



4. During a site visit on October 30, 2008, District 7 Coordinator Kirsten Sultan observed that Respondents had disturbed earth, cleared trees and begun construction on a gravel road on the project tract within the existing wooded buffer and within 100 feet of Lake Willoughby.
5. Respondents failed to obtain approval for this material change pursuant to Act 250 Rule 34(A).
6. Respondents violated Condition No. 8 of Land Use Permit Amendment #7R0226-7 and Act 250 Rule 34(A) by disturbing earth within 100 feet of the shoreline and constructing a gravel road on the project tract without prior approval from the Commission.

#### AGREEMENT

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

- A. Respondents shall comply with Permit series #7R0226 as amended.
- B. No later than September 30, 2009, Respondents shall either restore the 100 foot lake buffer to its natural condition or file a complete amendment application with the District 7 Environmental Commission, as directed by the District 7 Coordinator, seeking approval to keep the unpermitted construction and buffer disturbance. If Respondents timely file a complete amendment application and said application is denied and that denial becomes final, Respondents shall restore the 100 foot lake buffer to its natural condition within 60 days of the denial becoming final. Restoration of the 100 foot lake buffer includes but is not limited to removing all gravel and dirt associated with the construction of that portion of the road which is within the 100 foot buffer and allowing the wooded buffer to revegetate naturally without further disturbance.
- C. No Later than 30 days following an entry of this Assurance as an Order by the Environmental Court, the Respondents shall pay to the State of Vermont, pursuant to 10 V.S.A. Ch. 201, a civil penalty in the amount of One Thousand Eight Hundred Seventy-Five Dollars (U.S.) (\$1,875.00) for the violation noted herein. Payment shall be by check made payable to the "Treasurer, State of Vermont" and shall be sent to:


Denise Wheeler, Business Manager  
Land Use Panel of the Natural Resources Board  
National Life Records Center Building  
National Life Drive  
Montpelier, Vermont 05620-3201

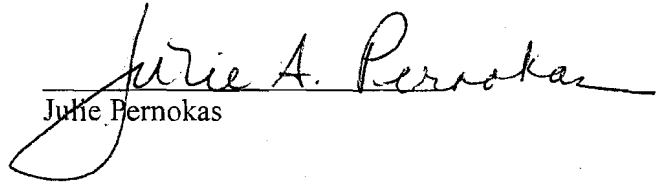
- F. Any payment by the Respondents pursuant to this Assurance is made to resolve the violations set forth in this Assurance and shall not be considered to be a charitable contribution, business expense, or other deductible expense under the federal or state tax codes. Respondents shall not deduct, nor attempt to deduct, any payments, penalties, contributions or other expenditures required by this Assurance from Respondents' state or federal taxes.
- G. The State of Vermont and the Land Use Panel reserve continuing jurisdiction to ensure future compliance with all statutes, rules, and regulations applicable to the facts and violations set forth herein above.
- H. Nothing in this Assurance shall be construed as having relieved, modified, waived or otherwise affected the Respondents' continuing obligation to comply with all other applicable state or local statutes, regulations or directives applicable to the Respondents.
- I. This Assurance shall become effective only after it is signed by all parties and entered as an order of the Environmental Court. When so entered by the Environmental Court, 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.
- J. 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 described herein and about which the Land Use Panel has notice on the date the Court signs this Assurance, provided that the Respondents fully comply with the agreements set forth above.
- K. This Assurance sets forth the complete agreement of the parties, and it 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 Environmental Court. 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.
- L. Any violation of any agreement set forth herein will be deemed to be a violation of a judicial order and may result in the imposition of injunctive relief and/or penalties, including penalties set forth in 10 V.S.A. chapters 201 and/or 211.
- M. This Assurance is subject to the provisions of 10 V.S.A. § 8007.
- N. This Assurance or a notice thereof may be filed within the land records of the town(s) in which the property is located.

**SIGNATURES**

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

Dated at Woburn ~~both~~, MASSACHUSETTS ~~Vermont~~, this 30th day of July, 2009

  
\_\_\_\_\_  
Mark Pernokas

  
\_\_\_\_\_  
Julie Pernokas

MASSACHUSETTS  
STATE OF ~~VERMONT~~  
COUNTY OF Middlesex, ss.

BE IT REMEMBERED that on the 30th day of July, 2009, personally appeared MARK PERNOKAS and JULIE PERNOKAS, 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: 5/19/2011

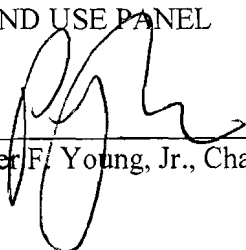
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The provisions set forth in this Assurance of Discontinuance are hereby agreed to and accepted.

Dated in Montpelier, Vermont, this 4th day of August, 2009.

LAND USE PANEL

By:

  
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Peter F. Young, Jr., Chair