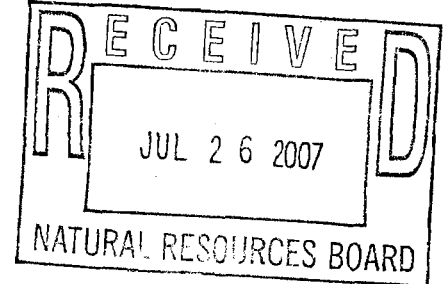


FILED

JUL 25 2007

VERMONT
ENVIRONMENTAL COURT

STATE OF VERMONT
ENVIRONMENTAL COURT



Vermont Natural Resources Board,)
Land Use Panel)
Petitioner,)
v.)
B-A-R-T Industries, Inc.,)
Respondent.)

Docket # 148-7-07 Vtec

ORDER

The Assurance of Discontinuance signed by the Respondent on July 18, 2007, and filed with the Environmental Court on July 24, 2007, is hereby entered as an order of this Court, pursuant to 10 V.S.A. 8007 (c).

Dated this 25th day of July 2007.

A handwritten signature in cursive script, reading "Merideth Wright", written over a horizontal line.

Merideth Wright,
Environmental Judge

STATE OF VERMONT
ENVIRONMENTAL COURT

JUL 18 2007

LAND USE PANEL of the
NATURAL RESOURCES BOARD,
Petitioner

v.

Docket No.

B-A-R-T Industries, Inc.,
Respondent

VIOLATION

Failure to file a lighting plan with the District 2 Environmental Commission for review and approval, and failure to implement an approved lighting plan, in violation of Condition 10 of Land Use Permit #2W0087-4.

ASSURANCE OF DISCONTINUANCE

Pursuant to the provisions of 10 V.S.A. § 8007, the Land Use Panel of the Natural Resources Board (Panel) and B-A-R-T Industries, Inc. (Respondent) hereby enter into this Assurance of Discontinuance (Assurance or AOD), and stipulate and agree as follows:

STATEMENT OF FACTS AND VIOLATION

1. B-A-R-T Industries, Inc. is a Vermont corporation with its principal place of business in Bellows Falls, Vermont. B-A-R-T Industries, Inc. owns a parcel of land identified in Book 212, Page 527 of the land records of Rockingham, Vermont. Patrick W. Boylan is the President of B-A-R-T Industries, Inc.
2. On October 27, 1994, the District 2 Environmental Commission (Commission) issued Land Use Permit #2W0087-4 (Permit) to B-A-R-T Industries, Inc. The Permit authorized in part the construction of an 18-foot by 60-foot transfer dock, with refrigeration in an 18-foot by 24-foot section, at Transportation Park in Rockingham, Vermont.
3. Condition No. 10 of the Permit states:

A lighting plan providing adequate shielding shall be submitted to the District 2 Environmental Commission for approval prior to May 1, 1995. The approved plan shall be fully implemented prior to October 1, 1995.
4. Respondent has been given written notice of the alleged violation by Assistant District Coordinator by letter dated March 30, 2006, by Notice of Alleged Violation dated January 31, 2007, and by letter dated February 13, 2007.

5. Respondent has acknowledged the alleged violation, but has failed to submit a complete lighting plan to the District 2 Environmental Commission for approval by same, and has failed to implement an approved lighting plan, in violation of Condition No. 10 of Land Use Permit #2W0087-4.

AGREEMENT

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

- A. No later than thirty (30) days of the date on which this Assurance is signed by the Environmental Court, the Respondent shall do each of the following:
 1. Pay to the State of Vermont, pursuant to 10 V.S.A. Ch. 201, a civil penalty in the amount of **\$1,650.00** U.S. Dollars, for the violation noted herein. Respondent shall make said payment by check or money order payable to the "Treasurer, State of Vermont" and shall send it to:

Denise Wheeler, Business Manager
Natural Resources Board, Land Use Panel
National Life Records Center, Drawer 20
Montpelier, Vermont 05620-3201
 2. Submit a complete lighting plan with adequate shielding to the District 2 Environmental Commission for review and approval, in accordance with Condition 10 of Land Use Permit #2W0087-4, and implement the plan approved by the Commission, within 90 days of approval by the Commission or within such longer time as may be specified by the Commission.
- B. Respondent shall comply with all terms and conditions of Land Use Permit #2W0087-4.
- C. 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.
- D. 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.

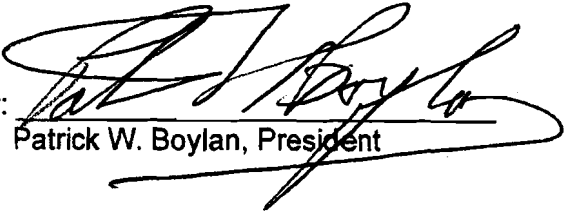
- E. This Assurance shall become effective only after it is signed by all parties and entered as an order of the Environmental Court. When so entered by the Environmental Court, this Assurance shall become a judicial order pursuant to 10 V.S.A. § 8007(c). In the event that such order is vacated, the Assurance shall be null and void.
- F. Pursuant to 10 V.S.A. § 8007(d), Respondent shall not be liable for 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 complies with the agreements set forth above.
- G. 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 Environmental Court. 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.
- H. 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.
- I. 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. Further, I, Patrick W. Boylan, the undersigned, hereby state under oath that I am President of B-A-R-T Industries, Inc., that I have the authority to contract on behalf of B-A-R-T Industries, Inc., and that I have been duly authorized to enter into the foregoing Assurance of Discontinuance on behalf of B-A-R-T Industries, Inc.

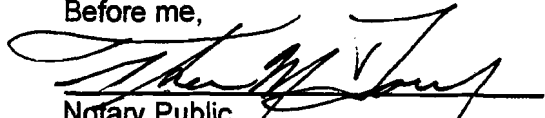
DATED at Ludlow, Vermont, this 18th day of July, 2007.

B-A-R-T Industries, Inc.

By: 
Patrick W. Boylan, President

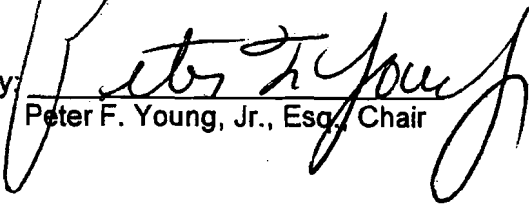
STATE OF VERMONT,
COUNTY OF Windsor ss.

At Ludlow, Vermont, this 18th day of July, 2007, Patrick W. Boylan personally appeared and swore to the truth of the foregoing, and acknowledged the execution of the foregoing instrument to be his free act and deed and the free act and deed of B-A-R-T Industries, Inc.

Before me,

Notary Public
My Commission Expires: 2/10/09

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

DATED in Montpelier, Vermont, this 20th day of JULY, 2007.

LAND USE PANEL
By: 
Peter F. Young, Jr., Esq., Chair