

STATE OF VERMONT

Superior Court

Environmental Division
Docket No.

Natural Resources Board,
Petitioner

ASSURANCE OF DISCONTINUANCE

v.

Adam Stone and
Adam Stone Trucking, LLC
Respondents

VIOLATIONS

Failure to comply with Permit Conditions 1, 2, 8, 9, 12, 13, and Exhibit 12a – Site Plan of Land Use Permit 5R0891-21

and

Failure to comply with Permit Conditions 2, 3, 12, 18, 19, 21(1), and 21(7) of Land Use Permit 5R0891-22

and

Failure to comply with Act 250 Rule 2(C)(6)

and

Failure to comply with Act 250 Rule 2(C)(26)

ASSURANCE OF DISCONTINUANCE

Pursuant to the provisions of 10 V.S.A. § 8007, the Natural Resources Board (“Board”) and Adam Stone and Adam Stone Trucking, LLC (collectively “Respondents”) hereby enter into this Assurance of Discontinuance (“Assurance”), and stipulate and agree as follows:

STATEMENT OF FACTS AND DESCRIPTION OF VIOLATIONS

1. This Assurance applies to lands identified in Book 176, pages 685-686, of the land records of the Town of WILLIAMSTOWN, Vermont, where the deed to the land or the

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permit is recorded.

2. The Respondents own approximately 1.66-acres located at 132 Industry Street, identified in the Town of WILLIAMSTOWN, Vermont (the "Project Tract") which is subject to Act 250 Land Use Permit Series 5R0891 (collectively, the "Permit"). The Project Tract is identified by School Property Account Number (SPAN) 756-240-11356. The Project Tract includes a commercial building which serves as a maintenance garage for a trucking company and a truck inspection station.
3. On OCTOBER 31, 2018, the District 5 Environmental Commission issued Land Use Permit 5R0891-21 to James Stone (Project Tract now owned by Respondents) specifically authorizing construction of a 40-foot x 60-foot truck shop (2,400 square feet) to serve as a base of operations providing "for hire" trucks for contractors to haul materials to and from construction sites. Most vehicles were to be parked inside the building. The application stated that operating hours would be confined to "normal business hours."
4. Condition 1 of Land Use Permit 5R0891-21 states:
The Permittee, and his assigns and successors in interest, is obligated by this permit to complete, operate and maintain the project as approved by the District Commission in accordance with the following conditions.
5. Condition 2 of Land Use Permit 5R0891-21 states:
*The project shall be completed, operated and maintained in accordance with the conditions of this permit and the permit application, plans, and exhibits on file with the District Environmental Commission. The approved plans are:
Sheet 1 of 2 - "Site Plan," dated 2/21/18 (Exhibit 12a)
Building Elevations/Floor Plans (Exhibit 11)
Building Exterior (Exhibit 9)
Exterior Trim Color (Exhibit 10)*
6. Condition 8 of Land Use Permit 5R0891-21 states:
No change shall be made to the design, operation or use of this project without a permit amendment issued by the District Commission or a jurisdictional opinion from the District Coordinator that a permit is not required.
7. Condition 9 of Land Use Permit 5R0891-21 states:
No further subdivision, alteration, and/or development on the tract/tracts of land approved herein shall be permitted without a permit amendment issued by the District Commission or a jurisdictional opinion from the District Coordinator that a permit is not required.

