



Natural Resources Board
Civil Citation - 10 V.S.A. §8019

Respondent Full Name or Organization Name: Curran-Birge Real Estate Partnership Citation Number: 18EC00448
Respondent Current Mailing Address: PO Box 489 VC: NR112
City/Town: Springfield State: VT Zip Code: 05150
Home Phone: - - Business Phone: 802-886-6217 Date of Birth: / / M F

Respondent did commit the following acts in violation of Vermont Law, Statute, Rule, or Permit:

Violation Citation: Failure to abide by approved hours of operation; Application 2S1314-1, Ruling on Motion to Alter, states, "Deliveries may occur on Sunday 12-6 p.m., 6 a.m. to 6 p.m. Monday through Friday. No animals are allowed on site on Saturdays or Sunday mornings unless a bona fide emergency exists. With regard to emergencies, the only allowable exception to the condition above, is a circumstance clearly beyond the control of the delivering facility and their driver. All deliveries should be scheduled to arrive within the allowable time frames above, that drivers shall communicate with the receiving facility to ensure that arrival times are coordinated to be within the allowable window."

Violation Description: Respondent violated the permitted delivery hours by allowing a pig delivery on the premises on Monday 4/9/18 at 4:30 AM.

Location of Violation: 25 Fairbanks Road, North Springfield, VT Date Violation Observed/Occurred: 4/9/2018

Penalties: If you plead ADMITTED or NO CONTEST, you may pay the waiver amount instead of appearing in court. If you plead DENIED and the State proves the violation, the penalty must be within the penalty range plus any court costs.

Penalty Amounts: Minimum \$450 Maximum \$ 2,000
Assessed \$2,000 Waiver Amount \$1,500.00

Delivered to (Resp., Reg. Agent, or Corp. Officer): Mark Curran

Date Served: 9/5/2018 By Hand No U.S. Mail Yes Investigator's Dept: ANR No NRB Yes

Issuing Investigator Printed Name: Aaron J. Brondyke

Investigator's Signature: [Handwritten Signature]

Public Notice & Opportunity to Comment:

I certify that a draft of this civil citation has been posted for public notice and written comment for a period of 30 days Yes

Comments were received and are attached No No comments were received Yes

Service Members Civil Relief Act Affidavit: Under oath, I state Respondent is NOT on active duty in the U.S. armed forces

because: Respondent is under 17 years of age No Respondent is a Business Yes

Respondent said he/she is not on active duty in the U.S. armed forces No Other:

Issuing Investigator Printed Name: Aaron J. Brondyke

Investigator's Signature: [Handwritten Signature]

Subscribed and sworn before me, Notary:

[Handwritten Signature: Christina A. Commo]

Date: 9/4/18

State of Vermont, County Chittenden

My Commission Expires: 2/10/19

**Respondent's Plea to this Civil Citation**

Mark ("X") your plea:

**Admitted**

**No Contest**

**Denied**

Respondent or Corporate Officer Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Current Mailing Address: \_\_\_\_\_

City/Town: \_\_\_\_\_ State: \_\_\_\_ Zip Code: \_\_\_\_\_

Home Phone \_\_\_\_\_

Business Phone \_\_\_\_\_

Deliver your plea in person or by mail to the Vermont Superior Court at:

Environmental Division  
32 Cherry Street, 2<sup>nd</sup> Floor, Ste. 303  
Burlington, VT 05401

GENERAL INFORMATION  
KEEP THIS PAGE FOR REFERENCE

**BACKGROUND**

You are charged with a civil violation within the jurisdiction of the Superior Court Environmental Division of Vermont pursuant to 10 V.S.A. Section 8019. The Environmental Division is designed to allow you to speak for yourself without an attorney, but you may hire an attorney at your own expense. The Environmental Division will not provide an attorney to you, and its staff will not provide legal advice to you.

If you plead "ADMITTED" or "NO CONTEST" to the alleged violation, then you may waive your right to appear in Court and pay the waiver amount.

If you plead "DENIED" to the alleged violation, then you will be scheduled to appear in court at least once. A corporation must have an attorney or corporate officer (i.e. president, vice president) appear in court. A minor should be accompanied by a parent or legal guardian.

The trial is a summary hearing without a jury. You and the State may offer testimony and exhibits into evidence. All witnesses must appear in person and testify truthfully under oath. Written statements usually are excluded from evidence.

The issuer of the citation will serve as the prosecutor unless an attorney for the state is present to prosecute the case. The judge will not discuss the case with you or the prosecutor, except in Court at a hearing. The judge does not have authority to issue a 'warning,' even when leniency is appropriate. The decision to issue a warning, rather than file a citation, rests with the prosecutor.

The burden of proof is on the State to prove the violation by a preponderance of the evidence, which is defined as the violation is more likely to have occurred than not. If the State satisfies the burden of proof, then judgment will be entered against you. If the State fails to meet the burden of proof, the case will be dismissed.

Most decisions are delivered orally in Court at the end of the hearing, but some decisions are issued in writing and mailed to the parties. Occasionally, more than one hearing is required for the judge to reach a decision.

**PLEADING**

If you plead "ADMITTED" or "NO CONTEST": Mark your plea and sign at the bottom of the Citation. Deliver your plea to the Environmental Division within 15 days with payment of the WAIVER AMOUNT shown on the citation. Pay by check or money order in U.S. funds (make checks payable to SUPERIOR COURT ENVIRONMENTAL DIVISION). Judgment will then be entered against you.

If you plead "DENIED": Mark your plea and sign at the bottom of the citation. Deliver your plea to the Environmental Division within 15 days. You will then be scheduled to appear in court.

