



AGENCY OF NATURAL RESOURCES  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
ENVIRONMENTAL COMPLIANCE DIVISION  
ENFORCEMENT SECTION

COMPLAINT INVESTIGATION REPORT

**CONFIDENTIAL**

**Offense(s):** 10 V.S.A. §1259(a) Prohibited Discharge

**Complaint #:** 18EC00605

**Town:** Middlebury

**SPAN:** 38712010435

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**Person(s)**

**Investigated:** Douglas Butler, 1726 Munger Street, Middlebury VT 05753

**Witness(es):** John D. E. Roberts,  
Vermont Agency of Agriculture, Food & Markets [AAFM]  
Small Farm Water Quality Specialist, 802-272-9636

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**Complainant(s):** David Huber, AAFM

**Received by:** CEEO McVeigh

**Date:** May 25, 2018

**Method:** Choose an item.

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**Investigator:** EEO Urich

**Assigned:** May 25, 2018

**Assisting  
Officer:** Choose an item.

**Assigned:** Click or tap to enter a date.

5/25/18 – I conducted a site reconnaissance and from the public right of way I observed manure laden run-off [dark in color with green algae] in the north roadside ditch along east Munger Street. The ditch on the south side of the street did not exhibit such color; surface water runoff was clear on the south side.

The North side ditch was fed by a grassy swale located ~60 yards to the east of and near the base of the Butler Farm manure lagoon hillside. Manure run-off was not observed traveling down the hillside from the edge of the lagoon, however a dark color run-off was observed discharging to an unnamed tributary of the Muddy Branch river at the low point of East Munger Street east of the farm. The manure run-off was assumed by me to be traveling ~60 yards eastward down the grassy hillside from the lagoon, then ~50 yards southward along the grassy swale where it enters the roadside ditch and travels another ~350 yards eastward to the unnamed tributary. See Docs Section, Photos, EEO Images, 5-25-18.

I then went to the farm and met with Doug Butler who stated that his manure pit was full but that he did not believe the aforementioned discharge to be from the pit; after I asked to inspect the area he did not allow me to examine the pit stating he had work to do. I stated that he needs to determine the origin of the discharge which I believed to be his manure pit and that it needs to stop as soon as possible.

5/31/18 - I conducted a site reconnaissance and drove by the aforementioned site along the East Munger road and the source of discharge from the grassy swale was no longer present; left over manure discharge was still present in the road side ditch low areas but the volume had lessened and there was no active discharge to the unnamed tributary. See Docs Section, Photos, EEO Images, 5-31-18. I did not speak with Mr. Butler at this time and assumed that whatever farming management standard necessary to stop the discharge from the manure pit had been conducted by Mr. Butler in accordance with my 5/25/18 directive.

11/21/18 – I was alerted by CEEEO McVeigh that the Butler Farm Manure pit was again overflowing. After speaking with John Roberts, AAFM, John D. E. Roberts, Small Farm Water Quality Specialist, [see below], I conducted a site reconnaissance and observed the manure pit over topping and following the same path as observed on 5/25/18. A clear path can be seen from the top of the manure pit to the swale to the east indicating the path the manure took to reach the roadside ditch and eventually the unnamed tributary. See Docs Section, Photos, EEO Images, 11-21-18.

I then spoke with Mr. Butler who stated he is bankrupt [Chapter 12], and he said he does not have the estimated \$7000.00 to hire someone to pump the pit down to a level he thinks necessary to carry him through to the spring. Mr. Butler stated he does not have any equipment to pump the pit or spread manure and that he even tried to give it [manure] away in exchange for labor of lowering pit but neighboring farms were not interested. I told Mr. Butler to do his best to comply with my directive to cease the discharge to the unnamed tributary and to follow AAFM's John Roberts suggestions in doing so.

*My conversation with AAFM Specialist Roberts prior to my site 11/21/18 visit was that Roberts made a site visit last Thursday [11/15/18], the pit was observed full to the top but not overflowing and that Mr. Butler stated to Roberts he has no equipment to do the work necessary to lower the pit so he [Butler] needs to hire someone but he [Butler] is bankrupt. AAFM Specialist Roberts then stated he made another site visit on 11/20/18, the pit was observed overflowing, and Roberts told Mr. Butler to pump pit down and land apply even if there is snow on the ground but to increase isolation boundaries and reduce the rate when applying.*

12/5/18 – I made another site visit and the manure pit was over topping. I again met with Mr. Butler who stated that he had contracted with Tyler Steady of Bristol for three days of pumping and spreading @ 250000/gal/day to lower pit level and that he will be receiving grant funding of \$7500 from Vermont Land Trust to pay for this work scheduled for 12/7-9/18; he requested my card and number so he could update me with this work. My business card and cell number were provided.

12/7/18 – I again drove by the site but was unable to definitively determine if the pit was drawn down due to a crust of manure and vegetation on top of the pit, I assumed it had not, as it appeared to be in the same state as observed previously. The manure pit hillside was frozen due to weather and not exhibiting a discharge; there was a small wagon type solid manure spreader in the nearby barn yard to the west.

12/10/18 – I made a site visit and met with Mr. Butler who stated no pumping of the pit had been conducted but expected to in the "next day or so".

12/28/18 – I made a site visit and as detailed before I observed an overflow of the pit, a discharge to the roadside ditch and to the unnamed tributary state waterway. I met with Mr. Butler, who again stated plans are to lower pit in the "next day or so".

1/3/19 - call to Mr. Butler, pumping and lowering of pit to begin today, Tyler Steady is on site, and they are waiting for Acker Excavation to get there with some equipment to open pit. I then made a site visit and observed Tyler Steady and one other individual pumping the pit. See Docs Section, Photos, EEO Images, 1-3-19. Mr. Steady stated they had pumped approximately 210,000 gallons and expected to do about another similar amount at which point Mr. Steady would have exhausted Mr. Butler's granted funds. Mr. Steady stated he is not willing to do any more work than that funded since Mr. Butler already owes Mr. Steady ~\$15,000 for previous work conducted. Mr. Steady also stated he was in contact with AAFM John Roberts about his activities.

1/4/19 – I made a site visit See Docs Section, Photos, EEO Images, 1-4-19, and observed the edge of the manure pit and it was difficult to determine if the overflow had ceased but I assumed it had at least lessened with the advent of the pits pumping.

1/4/19 – AAFM John Roberts left me voice mail, See Docs Section, Attachments, stating he had visited the site and that the ~500,000 gallons removed by Mr. Steady from the pit is not "nearly enough" to get him [Butler] though to the April 1<sup>st</sup>, 2019, spreading date, and that Roberts estimates that 800,000 to a million gallons of manure was needed to be removed. Roberts discussed with Butler stacking his manure so as to put as little as possible into the pit. Roberts stated that Mr. Butler is again out of funds.

1/7/19 – Site visit, observed manure pit hillside and that there was not an active discharge of manure over the edge of the pit. See Docs Section, Photos, EEO Images, 1-7-19.

Several incidents of a discharge to state waters of farm manure wastes has occurred as a result of the overflow of manure pit at the Butler Farm. There is the likelihood of additional discharges given the financial state and poor management activities of the farm.

Date: January 7, 2019



EEO Gary R. Urich