

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corporate Member (Mark St. Pierre) and Registered Agent (Amanda St. Pierre) of the Pleasant Valley Farms of Berkshire, LLC corporation, agree not to challenge any lien placed on the property as described in (1), and shall be responsible for complying with the injunctive relief in paragraph 5 of this Consent Order.

9. Except as described in paragraph 8, nothing in this Consent Order shall be construed to create or deny any rights in, or grant or deny any cause of action to, any person not a party to this Consent Order.
10. This Consent Order shall become effective only after it is entered as an order of the Court. When so entered by the Court, this Consent Order shall become a Final Judgment Order.
11. Any violation of this Consent Order shall be deemed to be a violation of a judicial order, and may result in the imposition of injunctive relief and/or penalties, including penalties for contempt.
12. The State of Vermont and the Court reserve continuing jurisdiction to ensure future compliance with all statutes, rules, and regulations applicable to the facts and circumstances set forth herein.
13. Compliance by Defendant with its obligations under this Consent Order shall constitute full compromise, settlement, satisfaction, and release of Defendant, its owners, members, employees, predecessors, successors, parents, subsidiaries, affiliated companies, officers, directors, agents, and

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assigns from all civil and/or criminal liability with respect to the specific facts described herein or in the Pleadings by Agreement. Nothing in this Consent Order shall be construed as having relieved, modified, or in any manner affected Defendant's obligations to comply with all other federal, state, or local statutes, regulations, permits, or directives applicable to Defendant. The State reserves all rights, claims, and interests not expressly waived herein.

14. This Consent Order may be altered, amended, or otherwise modified only by subsequent written agreement signed by the parties and approved by this Court. Alleged representations not set forth in this Consent Order, whether written or oral, shall not be binding upon any party hereto, and such alleged representations shall be of no legal force or effect.

SO ORDERED, and ENTERED as FINAL JUDGMENT.

DATED at St. Albans, Vermont this 17 day of December 2017.



Hon. Rainville
Vermont Superior Court Judge,
Franklin Unit

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