

STATE OF VERMONT

SUPERIOR COURT

ENVIRONMENTAL DIVISION  
Docket No. \_\_\_\_ Vtec

Land Use Panel of the  
Natural Resources Board,  
Petitioner

**ADMINISTRATIVE ORDER**

v.

Michael Jarvis and  
Heather Cohen,  
Respondents

Having found that Michael Jarvis and Heather Cohen (Respondents) have committed a violation as defined in 10 V.S.A. § 8002(9), the Land Use Panel, pursuant to 10 V.S.A. §8008, hereby issues the following Administrative Order:

**Violation**

*Failure to comply with an Assurance of Discontinuance and Court Order*

**Statement of Facts and Description of Violation**

1. On January 27, 2008, Respondents Jarvis and Cohen entered into an Assurance of Discontinuance with the Land Use Panel in settlement of violations at their property in Guilford, Vermont concerning certain conditions in Land Use Permit #2W1144.

2. The Assurance of Discontinuance provided, in part, that:

A. Respondents shall obtain an amendment to Land Use Permit #2W1144 prior to any use or further development of the 0.8 acres described in paragraph 9 herein. If Respondents fail to obtain a permit amendment permitting use of said 0.8 acres by April 1, 2008, Respondents shall create and submit a planting and lifetime maintenance plan for that area to the Coordinator for the District 2 Environmental Commission (Coordinator) no later than that date. Respondents shall implement said plan no later than thirty (30) days from its approval by the Coordinator or the beginning of the 2008 planting season, whichever is later.

Administrative Order

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B. If Respondents fail to obtain a permit amendment permitting use of said 0.8 acres by April 1, 2008, Respondents shall also pay to the State of Vermont, pursuant to 10 V.S.A. Ch. 201, a civil penalty in the amount of Three Thousand Nine Hundred Thirty-Seven Dollars (\$3,937.00) (U.S.), for the violations noted herein. ...

3. The Assurance of Discontinuance was entered as an order of this Court on February 5, 2008. *Land Use Permit of the Natural Resources Board v. Michael Jarvis and Heather Cohen*. Docket # 23-2-08 Vtec. The Environmental Court mailed the February 5, 2008 Order to the Respondents' attorney on February 6, 2008.

4. Respondents did not obtain an amendment to Land Use Permit #2W1144 by April 1, 2008.

5. Respondents have not complied with Paragraph A of the Assurance of Discontinuance because they did not create and submit a planting and lifetime maintenance plan for the 0.8 acres described in paragraph 9 of the Assurance of Discontinuance to the Coordinator for the District 2 Environmental Commission by April 1, 2008. Thus, they also did not implement said plan no later than thirty (30) days from its approval by the Coordinator or the beginning of the 2008 planting season.

6. Respondents have not paid to the State of Vermont the civil penalty required by Paragraph B of the Assurance of Discontinuance.

7. Respondents are in violation of Paragraphs A and B of the Assurance of Discontinuance and the Court's February 5, 2008 Judicial Order.

**Order**

A. Respondents shall create and submit a planting and lifetime maintenance plan for the 0.8 acres described in paragraph 9 of the Assurance of Discontinuance to the Coordinator for the District 2 Environmental Commission no later than 60 days following the receipt of this Order.

B. No later than 30 days following the receipt of this Order, the Respondents shall pay the following:

1. pursuant to 10 V.S.A. Ch. 201, a civil penalty in the amount of Twenty-Nine Thousand Eight Hundred Fifty (\$29,850.00) Dollars (U.S.), for the violation noted herein, by check made payable to the "Treasurer, State of Vermont".

2. the amount of ten (\$10.00) Dollars (U.S.), to pay the recording fee for the filing of a notice of this Administrative Order Town of Guilford land records, by check made payable to the "Town of Guildford, Vermont."

