

STATE OF VERMONT

SUPERIOR COURT

ENVIRONMENTAL DIVISION

Docket No.

Land Use Review Board,
Petitioner

ADMINISTRATIVE ORDER

v.

3643 VT Route 103 N, LLC
and
137 Chandler Road, LLC
and
137 Chandler Road VT, LLC
and
Julian Materials, LLC
and
Julian Development, LLC
and
M Julian, LLC
and
Jason Julian
and
Andrew Julian
and
Maureen Julian
and
Michele Julian,
Respondents

Having found 3643 VT Route 103 N, LLC and 137 Chandler Road, LLC and 137 Chandler Road VT, LLC and Julian Materials, LLC and Julian Development, LLC and M Julian, LLC and Jason Julian and Andrew Julian and Maureen Julian and Michele Julian (Respondents) committed violations as defined in 10 V.S.A. § 8002(9), the Land Use Review Board (Board), pursuant to 10 V.S.A. § 8008, hereby issues the following Administrative Order:

VIOLATIONS

Failure to comply with conditions 1, 2, 8, and 11 of Land Use Permit 2S0775 issued July 22, 1988

and

Failure to comply with findings 1 Air Pollution, 1 Water Pollution (A)3, 4(c), and 8(a), of Land

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Use Permit 2S0775 issued July 22, 1988

and

Failure to comply with the following exhibits of Land Use Permit 2S0775:

Exhibit 3 – Schedule B, Act 250 Information, dated April 27, 1988

Exhibit 15 – Site Plan (including detail sheet), dated October 3, 1986, no revisions noted

*Exhibit 16 – Site Plan, Sheet 1 of 2 dated May 30, 1988, no revisions noted, replaced by
Exhibit 24*

*Exhibit 18 – Site plan, Sheet 1 of 2, dated May 30, 1988, last revised June 1, 1988,
replaced by Exhibit 24*

*Exhibit 20 – Memorandum from State Geologist dated May 26, 1988 – quarry design,
reclamation, and erosion control narrative*

*Exhibit 23 – Memorandum from State Geologist dated June 17, 1988 – erosion control
maintenance, quarry design and reclamation on site plans acceptable*

Exhibit 24 – Site Plan, Sheet 1 of 2, dated May 30, 1988, last revised June 21, 1988

Exhibit 25 – Details, Sheet 2 of 2, dated May 30, 1988, last revised June 21, 1988

and

*Failure to comply with conditions 1, 2, 3, 6, 10, 11, 12, 13, 14, 18, 19, 23, of Land Use Permit
2S0775-1(Altered) issued June 21, 2005*

and

*Failure to comply with findings 3, 33, 43, 47 – 57 of Land Use Permit 2S0775-1 issued May 17,
2005*

and

Failure to comply with Land Use Permit 2S0775-1 MOD

and

Failure to comply with the following exhibits of Land Use Permit 2S0775-1 (Altered)

Exhibit 2 – Schedule B, Response to the 10 Criteria and Subcriteria, dated June 11, 2004

Exhibit 16 – Quarry Development and Reclamation Plan, dated May 2004

*Exhibit 20 – Allstone Quarry Erosion Prevention and Sediment Control Plan, dated
May 2004*

Exhibits 21 – 31 – Site Plans and Phasing Plans, dated May 19, 2004

*Exhibit 37 – Sound Study – Response to district commission questions, dated September
13, 2004*

and

Failure to comply with Jurisdictional Opinion 2-324 dated May 6, 2023

and

Failure to comply with Superior Court Order Docket No. 23-ENV-00043 dated March 13, 2024

and

Failure to obtain a Land Use Permit amendment pursuant to Act 250 Rule 34(A)

and

Failure to obtain a Land Use Permit amendment pursuant to Act 250 Rule 2(C)(6)

and

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Failure to obtain a Land Use Permit amendment pursuant to Act 250 Rule 2(C)(26)

