

**STATE OF VERMONT
SUPERIOR COURT – ENVIRONMENTAL DIVISION**

NATURAL RESOURCES BOARD,
Petitioner

Docket No.

v.

CHAVES LONDONDERRY
GRAVEL PIT, LLC,
Respondent

ASSURANCE OF DISCONTINUANCE

VIOLATION: Making a substantial change to a preexisting gravel pit without a Land Use Permit, in violation of 10 V.S.A. § 6081.

ASSURANCE OF DISCONTINUANCE

Pursuant to the provisions of 10 V.S.A. § 8007, the Natural Resources Board (Board) and Chaves Londonderry Gravel Pit, LLC (Respondent) hereby enter into this Assurance of Discontinuance (Assurance), and stipulate and agree as follows:

STATEMENT OF FACTS AND DESCRIPTION OF VIOLATIONS

1. Respondent owns and operates an earth extraction operation on a 49-acre parcel off Route 100 in Londonderry, Vermont (Project).
2. Respondent purchased the Project tract in 1997, at which time the Project was a preexisting gravel removal operation.
3. Respondent changed the Project from one which involved removing existing gravel deposits to a quarrying operation involving blasting and processing.
4. On or about September 11, 2008, the District 2 Coordinator issued a Jurisdictional Opinion that the historic gravel operation qualified as a preexisting development, but that substantial changes had been made in the Project's operation that required an Act 250 permit.
5. On or about January 17, 2013, this Jurisdictional Opinion was affirmed on appeal.
6. Respondent made a substantial change to a preexisting development by

changing the Project to a quarrying operation involving extensive blasting and processing, without an Act 250 permit, in violation of 10 V.S.A. § 6081.

7. Respondent benefitted economically by making substantial changes without first obtaining an Act 250 permit.

AGREEMENT

Based on the aforementioned Statement of Facts and Description of Violations, 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, Respondent shall pay the following:
 - 1, pursuant to 10 V.S.A. Ch. 201, a civil penalty in the amount of **\$4,000.00** (U.S. Dollars), for the violations noted herein, by check payable to: **Treasurer, State of Vermont**.
 2. the amount of **\$5,000.00** (U.S. Dollars), for economic benefit from the violations noted herein, by check payable to: **Treasurer, State of Vermont**.
 3. the amount of **\$10.00** (U.S. Dollars), for the purpose of paying the recording fee for the filing of a notice of this Assurance in the land records of the municipality where the Site is located, by check payable to: **Town of Londonderry**.
- A. All payments required by this Assurance shall be sent to:

Natural Resources Board
Dewey Building
National Life Drive
Montpelier, Vermont 05620-3201
- B. Respondent shall not deduct, or 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.
- C. 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.
- D. 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.

- E. 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.
- F. 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.
- 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 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.
- H. 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 the imposition of injunctive relief and/or penalties, including penalties under 10 V.S.A. chapters 201 and/or 211.
- I. This Assurance is subject to the provisions of 10 V.S.A. §§ 8007 and 8020.

SIGNATURES

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

Dated at SARASOTA, FLORIDA, Vermont, this 17 day of JANUARY, 2014.

CHAVES LONDONDERRY
GRAVEL PIT, LLC

By David M. Chaves
Duly Authorized Agent

FLORIDA

STATE OF VERMONT
COUNTY OF SARASOTA, ss.

BE IT REMEMBERED that on the 17 day of JANUARY, 2014,
personally appeared DAVID M. CHAVES, individually and as the duly

authorized agent of Chaves Londonderry Gravel Pit, 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 Chaves Londonderry Gravel Pit, LLC, and that he has the authority to contract on behalf of Chaves Londonderry Gravel Pit, LLC, and that he has been duly authorized to enter into the foregoing Assurance on behalf of that entity.



JEFF ALAN DICKSON
MY COMMISSION # DD 960705
EXPIRES: March 14, 2014
Bonded Thru Budget Notary Services

Before me,

A handwritten signature in cursive script, appearing to read "Jeff Dickson", written over a horizontal line.

Notary Public


My Commission Expires:

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

DATED at Montpelier, Vermont, this 7th day of March, 2014.

NATURAL RESOURCES BOARD

By: 

Ronald A. Shems, Chair