

STATE OF VERMONT

Superior Court

Environmental Division
Docket No.

Natural Resources Board,
Petitioner

ASSURANCE OF DISCONTINUANCE

v.

Jeffrey Hutchins and
Anna Hutchins,
Respondents

VIOLATIONS

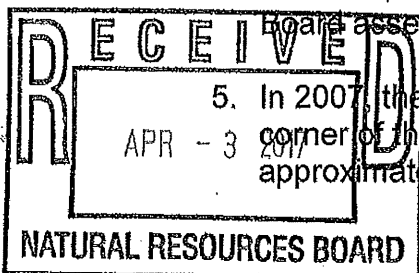
- I. Commencement of construction on a development without a Land Use Permit.
10 V.S.A. § 6081(a).

ASSURANCE OF DISCONTINUANCE

Pursuant to the provisions of 10 V.S.A. § 8007, the Natural Resources Board and Jeffrey Hutchins and Anna Hutchins (Respondents) hereby enter into this Assurance of Discontinuance (Assurance), and stipulate and agree as follows:

STATEMENT OF FACTS AND DESCRIPTION OF VIOLATIONS

1. Respondents own 148 acres accessed off Vermont Route 58 in the town of Irasburg, Vermont ("Project Tract").
2. Respondents utilize the Project Tract for the processing and stockpiling of materials from a quarry, which was constructed in the southeast portion of the Project Tract around or about 2007.
3. A gravel pit has existed on the Project Tract for over 45 years.
4. However, between 1999 and 2003, the gravel pit expanded northward. The Board asserts this increase was beyond historic levels. Respondents disagree.
5. In 2007, the Respondent constructed a road up a hillside near the southeast corner of the pit. The Respondent then proceeded to clear an area approximately 0.75 acres in size, approximately 650 feet southeast of the



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existing gravel pit (the "Quarry").

6. On September 18, 2015, the Board's enforcement officer inspected the Project Tract and observed that a road has been created on that clearing, roughly 70 by 120 feet wide, and approximately 30 feet deep on the eastern end.
7. Blasting on the quarry site appears to have re-commenced in 2009.
8. The Respondents have represented that blasting last occurred on the Project Tract in 2013.
9. The Board alleges that the activities noted above ("the Project") constitute substantial changes to the pre-existing development, and therefore violate 10 V.S.A. § 6081(a), which prohibits the commencement of development without a Land Use Permit. Respondents disagree.
10. On November 13, 2015, the Board sent Respondents a Notice of Alleged Violation ("NOAV") detailing the violations observed at the Project Tract.
11. On February 1, 2016, Respondents' attorney responded to the NOAV and informed the Board that a LUP application would be filed for the Project Tract subjecting the Project Tract to Act 250 jurisdiction.
12. Subsequently, Respondents hired an engineering firm to design plans, contacted the Department of Historic Preservation, Agency of Transportation, and the Act 250 District Coordinator, and have agreed to file an application by a date certain.
13. To date the Respondents have not obtained a Land Use Permit for operations at the Project Tract but have proceeded diligently in developing plans for the Project Tract and have worked closely with the District 7 Environmental Coordinator to develop their submission.

AGREEMENT

Based on the aforementioned Statement of Facts and Description of Alleged Violations, the parties hereby agree as follows:

- A. Respondent shall not operate, or expand the Quarry on the Project Tract until all applicable environmental permits are issued for the Project Tract. Respondent shall be permitted to perform pre-development site work and

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limited gravel extraction consistent with the pre-development site work prior to the issuance of all applicable environmental permits for the Project Tract.

- B. No later than **60 days** following the entry of this Assurance as an Order by the Superior Court- Environmental Division, the Respondents through Boardwalk, LLC shall submit a complete application to the District 7 Environmental Commission for a Land Use Permit for the Project and diligently pursue said application.
- C. For purposes of this AOD, "diligently pursue" shall mean that Respondents shall (a) respond to any and all requests for information from the Act 250 District 7 Environmental Commission, the Coordinator for the Commission, or ANR (as applicable) by the date set by the Commission or Coordinator or ANR; and (b) in good faith meet and comply with all scheduling or other orders or memoranda issued by the Commission or ANR. Respondents shall not be responsible for delays outside their control, including those caused by the Commission or ANR or by other parties to its applications.
- D. No later than **30 days** following the entry of this Assurance as an Order by the Superior Court, Environmental Division, the Respondents shall pay, by separate checks, the following:
1. pursuant to 10 V.S.A. Ch. 201, a civil penalty in the amount of **\$7,500.00** for the violations noted herein, by check made payable to the "State of Vermont."
 2. pursuant to 10 V.S.A. §8010(e)(2), the amount of **\$553.72**, to reimburse the Natural Resources Board for the costs of this enforcement action by check made payable to the "State of Vermont."
 3. the amount of **\$10.00**, for the purpose of paying the recording fee for the filing of a notice of this Assurance in the Irasburg land records, by check made payable to the "Town of Irasburg, Vermont ."
- E. All payments and documents required by this Assurance shall be sent to the following address unless otherwise noted:
- Natural Resources Board
Dewey Building
1 National Life Drive
Montpelier, Vermont 05620-3201
- F. Respondents are jointly and severally liable for all obligations under this Assurance.

