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January 17, 2014

**VIA ELECTRONIC MAIL**

Peter J. Gill Esq.  
Vermont Natural Resources Board  
National Life Records Ctr. Bldg.  
Drawer 20  
Montpelier, VT 05620-3201

Re: Reissuance of Civil Citation 13EC00925/Land Use Permit 6F0533-2  
Comments of Harrison Concrete Construction, Inc.

Dear Peter:

I am submitting the following comments on behalf of Harrison Concrete Construction, Inc. ("Harrison"), the Respondent named in the proposed Civil Citation 13EC00925 (the "Proposed Citation"). For the following reasons, Harrison does not believe that a civil citation is warranted in this matter.

The Proposed Citation relates to Harrison's Act 250 permit, Land Use Permit 6F0533-2 (the "Permit"). The Permit was issued on April 17, 2003, and relates to the operation of Harrison's concrete batching plant in Georgia, Vermont (the "Facility"). The Proposed Citation describes Harrison's alleged violation of the Permit as follows: "Respondent failed to abide by condition 10 of Land Use Permit 6F0533-2 by operating and cleaning mixer trucks and other construction vehicles on the premises outside of permitted hours of operation." Condition 10 of the Permit reads, in whole, as follows: "Operation *of the facility* shall be restricted to the hours of 6:00 AM to 6:00 PM, Monday thru Friday, 6:00 AM to noon on Saturdays." (Emphasis added).

In order to pursue enforcement of an alleged permit violation, the permit term or condition allegedly violated "" must be expressed with sufficient clarity to give notice of the limitations on

the use of the land.” *Secretary, Vermont Agency of Natural Resources v. Handy Family Enterprises*, 163 Vt. 476, 482 (1995) (quoting *In re Farrell & Desautels, Inc.*, 135 Vt. 614, 617 (1978)). The Supreme Court went on to note that “[t]hese limitations on our interpretation of Act 250 and permit requirements are particularly important in a proceeding that seeks to penalize the landowner for a violation.” *Id.* Harrison submits that the language of Condition 10 does not clearly set forth limitations that would prevent the activity in which Harrison has engaged in over the last decade without complaint.

Harrison has been operating the Facility for over a decade pursuant to the terms and conditions of the Permit. Harrison’s operation of the Facility pursuant to the Permit has never been the subject of an enforcement action by either the Town of Georgia or the State of Vermont. Importantly, Harrison’s practices regarding operation of the Facility have been consistent over the last decade.

Vehicle preparation, maintenance and cleaning has always taken place, from time to time, outside the Facility operating hours established by Condition 10 of the Permit. Harrison has never viewed vehicle-related work to constitute operation of the Facility. Instead, the Facility itself has been operated consistent with the terms of Condition 10 of the Permit.

The nature of concrete preparation and hauling requires certain preparatory work to be done in advance of the concrete being loaded onto trucks. In addition, cleaning and other maintenance is required at the end of the day after deliveries of concrete have been completed. During the proceedings giving rise to the Permit, and during the subsequent decade of operation, no one has suggested that the limitation on hours of operation regarding the Facility applies to this preparatory, cleaning and maintenance work at the Facility site. Such a limitation would be unworkable, and was never the intention of the District Commission or the parties involved in the Permit proceedings.

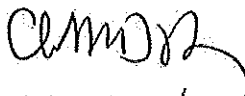
It should also be noted that concrete placement off-site simply cannot be started and stopped arbitrarily. For your information, you will find attached a letter dated November 13, 2013 from James Wild, a composite material engineer with VTrans. In his letter, Mr. Wild explains the specifications and other requirements relating to the placement of concrete by Harrison or other contractors working on State projects. Given this reality, it is not surprising that no one ever previously suggested that Harrison’s vehicle-related work after 6:00 PM on weekdays – especially during the summer construction season – constituted a violation of the Permit. To that end, Town zoning officials have visited the Facility to review Harrison’s records and practices, and have concluded that no violation of Town permits have ever occurred.

Harrison never considered the terms of Condition 10 to be ambiguous, and has thus acted in the same manner over the preceding decade. Given the recent position being taken by neighbors opposed to Harrison’s operations generally, and the Natural Resources Board’s issuance and reissuance of proposed civil citations, Harrison intends to file an application for an amendment to the Permit making it very clear what activities are governed by the hours of operations set forth in Condition 10.

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In the meantime, Harrison contends that its conduct does not now, after ten years, suddenly constitute a violation of the Permit, and thus requests that the Proposed Citation be withdrawn. If you have any questions or would like further information, please do not hesitate to get in touch.

Very truly yours,

  
Christopher D. Roy

Encl.





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November 13, 2013

Ben Drury  
Harrison Redi-Mix  
P.O. Box 2098  
Georgia VT 05468

RE: Completion of concrete placement once started

Dear Mr. Drury:

This letter is in response to our phone conversation on November 12, 2013 regarding your inquiry about suspension of concrete placement. You asked if a concrete placement is started for the Vermont Agency of Transportation, must the placement be completed during that operation.

To answer your question, yes. Once a concrete placement is started, it shall be completed unless impossible to do so because of some sort of emergency or mechanical breakdown. The Vermont Agency of Transportation 2011 Standard Specifications for Construction, section 501.10 (c) page 5-41 states:

"The rate of placing the concrete shall be so regulated that no excessive stresses are placed on the forms. Concrete in all slabs, decks, girders, or ribs of arches shall be placed in one continuous operation, unless otherwise specified.

Concrete shall be placed in continuous horizontal layers, the thickness of which shall not exceed 450 mm (18 inches), unless otherwise directed by the Engineer. Each succeeding layer shall be placed before the underlying layer has taken initial set and shall be consolidated in a manner that will eliminate any line of separation between the layers. When it is necessary, by reason of any emergency, to place less than a complete horizontal layer at one operation, such layer shall terminate in a vertical bulkhead."

The contingent language unless otherwise specified is not intended to authorize suspension of work and creation of a "cold" joint. It is targeted to addressing very large pours or special circumstances in design. Hopefully this answers your question satisfactorily. If you have any further questions or require additional information, please feel free to contact me, Jim Wild, at (802) 828-6931. Thank you.



Sincerely,

A handwritten signature in cursive script that reads "James Wild".

James Wild, E.I.  
Composite Materials Engineer

Enclosures

- C, Jim Wild, Composite Materials Engineer  
Jeremy Reed, Construction Structures Engineer