

STATE OF VERMONT
AGENCY OF AGRICULTURE, FOOD AND MARKETS

In the matter of:

AAA Accredited Pest Control Corporation
and Cary Buck
1542 Cold River Road
North Clarendon, Vermont 05759

AAFM#2013-06-05 PT

STIPULATION OF SETTLEMENT, ASSURANCE, AND CONSENT ORDER

NOW COME the parties, the Agency of Agriculture, Food and Markets (Agency), AAA Accredited Pest Control Corporation (AAA), and Cary Buck (Buck), and enter this *Stipulation of Settlement, Assurance, and Consent Order, (Assurance and Order)* pursuant to 6 V.S.A. §1(a)(11) and §13 as an alternative to pursuing further proceedings regarding this matter. This *Assurance and Order* consists of five (5) pages. Any party may file this *Assurance and Order* with the superior court that has jurisdiction over the subject matter and request that its terms and conditions become an order of the court. 6 V.S.A. § 13(b).

This *Assurance and Order* is based upon the following facts and agreement:

1. At all times relevant, Buck has served as President and sole owner of AAA, a small business.
2. Buck's livelihood for the past 28 years has been derived from the application of pesticides and the eradication of nuisance animals through trapping and lawful disposal.
3. The Agency summarily suspended AAA's Pesticide Company License #430 and Buck's Commercial Applicator Certificate #430-682 in June 2013.
4. AAA's Company License #430 and Buck's Commercial Applicator Certificate #430-682 have remained suspended after a contested evidentiary hearing convened under Title 3, Chapter 25, as set forth in a written decision and Order of the Secretary issued July 16, 2013 (*2013 Suspension Order*). The *2013 Suspension Order* was not appealed and is incorporated by reference.
5. On or about November 2013, the Agency served upon AAA and Buck a *Notice of Violation and Intent to Revoke Pesticide Company License #430 and Intent to Revoke Commercial Pesticide Applicator Certification #430-682 (Notice)*, alleging violations of Vermont's laws and regulations for Control of Pesticides, 6 V.S.A. Chapter 87.

6. In addition to seeking revocation of AAA License #430 and Buck's Commercial Applicator Certificate #430-682, the *Notice* included a recommendation for an administrative penalty in the total amount of \$275,000.00 for the violations. The *Notice* is specifically incorporated by reference.
7. AAA and Buck timely requested a hearing regarding the *Notice*.
8. On February 4, 2014, the parties convened a pre-hearing settlement conference and, through counsel and after opportunity to conduct discovery, have had continuing settlement discussions.
9. As a result of the June 2013 summary proceeding and the July 2013 *Suspension Order*, AAA and Buck have had no authority to derive income from the application of pesticides.
10. In order to conclude this matter, the parties agree as follows:
 - A. AAA and Buck, knowingly and with the advice of counsel, desire to resolve the outstanding issues outlined in the *Notice* without the time, expense, and stress of a contested hearing.
 - B. AAA and Buck agree that the Agency may enter as its facts and/or conclusions paragraphs 1 through 9 above, and do not contest that this is an adequate basis for the Agency's actions set forth herein. Any representation by AAA and/or Buck herein is made solely for the purposes set forth in this agreement.
 - C. In the interest of AAA's and Buck's desire to fully and finally resolve the matter presently before the Agency, they have determined that they shall enter into the instant agreement with the Agency. AAA and Buck enter no further admission here, but to resolve this matter without further time, expense and uncertainty, they have concluded that this agreement is acceptable and in the best interest of the parties.
 - D. Buck, as an individual and as the duly authorized agent of AAA, being of sound mind and capacity and with the benefit of legal counsel, knowingly and freely waives the right to a hearing on the merits of the *Notice* and also waives appeal rights.
 - E. AAA's Pesticide Company License #430 is revoked upon the Secretary's acceptance of this *Assurance and Order*.
 - F. Buck's Commercial Pesticide Applicator Certification #430-68 is revoked upon the Secretary's acceptance of this *Assurance and Order*.

- G. Buck shall not seek licensure as a duly authorized representative of any company nor seek employment as a certified pesticide applicator with any other licensed pesticide company.
 - H. AAA and Buck forfeit any and all pesticides and/or pesticide equipment seized by the State of Vermont's representatives from 1542 Cold River Road, North Clarendon, Vermont, during its investigations.
 - I. AAA and Buck shall, within 30 days of the Secretary's acceptance of this *Assurance and Order*, and with technical assistance and monitoring provided by the Agency, forfeit and lawfully dispose of any pesticides remaining at 1542 Cold River Road, North Clarendon, Vermont, as well as any equipment that may contain pesticide residue.
 - J. AAA and Buck shall incur any and all costs associated with the disposal of pesticides and equipment required by paragraph 10.I.
 - K. An administrative penalty in the total amount of \$70,000.00 is imposed for the violations set forth in the *Notice*.
 - L. The penalty amount imposed in paragraph 10.k takes into consideration AAA's and Buck's uncontested acceptance of license and certificate revocation and waiver of rights, forfeiture and disposal of pesticide inventory and equipment, and Buck's inability to derive income from pesticide application or related employment.
 - M. The administrative penalty shall be paid by delivering a certified check or money order payable to the Agency of Agriculture, Food and Markets, c/o Secretary's Office, 116 State Street, Montpelier, VT 05609, according to the following schedule:

1/3 within 7 days, 1/3 within 9 months, remainder within 18 months

of the Secretary's acceptance of this *Assurance and Order*. No interest shall accrue as long as payments are timely.
 - N. If AAA or Buck fail to make timely payments pursuant to the schedule established in paragraph 10.M, all outstanding penalty amounts shall become immediately due and payable, without further demand, the outstanding amount shall be subject to the statutory rate of interests set forth in 12 V.S.A. § 2903(b), and AAA or Buck shall be liable for all costs associated with any collection action, including reasonable attorneys' fees.
11. As a condition to this *Assurance and Order*, the Agency will execute a General Release,

which is specifically incorporated by reference.