STATEMENT OF FACTS AND DESCRIPTION OF VIOLATIONS

Background

Brief description of violations and complaints

This Administrative Order addresses a dimensional stone operation, including quarrying, processing, and sales, in the Town of Chester, Vermont. Uniform dimensional stone is used for building rock walls, windowsills, doorsills and other architectural features. The operation includes three distinct rock quarries located on two different land parcels with a sales office located on a third parcel. Major violations include, but are not limited to: continued operation of a quarry scheduled to be closed in 2008; operating a new quarry without a permit, including a rock processing facility; and frequent use of a loud hydraulic hammer to excavate rock that is not permitted and interferes with nearby neighbors' enjoyment of their properties. Other related complaints involve the at-times uncontained rock blasting plan at the quarry scheduled for closure and sedimentation of the stream immediately adjacent to the unpermitted third quarry.

1. The Administrative Order involves three land parcels in the Town of Chester, Vermont, that are utilized collectively as a dimensional stone operation including quarrying, processing, and sales.
2. The first parcel owned by Respondent 3643 VT Route 103 N, LLC, is 343 acres and is located at 3643 Vermont Route 103 on the west side of the road. This parcel is identified by School Property Account Number (SPAN) 144-045-11176. This parcel contains two quarries. The northern quarry was authorized for operation by Act 250 Land Use Permit 2S0775 in 1988. The Allstone Quarry, also referred to as the south quarry in a parallel town legal proceeding, is located near the junction of Vermont Route 103 and Vermont Route 10. The Allstone Quarry was authorized for operation by Act 250 Land Use Permit 20775-1 in 2005. While these quarries have several historical names, this order will use the North Quarry and Allstone quarry names consistently.
3. The second parcel owned by Respondent 137 Chandler Road VT, LLC, is located at 137 Chandler Road in Chester. This parcel is 8.5 acres and is identified by SPAN 144-045-10646. This parcel includes a third quarry, known as the Chandler Road Quarry, and stone processing equipment and buildings.

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4. A third parcel owned by Green Mountain Railroad is located on the west side of Vermont Route 103 near the junction with Vermont Route 10. This parcel is identified by SPAN 144-045-10728. The former historic Stone Store is located here which served as the Allstone Corporation office building. Stone piles and pallets of dimensional stone are stored for sale or processing on approximately 2.3 acres of land surrounding the building and in an area on the east side of the railroad tracks.
5. Recent land ownership, as of May 22, 2025, is as follows:
 - a. On March 7, 2018, 3643 VT Route 103 N, LLC, purchased the parcel where the North Quarry and Allstone Quarry are located from Gregg Adamovich.
 - b. On February 2, 2019, 137 Chandler Road, LLC, purchased the Chandler Road Quarry from Blumountain, LLC. On January 9, 2025, 137 Chandler Road LLC, transferred the property to 137 Chandler Road VT, LLC.
6. Business ownership history, as of May 22, 2025, is as follows:
 - a. 3643 VT Route 103 N, LLC:
 - Registered with the Secretary of State on January 30, 2018 with a business purpose of “dimension stone mining and quarrying;”
 - Andrew C. Julian is listed as the principal (member/owner);
 - Julian Materials, LLC, is listed as the registered agent;
 - The Foreign Jurisdiction State is listed as Connecticut;
 - Allstone is the assumed business name most recently renewed on March 23, 2023;
 - As of May 20, 2025, the business status is listed “active – in good standing.”
 - b. 137 Chandler Road, LLC:
 - Registered with the Secretary of State on November 11, 2018 with a business purpose of “dimension stone mining and quarrying;”
 - Andrew C. and Jason B. Julian were listed as principals;
 - Julian Materials, LLC, was listed as the registered agent.
 - The Foreign Jurisdiction State is listed as Connecticut;
 - As of May 22, 2025, the business status is listed as “inactive” but a statement of cancellation was submitted October 16, 2024.
 - c. 137 Chandler Road VT, LLC:
 - Registered with the Secretary of State on October 21, 2024 with a business purpose of “dimension stone mining and quarrying;”
 - No principals are listed;
 - C T Corporation System is listed as the registered agent;
 - The Foreign Jurisdiction State is now listed as Delaware;

