

STATE OF VERMONT

SUPERIOR COURT

ENVIRONMENTAL DIVISION

Docket no.

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

v.

**ADAM ADAMSKI
D/B/A WOODFORD MALL,
Respondent**

ADMINISTRATIVE ORDER

Having found that Adam Adamski d/b/a Woodford Mall (Respondents) has committed violations as defined in 10 V.S.A. §8002(9), the Secretary (Secretary) of the Agency of Natural Resources (Agency), pursuant to the authority set forth in 10 V.S.A. §8008, hereby issues the following Administrative Order:

VIOLATIONS

1. Vermont Water Supply Rule (VWSR) Subchapter 21-6, §6.6 and 40 CFR §141.21: Failure to conduct water quality monitoring for coliform
2. VWSR Subchapter 21-6, §6.8 and 40 CFR §141.23: Failure to conduct water quality monitoring for nitrate
3. VWSR Subchapter 21-9, §9.1 and 40 CFR §141.31: Failure to timely report results of test measurements
4. VWSR Subchapter 21-10, §§10.1.1, 10.3 and 40 CFR Part 141, Subpart Q: Failure to provide required public notice and submit copies of the notice form

STATEMENT OF FACTS

1. Respondent owns and operates a transient non-community water system (TNC) (WSID #4434) located in Woodford, Vermont (the system).
2. The system has provided water to customers of Respondent's snowmobile rental and touring business, a general store, and a restaurant.

3. VWSR Subchapter 21-6 and 40 CFR §141 require a TNC to collect coliform samples for each calendar quarter. VWSR Subchapter 21-9 and 40 CFR §141 require the water supplier to report the results of any testing to the Drinking Water and Groundwater Protection Division (DWGPD) within the first ten days following the month in which the result is received or ten days following the end of the required monitoring period. Respondent failed to collect coliform samples and submit the results in the first quarter of 2006 and the second, third, and fourth quarters of 2007 in violation of VWSR Subchapter 21-6, §6.6 and 40 CFR §141.21 and VWSR Subchapter 21-9, §9.1 and 40 CFR §141.31. In 2008, Respondent requested that the Agency change his operating period to first quarter only since the business was only open from January until March. The Agency granted Respondent's request. Under this new regime, Respondent failed to collect coliform samples and submit the results in the first quarters of 2008, 2009, 2010, and 2011 in violation of VWSR Subchapter 21-6, §6.6 and 40 CFR §141.21 and VWSR Subchapter 21-9, §9.1 and 40 CFR §141.31.
4. VWSR Subchapter 21-6 and 40 CFR §141 require a TNC to collect a nitrate sample once per year and report the results to the DWGPD. Respondent failed to collect nitrate samples and/or submit the results for the 2007, 2008, 2009, and 2010 monitoring periods, in violation of VWSR Subchapter 21-6, §6.8 and 40 CFR §141.23 and VWSR Subchapter 21-9, §9.1 and 40 CFR §141.31.
5. VWSR Subchapter 21-10, §§10.1.1, 10.3 and 40 CFR Part 141, Subpart Q require systems that fail to complete water quality monitoring to issue public notice and submit copies of the notice, along with a certification form, to the DWGPD. Respondent failed to issue public notice for failing to monitor as required in 2008, 2009, 2010, and 2011 and failed to submit copies of such notice to the DWGPD in violation of VWSR Subchapter 21-10, §§10. 1, 10.3 and 40 CFR Part §141, Subpart Q.

ORDER

Upon receipt of this Administrative Order, the Respondent shall:

- A. Pay a penalty of \$12,000 no later than thirty (30) consecutive calendar days following the effective date of this Order. Payment shall be by check made payable to the "Treasurer, State of Vermont" and forwarded to:

Administrative Assistant

Compliance and Enforcement Division
Agency of Natural Resources
103 South Main Street/Old Cannery
Waterbury, VT 05671-4910

The Secretary reserves the right to augment the above stated penalty based upon the evidence adduced at the hearing in this matter. The penalty may be increased by the total costs incurred by the Secretary for the enforcement of this matter, by the total amount of economic benefit gained by the Respondent from the violation(s) and by further consideration of any other component of penalty found in 10 V.S.A. §8010, each according to proof at hearing.

- B. No later than five (5) consecutive calendar days after the effective date of this Order, Respondent shall notify the Agency in writing of Woodford Mall's current operating status.
- C. No later than five (5) consecutive calendar days after the effective date of this Order, Respondent shall notify the Agency of the approximate number of individuals the water system serves per month between January and March.
- D. Respondent shall comply with any monitoring schedule the DWGWPD provides after receiving information regarding the status of the water system.

RESPONDENT'S RIGHT TO A HEARING
BEFORE THE ENVIRONMENTAL COURT

The respondent has the right to request a hearing on this Administrative Order before the Environmental Court under 10 V.S.A. §8012 by filing a Notice of Request for Hearing within fifteen (15) days of the date the Respondent receives this Administrative Order. The Respondent must timely file a Notice of Request for Hearing with both the Secretary and the Environmental Court at the following addresses:

1. Secretary, Agency of Natural Resources
c/o: Compliance and Enforcement Division,
103 South Main Street/Old Cannery
Waterbury, Vermont 05671-4910
2. Clerk, Environmental Court
2418 Airport Road, Suite 1
Barre, Vermont 05641

EFFECTIVE DATE OF THIS ADMINISTRATIVE ORDER

This Administrative Order shall become effective on the date it is received by the Respondent unless the Respondent files a Notice of Request for Hearing within fifteen (15) days of receipt as provided for in the previous section hereof. The timely filing of a Notice of Request for Hearing by the Respondent shall stay the provisions (including any penalty provisions) of this Administrative Order pending a hearing by the Environmental Court. If the Respondent does not make a timely filing of a Notice of Request for Hearing, this Administrative Order shall become a final Judicial Order when filed with and signed by the Environmental Court.

COMPLIANCE WITH THIS ADMINISTRATIVE ORDER

If the Respondent fails or refuses to comply with the conditions of a final Judicial Order, the Secretary shall have cause to initiate any further legal action against the Respondent including but not necessarily limited to, those available to the Secretary pursuant to the provisions of 10 V.S.A. Chapters 201 and 211.

Dated at Montpelier, Vermont this 11th day of February, 2013.

SECRETARY, VERMONT AGENCY OF NATURAL RESOURCES

By: 

David Mears, Commissioner
Department of Environmental Conservation

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Affidavit of Jim Siriano

I, Jim Siriano, being duly sworn do attest:

1. I am of legal age and a resident of the State of Vermont.
2. I am employed as an Environmental Analyst in the Drinking Water and Groundwater Protection Division of the Agency of Natural Resources.
3. Based upon personal observations and the Vermont Water Supply Rule, the violations described in the Statement of Facts section of the above-entitled Administrative Order occurred during the time periods set forth therein.

Dated at Montpelier, Vermont this 5th day of February, 2013.


Jim Siriano - Affiant

Subscribed and sworn to me on the 5th of February, 2013.


Notary Public

My Commission Expires: 2/10/2015