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8. Condition 12 of Land Use Permit 5R0891-21 states (in relevant part):
The Permittee and all assigns and successors in interest, shall maintain an undisturbed, naturally vegetated riparian buffer along the tributary to the Stevens Brook, as measured inland, perpendicular to, and horizontally 25 feet from the top of the streambanks and continuing to the water's edge at baseflow conditions. The term "undisturbed" means no activities that may cause or contribute to ground or vegetation disturbance, or soil compaction, including but not limited to construction, earth moving activities; storage of materials; tree trimming or canopy removal; tree, shrub or groundcover removal; plowing or disposal of snow; grazing and mowing.
9. Condition 13 of Land Use Permit 5R0891-21 states:
Prior to site preparation and construction, the Permittee shall install and maintain permanent demarcation outside and along the southern boundary of the riparian buffer. Permanent demarcation must include either boulders, split rail fences, or other landscaping features.
10. Exhibit 12a of Land Use Permit 5R0891-21 is:
Sheet 1 of 2 - "Site Plan," dated 2/21/18 (Exhibit 12a)
11. On OCTOBER 2, 2018, Adam Stone Trucking, LLC, registered with the Vermont Secretary of State's office as a domestic limited liability company (LLC) specializing in transportation and warehousing. Adam Stone owns and is a member of Adam Stone Trucking, LLC.
12. In 2019, Respondents completed construction of the commercial building, which exceeded the dimensions permitted in Exhibit 12a (Sheet 1 of 2 - "Site Plan," dated 2/21/18, and date stamped by the District 5 Commission as 8/29/18 (Exhibit 12a).
13. On JANUARY 28, 2020, Respondents purchased the Project Tract from James Stone.
14. In 2020, The Natural Resources Board began receiving complaints alleging the following: The business operates up to 7 days a week, at times starting before 4:30 am and at times ending after 8pm, and on some federal holidays, which is noisy. Up to 10 or more vehicles are parked outside the shop, including several dump trucks, several truck cabs, a low-boy trailer, a flow-boy trailer, a dump trailer, and two fuel tankers. Frequent pressure washing of vehicles is occurring, which is also noisy. An alternate driveway access was added to the north-eastern side of the truck shop that is not on the original site plan. The stream buffer is being mowed and has not been demarcated to prevent encroachment.
15. On JULY 28, 2020, the District 5 Environmental Coordinator issued Jurisdictional Opinion (JO) 5-43 to the Respondents, which determined the new activities, including

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construction of the larger building (50-foot x 62-foot, or 3,100 square feet) and the new driveway, constant truck activity to and from the site, vehicles idling, and outside storage of vehicles are all new uses that constitute a material change per Act 250 Rule 2(C)(6):

“Material Change” means any cognizable change to a development or subdivision subject to a permit under Act 250 or findings and conclusions under 10 V.S.A. § 6086b, which has a significant impact on any finding, conclusion, term or condition of the project’s permit or which may result in a significant adverse impact with respect to any of the criteria specified in 10 V.S.A. § 6086(a)(1) through (a)(10).

16. Act 250 Rule 2(C)(26) states: *“Cognizable change” means any physical change or change in use, including, where applicable, any change that may result in a significant impact on any finding, conclusion, term or condition of the project’s permit.*
17. The JO advised the Respondents to file a permit amendment application with the District 5 Office as soon as possible, preferably within 15 business days. The JO was not appealed and remains in effect.
18. On OCTOBER 28, 2020, the Board’s Enforcement Officer conducted a site visit to the Project Tract and also spoke with Respondent Adam Stone by phone. Respondent stated that a noise study was scheduled for November and that a permit application would be filed with the District 5 Commission shortly. The site visit resulted in the following observations:
 - Eight or more vehicles were parked outside the shop including dump trucks, truck cabs, a fuel tanker, a low-boy trailer, a flow-boy trailer.
 - The measurements of the commercial shop were confirmed to be 50-feet x 62-feet.
 - The 25-foot buffer along the unnamed tributary to the Stevens Branch needed more demarcation barriers and the buffer appeared to have been disturbed and/or mowed.
 - An additional driveway access was added to the north-eastern side of the shop that was not originally permitted.
 - The Respondent appeared to be complying voluntarily to date, so the Board’s Enforcement Officer declined to pursue formal enforcement at that time.
19. On APRIL 2, 2021, the District 5 Commission received a permit amendment application.
20. On APRIL 22, 2021, the District 5 Coordinator sent an incomplete letter detailing information needed to complete the application.
21. On JULY 29, 2022, the Board’s Enforcement Officer sent Respondents a Notice of Alleged Violation (NOAV) citing violations related to continuing to operate the

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noncompliant project without the required permit amendment. The Board's Enforcement Officer directed the Respondents to fully comply with the Incomplete Letter from the District 5 Coordinator regarding incomplete Land Use Permit application #5R0891-22 by August 30, 2022. The Board's Enforcement also directed Respondents to immediately cease all disturbances and/or mowing within the 25-foot buffer along the unnamed tributary to the Stevens Branch. The application was ultimately deemed complete on September 16, 2022.

