

I am an adjoining landowner of the Roblee Farm, Inc. sand & gravel operations located in Pawlet. For the last 5 years I have provided volumes of information, photos, videos, drawings, and licensed surveys. I've sent myriad emails and made phone calls to Act 250 Enforcement concerning the ongoing violations present at this pit. What I have come to learn, along with other environmentally conscious Vermonters, is that Act 250 is Not interested in enforcement. Their lack of action and blatant disregard for the environment - for what *is really going on in the field* - belies their mission statement. Any citizen willing to look into the history of Act 250 enforcement, will be left to wonder who they are protecting... because this AOD is a serious misrepresentation of the facts and conditions in the field.

Regarding page 1: STATEMENT OF FACTS AND DESCRIPTION OF VIOLATIONS: #2

"The Danby Pit has been fully reclaimed as of this Assurance, except that it now contains an unpermitted road as further described below." According to Act 250, all is well in the Danby Pit, EXCEPT for the new gravel road... the new gravel road which negates any physical possibility for the pit to be fully reclaimed as designed. The new gravel road, which now acts as a channel for all forms of precipitation falling into the entire Danby Pit area to freely flow, without benches, contours, grass swales, retention areas or diversions into an intermittent brook which flows into the Beaver Brook, then the Flower Brook, then the Mettowee, and eventually Lake Champlain. The Danby Pit IS NOT "fully reclaimed." This is a fiction, supplemented by a false narrative, from an Authority (Act 250) that is supposed to have a higher ethical & environmental standard. This fiction originated with a November 2017 email (to me) from Aaron Brondyke in which he states that *according to Roblee's attorney, Sue Ceglowski, reclamation of a majority of the Danby Pit is complete and overall grading meets the approved plans*. Although a site visit by Act 250 was requested by then District Coordinator William Burke, it never happened; his request was denied. Instead, a state official took the word of a lawyer, who for whatever reason, intentionally submitted false information on behalf of her client.

In 2018, Mark Mason, President of RLF, hired Frank Parent of Long Trail Engineering to evaluate the conditions of the Danby Pit due to my voiced concerns to Act 250. Frank Parent, along with Mark Mason and John Thrasher (of Ceglowski & Thrasher law firm representing RLF) submitted an unstamped (license number absent) engineer's review and overlay of Stantec C-203 (Final Excavation & Reclamation Details). Most, if not all, of the critical information they presented here is inaccurate. Frank Parent's work cited a survey pin placed by Licensed Surveyor Courcelle on the base plan/print submitted. In a documented email to Aaron Brondyke, Frank Parent, Mark Mason & John Thrasher state that 'ALL excavation has occurred within the stated limits of C-203.' That blatant misrepresentation remains obvious today. The licensed surveyor pin located on Frank Parent's mapping WAS and STILL is IN the EXCAVATED PIT by 30 FEET. This pin is located where Stantec C-203 details a 100-foot setback from property line in order to protect a large spring outflow. This pin was also surveyed by Licensed Surveyor Page, and was included on survey maps of my property line encroachment. Two properties surveyed by two different licensed surveyors show encroachment; neither of these licensed surveys have been disputed by RLF or C&T. This licensed mapping was presented to Act 250, yet Enforcement says it is fully reclaimed, despite the fact that the limits of excavation have been grossly violated.

Act 250 refers to a '25-foot Setback from property lines' as the limit of excavation at the Danby Pit, although the original Stantec C-203 prints detail a 50 to 100 foot setback. I have submitted myriad requests for any documentation that would support this claim by Act 250. It has never been produced. If anyone in Act 250 could please address **where** in any submitted documentation of the Danby Pit this is supported. The setbacks at the Danby pit as detailed by C-203 submitted range from 50 to 100 feet. Respectively along the 2 adjoining property abutters.

Act 250 in its 2016 NOAV states the following:

Page 6, #4, Item e : Regrade all impacted areas outside the permitted limits of disturbance  
Restore those areas to their original grade contours.

