



State of Vermont
Natural Resources Board
Act 250 Jurisdictional Opinion
JO-7-305

This is a Jurisdictional Opinion based upon available information and a written request from the Landowner/Agent or Other Person identified below. This Jurisdictional Opinion will become final and any person or entity who is individually notified will be bound by this Opinion unless that person or entity files a timely request for reconsideration (see bottom of page). This Jurisdictional Opinion addresses Act 250 Jurisdiction only. Other permits may be required (see <http://www.anr.state.vt.us/dec/permits.htm>). For additional information, please contact the Agency of Natural Resources permit specialist (see <http://www.anr.state.vt.us/dec/ead/pa/index.htm>).

I hereby request a jurisdictional opinion from the District Coordinator regarding the jurisdiction of 10 V.S.A. Chapter 151 (Act 250) over the project described below:

Edward L. Walmsley Jr., PLLC
 806 Broad Street, Lyndonville, VT 05851
edwalmsley25@gmail.com

Landowner Agent Other:

PROJECT DESCRIPTION:

At the property subject to Act 250 permit 7C1161 (series), Mitchell Drive, Burke, identify the status of Act 250 permit 7C1161 (series). Following are material facts:

1. **Permit 7C1161, issued solely for earth extraction, expired on November 1, 2017.**
2. **Permit 7C1161-1, issued for an increase in the earth extraction rate, expired on November 1, 2017.**
3. **Permits 7C1161 and 7C1161-1 apply to the tract of land identified in Book 83 Pages 323-324 of the land records of the Town of Burke, Vermont, as the subject of a deed to Larry and Marie Flood.**
4. **Earth extraction on the tract has ceased.**
5. **The subject earth extraction project, permitted via 7C1161 and 7C1161-1, has been reclaimed, as identified in JO #7-304, issued on July 24, 2020.**
6. **There are no current plans to recommence commercial earth extraction on the 7C1161 (series) tract.**

Project Type: Commercial Subdivision Municipal/State Mixed
 Farming/Forestry Housing Other:

Has the landowner or affiliated person subdivided before? Yes No N/A

AN ACT 250 PERMIT IS REQUIRED: YES NO

BASIS FOR DECISION:

Since the 7C1161 (series) Act 250 Permit ("Permit") for earth extraction has expired; since earth extraction on the tract has ceased; and since the earth extraction project has been fully reclaimed in accordance with the Permit (as identified in JO #7-304), the tract is no longer subject to Act 250 jurisdiction via the 7C1161 (series) Act 250 Permit (citing *In re Huntley*, 2004 VT 115, ¶12, 177 Vt. 596, 599 (2004)).



SIGNATURE: _____

DATE: August 3, 2020

Kirsten Sultan, Coordinator, District #7 Environmental Commission
Telephone: (802) 751-0126 Email: kirsten.sultan@vermont.gov
374 Emerson Falls Road, Suite 4, St. Johnsbury, VT 05819

This is a jurisdictional opinion issued pursuant to 10 V.S.A. § 6007(c) and Act 250 Rule 3(B). Reconsideration requests are governed by Act 250 Rule 3(B) and should be directed to the district coordinator at the above address. Any appeal of this decision must be filed with the Superior Court, Environmental Division (32 Cherry Street, 2nd Floor, Ste. 303, Burlington, VT 05401) within 30 days of the date the decision was issued, pursuant to 10 V.S.A. Chapter 220. The Notice of Appeal must comply with the Vermont Rules for Environmental Court Proceedings (VRECP). The appellant must file with the Notice of Appeal the entry fee required by 32 V.S.A. § 1431(b)(1) (2015), which is \$295.00. The appellant also must serve a copy of the Notice of Appeal on the Natural Resources Board, 10 Baldwin Street, Montpelier, VT 05633-3201, and on other parties in accordance with Rule 5(b)(4)(B) of the Vermont Rules for Environmental Court Proceedings.