

STATE OF VERMONT
ENVIRONMENTAL COURT

FILED

FEB 12 2008

VERMONT
ENVIRONMENTAL COURT

Agency of Natural Resources,)
Petitioner,)
v.)
South Burlington School District,)
Respondent.)

Docket # 28-2-08 Vtec

ORDER

The Assurance of Discontinuance signed by the Respondent on January 29, 2008, and filed with the Environmental Court on February 11, 2008, is hereby entered as an order of this Court, pursuant to 10 V.S.A. 8007 (c).

Dated this 12th day of February 2008.



Merideth Wright,
Environmental Judge

**STATE OF VERMONT
AGENCY OF NATURAL RESOURCES**

**ENVIRONMENTAL COURT
Docket No.**

**SECRETARY, VERMONT
AGENCY OF NATURAL RESOURCES,
Plaintiff**

v.

**SOUTH BURLINGTON SCHOOL DISTRICT,
Respondent**

VIOLATION

1. 10 V.S.A. §1259(a): Discharge to State waters without a permit
2. Solid Waste Management Rules (SWMR) §6-302(d): Disposal of solid waste outside of a certified facility

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 South Burlington School District, (Respondent) hereby enter into this Assurance of Discontinuance (Assurance), and stipulate and agree as follows:

STATEMENT OF FACTS AND DESCRIPTION OF VIOLATION

1. On May 24, 2007, the Agency received a complaint of a discharge of paint to a wetland near the South Burlington High School.
2. Subsequent investigation revealed that on May 22, 2007, Respondent's employee disposed of a mixture of approximately ten (10) to fifteen (15) gallons of red latex field paint and water into a storm drain located in Respondent's parking lot.
3. The storm drain outlets to a small unnamed stream which is a water of the State.
4. The paint/water mixture discharged to the small stream which flowed into an adjacent wetland.
5. The investigation also revealed Respondent used the storm drain for disposing of paint rinse water for the past three years.
6. In response to the discharge, Respondent placed absorbent booms in the stream, removed residual paint from the storm drain's catch basin, and hired an environmental cleanup service to complete cleanup.

7. Respondent has labeled its field lining equipment with instructions for use and disposal of field paint, labeled all storm drains on its property at the high school with no-dumping markings, and instituted a paint disposal procedure for employees.
8. By discharging waste material to State waters without a permit, Respondent violated 10 V.S.A. §1259(a).
9. By disposing of solid waste outside of a certified facility, Respondent violated SWMR §6-302(d).

AGREEMENT

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

- A. Respondent shall contribute \$3,500.00 to a Supplemental Environmental Project or Projects (SEP), pursuant to 10 V.S.A. § 8007(b)(2). The SEP shall be subject to the approval of both the Respondent and the Secretary, and, shall be funded by the Respondent no later than ninety (90) consecutive calendar days following the date this Assurance is entered as an Order by signature of the Environmental Court ("effective date"). If, at the close of the ninety (90) consecutive calendar days, any of the \$3,500.00 allocated for SEPs has not been expended by the Respondent, that unexpended amount shall be converted to a civil penalty and shall be immediately due and payable to the State of Vermont. Respondent shall make said payment 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, Cannery
Waterbury, VT 05671-4910

- B. Respondent shall not dispose of any material in storm drains located on its property except stormwater as allowed under any applicable laws and permits.
- 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 hereinabove.
- 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 their 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, the Assurance shall be null and void.
- F. The Respondent shall not be liable for additional civil or criminal penalties with respect to the specific facts described herein occurring before the effective date of the Assurance, provided that the 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. Section 8007.

RESPONDENT'S SIGNATURE AND NOTARY PAGE

The provisions set forth in this Assurance of Discontinuance are hereby agreed to and accepted. Further, I John Everitt, the undersigned, hereby state under oath that I am the Superintendent of the South Burlington School District, and that I have the power to contract on behalf of that entity, and that I have been duly authorized to enter into the foregoing Assurance of Discontinuance on behalf of that entity.

Dated at S. Burlington, Vermont, this 29th day of January 2008.

By: John Everitt
John Everitt
Superintendent
South Burlington School District

STATE OF VERMONT

COUNTY OF Chittenden, ss.

At South Burlington, Vermont, this 29th day of January 2008, the above signatory personally appeared and swore to the truth of the foregoing. Before me,

Melissa Bachand Pidgeon

Notary Public

Term expires: 2-10-2011

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

Dated at Waterbury, Vermont, this 6th day of Waterbury 2008.

SECRETARY, AGENCY OF NATURAL RESOURCES

BY: Laura Q. Pelosi

Laura Q. Pelosi, Commissioner
Department of Environmental Conservation