**THIS HAS NOT BEEN DONE AT THE DANBY PIT**

Page 7, #4, Item o: "construct infiltration basin" as depicted on exhibits 23\*, 31 & 32

\* Exhibit # 23 is Stantec C-203 Final Excavation & Reclamation Plans, Danby Pit

**THIS HAS NOT BEEN DONE ; A NEW GRAVEL ROAD EXISTS IN ITS PLACE**

In 2017 Aaron Brondyke sent an email to Sue Ceglowski (of Ceglowski & Thrasher), stating that if indeed there has been an encroachment beyond the limits of excavation of the Danby Pit, both parties (abutters) would have to be satisfied and the areas returned to their original condition. Not only has there been an encroachment beyond the stated limits, but there has been licensed surveyed documentation of property encroachment by two separate, independent licensed surveyors. It is incomprehensible that State Officials in an Act 250 AOD would ignore this fact. Additionally, Aaron Brondyke indicated to me late in 2018 that 'the board' - meaning Act 250 Board - gave verbal permission for the further excavation of the Danby Pit based on the information provided by the Long Trail Engineering print and RLF. This verbal permission, based on misleading and false information, is what led to the infamous 'new gravel road' in the Danby Pit.

Also central to this AOD, is the issue of silt laden storm run-off being discharged from the Sheldon Pit into the adjoining wetlands and Beaver Brook. Julie Moore, current Secretary of ANR has been on numerous news reports and call interviews w/VPR discussing how critical water quality is to Vermont and its greatest environmental asset, Lake Champlain. Fifteen years ago, on Jan 4, 2006, Julie Moore (on ANR planning Division staff) made an entry of appearance and commented on RLF, application #1R0932. Included in her comments are:

- \*Run-off should be controlled during and after operation of the pit
- \*the application does not contain sufficient information on reclamation
- \*proposes monitoring of reclamation to ensure that erosion is not occurring
- \*asks the applicant RLF provide a reclamation plan for agency review.

On March 2006, another entry of appearance by Julie Moore notes that uncontrolled erosion at the site continues to be a problem and mentions Beaver Brook needs to be protected with silt fence to prevent discharges from reaching it. RLF's attorney Sue Ceglowski is contacted and responds that they will work with the applicant and its engineer, to devise immediate erosion control methods. They have failed miserably... for FIFTEEN years.

The letters mentioned above were not only sent to RLF and its attorneys, but also to the Select Board Chair of Pawlet, Keith Mason (a principal & shareholder of RLF at the time), Thomas Nelson of the Pawlet Planning Commission and the Pawlet town clerk.

For 5 years I have been sending ACT 250 emails containing photos and videos, relevant real time documentation of silt laden storm run-off and debris entering waters of the state from both the Sheldon & Danby pits. Several photos show cuts/trenches into the shoulder of Kelly Hill into Beaver Brook as to allow silt laden storm runoff flowing out of the Sheldon Pit to directly enter waters of the state. The cuts were made by the Town Of Pawlet road crew headed by Town Road Foreman, Keith Mason, shareholder of RLF. Up until this AOD was issued, I was told by Act 250 that storm water management environmental analyst, Winn Wilson, has been on site several times and that the erosion control methods designed by Stantec engineers detailed in C-103, C-104, C-105, which are referenced in this AOD, were not necessary. Winn Wilson also stated that the problem is not with the pit, but rather with the town maintenance of the road. This seems a rather novice and unobservant stance to take,

given what has been going on on this road for years. It is apparent that nobody from this state agency has looked at the copious amount of evidence I have provided through the years. I am doing their jobs for them, and yet they still refuse to do their jobs.

Over **Fifteen Years** ago, on April 5, 2006, the State of Vermont Natural Resource board published a "Findings of Fact" statement which put forth the legal requirements and criteria by which the pit was to operate. Below are excerpts from the 2006 document:

**Section 6086(a)(1)(B) Waste Disposal:** Item 3 - The project will be governed by a Construction General Permit for stormwater runoff (as described by Exhibit 35)... Therefore the project will not result in the injection of waste materials or harmful or toxic substances into ground water or wells.

**Section 6086 (a)(1)(G) Wetlands:** Item 4 - The Agency of Natural Resources has noted a continuing discharge into a Class II wetland adjacent to the site. The permittee has proposed, and the Commission will require, that the permittee take all such steps as are described in Exhibits 34, 35, 36, 37, 38 and 39 to remediate past discharges and to prevent future discharges of sediment into the protected wetland.

**Section 6086(a)(4) Soil Erosion and the Capacity of the Land to Hold Water:**

Item 5 - Erosion control measures are described in Exhibits 34, 35, 36, 37, 38 and 39. Included in the plans are an infiltration basin and silt fencing.