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- G. Respondents shall not deduct, nor attempt to deduct, any payment made to the State pursuant to this Assurance from Respondents' reported income for tax purposes or attempt to obtain any other tax benefit from such payment.
- H. The State of Vermont and the Natural Resources Board reserve continuing jurisdiction to ensure compliance with all statutes, rules, and regulations applicable to the facts and violations set forth herein.
- I. Nothing in this Assurance shall be construed as having relieved, modified, waived or otherwise affected the Respondents' continuing obligation to comply with applicable state or local statutes, regulations or directives.
- J. This Assurance shall become effective only after it is signed by all parties and entered as an order of the Superior Court, Environmental Division. When so entered by the Superior Court, Environmental Division, this Assurance shall become a judicial order pursuant to 10 V.S.A. § 8007(c). In the event that such order is vacated, the Assurance shall be null and void.
- K. Pursuant to 10 V.S.A. § 8007(d), the Respondents shall not be liable for additional civil or criminal penalties with respect to the specific facts set forth herein, provided that the Respondents fully comply with this Assurance.
- L. The Board reserves the right to make reasonable extensions of any deadline contained herein, upon prior request by the Respondents, for good cause beyond either Respondents' control.
- M. This Assurance sets forth the complete agreement of the parties, and except as provided herein, may be altered, amended, or otherwise modified only by subsequent written agreements signed by the parties hereto or their legal representatives and incorporated in an order issued by the Superior Court, Environmental Division.
- N. Alleged representations not set forth in this Assurance, whether written or oral, shall not be binding upon any party hereto, and such alleged representations shall have no legal force or effect.
- O. When this Assurance is entered as a judicial order, violation of any provision of this Assurance shall be deemed to be a violation of a judicial order and may result in further enforcement action, including contempt proceedings, the imposition of injunctive relief, and/or the imposition of penalties, including penalties under 10 V.S.A. chapters 201 and/or 211.
- P. This Assurance is subject to the provisions of 10 V.S.A. §§ 8007 and 8020.

SIGNATURES

The provisions set forth in this Assurance of Discontinuance are hereby agreed to and accepted.

Dated at Richmond, Vermont, this 30 day of March, 2017.



Jeffery Hutchins

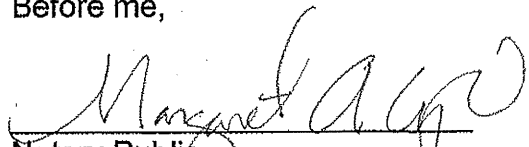


Anna Hutchins

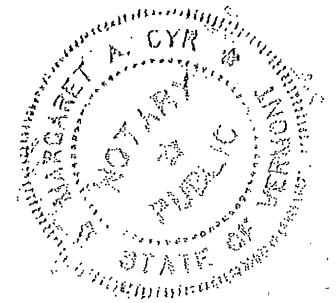
STATE OF VERMONT
COUNTY OF Chittenden, ss.

BE IT REMEMBERED that on the 30 day of March, 2017,
personally appeared Jeffrey and Anna Hutchins, signers of the foregoing instrument
who are known to me or who satisfactorily established their identity to me and
acknowledged the same to be their free act and deed.

Before me,



Notary Public
My Commission Expires: 2/10/19

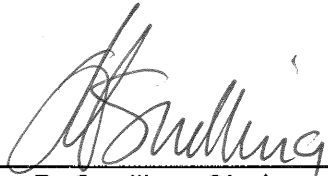


The provisions set forth in this Assurance of Discontinuance are hereby agreed to and accepted.

Dated in Montpelier, Vermont, this 15 day of May, 2017.

Natural Resources Board

By:



Diane B. Snelling, Chair

STATE OF VERMONT
SUPERIOR COURT
ENVIRONMENTAL DIVISION

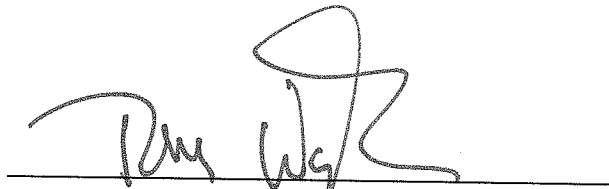
Vermont Natural Resources Board,)
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)
v.)
)
NRB v Hutchins,)
Respondent.)

Docket # 57-5-17 Vtec

ORDER

The Assurance of Discontinuance signed by the Respondent on March 30th, 2017, and filed with the Superior Court, Environmental Division, on May 15th, 2017, is hereby entered as an order of this Court, pursuant to 10 V.S.A. 8007(c).

Dated this 16th day of May 2017.

A handwritten signature in black ink, appearing to read 'Tom Walsh', is written over a horizontal line.

Thomas Walsh, Judge
Vermont Superior Court
Environmental Division