

STATE OF VERMONT
SUPERIOR COURT
ENVIRONMENTAL DIVISION

NRB v BlackRock Construction, LLC

21-ENV-00048

ORDER

The Assurance of Discontinuance, signed by the Respondent(s) on April 16, 2021 and filed with the Superior Court, Environmental Division, on the 2nd day of June, 2021, is hereby entered as an order of this Court, pursuant to 10 V.S.A. 8007(c).

Electronically Signed: 6/2/2021 2:16 PM pursuant to V.R.E.F. 9(d).

A handwritten signature in black ink that reads "Tom Walsh" with a stylized flourish at the end.

Thomas G. Walsh, Judge
Superior Court, Environmental Division

STATE OF VERMONT

Superior Court

**Environmental Division
Docket No.**

**Natural Resources Board,
Petitioner**

ASSURANCE OF DISCONTINUANCE

v.

**BlackRock Construction, LLC,
Respondent**

VIOLATIONS

1. Violation of Land Use Permit 4C1315 (Corrected) Condition 11 – Construction on a state holiday.

ASSURANCE OF DISCONTINUANCE

Pursuant to the provisions of 10 V.S.A. § 8007, the Natural Resources Board (“Board”) and BlackRock Construction, LLC (“Respondent”) hereby enter into this Assurance of Discontinuance (“Assurance”), and stipulate and agree as follows.

STATEMENT OF FACTS AND DESCRIPTION OF VIOLATIONS

1. On January 24, 2019, the District 4 Environmental Commission issued Land Use Permit 4C1315 (Corrected) (the “Permit”) to John Evans and BlackRock Construction, LLC.
2. The Permit applies to the lands identified in: Book 329, Page 172; Book 551, page 1020; and Book 445, Page 840 of the Town of Williston land records (the “Property”). The Property is located north of Metcalf Drive and east of Coyote Lane in Williston, VT. The School Property Account Number (SPAN) for the property is 759-241-13036.
3. The Permit: “[S]pecifically authorizes subdivision of Lots #1-26 and construction of Phase I which includes the construction of 21 residential units including eight single-family homes on Lots #1-4 and Lots #15-18; and eight carriage homes, one duplex and one triplex on Lot #25. Phase I also includes construction of a pool and common building on Lot #24, construction of Kadence Road, Zoey Drive and a portion of Chloe Drive, construction of supporting utility infrastructure, and a boundary line adjustment between Lot #115 and an existing right-of-way within the South Ridge Development. Lots #5-14, Lots #19-23 and Lot #26 are not approved for development.”
4. Condition 11 of the Permit provides: “Site work and exterior construction hours will be limited to 8:00AM to 6:00PM Monday through Friday, 8:00AM to 5:00PM Saturdays, with no construction on Sundays or State and Federal Holidays.”

5. Town Meeting Day is a Vermont state holiday.
6. In 2021, Town Meeting Day occurred on March 2nd.
7. On March 2, 2021, Respondent's contractors were engaged in construction at the site of the project subject to the Permit.
8. When the Town of Williston notified Respondent that construction was occurring on Town Meeting Day, Respondent directed those doing the work to stop and leave the project site.
9. On March 4, 2021, Respondent acknowledged in an email to the Board's Compliance and Enforcement Officer that work had occurred on Town Meeting Day and it was going to advise the contractors of the Permit limitations on the times during which construction can occur.
10. The construction that occurred on Town Meeting Day violated Condition 11 of the Permit.
11. On January 25, 2021, the Vermont Superior Court approved a citation issued to Respondent by the Board for violating Condition 11 of the permit on Wednesday September 20, 2020, Sunday October 11, 2020, and Wednesday October 14, 2020. Respondent admitted these violations.

AGREEMENT

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

- A. Respondent shall comply with Land Use Permit Series 4C1315.
- B. No later than **30 days** following the entry of this Assurance as an Order by the Superior Court, Environmental Division, Respondent shall pay, by separate checks, the following:
 1. For the violations noted herein and pursuant to 10 V.S.A. Ch. 201, a civil penalty in the amount of **Three Thousand Three Hundred Dollars and Zero Cents (\$3,300.00)**, which Respondent shall pay by check made payable to the "State of Vermont."
 2. Pursuant to 10 V.S.A. §8010(e)(2), the amount of **Two Hundred Fifty Four Dollars and Zero Cents (\$252.68)** to reimburse the Natural Resources Board for the costs of this enforcement action, which Respondent shall pay by check made payable to the "Natural Resources Board."

3. The amount of **Fifteen Dollars (\$15.00)** for the purpose of paying the recording fee for the filing of a notice of this Assurance in the Williston land records, which Respondent shall pay by check made payable to the “Town of Williston, Vermont.”
- C. Without formally admitting or denying wrongdoing or liability, Respondent agrees to this settlement of the violations alleged above to resolve all outstanding disputes.
- D. Respondent agrees that the violations alleged are deemed proved and established as a “prior violation” in any future state proceeding that requires consideration of Respondent’s past record of compliance, such as permit review proceedings and calculating civil penalties under Title 10, section 8010.
- E. No later than **30 days** following the entry of this Assurance as an Order by the Superior Court, Environmental Division, Respondent shall mail the Board a notarized, written acknowledgement of receipt of the Court’s Order.
- F. All payments and documents required by this Assurance shall be sent to the following address unless otherwise noted:

Natural Resources Board
10 Baldwin Street
Montpelier, Vermont 05633-3201
- G. Respondent shall not deduct, nor attempt to deduct, any payment made to the State pursuant to this Assurance from Respondent’s 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 Respondent’s 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), Respondent shall not be liable for additional civil or criminal penalties with respect to the specific facts set forth herein, provided that

Respondent fully complies with this Assurance.

- L. The Board reserves the right to make reasonable extensions of any deadline contained herein, upon prior request by Respondent, for good cause beyond Respondent's 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 (2 pages)

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

Dated at South Burlington, _____, this 16th day of April, 2021.

BlackRock Construction, LLC

By 
Duly Authorized Agent

STATE OF VERMONT
COUNTY OF Chittenden, ss.

BE IT REMEMBERED that on the 16th day of April, 2021, personally appeared Benjamin Avery, signer of the foregoing instrument and duly authorized representative of BlackRock Construction, LLC, who is known to me or who satisfactorily established his identity to me and acknowledged the same to be his free act and deed and the free act and deed of BlackRock Construction, LLC.

Before me,




Notary Public 157.0011336
My Commission Expires: 1/31/22

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

Dated in Montpelier, Vermont, this 1 day of June, 2021.

Natural Resources Board

By:



Diane B. Snelling, Chair