

**STATE OF VERMONT**

**SUPERIOR COURT**

**ENVIRONMENTAL DIVISION**

LAND USE PANEL of the  
NATURAL RESOURCES BOARD,  
Petitioner

Docket No. \_\_\_\_\_ Vtec

v.

KARL R. ANDERSON  
Respondent

**ASSURANCE OF DISCONTINUANCE**

**VIOLATION**

- I. Failure to reclaim an earth extraction operation as required by Land Use Permit #1R0174.

**ASSURANCE OF DISCONTINUANCE**

Pursuant to the provisions of 10 V.S.A. § 8007, the Land Use Panel of the Natural Resources Board (Panel) and Karl R. Anderson (Respondent) hereby enter into this Assurance of Discontinuance (Assurance), and stipulate and agree as follows:

**STATEMENT OF FACTS AND DESCRIPTION OF VIOLATION**

1. Respondent owns an approximately 160-acre tract of land on East Road in the town of Clarendon, Vermont (the Project Tract).
2. The Project Tract is subject to Land Use Permit #1R0174 (the Permit), which authorized a 23-acre gravel pit.
3. The Permit and corresponding Findings of Fact and Conclusions of Law were issued on December 23, 1974, and provide for reclamation of the pit, including regrading and revegetation of the gravel extraction area.
4. Condition 2 of the Permit provides that:

This Permit shall expire on January 1, 2000 unless an extension is applied for and granted prior to this date.

5. To date, reclamation has not been completed.
6. On or about August 7, 2010, Respondent wrote a letter to District Coordinator William T. Burke, stating that reclamation has not been completed and apologizing for the violation.
7. Respondent violated the Permit by failing to reclaim the gravel extraction area as required by the Permit on or before the permit expired on January 1, 2000.

### AGREEMENT

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

A. No later than 30 days following the entry of this Assurance as an Order by the Superior Court, Environmental Division, the Respondent shall pay the following:

- i. Pursuant to 10 V.S.A. Ch. 201, a civil penalty in the amount of **\$1,500.00** (U.S. Dollars), for the violations noted herein, by check made payable to the "Treasurer, State of Vermont."
- ii. The amount of **Ten (\$10.00) Dollars (U.S.)**, for the purpose of paying the recording fee for the filing of a notice of this Assurance in the Clarendon land records, by check made payable to the "Town of Clarendon."

B. Payments due under this Assurance shall be sent 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

- C. Any payment by the Respondent pursuant to this Assurance is made to resolve the violation set forth herein. Respondent shall not deduct, nor attempt to deduct, any payments, penalties, contributions or other expenditures required by this Assurance from Respondent' state or federal taxes.
- D. The Respondent shall complete reclamation of the Project tract on or before June 1, 2011.
- E. When Respondent has completed the reclamation, he shall contact the District Coordinator to arrange for an inspection. The District Coordinator will then notify the Petitioner and Respondent as to his observations.
- F. The Respondent shall make no further change to the Project tract without the written approval of the District Coordinator, or, if a permit amendment is required, the District Commission.
- G. The Land Use Panel reserves the right to grant reasonable extensions of deadlines in this Assurance, for good cause.
- H. The State of Vermont and the Land Use Panel reserve continuing jurisdiction to ensure future compliance with all statutes, rules, and regulations applicable to the facts and violation set forth herein above.
- I. 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 applicable to the Respondent.
- 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

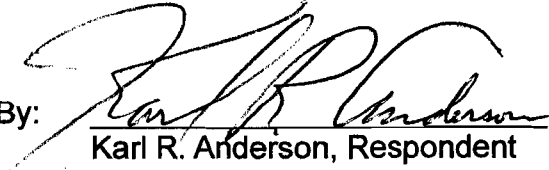
become a judicial order pursuant to 10 V.S.A. § 8007(c). In the event that such order is vacated, the Assurance shall be null and void.

- K. Pursuant to 10 V.S.A. § 8007(d), the Respondent shall not be liable for any 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 Respondent fully comply with the agreements set forth above.
- L. 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.
- M. Any violation of any agreement set forth herein will 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.
- N. 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 City of Rutland, Vermont, this 7<sup>th</sup> day of October, 2010.

By:   
Karl R. Anderson, Respondent

STATE OF VERMONT  
COUNTY OF RUTLAND, ss.

BE IT REMEMBERED that on the 7<sup>th</sup> day of October, 2010,  
personally appeared KARL R. ANDERSON, 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,

William J. Bloomer

Notary Public

My Commission Expires 2/10/2011

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

Dated in Montpelier, Vermont, this 12<sup>th</sup> day of October, 2010.

LAND USE PANEL

By:

Peter F. Young, Jr.  
Peter F. Young, Jr., Chair