

post-construction authorization for the improvements on the Project Tract.

5. None of the Respondents has been found to have violated Act 250 or other state environmental law previously.

AGREEMENT

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

- A. Respondents shall diligently pursue their Act 250 application for the improvements on the Project Tract.
- B. If said permit application is denied by the Commission and said denial becomes final, then:
 - i. Unless Respondents have obtained an Act 250 permit or a jurisdictional opinion holding that the proposed use does not require an Act 250 permit, Respondents shall cease all commercial use of the Project Tract within 60 days of the failure to timely file said application or within 60 days of the final permit application denial.
 - ii. If Respondents wish to use the Project Tract for any commercial purpose, then within 30 days of said failure to timely file or of said denial becoming final, Respondents shall request a jurisdictional opinion from the District Coordinator to ensure that any proposed commercial use of the Project site constitutes a "home occupation" as defined in Act 250 Rule 2(C)(17), "farming" as defined at 10 V.S.A. § 6001(22), or is otherwise exempt from Act 250 jurisdiction.
 - iii. Any commercial use of the Project Tract that is not determined to be exempt from Act 250 in a final jurisdictional opinion shall be prohibited, unless an Act 250 permit is obtained prior to the commencement of that activity.
- C. Within **30 days** of the date upon which the Superior Court Environmental Division enters this Assurance as an Order, the Respondents shall pay:
 - i. A civil penalty pursuant to 10 V.S.A Ch 201 for the violation set forth herein, in the amount of **\$3,000.00** (U.S. Dollars), by check made payable to: "Treasurer, State of Vermont."
 - ii. The amount of **\$10.00** (U.S. Dollars), to pay the recording fee for the filing of a notice of this Assurance of Discontinuance in the land records

of the municipality where the Project is located, by check made payable to the Town of Ferrisburgh.

- D. Respondents shall send all payments required by this Assurance 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
- E. Respondent shall neither deduct nor attempt to deduct any payment, penalty or other expenditure required by this Assurance from state or federal taxes.
- F. The State of Vermont and the Land Use Panel reserve continuing jurisdiction to ensure compliance with all statutes, rules, and regulations applicable to the facts and violations set forth herein.
- G. Nothing in this Assurance shall be construed as having relieved, modified, waived or otherwise affected the Respondent's continuing obligation to comply with all other applicable state or local statutes, regulations or directives.
- H. 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, this Assurance shall be null and void.
- I. 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 this agreement.
- J. 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 Superior Court, Environmental Division. 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.
- K. Any violation of this Assurance or any part of it shall be deemed to be a

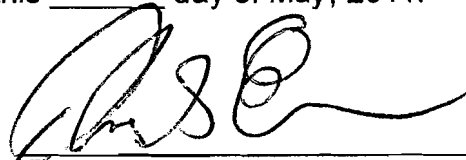
violation of a judicial order and may result in the imposition of injunctive relief and/or penalties, including penalties set forth in 10 V.S.A. chapters 201 and/or 211.

L. This Assurance is subject to the provisions of 10 V.S.A. § 8007.

SIGNATURES

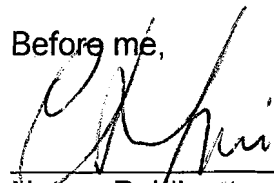
The provisions set forth in this Assurance of Discontinuance are hereby agreed to and accepted.

DATED at Ferrisburgh, Vermont, this 18th day of May, 2011.


Thomas S. Eriksen

STATE OF VERMONT
COUNTY OF Addison, ss.

BE IT REMEMBERED that on the 18th day of May, 2011, personally appeared Thomas S. Eriksen, signer of the foregoing instrument, who is known to me or who satisfactorily established his identity to me and acknowledged the same to be his free act and deed.

Before me,

Notary Public Christopher Lapierre
My Commission Expires: 2/10/15

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

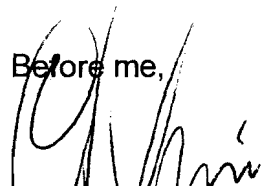
DATED at Ferrisburgh, Vermont, this 18th day of May, 2011.


Shelly S. Eriksen

STATE OF VERMONT
COUNTY OF Addison, ss.

BE IT REMEMBERED that on the 18th day of May, 2011, personally appeared Shelly S. Eriksen, signer of the foregoing instrument, who is known to me or who satisfactorily established her identity to me and acknowledged the same to be her free act and deed.

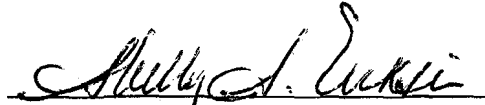
Before me,


Notary Public Christopher Lippincott
My Commission Expires: 2/10/15

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

DATED at Ferrisburgh, Vermont, this 18th day of May, 2011.

TOM'S MARINE SERVICE, INC.

By: 

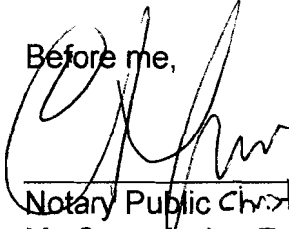
Print Name: Shelly S. Eriksen

Duly Authorized Agent

STATE OF VERMONT
COUNTY OF Addison, ss.

BE IT REMEMBERED that on the 18th day of May, 2011, personally appeared Shelly Eriksen, individually and as the duly authorized agent of Tom's Marine Service, Inc., signer and sealer of the foregoing instrument who is known to me or who satisfactorily established his/her identity to me and acknowledged the same to be his/her free act and deed and the free act and deed of Tom's Marine Service, Inc. and that he/she has the authority to contract on behalf of Tom's Marine Service, Inc. and that he/she has been duly authorized to enter into the

foregoing Assurance on behalf of that entity.

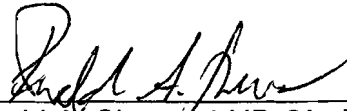
Before me,


Notary Public Christopher Lapierre
My Commission Expires: 4/10/15

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

DATED in Montpelier, Vermont, this 29th day of May, 2011.

LAND USE PANEL
NATURAL RESOURCES BOARD

By: 

Ronald A. Shems, LUP Chair