22. On SEPTEMBER 29, 2023, the District 5 Commission issued Land Use Permit 5R0891-22 to the Respondents which authorized the construction of an "as-built" 3,100 square foot building which serves as a maintenance garage for a trucking company and a truck inspection station (the building constructed is larger than the 2,400 square foot building originally approved under Land Use Permit 5R0891-21), and the construction of an "as-built" second access drive off Industry Street. The permit amendment also established hours of operation for maintenance inside the shop with doors closed.
23. Condition 2 of Land Use Permit 5R0891-22 states:
*The project shall be completed, operated, and maintained in accordance with the conditions of this permit and the permit application, plans, and exhibits on file with the Commission and other material representations. In the event of any conflict, the terms and conditions of this permit shall supersede the approved plans and exhibits. The approved plans are:
Sheet 1 of 1 - "Site Plan," dated March 15, 2021, last revised September 11, 2023
(Exhibit 3d)*
24. Condition 3 of Land Use Permit 5R0891-22 states:
All conditions of Land Use Permit 5R0891 and amendments are in full force and effect except as further amended herein.
25. Condition 12 of Land Use Permit 5R0891-22 states:
All maintenance and inspections of trucks shall occur inside the closed doors of the garage building.
26. Condition 18 of Land Use Permit 5R0891-22 states (in relevant part):
The Permittee shall maintain an undisturbed, naturally vegetated riparian zone on the project tract along the unnamed tributary of the Stevens Branch...
27. Condition 19 of Land Use Permit 5R0891-22 states:
The stream buffer shall be permanently marked with prominent large stones, placed every 25 feet along the outer edge of the stream buffer along the entire length of the southerly boundary of the lot.

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28. Condition 21(1) of Land Use Permit 5R0891-22 states:
The following noise mitigation steps shall be implemented immediately upon issuance of this permit, consistent with the Findings of Fact:
(1) During nighttime operations, the Permittee shall not use the eastern driveway.
29. Condition 21(7) of Land Use Permit 5R0891-22 states:
The following noise mitigation steps shall be implemented immediately upon issuance of this permit, consistent with the Findings of Fact:
(7) Maintenance activities, other than emergencies, shall occur between 6:00 AM and 7:00 PM Monday through Saturday and shall be confined to inside the garage building. No maintenance activities shall take place on Sunday or State and Federal holidays.
30. The District 5 Commission excluded pressure washing of vehicles from maintenance activities as this activity is addressed Condition 5.
Condition 5 of Land Use Permit 5R0891-22 states:
All vehicle washing shall be outside, limited to less than 30 vehicles per week, and shall be confined to the designated area on the north side of the garage building, as approved by the ANR Stormwater Management Program and as depicted in Exhibit 3d.
31. In DECEMBER, 2023, and JANUARY, 2024, the Board's Enforcement Officer received the following complaints of alleged violations:
- *12/10/23 – large vehicle accessing the parcel via the eastern driveway*
 - *12/24/23 (Sunday) – maintenance activities in the shop*
 - *12/25/23 (federal holiday) – maintenance activities in the shop*
 - *1/14/24 – large vehicle accessing the parcel via the eastern driveway*
32. On JANUARY 31, 2024, Respondents replied to the Board's Enforcement Officer that on December 24 and 25, only book work occurred in the shop and no maintenance activities occurred. The Board's Enforcement Officer accepted this explanation. Respondents also replied that the use of the eastern driveway on December 10 and January 14 occurred to reduce noise; however, the use of the eastern driveway for nighttime operations is noncompliant with the permit language.
33. The Board alleges that the Respondents violated Conditions 1, 2, 8, 9, and Exhibit 12a of Land Use Permit 5R0891-21, as well as Act 250 Rule 2(C)(2), by constructing a commercial shop larger than permitted, constructing a new access driveway, and expanding operating hours beyond "normal business hours" without a permit amendment. The Board's Enforcement Officer's site visit confirmed the size of the commercial shop and the new access driveway. Videos received from the complainant documented operations on Sundays, Federal Holidays, and on weekdays before 5am and after 8pm.