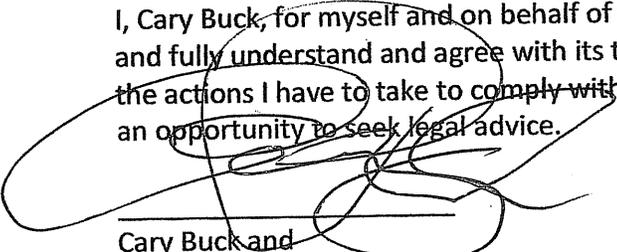
12. As a condition to this *Assurance and Order*, AAA/Buck or a person authorized to act on behalf of AAA/Buck, shall execute a Voluntary Lien on the property located at 1542 Cold River Road, North Clarendon, Vermont, which is specifically incorporated by reference, to secure the amount of administrative penalty assessed in paragraph 12 which lien shall be promptly discharged by the Agency upon full satisfaction.
13. AAA and Buck understand that a violation of this *Assurance and Order*, if any, shall constitute a separate and distinct violation of the underlying regulatory program and may subject AAA or Buck to additional administrative, civil, or enforcement penalties and remedies as set forth in 6 V.S.A. Chapter 87. See also 6 V.S.A. §13(c).
14. All penalty amounts payable and due under this *Assurance and Order*, including penalties imposed for a future violation of it, if any, shall be retained by the Agency to offset its costs associated with investigation. See 6 V.S.A. § 13(d); 6 V.S.A. § 16(d).

Terms Accepted for the Agency by:


James Leland, Director
Agricultural Resource Management Division
Agency of Agriculture, Food and Markets

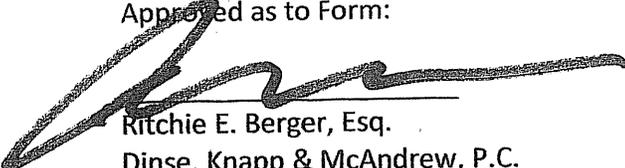
16 DECEMBER 2014
Date

I, Cary Buck, for myself and on behalf of the Corporation, have read this *Assurance and Order* and fully understand and agree with its terms; I understand the facts on which it is based, and the actions I have to take to comply with it. I am entering this agreement voluntarily and after an opportunity to seek legal advice.


Cary Buck and
AAA Accredited Pest Control Corporation
Cary Buck, President

12/5/14
Date

Approved as to Form:


Ritchie E. Berger, Esq.
Dinse, Knapp & McAndrew, P.C.
Attorneys for Cary Buck and AAA Accredited Pest Control Corporation

12/4/14
Date

SECRETARY'S ACCEPTANCE AND APPROVAL

I have reviewed the foregoing *Stipulation of Settlement, Assurance and Consent Order* and hereby accept it pursuant to 6 V.S.A. §1(a)(11) and §13.

So Ordered:



Chuck Ross, Jr., Secretary
Vermont Agency of Agriculture,
Food & Markets

12-16-14

Date

NOTICE OF VOLUNTARY LIEN

In consideration in lieu of a civil action for the collection of a debt pursuant to 6 V.S.A. § 17(a) in the event of non-payment of administrative penalties imposed and payable to the State of Vermont, Agency of Agriculture, Food and Markets, under the terms and schedule of payments in a negotiated settlement in the matter of AAA Accredited Pest Control Corporation and Cary Buck, AAFM#2013-06-05PT, the Buck Family Trust, through its duly authorized representative, hereby voluntarily consents to the establishment of this lien on its real property located at 1542 Cold River Road, Rutland, Vermont, consisting of 10.38 acres of land with a single family residence and appurtenances in which Cary Buck has the benefit of a life estate and more particularly described in a deed from Cary Buck to the Buck Family Trust found at Book 180, Page 169 of the Rutland Town land records. The undersigned, being the duly authorized agent of the Buck Family Trust, hereby covenants and agrees that the State of Vermont shall have a voluntary, consensual lien upon the above described property in the amount of the penalty assessment imposed by the Stipulation of Settlement, Assurance, and Consent Order, in AAFM#2013-06-05PT, said lien to continue until such time as AAA Accredited Pest Control Corporation and Cary Buck, or other persons authorized to act on behalf of them, make full payment to the State of Vermont to satisfy the debt established by law.

Dated at Rutland, Vermont this 4th day of December, 2014.

[Signature]
The Buck Family Trust, by Barbara Buck, Trustee

[Signature]
Witness (date) 12/14/14

STATE OF VERMONT
COUNTY OF Rutland, SS

On this 4th day of December, 2014 before me personally appeared Barbara Buck, a duly authorized Trustee of the Buck Family Trust, to me known to be the person described in, and who executed the foregoing Voluntary Lien, and s/he acknowledged that s/he executed the same.

Before me: [Signature]
Notary Public

My Commission Expires: 2/10/15

RUTLAND TOWN CLERK'S OFFICE
Received For Record
This 19 day of December A.D. 2014
At 11 o'clock 30 minutes A M and
Recorded in Rutland Town Land Records in Book 7
Page 73
Attest Dorcas J. Fuller Town Clerk