**Section 6086(a)(9)(D&E) Earth Resources and Extraction of Earth Resources:**

Item 9 - Applicant has revised and made more detailed its proposed reclamation plan in response to Agency comments. The details are described in Exhibit 36. **The Commission will, by permit condition, require conformance with it.**

So, fifteen years, and 8 months later, the entire Roblee Farm, Inc. operation continues to disregard these LEGAL REQUIREMENTS set forth by the state. They continue to operate in a manner that is blatantly non-compliant, ignoring legal requirements set forth in 2006. Any knowledgeable person, aware of the larger scope of water issues in this state would be able to identify what is going on on this site. In never addressing the issue, the pollution continues as a result of ongoing repeat offenses to the Waters of the State. Adding insult to injury **this AOD** makes reference to "MAINTENANCE" - it's just fine apparently, with ACT 250, that this operation continues to *maintain* their efforts in polluting the waters of the state. The maintenance of the construction entrance is required, but will not prevent future discharges, as the problem originates in the pit, with its lack of stormwater control mechanisms as originally detailed by Stantec Engineering.

A review of the photos and videos which start in 2016 and continue to October 2021, show a substantial flow of silt laden, turbid water originating from the Sheldon Pit, after moderate rainfalls and winter thaws. This stormwater run-off follows the westerly shoulder of Kelly Hill Road, south to a culvert crossing, and is being directly injected into Beaver Brook and Class II Wetlands on the westerly side of the road. There is no silt fence or sediment basin present to capture or slow this repetitive flow. This type of contamination to the Waters of the State is a prohibited act - as previously stated.

For the last 15 years, the lack of oversight, compliance, and due diligence of signed permits and conditions on the part of Roblee Farm and its rogue pit operator Chet McLean, is unacceptable; this is an obvious understatement to anyone paying attention. Just as damaging, is the response (or lack thereof) of Act 250 and Storm Water Management Agencies within the State.

The items addressed in this AOD do NOT represent the ongoing issues at this operation which currently include:

- Disregard of Limits of Disturbance Danby Pit - all boundaries
- Disregard of Final Extraction Elevations, Danby Pit (40 Ft. Deeper than detailed)
- Disregard of Final Extraction Elevations, Sheldon pit (estimated 30 Ft. Deeper than detailed)
- Disregard Limits of Disturbance Sheldon Pit, north side
- Failed to have no more than 2 Phases open at one time
- Failed to have no more than 5 acres open at one time
- Failed to have winter erosion control in place, ever, site wide
- Failed to report stormwater run-off events as required
- Failed to prevent stormwater discharge into intermittent brook, Danby Pit
- Failed to amend permit showing adjoining landowners surveyed properties / mapping
- Failed to bury stumps at locations as detailed
- Failed to stockpile topsoil as detailed
- Buried unauthorized tree length material w/stumps, Sheldon Pit
- Misrepresented actual property lines on submitted plans
- Misrepresented land features properly on submitted plans
- Knowingly submitted false & misleading information

The above violations constitute grounds for revocation of permit according to Act 250 Statutes.

IF this operation had acted in compliance with the rules and laws originally set forth, and followed through with with the (Stantec) Engineering details submitted for this project (and identified in this AOD as Stantec C-103, C104, C-105 and C-501)- the Erosion Prevention and Sediment Control Details, Final Extraction Elevations, Extraction Limits of Disturbance, Benches, Contours, Sediment Traps, Check Dams, Stone Lined Swales, etc. - this past 15 years of damages could have been avoided. Instead, 15 years later, they continue to pollute, with no compliance, no oversight, and NO STATE ENTITY WILLING TO HOLD THEM ACCOUNTABLE.

This AOD is nothing more than its staff - Aaron Brondyke, Greg Boulbol, Michaela Stickney, Alison Stone and presumably others - willing to propagate false/misleading and environmentally damaging information and publish it as an AOD. I am not alone in my frustration; a growing number of taxpaying Vermonters, have completely lost faith in the State Agencies that were put in place in order to protect the environment that we care so deeply about.

Act 250 is acting against their written statutes and rules (NRB Code of Ethics).

This agency **IS** adversely affecting the confidence of the public in the integrity of the District Commission.

Perhaps the newly appointed Chair of the NRB, Sabina Haskell, will prove to be conscientious and dedicated to the mission of this agency. An agency in which vigilance and responsibility have been elusive, and efficacy in terms of enforcement has undoubtedly deteriorated over the course of the last 10-15 years...

Michael J. Wesko

\*I will post an additional document: a copy of my February 2020 complaint filed with Act 250

