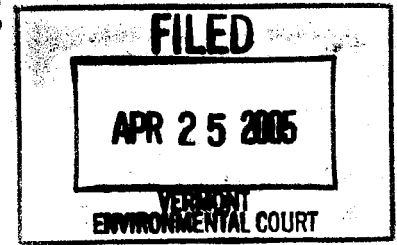


STATE OF VERMONT
ENVIRONMENTAL COURT



Agency of Natural Resources,)
Petitioner,)
v.)
Marc L. Burnell,)
Respondent.)

Docket # 79-4-05

ORDER

The Assurance of Discontinuance signed by the Respondent on April 12, 2005, and filed with the Environmental Court on April 21, 2005, is hereby entered as an order of this Court, pursuant to 10 V.S.A. 8007 (c).

Dated this 25 day of April, 2005.

A handwritten signature in black ink, appearing to read "Thomas S. Durkin", written over a horizontal line.

Thomas S. Durkin,
Environmental Judge

date mailed 4/25/05

mailed by KML

STATE OF VERMONT

ENVIRONMENTAL COURT
Docket No.

SECRETARY, VERMONT
AGENCY OF NATURAL RESOURCES,
Plaintiff

v.

MARC L. BURNELL,
Respondent

VIOLATIONS

- I. Vermont Solid Waste Management Rule (VSWMR) 6-302(d): Disposal of solid waste outside of a certified facility.

ASSURANCE OF DISCONTINUANCE

Pursuant to the provisions of 10 V.S.A. §8007, the Secretary (Secretary) of the Agency of Natural Resources (Agency) and Marc L. Burnell (Respondent) hereby enter into this Assurance of Discontinuance (Assurance), and stipulate and agree as follows:

STATEMENT OF FACTS AND DESCRIPTION OF VIOLATIONS

1. On or about October 26, 2004, Town of Roxbury employees located four (4) black garbage bags on Cram Hill Road in Roxbury, Vermont and informed Warden Keith Gallant.
2. On or about October 26, 2004, Warden Keith Gallant responded and recovered numerous pieces of mail and other documents from the garbage bags bearing the names of Respondent and members of Respondent's family, as well as a Norwich University photograph identification card bearing the name and photograph of the Respondent.

3. Warden Gallant contacted Environmental Enforcement Officer (EEO) Patrick Nevers on October 26, 2004 regarding his findings, and transferred all documentary and photographic evidence to EEO Nevers.

4. On October 29, 2004, EEO Nevers went to the location where the four (4) garbage bags were discovered. EEO Nevers observed and documented the contents of the garbage bags to be household waste.

5. Respondent initially denied having illegally disposed of the four (4) garbage bags. However, on October 29, 2004, Respondent prepared and signed a Voluntary Statement, admitting that he had disposed of the four (4) garbage bags on the Warren Mountain Road in East Warren. Respondent could not explain why the four (4) garbage bags were discovered on Cram Hill Road.

6. A Notice of Alleged Violation (NOAV) was sent to Respondent via certified mail on October 30, 2004, directing Respondent to discontinue the illegal disposal of solid waste, recover and properly dispose of the illegally disposed waste, and post a "NO DUMPING" sign at the Cram Hill Road site.

7. Respondent complied with the directives contained in the NOAV.

AGREEMENT

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

- A. For the violations described above, Respondent shall pay a penalty of \$375.00. Payment shall be by check made payable to the "Treasurer, State of Vermont" and forwarded to:

Ms. Becky Buchanan, Administrative Assistant
Environmental Enforcement Division
Agency of Natural Resources
103 South Main Street, 2 South
Waterbury, VT 05671-0410

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 (effective date).

- B. Respondent shall abide by the VSWMR, including but not limited to proper storage and disposal of solid wastes.
- C. 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 herein above.
- D. 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.
- E. 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, this Assurance shall be null and void.
- F. Respondent shall not be liable for additional civil or criminal penalties with respect to the specific sites and facts described herein occurring before the effective date of the Assurance, provided that Respondent fully complies with the agreements set forth above.

G. 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.

H. 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.

I. This Assurance is subject to the provisions of 10 V.S.A. § 8007.

SIGNATURES

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

Dated at Northfield, Vermont, this 12th day of April 2005.

By: _____

Marc L. Burnell
Marc L. Burnell

STATE OF VERMONT
COUNTY OF WASHINGTON, ss.

At Northfield, Vermont, this 12th day of April 2005, Marc L. Burnell, personally appeared and swore to the truth of the foregoing. Before me,

Karen Zedick
Notary Public

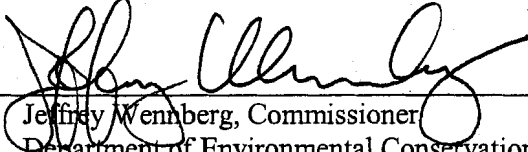
Term expires: 2-10-07

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

Dated in Waterbury, Vermont, this 19th, day of APRIL 2005.

SECRETARY, AGENCY OF NATURAL RESOURCES

By: _____


Jeffrey Wennberg, Commissioner
Department of Environmental Conservation