

STATE OF VERMONT
ENVIRONMENTAL COURT

AUG 5

Secretary, Vermont
Agency of Natural Resources,
Plaintiff,

v.

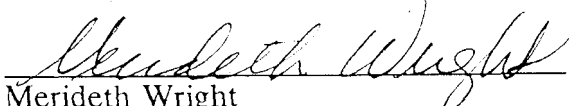
Docket No. E96-121

Arthur Dufresne,
d.b.a. Dufresne Septic Service,
Respondent.

ORDER

The Assurance of Discontinuance signed by the Respondent on July 30, 1996, and filed with the Environmental Court on August 5, 1996, is hereby entered as an order of this Court, pursuant to 10 V.S.A. 8007(c) and V.R.C.P. 76(b).

Dated at Montpelier, Vermont, this 6th day of August, 1996.


Merideth Wright
Environmental Judge

STATE OF VERMONT
AGENCY OF NATURAL RESOURCES

ENVIRONMENTAL COURT
Civil Action, Docket No. _____

SECRETARY, VERMONT
AGENCY OF NATURAL RESOURCES
Plaintiff

v.

ARTHUR DUFRESNE d.b.a. DUFRESNE SEPTIC SERVICE
Respondent

VIOLATIONS:

- I. Vermont Solid Waste Management Rules (VSWMR) Section 6-703(e) - failure to submit quarterly reports
- II. 10 V.S.A. § 6607a - failure to secure a waste hauler's permit

ASSURANCE OF DISCONTINUANCE

Pursuant to the provisions of 10 V.S.A. Section 8007, the Secretary (Secretary) of the Agency of Natural Resources (Agency) and Arthur Dufresne d.b.a. Dufresne Septic Service (Respondent) hereby enter into this Assurance of Discontinuance (Assurance), and stipulate and agree as follows:

STATEMENT OF FACTS AND DESCRIPTION OF ALLEGED VIOLATION

1. Respondent owns and operates Dufresne Septic Service, a seepage pumping company whose offices are located at 31 Eden Avenue in Proctor, Vermont.
2. Pursuant to the Vermont Solid Waste Management Regulations Section 6-703 (e), Respondent is required to file quarterly reports to the Secretary. The reports shall state which facilities received Respondent's seepage or sludge, and the quantities of seepage or sludge delivered to those facilities.
3. As a commercial hauler currently hauling waste within the state, Respondent is subject to the permit requirements of 10 V.S.A. § 6607a.

4. Since 1992, Respondent has on twenty-one separate occasions, failed to make timely **submittals** of the required quarterly reports. The Agency has issued eleven Notices of Alleged Violations (NOAVs) to the Respondent for failure to submit the reports as required by regulation.
5. To date, Respondent has failed to submit quarterly reports for all four quarters of 1995 and is therefore in violation of VSWMR Section 6-703(e).
6. To date, Respondent has failed to submit a quarterly report for the first quarter of 1996 and is therefore in violation of VSWMR Section 6-703(e).
7. Respondent has failed to secure a waste hauler's permit in accordance with 10 V.S.A. § 6607(a).

AGREEMENT

Based on the foregoing Statement of Facts and Description of Alleged Violation, the parties agree as follows:

- A. For the violations described above, Respondent shall pay a total penalty of \$1500.00 in three equal installments. Payments shall be by check made payable to the "Treasurer, State of Vermont" and forwarded to:
- Administrative Assistant
Enforcement Division
Department of Environmental Conservation
South Main Street, 2 South
Waterbury, VT 05671-0410
- B. The first \$500.00 payment shall be received no later than thirty (30) consecutive calendar days following the date this Assurance is entered as an Order by signature of the Environmental Court.
- C. The second \$500.00 payment shall be received no later than sixty (60) consecutive calendar days following the date this Assurance is entered as an Order by signature of the Environmental Court.
- D. The third \$500.00 payment shall be received no later than ninety (90) consecutive calendar days following the date this Assurance is entered as an Order by signature of the Environmental Court.
- E. No later than August 15, 1996, Respondent shall submit quarterly reports for the four quarters of 1995, and for the first quarter of 1996.
- F. No later than August 15, 1996, Respondent shall apply for a waste hauler's permit in accordance with 10 V.S.A. § 6607a and all applicable Agency regulations. All hauling activities shall immediately cease upon a final determination by the Agency that Respondent has been denied a permit. Respondent shall not re-commence hauling activities without first securing a permit in accordance with the above.

- G. The State of Vermont and the Agency reserve continuing jurisdiction to ensure future compliance with all statutes, rules, and regulations applicable to the facts and violations set forth hereinabove.
- H. Nothing in this Assurance shall be construed as having relieved, modified, or in any manner affected the Respondent's on going obligation to comply with all other Federal, State or local statutes, regulations or directives applicable to the Respondent in the operation of its business.
- I. This Assurance shall become effective only after it is signed by all parties and entered as an order of the Environmental Court. When so entered by the Environmental Court, this Assurance shall become a judicial order. In the event that such order is vacated, the Assurance shall be null and void.
- J. The Respondents shall not be liable for additional civil or criminal penalties with respect to specific violations described herein occurring before the effective date of the Assurance, provided that the Respondents fully comply with the agreements set forth in Paragraphs A and F above.
- K. This Assurance 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 hereto or their legal representatives and incorporated in an order issued by the Environmental Court. Alleged representations not set forth in this Assurance, whether written or oral, shall not be binding upon any party hereto, and such alleged representations shall be of no legal force or effect.
- L. Any violation of any agreement set forth herein will be deemed to be a violation of a judicial order, and may result in the imposition of injunctive relief and/or penalties, including penalties set forth in 10 V.S.A. Chapters 201 and/or 211.
- M. This Assurance is subject to the provisions of 10 V.S.A. Section 8007.

SIGNATURES

The provisions set forth in this Assurance of Discontinuance are hereby agreed to and accepted.

Dated at Rutland, Vermont, this 30 day of July, 1996.

Arthur Dufresne
Signed: Arthur Dufresne
d.b.a. Dufresne Septic Service

Printed Name: ARTHUR DUFRESNE
Address: ADA DUFRESNE
SEPTIC SERVICE

STATE OF VERMONT
COUNTY OF Rutland, SS.

At Rutland, Vermont this 30 day of July, 1996
Arthur Dufresne d.b.a. Dufresne Septic System personally appeared and swore to the truth of the foregoing. Before me,

Leah Dufresne
Notary Public
Term Expires: 2009

The provisions set forth in this Assurance of Discontinuance are hereby agreed to and accepted.

Dated at Waterbury, Vermont, this 1st day of August, 1996.

SECRETARY, AGENCY OF NATURAL RESOURCES

BY: William C. Brierley
William C. Brierley, Commissioner
Department of Environmental Conservation