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- As of May 22, 2025, the business status is listed as “active – NOT in good standing.”
- d. Julian Materials, LLC:
- Registered with the Secretary of State on March 5, 2018 with a business purpose of “dimension stone mining and quarrying;”
 - Andrew C. Julian is listed as the principal (member/owner);
 - Robert Martino is listed as the registered agent;
 - The Foreign Jurisdiction State is listed as Connecticut;
 - As of May 22, 2025, the business status is listed “active – in good standing.”
- e. Julian Development, LLC:
- Registered with the Secretary of State’s Office on November 28, 2016 with a business purpose of “dimension stone mining and quarrying;”
 - Andrew C. and Jason B. Julian are listed as the principals;
 - Andrew C. Julian is listed as the registered agent.
 - The Foreign Jurisdiction State is listed as Connecticut;
 - As of May 22, 2025, the business status is listed as “inactive – administratively revoked.”
- f. M Julian, LLC:
- Registered with the Secretary of State on December 26, 2017 with a business purpose of “general freight trucking, long-distance, freight;”
 - Andrew C. and Jason B. and Maureen and Michele L. Julian are listed as principals, with Andrew as manager and the others as member/owners;
 - Julian Materials, LLC, is listed as the registered agent;
 - The Foreign Jurisdiction State is listed as Connecticut;
 - As of May 22, 2025, the business status is listed as “active – NOT in good standing.”

Land Use Permit 2S0775, 1988

7. **On July 22, 1988**, the District 2 Environmental Commission issued Land Use Permit 2S0775, which authorized permittee Milligan Mountain Quarry, Inc., to extract rock from an existing quarry (*note: the North Quarry*) at an average rate of between 100 and 500 tons per week. The previous day, the District 2 Environmental Commission issued the Findings of Fact and Conclusions of Law for Land Use Permit 2S0775.
8. Condition 1 of Land Use Permit 2S0775 states:
- The project shall be completed, operated and maintained as set forth in Findings of Fact and Conclusions of Law 2S0775 in accordance with the plans and exhibits stamped*

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“Approved” and on file with the District Environmental Commission, and in accordance with the conditions of this permit. No changes shall be made in the project without the written approval of the District Environmental Commission.

9. Condition 2 of Land Use Permit 2S0775 states:

By acceptance of the conditions of this permit without appeal, the permittee confirms and agrees for itself and all assigns and successors in interest that the conditions of this permit shall run with the land and the land uses herein permitted, and will be binding upon and enforceable against the permittee and all assigns and successors in interest.

10. Condition 8 of Land Use Permit 2S0775 states:

The permittee and all assigns and successors in interest shall continually maintain the planting and site improvements as approved in Exhibit 24 by replacing any dead, diseased plantings or damaged site improvements as soon as possible.

11. Condition 11 of Land Use Permit 2S0775 states:

This permit shall expire on July 15, 2008, unless extended by the District Environmental Commission.

12. Finding 1 Air Pollution of Land Use Permit 2S0775 states:

Blasting will be done by licensed contractors in accordance with the Mine Safety and Health Act. Blasting will only be between the weekday hours of 7 a.m. and 5 p.m. A crusher will not be used on the site. The project will use a collared and wet system to control dust. The project is not contiguous to an existing settlement and therefore, the sound of blasting will not disturb residents.

13. Finding 1(A)3 Water Pollution of Land Use Permit 2S0775 states:

The State Geologist has approved the quarry design, reclamation and erosion control measures. Exhibit 23.

14. Finding 4(c) of Land Use Permit 2S0775 states:

The quarry design provides a sequentially excavated series of benches and lifts that will be reclaimed with soil saved from the excavation of each bench. The applicant will reclaim each bench sequentially and will use native trees, seeding and mulching in accordance with the plans described and depicted in Exhibits 3, 15, 16, 18, 20, 24, and 25.

