

STATE OF VERMONT

Superior Court

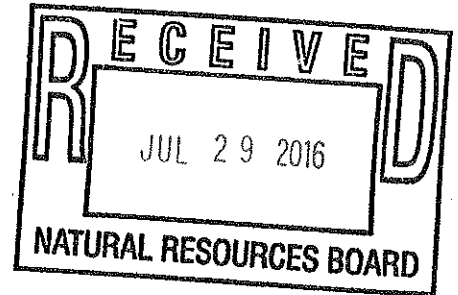
Environmental Division  
Docket No.

Natural Resources Board,  
Petitioner

ASSURANCE OF DISCONTINUANCE

v.

Gary Poginy and  
Northeast Auto Transport LLC,  
Respondents



**VIOLATION**

*Commencement of development without a Land Use Permit. 10 V.S.A. § 6081(a).*

**ASSURANCE OF DISCONTINUANCE**

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

**STATEMENT OF FACTS AND DESCRIPTION OF VIOLATIONS**

1. The subject property (the "Property") is located in the town of Irasburg, Vermont, a "1-acre town" for the purpose of assessing "development" under Act 250.
2. The Property is comprised of 7 acres.
3. Sometime between 2005 and 2008, Respondent removed commercial structures formerly located on the Property, and constructed the two-bay commercial garage that currently stands on the Property.
4. On August 27, 2009, Respondent registered with the Secretary of State's Office as Northeast Auto Transport, LLC operating out of the Property. The Business description provided was "Auto Hauling."
5. The Property is currently operated as a temporary storage area, office, and logistical operations center for transportation and resale of vehicles totaled in automobile accidents.
6. On January 29, 2015, the Respondent submitted a Land Use Permit application for

the as-built construction. Permit #7R1356 was approved on May 8, 2015.

7. Respondent commenced development without a Land Use Permit in violation of 10 V.S.A. § 6081(a).

### **AGREEMENT**

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

- A. Respondent shall comply with Permit series #7R1356.
- 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 the following:
1. pursuant to 10 V.S.A. §8010(e)(2), the amount of **Four Hundred Sixty Dollars and Thirty-Three Cents (\$460.33) (U.S.)**, to reimburse the Natural Resources Board for the costs of this enforcement action by check made payable to the "State of Vermont."
  2. the amount of **Ten Dollars and Zero Cents (U.S.) (\$10.00)**, for the purpose of paying the recording fee for the filing of a notice of this Assurance in the Irasburg land records, by check made payable to the "Town of Irasburg, Vermont."
- C. Respondent shall pay, pursuant to 10 V.S.A. Ch. 201, a total civil penalty in the amount of **Five Thousand Dollars (U.S.) (\$5,000.00)**, for the violations noted herein, by check made payable to the "State of Vermont", in accordance with the following payment schedule:
1. **Three thousand Dollars (U.S.) (\$3,000.00)** no later than **30 days** following the entry of this Assurance as an Order by the Superior Court, Environmental Division;
  2. **One thousand Dollars (U.S.) (\$1,000.00)** no later than **60 days** following the entry of this Assurance as an Order by the Superior Court, Environmental Division; and
  3. **One thousand Dollars (U.S.) (\$1,000.00)** no later than **90 days** following the entry of this Assurance as an Order by the Superior Court, Environmental Division;

Failure to make any payment in strict accordance with this schedule shall cause the entire amount of the penalty to become immediately due and owing.

Late payments may be subject to an annual interest rate of 12%.

- D. All payments and documents required by this Assurance shall be sent to the following address unless otherwise noted:

Natural Resources Board  
Dewey Building  
1 National Life Drive  
Montpelier, Vermont 05620-3201


- E. 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.
- F. 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.
- G. 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.
- 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, the Assurance shall be null and void.
- I. 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.
- J. The Board reserves the right to make reasonable extensions of any deadline contained herein, upon prior request by the Respondent, for good cause beyond the Respondent's control.
- K. 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.

- L. 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. 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.
- N. 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 Orleans, Vermont, this 26<sup>th</sup> day of July, 2016.

  
\_\_\_\_\_  
Gary Poginy, Individually

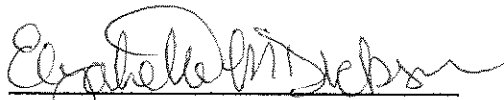
**Northeast Auto Transport LLC**

By   
\_\_\_\_\_  
Gary Poginy, Duly Authorized Agent

STATE OF VERMONT  
COUNTY OF ORLEANS ss.

BE IT REMEMBERED that on the 26<sup>th</sup> day of July, 2016, personally appeared Gary Poginy, individually and as the duly authorized agent of Northeast Auto Transport 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 Northeast Auto Transport LLC and that he has the authority to contract on behalf of Northeast Auto Transport LLC and that he has been duly authorized to enter into the foregoing Assurance on behalf of that entity.

Before me,

  
\_\_\_\_\_  
Notary Public  
My Commission Expires: 02/10/18



**Assurance of Discontinuance**  
**Natural Resources Board v. Northeast Auto Transport LLC**  
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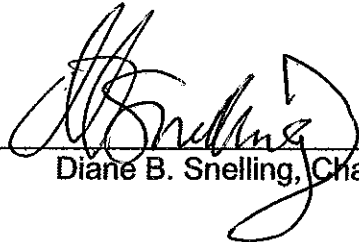
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The provisions set forth in this Assurance of Discontinuance are hereby agreed to and accepted.

Dated in Montpelier, Vermont, this 12 day of September, 2016.

**Natural Resources Board**

By:

  
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Diane B. Snelling, Chair