

Natural Resource Board

JUDGMENT ORDER

Natural Resources Board,)
Petitioner)
v.)
Twin State Sand and Gravel Co.,)
Respondent)

Citation # 15EC00310

FINDINGS

A civil citation was filed on: June 26, 2015

[] The Environmental Division did not receive the respondent's answer to the citation within 15 days after service upon the defendant.

[x] Respondent filed a response of

[] Admitted or

[x] No contest

ORDER

Judgment is for the Natural Resources Board in the amount of \$1500.00

[x] Court received penalty payment of \$1500.00 on 6/29/2015

Handwritten signature of Thomas G. Walsh

Thomas G. Walsh
Environmental Judge

June 29, 2015

Right to Appeal

All parties to this proceeding have the right to appeal this Decision. Any such appeal must be filed with the Vermont Supreme Court by delivering a NOTICE OF APPEAL and \$100.00 FILING FEE to the Superior Court, Environmental Division within 30 days of the date of the entry of the judgment or order appealed from. You must also serve a copy of the notice to the clerk of the Supreme Court and upon each of the parties to the appeal. For additional information on the appeals process, see the Vermont Rules of Appellate Procedure (V.R.A.P.) and the Vermont Rules of Environmental Court Proceedings (V.R.E.C.P.).



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

Respondent Full Name or Organization Name:

Twin State Sand and Gravel Co., Inc. and Greater Upper Valley Solid Waste District Citation Number: 15EC00310

Respondent Current Mailing Address:

Twin State Sand and Gravel Co., Inc. Greater Upper Valley Solid Waste Management District c/o Thomas Kennedy
73 Elm Street West PO Box 58
West Lebanon, NH 03784 North Hartland, VT 05052 VC:

Home Phone: N/A Business Phone: Date of Birth: N/A M [] F []

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

Violation Citation: Minor violation of Act 250 Land Use Permit

Violation Description: Failure to comply with Land Use Permit Conditions 1 and 17 of Land Use permit 3W0711-4 (Altered)

Location of Violation: Hartland and Hartford, VT Date Violation Observed/Occurred: prior to 3/14/2014

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

Delivered to (Resp., Reg. Agent, or Corp. Officer): Jim Goss, via email: jgoss@kenlanlaw.com

Date Proposed Citation Served: 6/16/2015 Atty Service Accepted via email: [X] Investigator's Dept.: NRB

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 [X]

Comments were received and are attached [] No comments were received [X]

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 [] Respondent is a Business [X]

Respondent said he/she is not on active duty in the U.S. armed forces [] Other

Issuing Investigator Printed Name: Aaron J. Brondyke

Investigator's Signature: [Handwritten Signature]

Subscribed and sworn before me, Notary: [Handwritten Signature]

Date: 6/16/15

State of Vermont, County: Washington

My Commission Expires: 2/10/2019

Respondent's Plea to this Civil Citation

Mark ("X") your plea: Admitted [] No Contest [] Denied []

Respondent or Corporate Officer Signatures: _____ 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, 2nd Floor, Ste. 303
Burlington, VT 05401

IMPORTANT INFORMATION- READ CAREFULLY
KEEP THIS PAGE FOR REFERENCE

BACKGROUND/ PROCEDURE

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 may 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 means the violation is more likely to have occurred than not. If the State satisfies its 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, a default judgment will be entered against you, 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, therefore 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, and additional enforcement action may be pursued.

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, 2nd Floor, Ste. 303
Burlington, VT 05401
(802) 951-1740
www.vermontjudiciary.org

Natural Resources Board

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

Natural Resources Board
1 National Life Drive, Dewey Building
Montpelier, VT 05620-3201
(802) 828-3309
<http://www.nrb.state.vt.us/lup/enforcement.htm>