15. Finding 8(a) of Land Use Permit 2S0775 states:

The applicant has designed an excavation procedure and a reclamation plan in conjunction with the requirements and suggestions of the state geologist. Exhibits 16, 18, 20, 22, and 23. In conjunction with the Agency of Natural Resources Landscape Architect’s recommendations, the applicant will replant the site with indigenous trees of

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about six feet in height as per the planting plan (Exhibit 16) but with a more irregular pattern than depicted on this exhibit. This change will give a more natural appearance. Trees will be used from other areas of the property to enable the reclaimed area to blend into the surroundings. Six inches or more of soil saved from the quarrying and additional topsoil will be used to help plants get started. Each lift and bench will be seeded, planted, mulched, and maintained as the sequential excavation proceeds. This will enable the project to begin reclamation after the first bench is excavated. The trees will be planted in pockets and other areas where they will survive most effectively. Testimony.

16. Exhibit 3 of Land Use Permit 2S0775, application Schedule B, Criterion 1 Air Pollution, 2 states, in relevant part:

Describe any manufacturing or other process emissions, noxious odors or noise which will result from the project. *Blasting. A collared and wet system is recommended to handle dust. Noise is not expected to be a problem as the project is not near a settlement.*

17. Exhibit 20 of Land Use Permit 2S0775, Memorandum from State Geologist, dated May 26, 1988, A(1) & (2) Quarry Design, states in relevant part:

The quarry face will be constructed with a series of back wall lifts 30+/- feet in height and benches 15 +/- feet wide...

The hand drawn schematic depicts a “storm run-off, meltwater diversion ditch” constructed at the “crest of the upper-most back wall of the quarry.”

18. Exhibit 20 of Land Use Permit 2S0775, Memorandum from State Geologist, dated May 26, 1988, B(1) Reclamation, states:

Planting soil will be saved and stockpiled as the quarry area is stripped prior to construction of each new quarry lift. This soil will be placed on each bench once the bench is isolated and no longer employed as a haulage road or other use.

19. Exhibit 20 of Land Use Permit 2S0775, Memorandum from State Geologist, dated May 26, 1988, B(2) Reclamation, states:

Planting of native trees, seeding, mulching and fertilizing will take place on the bench (and eventually the finished floor of the quarry). All plantings will be maintained and replaced if they do not survive.

20. Exhibit 20 of Land Use Permit 2S0775, Memorandum from State Geologist, dated May 26, 1988, C(5) Erosion Control, states:

All stockpiled material (topsoil, broken rock, etc.) will be stabilized and sediment will be contained within haybale dikes.

21. Exhibit 23 of Land Use Permit 2S0775, Memorandum from State Geologist, dated June 17, 1988, states, in relevant part:

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*I have reviewed the plans prepared by Nowlan Engineering, Ludlow, VT (dated 5/30/88, revision 6/10/88). At the time of my site visit (25 May 1988) it was agreed that the siltation (sediment) basin would require maintenance and should be cleaned-out periodically. The periodic cleaning of the fine silt that will collect in this basin is required in order to assure that it will function properly. Clean filtration materials (coarse sand and gravel) may need periodic replacing also. **A statement regarding such maintenance should be added to the NOTES on the Site Plan, Sheet 1 of 2...the quarry design and reclamation of the quarry wall are completely acceptable (emphasis added).***

22. Exhibit 15 of Land Use Permit 2S0775, Site Plan, dated October 3, 1986:

This first version of the site plan depicts the existing conditions. It identifies the area to be quarried, the location of the proposed catch basin with a submerged outlet, a haybale dike, a 24-inch culvert from the catch basin to below the haybale dike, a stone-lined ditch parallel to the Vermont Route 103 guardrails, and a swale at the upper elevations of the quarry area. The dimensional detail cross-sections on the same sheet include the catch basin, haybale dike, ditch details including the size of the stone rip-rap, seed, and slope, conifer planting, and stone culvert headwall details (not to scale). The site plan also identifies the adjoining property boundaries and landowners, including George Milligan, State of Vermont, and William Newton.

