

FILED

MAY 1 2017

State of Vermont
Superior Court – Environmental Division

VERMONT
SUPERIOR COURT
ENVIRONMENTAL DIVISION

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ENTRY REGARDING MOTION
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ANR v. Meadowcrest Campground, LLC
(ANR Enforcement Emergency Order)

Docket No. 63-7-16 Vtec

Title: Motion to Show Cause

Filed: March 22, 2017

Filed By: Petitioner Agency of Natural Resources

Response: None

Granted

Denied

Other

A show cause hearing was convened May 1, 2017, with Randy Joe Miller, II, Esq., attorney for Petitioner ANR participating. Respondent Meadowcrest Campground, LLC did not participate and no representative of Respondent was present. The Court received testimony and evidence from ANR. ANR's witnesses Megan Cousino and Benjamin Montross provided the Court with testimony establishing that Respondent has failed to comply with paragraphs A, D and E of the May 11, 2016 Administrative Order. Paragraph A requires the payment of a \$9,000 penalty. Paragraph D requires notice to users of the subject water system of Respondent's failure to monitor for chemical contaminants. Paragraph E requires completion of an application for a Class 1A/1B Vermont Water System Operator to monitor the system. The deadline for achieving these requirements was August 22, 2016.

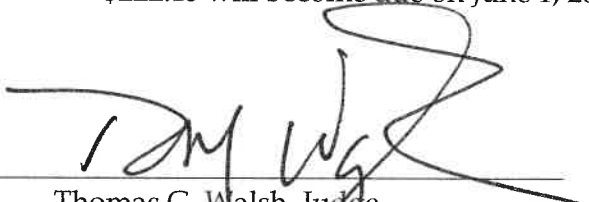
12 V.S.A. § 122 provides for the initiation of contempt proceedings against any party that violates a court order, regardless of whether the case is currently active. This section does not limit the parties against whom contempt proceedings may be initiated, nor does it limit the persons that may be punished for their actions that are in contempt of a court order. Vt. Women's Health Ctr. v. Operation Rescue, 159 Vt. 141, 145 (1992); Horton v. Chamberlain, 152 Vt. 351, 354 (1989).

Compensatory fines and coercive sanctions may be imposed on a civil contemnor; however, these must be purgeable, or avoidable, by adhering to the court's order. Mann v. Levin, 2004 VT 100, ¶ 32, 177 Vt. 261 (citing Vt. Women's Health Ctr., 159 Vt. at 151); see 12 V.S.A. § 122; State v. Pownal Tanning Co., 142 Vt. 601, 603-604 (1983). Further, imprisonment can be inflicted as a means to compel the party to do some act ordered by the court. In re Sage, 115 Vt. 516, 517 (1949); see 12 V.S.A. § 123. This Court is prepared to impose such sanctions where a respondent is ignoring a court order.

Based upon the foregoing, it is ORDERED that:

1. On or before **June 1, 2017**, Respondent shall complete all activities identified in the May 11, 2016 AO, including but not limited to paragraphs A, D and E.

2. Beginning on the date of this Order, and continuing until Respondents are in full compliance with the May 11, 2016 AO, Respondents are hereby sanctioned a \$100.00 per week fine. This accumulating fine is fully purgeable upon timely compliance; meaning for the fine to be purged, the May 11, 2016 AO must be complied with on or before June 1, 2017, or as extended for good cause. Should Respondents fail to comply with the May 11, 2016 AO, the additional weekly fine will become due on June 1, 2017, payable to the Vermont State Treasurer.
3. The Court will postpone consideration of potential incarceration at this time, however, incarceration may be considered if Respondent fails to comply with the Court's order.
4. ANR requested reimbursement of its costs to pursue and participate in this show cause hearing. The costs to ANR totals \$222.15. Respondents are hereby sanctioned the \$222.15 reimbursement to ANR. This amount is fully purgeable upon timely compliance; meaning for the required reimbursement to be purged, the May 11, 2016 AO must be complied with on or before June 1, 2017, or as extended for good cause. Should Respondents fail to comply with the May 11, 2016 AO, the reimbursement of \$222.15 will become due on June 1, 2017, payable to the Vermont State Treasurer.



Thomas G. Walsh, Judge

May 1, 2017
Date

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Date copies sent to: _____

Clerk's Initials _____

Copies sent to:

Randy Joe Miller, II, Attorney for Petitioner Vermont Agency of Natural Resources
Respondent Meadowcrest Campground, LLC