

STATE OF VERMONT

Superior Court

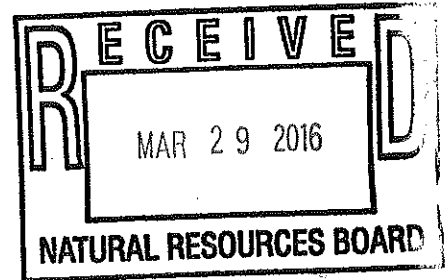
Environmental Division
Docket No.

Natural Resources Board,
Petitioner

ASSURANCE OF DISCONTINUANCE

v.

Sisters and Brothers Investment Group, LLP,
and Joseph Handy,
Respondents



VIOLATION

Failure to comply with Permit Conditions 22 & 23 of Land Use Permit 4C0927R-5

ASSURANCE OF DISCONTINUANCE

Pursuant to the provisions of 10 V.S.A. § 8007, the Natural Resources Board (Board), Sisters and Brothers Investment Group, LLP, and Joseph Handy (Respondents) 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 on Marble Island Road in the town of Colchester, Vermont, a "10-acre town" for the purpose of assessing "development" under Act 250.
2. The Property is comprised of 26.05 acres.
3. The deed for this property is recorded within Book 384 Pages 185-187 of the Land Records of the Town of Colchester, Vermont.
4. On March 10, 2010, the District 4 Environmental Commission issued Land Use Permit Amendment 4C0927R-5 (the Permit) for an after-the-fact approval of road construction on the Property.

5. Respondents failed to retain a qualified consultant to complete the requisite monitoring and removal of non-native, invasive plants by the summer of 2010 as required by Condition 22 of the amended permit. However, the Respondents assert a qualified consultant had been retained from 2008 to 2010 for this purpose.
6. Not until August 24, 2015, following a Notice of Alleged Violation from the Board, did the Respondents commence the monitoring of invasive plants and the golden corydalis on the Property. On October 28, 2015, the Respondents submitted a report to the Board detailing their 2015 efforts to monitor the golden corydalis and control invasive species on the Property.
7. Additionally, Respondents failed to retain a qualified consultant to complete the requisite monitoring of the locations, if any, of the state threatened golden corydalis (*Corydalis aurea*) along the road to ensure that none of these plants were taken or damaged without first obtaining an Endangered Species Permit, as required by Condition 23 of the amended permit.
8. Furthermore, Respondents failed to provide annual reports to the District Coordinator and the Vermont Fish & Wildlife Department on the monitoring of golden corydalis or the monitoring and control of invasive species as required under Conditions 22 and 23.
9. Therefore, Respondents failed to comply with permit conditions 22 & 23 of Land Use Permit 4C0927R-5.

AGREEMENT

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

- A. Respondents shall comply with Permit series # 4C0927R-5.
- B. By no later than **June 30, 2016**, Respondents shall install a chain between two posts across the dirt access road to the Project Tract, south of the turnaround, in such a manner that vehicular and ATV access to the Project Tract is blocked.
- C. Respondents shall retain a qualified consultant to conduct the annual monitoring and removal as required by Conditions 22 and 23.
- D. Respondents shall provide annual reports on the monitoring and control to the District Coordinator and the Vermont Fish & Wildlife Department. The monitoring and removal of invasive species may be discontinued after three years if no invasive species are identified by the end of the 2017 summer

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monitoring season (September 2017).

- E. By 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. Ch. 201, a civil penalty in the amount of **Four Thousand Nine Hundred Dollars and Zero Cents (\$4,900.00) (U.S.)**, for the violations noted herein, by check made payable to the "State of Vermont."
 2. pursuant to 10 V.S.A. §8010(e)(2), the amount of **Five Hundred Fifty Dollars and Thirty Four Cents (\$550.34) (U.S.)**, to reimburse the Natural Resources Board for the costs of this enforcement action by check made payable to the "State of Vermont."
 3. 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 Colchester land records, by check made payable to the "Town of Colchester, Vermont."
- F. 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
- G. Respondents shall not deduct, nor attempt to deduct, any payment made to the State pursuant to this Assurance from Respondents' reported income for tax purposes or attempt to obtain any other tax benefit from such payment.
- H. 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.
- I. Nothing in this Assurance shall be construed as having relieved, modified, waived or otherwise affected the Respondents' continuing obligation to comply with applicable state or local statutes, regulations or directives.
- 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.

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- K. Pursuant to 10 V.S.A. § 8007(d), the Respondents shall not be liable for additional civil or criminal penalties with respect to the specific facts set forth herein, provided that the Respondents fully comply with this Assurance.
- L. The Board reserves the right to make reasonable extensions of any deadline contained herein, upon prior request by the Respondents, for good cause beyond either Respondent's control.
- M. 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.
- N. 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.
- O. 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.
- P. This Assurance is subject to the provisions of 10 V.S.A. §§ 8007 and 8020.

[SIGNATURES ON FOLLOWING PAGES]

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

Dated at Burlington, Vermont, this 21st day of March, 2016.

Sisters and Brothers Investment Group, LLP

By: 
(Signature)

Joseph Handy
Duly Authorized Agent
(Printed Name)

STATE OF VERMONT
COUNTY OF CHITTENDEN, ss.

BE IT REMEMBERED that on the 21st day of March, 2016, personally appeared Joseph Handy, as the duly authorized agent of **Sisters and Brothers Investment Group, LLP**, 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 **Sisters and Brothers Investment Group, LLP**, and that he has the authority to contract on behalf of **Sisters and Brothers Investment Group, LLP**, and that he has been duly authorized to enter into the foregoing Assurance on behalf of that entity.

Before me,

Beth S. Borden
Notary Public
My Commission Expires: 2/10/19

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

Dated at Burlington, Vermont, this 24th day of March, 2016.

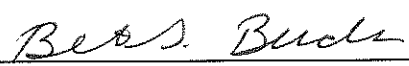
Joseph Handy

By: 
(Signature)

STATE OF VERMONT
COUNTY OF CHITTENDEN, ss.

BE IT REMEMBERED that on the 21st day of March, 2016,
personally appeared Joseph Handy, signer and sealer of the foregoing instrument who
is known to me or who satisfactorily established his identity to me.

Before me,


Notary Public

My Commission Expires: 2/10/19

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

Dated in Montpelier, Vermont, this 28 day of April, 2016.

Natural Resources Board

By:


DIANE SNELLING, CHAIR
~~Louis Borie, Acting Chair~~