

**STATE OF VERMONT  
ENVIRONMENTAL COURT**

**LAND USE PANEL of the  
NATURAL RESOURCES BOARD,**

Petitioner

Docket No.

v.

**TIMOTHY E. PINS,**

Respondent

**VIOLATION**

Construction of improvements for commercial purposes without first obtaining an Act 250 land use permit, in violation of 10 V.S.A. § 6081(a).

**ASSURANCE OF DISCONTINUANCE**

Pursuant to the provisions of 10 V.S.A. § 8007, the Land Use Panel of the Natural Resources Board (Panel) and Timothy E. Pins (Respondent) hereby enter into this Assurance of Discontinuance (Assurance), and stipulate and agree as follows:

**STATEMENT OF FACTS AND DESCRIPTION OF VIOLATIONS**

1. From approximately 1977 to 1978, Respondent constructed a 44' x 88' metal roofing shop, a 30' x 90' cold storage building, and related improvements for commercial purposes at 610 Lower Michigan Road in Pittsfield, Vermont (the Project).
2. The Project is on a tract of land that is approximately 2.2 acres in area.
3. Part of the Project tract is a Class II wetland, and the tract borders on the West Branch of the Tweed River.
4. Pittsfield does not have subdivision and zoning bylaws, and therefore is a so-called one acre town for purpose of Act 250 jurisdiction.
5. By constructing these improvements on a parcel of land larger than one acre without an Act 250 land use permit, Respondent violated 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. No later than thirty (30) days after the date on which this Assurance is signed by the Environmental Court, Respondent shall file with the District 3 Environmental Commission a complete permit application for the improvements constructed on, and use of, the Project tract.
- B. If the Commission denies said Act 250 permit application, and said permit denial becomes final, then within sixty (60) days after said decision becomes final:
  - a. Respondent shall cease all commercial use of the unpermitted improvements.
  - b. If Respondent wishes to use the unpermitted improvements for a use that would not be subject to Act 250 jurisdiction, then Respondent shall request a jurisdictional opinion from the District Coordinator to ensure that each proposed use is exempt from Act 250 jurisdiction. Any use not determined to be exempt shall cease within thirty (30) days of the date upon which such jurisdictional opinion is issued. Any such use may only occur after an Act 250 permit is obtained or after said jurisdictional opinion is modified upon reconsideration or appeal.
- C. Within thirty (30) days of the date on which this Assurance is signed by the Environmental Court, the Respondent shall pay to the State of Vermont, pursuant to 10 V.S.A. Ch. 201, a civil penalty in the amount of \$ 3,125.00 (U.S. dollars) for the violation noted herein. Respondent shall pay said penalty by check made payable to the "Treasurer, State of Vermont" and shall send it 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
- D. Any payment by Respondent pursuant to this Assurance is made to resolve the violation set forth in this Assurance and shall not be claimed as a charitable contribution, business expense, or other deduction or credit under the federal or state tax codes.
- E. The Panel shall file a notice of this Assurance in the land records of Pittsfield, Vermont, at Respondent's expense. Within fifteen (15) days of the date upon which this Assurance becomes final, Respondent shall send a payment in the amount of \$10.00 for the recording fee for said notice, by check made payable to the municipality in question, to the Panel at the address listed below.
- F. The State of Vermont and the Land Use Panel reserve continuing jurisdiction to ensure future compliance with all statutes, rules, and regulations applicable to

the facts and violations set forth herein above.

- G. Nothing in this Assurance shall be construed as having relieved, modified, waived or otherwise affected the Respondent's continuing obligation to comply with all other applicable state or local statutes, regulations or directives applicable to the Respondent.
- H. This Assurance shall become effective only after it is signed by all parties and entered as an order of the Environmental Court. When so entered by the Environmental Court, 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 any additional civil or criminal penalties with respect to the specific facts described herein and about which the Land Use Panel has notice on the date the Court signs this Assurance, provided that the Respondent fully complies with the agreements set forth herein.
- J. 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 Environmental Court. 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.
- K. Any violation of any agreement set forth herein will be deemed to be a violation of a judicial order and may result in the imposition of injunctive relief and/or penalties, including penalties set forth in 10 V.S.A. chapters 201 and/or 211.
- L. This Assurance is subject to the provisions of 10 V.S.A. § 8007.

**SIGNATURES**

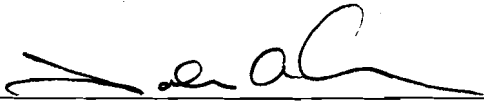
The provisions set forth in this Assurance of Discontinuance are hereby agreed to and accepted.

DATED at Pittsfield, Vermont, this 29<sup>th</sup> day of JUNE, 2010.

By: Timothy E. Pins  
Timothy E. Pins

STATE OF VERMONT  
COUNTY OF Rutland, ss.

BE IT REMEMBERED that on the 29 day of June, 2010,  
personally appeared Timothy E. Pins, signer of the foregoing written 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.

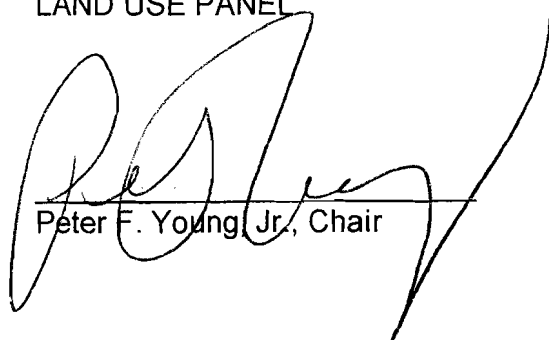
Before me:   
Notary Public      Commission Expires:

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

DATED in Montpelier, Vermont, this 30<sup>th</sup> day of JUNE, 2010.

LAND USE PANEL

By:   
Peter F. Young Jr., Chair