YOU MUST DELIVER A PLEA WITHIN 15 DAYS: otherwise, judgment will be entered against you by default, and you will be liable for the ASSESSED AMOUNT.

**COPYING ALL PARTIES**

Any other pleading, letter, motion, or other correspondence sent to the Environmental Division related to a civil citation must also be sent to the Natural Resources Board. The Environmental Division intends to digitally scan

all written correspondence. Thus, letters and motions should be typed on white letter-size paper (8 1/2 in. by 11 in.) and signed in black or dark blue ink.

**FAILURE TO PAY AND/OR CORRECT THE VIOLATION**

If judgment is entered against you and you fail to pay the penalty amount, and/or fail to correct the subject violation, your ability to obtain or operate under any Agency of Natural Resources or Natural Resources Board permit may be affected.

**APPEARANCE BY THIRD PARTIES**

Under state law (10 V.S.A. Section 8020), a third party may file a request with the Environmental Division to be heard on the sufficiency of the civil citation. If a request is filed, and the Environmental Division decides to allow the third party to appear, you will be notified and given the opportunity to respond.

**ADDITIONAL ENFORCEMENT ACTION**

By issuing a civil citation, the issuing entity will not be able to seek an additional penalty for the violation specified in the citation if the waiver penalty is paid, judgment is entered after trial or appeal, or a default judgment is entered. However, the issuing entity may issue additional civil citations or take other enforcement action authorized by law when a violation is continuing or is repeated. It may also bring an enforcement action to obtain injunctive relief or remediation, and may recover the costs of bringing that action and any economic benefit obtained as a result of the underlying violation as authorized by law.

**Environmental Division**

The Vermont Superior Court is open Monday through Friday, except holidays, between 8:00 a.m. and 4:30 p.m.

Superior Court- Environmental Division  
32 Cherry Street, 2<sup>nd</sup> Floor, Ste. 303  
Burlington, VT 05401  
(802) 951-1740  
[www.vermontjudiciary.org](http://www.vermontjudiciary.org)

**Natural Resources Board**

Natural Resources Board is open Monday through Friday, except holidays, between 8:00 a.m. and 4:30 p.m.

Natural Resources Board  
10 Baldwin Street  
Montpelier, VT 05633-3201  
(802) 828-3309  
<http://nrb.vermont.gov/enforcement>

Vermont Superior Court  
Environmental Division  
Environmental Division  
32 Cherry Street, 2nd Floor, Suite 303  
Burlington, VT 05401



(802) 951-1740  
www.vermontjudiciary.org

Docket Number: 18EC00448

Natural Resource Board Enf. vs. Curran-Birge Real

November 29, 2018

Please see the enclosed ORDER issued by Judge Thomas G. Walsh on 11/29/2018

Electronically signed on November 29, 2018 at 02:42 PM pursuant to V.R.E.F. 7(d).

A handwritten signature in cursive script, reading "Diane C. Chamberlin".

---

Diane C. Chamberlin  
Assistant Clerk

**FILED**

NOV 29 2018

**STATE OF VERMONT  
SUPERIOR COURT – ENVIRONMENTAL DIVISION**

VERMONT  
SUPERIOR COURT  
ENVIRONMENTAL DIVISION

NRB )

v. )

CURRAN-BIRGE REAL ESTATE )  
PARTNERSHIP )

**Docket No. 18EC00448  
Civil Citation**

**STIPULATED MOTION TO AMEND CIVIL CITATION #18EC00448 AND [PROPOSED] ORDER**

Now Comes, The Natural Resources Board (NRB), by and through counsel, and Curran-Birge Real Estate Partnership (CBREP), by and through Arion Thiboumery, *pro se*, and respectfully requests that this Court this Stipulated Motion to Amend as an Order.

The Parties hereby stipulate to the following facts.

1. On September 9, 2018, the NRB served CBREP Civil Citation #18EC0048 (Exhibit A), pursuant to 10 V.S.A. §8019, for failure to abide by approved hours of operation pursuant to Act 250 Permit 2S1314-1.
2. In response to the Civil Citation, CBREP, chose not to pay the Civil Citation waiver amount and instead, CBREP requested a hearing with the Superior Court, Environmental Division.

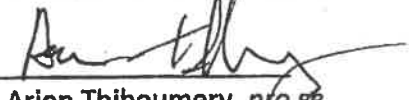
Now, therefore, the parties agree as follows:

1. Respondent agrees to a plea of "no contest."
2. Respondent agrees to pay, and the NRB agrees to accept, an agreed upon waiver amount of \$720.

3. Respondent agrees to deliver the waiver amount (\$720) to the Superior Court, Environmental Division, 32 Cherry Street, 2nd Floor, Suite 303, Burlington, VT 05401 (United States Postal Service, first class mail) within one week of the date that this Court issues this Stipulation as an Order.
4. Respondent further agrees to waive its right to a hearing with regard to this matter.

DATED at Springfield, Vermont, this 27<sup>th</sup> day of November 2018.

**CURRAN-BIRGE REALESTATE PARTNERSHIP**

By:   
Arion Thiboumery, *pro se*  
Curran-Birge Real Estate Partnership, LLC  
P.O. Box 489  
North Springfield, VT05150

DATED at Montpelier, Vermont, this 28<sup>th</sup> day of November, 2018.

**NATURAL RESOURCES BOARD**

By: /s/ Gregory J. Boulbol  
Gregory J. Boulbol  
General Counsel  
10 Baldwin Street  
Montpelier, VT 05633-3201  
802.477.3566

SO ORDERED

  
Judge, VT Superior Court, Environmental Division

DATE

11/29/18