All payments under this paragraph shall be by check sent to:

Denise Wheeler, Business Manager  
Land Use Panel of the Natural Resources Board  
National Life Records Center Building  
National Life Drive  
Montpelier, Vermont 05620-3201

C. Any payment by the Respondents pursuant to this Administrative Order is made to resolve the violations set forth in this Administrative Order and shall not be considered to be a charitable contribution, business expense, or other deductible expense under the federal or state tax codes. Respondent shall not deduct, nor attempt to deduct, any payments, penalties, contributions or other expenditures required by this Administrative Order from Respondent's state or federal taxes.

**A Respondent's Right to a Hearing  
Before the Superior Court, Environmental Division**

Pursuant to 10 V.S.A. §8012, any Respondent has the right to a hearing before the Superior Court, Environmental Division concerning this Administrative Order, if such Respondent files a Notice of Request for Hearing within **fifteen (15) days** of the date such Respondent receives this Administrative Order. The Notice of Request for Hearing must be filed with both the Land Use Panel and the Environmental Division at the following addresses:

John H. Hasen  
General Counsel  
Natural Resources Board  
National Life Records Center Building  
National Life Drive  
Montpelier, VT 05620-3201

Jackie Fletcher, Clerk,  
Superior Court,  
Environmental Division  
2418 Airport Road, Ste. 1  
Barre, VT 05641-8701

If a hearing is requested, the Land Use Panel reserves the right to seek additional penalties for additional costs of enforcement and other relevant penalty factors. 10 V.S.A. §8010(b).

**Effective Date of this Administrative Order**

This Administrative Order is effective as to a Respondent on the date it is received by such Respondent. However, if such Respondent files a Notice of Request for Hearing within **fifteen (15) days** of the date such Respondent receives this Administrative Order, such filing shall stay all of the provisions of this Administrative Order as to such Respondent, pending a hearing by the Environmental Division. Unless a Respondent files a timely Notice of Request for a Hearing, this Administrative Order shall become a Judicial Order as to such Respondent when this Administrative Order is filed with and signed by the Environmental Division.

**Compliance with a Judicial Order**

If this Administrative Order becomes a Judicial Order and a Respondent fails or refuses to comply with the conditions of that Judicial Order, the Land Use Panel shall have cause to initiate an enforcement action against such Respondent pursuant to the provisions of 10 V.S.A. Chapters 201 and 211.

Dated: \_\_\_\_\_

7/2/12



\_\_\_\_\_  
Ron Shems, Chair  
Land Use Panel

STATE OF VERMONT  
SUPERIOR COURT  
ENVIRONMENTAL DIVISION

FILED

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SUPERIOR COURT  
ENVIRONMENTAL DIVISION

Natural Resources Board, )  
Land Use Panel, )  
Petitioner, )  
)  
v. )  
)  
Michael Jarvis, )  
Respondent. )

Docket # 149-11-12 Vtec

FINDINGS

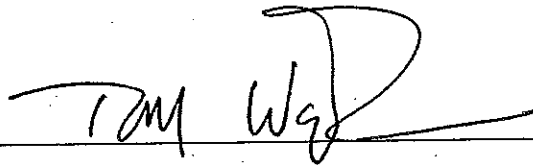
PURSUANT TO 10 V.S.A. §8008(d) THE COURT FINDS AS FOLLOWS:

1. The Administrative Order in this matter has been properly served on the Respondent(s) in accordance with 10 V.S.A. §8008(a).
2. The Respondent(s) has not timely requested a hearing in this matter in accordance with 10 V.S.A. §8008(b).
3. The order otherwise meets the requirements of 10 V.S.A. Chapter 201.

ORDER

By the Court's signature below, the Administrative Order in this matter, filed with the Superior Court, Environmental Division, on November 2, 2012, has become a final Judicial Order pursuant to 10 V.S.A. §8008(d)(2).

Dated this 26th day of November, 2012.



Thomas G. Walsh+,  
Environmental Judge