



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

Respondent Full Name or Organization Name: Poulin Grain, Inc.

Citation Number: 19EC5000

Respondent Current Mailing Address: 24 Railroad Square

VC: NR112

City/Town: Newport State: VT Zip Code: 05855

Home Phone: - - Business Phone: (802) 334-6731

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; Condition 5 of Land Use Permit 8B0503 states, "Hours of operation of the processing plant/conveyors or delivery trucks entering the new facility shall be limited to 7:00 a.m. to 7:00 p.m., Monday through Saturday." The Findings of Fact and Conclusions of Law, and Order #860503 state, "Our conditional approval of this project is constricted by those impacts related to the new facility and related trucking operations. Residential properties border the project area. We believe a reasonable time for operation of the new feed processing, storage, and loading facility is 7:00 a.m. to 7:00 p.m."

Violation Description: Respondent violated the permitted hours of operation by allowing truck loading at the processing plant on:

- Tuesday September 18, 2018 at 10:40PM
• Friday September 28, 2018 at 5:46AM
• Thursday November 1, 2018 at 8:24PM
• Wednesday November 14, 2018 at 9:02PM
• Thursday November 15 at 6:35AM
• Friday November 23, 2018 at 8:41PM
• Monday January 14, 2019 at 9:37PM
• Monday February 4, 2019 at 9:53PM
• Tuesday February 5, 2019 at 10:54PM
• Tuesday February 12, 2019 at 8:19PM
• Friday February 22, 2019 at 10:26PM
• Wednesday February 27, 2019 at 10:00PM
• Sunday March 3, 2019 at 11:39AM

Location of Violation: 1885 VT Rte. 67 East, North Bennington, VT Date Violation Observed/Occurred: 9/18/18, 9/28/18, 11/01/2018, 11/14/18, 11/15/18, 11/23/18, 1/14/19, 2/4/19, 2/5/19, 2/12/19, 2/22/19, 2/27/19, and 3/3/19

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): Joshua Poulin

Date Served: By Hand U.S. Mail Investigator's Dept.: ANR NRB

Issuing Investigator Printed Name: Michaela Stickney, Investigator's 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

Comments were received and are attached No comments were received

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

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

Issuing Investigator Printed Name: Michaela Stickney, Investigator's Signature: _____

Subscribed and sworn before me, Notary: _____ Date: / /

State of Vermont, County _____ My Commission Expires: / /

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, 2nd 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 ½ 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, 2nd Floor, Ste. 303
Burlington, VT 05401
(802) 951-1740
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>

