

**STATE OF VERMONT
ENVIRONMENTAL COURT**

LAND USE PANEL of the
NATURAL RESOURCES BOARD,
Petitioner

v.

Docket No.

VERMONT RSA LIMITED PARTNERSHIP
d/b/a VERIZON WIRELESS,
Respondent

VIOLATION

Failure to follow proper erosion control procedures, in violation of Condition 7 of Land Use Permit # 1R0941.

ASSURANCE OF DISCONTINUANCE

Pursuant to the provisions of 10 V.S.A. § 8007, the Land Use Panel of the Natural Resources Board (Panel) and Vermont RSA Limited Partnership (d/b/a Verizon Wireless) hereby enter into this Assurance of Discontinuance (Assurance or AOD), and stipulate and agree as follows:

STATEMENT OF FACTS AND VIOLATION

1. Land Use Permit #1R0941 (the Permit) was issued to Vermont RSA Limited Partnership, d/b/a Verizon Wireless (Respondent) on May 31, 2007, authorizing construction of a telecommunications compound including a 100' stealth (tree) communications tower with 12 panel antennas, a 12' x 30' equipment building, overhead utilities, and improvements to an existing woods trail, in Killington, Vermont (the Project).

2. Condition 7 of the Permit provides as follows:

The Permittees shall comply with Exhibits #4, 42, and 62 for erosion control. The Permittees shall prevent the transport of any sediment beyond the area necessary for construction approved herein. All erosion control devices shall be periodically cleaned, replaced and maintained until vegetation is permanently established on all slopes and disturbed areas. The Commission reserves the right to schedule hearings and site inspections to review erosion control and to evaluate and impose additional conditions with respect to erosion control as it deems necessary.

3. As referenced in Condition 7 of the Permit, Exhibit 4 is the part of the permit application known as "Schedule B," and Exhibits 42 and 62 are inter-office memoranda from the Project Engineer, DuBois & King, Inc., which state the need for a Construction General Permit 3-9020 for the Project and provide details for erosion prevention and sediment control techniques required by the State of Vermont Low Risk Site Handbook for Erosion Prevention and Sediment Control.
4. On or before July 25, 2008, the Respondent failed to follow the erosion control procedures required by the Condition 7 of the Permit.
5. Respondent violated Condition 7 of the Permit.

AGREEMENT

Based on the Statement of Facts and Description of the alleged Violation, the parties hereby agree as follows:

- A. No later than 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 **\$3,187.50** U.S. Dollars, for the violation noted herein. Respondent shall make said payment by check or money order payable to the "Treasurer, State of Vermont" and shall send it to:

Denise Wheeler, Business Manager
Natural Resources Board, Land Use Panel
National Life Records Center
Montpelier, Vermont 05620-3201
- B. Any payment by the Respondent pursuant to this Assurance is made to resolve the violation set forth herein and shall not be considered to be a charitable contribution or business expense under federal or state tax laws.
- C. Respondent shall comply with all terms and conditions of Land Use Permit #1R0941, as amended.
- D. The State of Vermont and the Land Use Panel reserve continuing jurisdiction to ensure compliance with all statutes, rules, and regulations applicable to the facts and violation set forth herein above.
- E. 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.

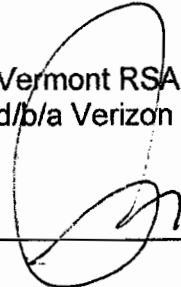
- F. This Assurance shall become effective only after it is signed by all parties and entered as an order of the Environmental Court. When so entered by the Environmental Court, this Assurance shall become a judicial order pursuant to 10 V.S.A. § 8007(c). In the event that such order is vacated, the Assurance shall be null and void.
- G. Pursuant to 10 V.S.A. § 8007(d), Respondent shall not be liable for 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 above.
- H. In the event of a future violation by Respondent, the facts agreed to herein shall constitute a violation for purposes of 10 V.S.A. § 8010.
- I. 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.
- J. 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.
- K. 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.

Vermont RSA Limited Partnership,
d/b/a Verizon Wireless

By: _____



BE IT REMEMBERED that on the 13th day of November 2009

2008, personally appeared Richard Esright, 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, and the free act and deed of Vermont RSA Limited Partnership, d/b/a Verizon Wireless, a Notary Public, in and for County of Hartford

and State of Connecticut, this 13th day of November, 2008.
Before me: [Signature] Notary Public Commission Expires: MICHELLE KABABIK Notary Public
My Commission Expires 6/30/2011

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

DATED in Montpelier, Vermont, this 3rd day of December, 2008.

LAND USE PANEL

By: [Signature]
Peter F. Young, Jr., Esq., Chair