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34. The Board alleges that the Respondents violated Conditions 12 and 13 of Land Use Permit 5R0891-21 by not demarcating and disturbing the stream buffer prior to site preparation and construction. Respondents voluntarily complied with these conditions by placing three buffer barrier rocks in 2021 and increasing the total count to 5 buffer barrier rocks by 2022 based on feedback from the Board's Enforcement Officer from the phone discussion on October 28, 2020 and the NOAV dated July 29, 2022.
35. The Board alleges that the Respondents violated Conditions 2, 3, and 21(1) of Land Use Permit 5R0891-22 by using the eastern access after dark. Videos received from the complainant are evidence of nighttime access on December 10, 2023 and January 14, 2024.
36. Respondent admits the factual findings described above, solely for purposes of resolving this case.
37. The Board alleges that the above conduct is in violation of land use permits issued in Land Use Permit Series 5R0891 pursuant to 10 V.S.A. Chapter 151, including the requirement contained therein to obtain District Commission approval for any further development of the Project Tract.
38. The parties now resolve the above claims and agree that this settlement will avoid the costs and uncertainties of litigation, is a just resolution of the disputed claims and is in the public interest.

AGREEMENT

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

- A. *The Respondents shall comply with Permit series 5R0891.*
- B. No later than **30 days** following the entry of this Assurance as an Order by the Superior Court, Environmental Division, the Respondents shall pay, by separate checks, the following:
 1. pursuant to 10 V.S.A. Ch. 201, a civil penalty in the amount of **Three Thousand Dollars (\$3,000.00) Dollars (U.S.)**, for the violations noted herein, by check made payable to the "State of Vermont."
 2. pursuant to 10 V.S.A. §8010(e)(2), the amount of **Five Hundred (\$500.00) Dollars (U.S.)**, to reimburse the Natural Resources Board for the costs of this enforcement

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action by check made payable to the "State of Vermont."

3. the amount of Fifteen dollars (**\$15.00 Dollars (U.S.)**), for the purpose of paying the recording fee for the filing of a notice of this Assurance in the Williamstown land records, by check made payable to the "Town of Williamstown, 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, the Respondent shall mail the Board 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. Respondents are jointly and severally liable for all obligations under this Assurance.
- H. 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.
- I. 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.
- J. 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.
- K. 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

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pursuant to 10 V.S.A. § 8007(c). In the event that such order is vacated, the Assurance shall be null and void.

- L. Pursuant to 10 V.S.A. § 8007(d), the Respondent shall not be liable for additional civil or criminal penalties with respect to the specific facts set forth herein, provided that the Respondent fully complies with this Assurance.
- M. The Board reserves the right to make reasonable extensions of any deadline contained herein, upon prior request by the Respondents, for good cause beyond either Respondent's control.
- N. 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.
- O. 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.
- P. 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.
- Q. This Assurance is subject to the provisions of 10 V.S.A. §§ 8007 and 8020.

[SIGNATURE PAGES FOLLOW]

SIGNATURES

For a company and an individual who runs the company

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

Dated at Williamstown Vermont, this 18 day of March, 2024.

Adam Stone
Adam Stone, Individually

Adam Stone Trucking, LLC
By Adam Stone
Adam Stone, Duly Authorized Agent

STATE OF VERMONT
COUNTY OF Orange ss.

BE IT REMEMBERED that on the 18 day of March, 2024, personally appeared **Adam Stone**, individually and as the duly authorized agent of **Adam Stone Trucking, LLC** signer and sealer 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 and the free act and deed of **Adam Stone Trucking, LLC** and that he has the authority to contract on behalf of **Adam Stone Trucking, LLC** and that he has been duly authorized to enter into the foregoing Assurance on behalf of that entity.

Before me,
Barbara C. Graham
Notary Public
My Commission Expires: 1/31/25



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

Dated in Montpelier, Vermont, this _____ day of _____, 20__.

Natural Resources Board

By:

Sabina Haskell, Chair