23. Exhibit 16 of Land Use Permit 2S0775, Site Plan, Sheet 1 of 2, dated May 30, 1988:

This second version of the site plan depicts three rows of back wall lifts (30 feet +/- in height) and benches (15 feet +/- in width). The benches (where equipment would travel) are depicted as replanted with alternating hemlock/spruce/pine and maple/oak trees, each with a 2-inch caliper (diameter). This site plan also replaces the catch basin from Exhibit 15 with a 120-foot long x 10-foot wide x 3-foot deep siltation basin. A note adjacent to the swale at the upper elevations states: *"Ditch to be installed uphill of quarry area."*

24. Exhibit 18 of Land Use Permit 2S0775, Site Plan, Sheet 1 of 2, dated May 30, 1988, revised June 1, 1988:

This third version of the site plan includes the following notes:

- i. Refer to topsoil stockpile detail on sheet 2 for protection of excess topsoil.*
- ii. Cover finished terraces with 6 – 12 inches of stockpile topsoil.*
- iii. Planted trees are not necessarily planted in rows as shown.*
- iv. Replace dead trees as necessary to maintain screen.*
- v. Siltation basin sized for 10-year storm, 1.6 in./hr. for two hours.*

This site plan also identifies the location of the topsoil stockpile area, a run-off diversion ditch to direct run-off towards the siltation berm, proposes re-graded contours to direct surface water along the stone-lined ditch parallel to the Vermont

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Route 103 guardrails, the quarry entrance off Vermont Route 103 with a grassed turn-around area and a loading area, an 18-inch culvert from the retaining wall on the quarry access to the stone-lined ditch, an 18-inch culvert across the quarry entrance adjacent to Vermont Route 103, and a note at the top that states, *"Plant trees on upper terrace close to edge to allow for future access between trees and rockface."*

25. Exhibit 24 of Land Use Permit 2S0775, Site Plan, Sheet 1 of 2, dated May 30, 1988, last revised June 21, 1988:

This fourth and final version of the site plan bears the professional stamp of the engineer. Note 3 about planted trees not necessarily planted in rows as shown, adds the following language: *"...but are planted within deeper holes of blasted rock surfaces."* New note 6 states: *"The siltation (sediment) basin will require maintenance and should be cleaned out periodically. The periodic cleaning of the fine silt that will collect in this basin is required in order to assure that it will function properly. Clean filtration materials (coarse sand and gravel) may need periodic replacing also."* There is a note placed in the area below the siltation basin (now drawn with hatch marks) that states: *"Place 3 feet of coarse gravel/coarse sand in this area to allow filtration of drainage from siltation basin."*

[NOTE that while the district commission red stamp identifies this exhibit as exhibit 14, there is a handwritten #24 that correctly identifies this exhibit as #24.]

26. Exhibit 25 of Land Use Permit 2S0775, Details, Sheet 2 of 2, dated May 30, 1988, last revised on June 21, 1988:

This final version of the detail sheet bears the professional stamp of the engineer. In addition to the details about the haybale dike, tree planting, ditch detail, and culvert headwall depicted first in Exhibit 15, Exhibit 25 also includes details about: a dimensional cross-section and plan view of the siltation basin; permanent vegetation requirements for site preparation, seed mixes and rates of seeding, fertilizer application rates, and mulch; the configuration of the temporary topsoil stockpile mound, including trenching to avoid run-off; stone-lined level spreader dimensions and size of rock; and a cross-section of the proposed quarry area which depicts the existing grade and the proposed back wall lifts and benches.

Land Use Permit 2S0775-1, 2005

27. **On May 17, 2005**, the District 2 Environmental Commission issued Land Use Permit 2S0775-1 and Findings of Fact and Conclusions of Law and Order to Allstone Corporation, George Milligan, and Green Mountain Railroad, which authorized the permittees to develop the Allstone Quarry (South Quarry) on approximately 11 acres (of the 300+/-acre tract that also contains the North Quarry), use of a 20-foot × 24-foot portable processing shelter, construction of screening berms, stormwater treatment

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basins, the continued use of the Stone Store retail building on Green Mountain Railroad leased land, and use of a portable rock crusher for four weeks a year at the existing quarry (North Quarry). The permit expires on October 1, 2025. This permit was altered a month later per below.

28. **On June 21, 2005**, after the permittees filed a timely Motion to Alter Land Use Permit 2S0775-1, the District 2 Environmental Commission issued a Memorandum of Decision which altered Conditions 19, 20, and 23.

29. **On June 21, 2005**, the District 2 Environmental Commission issued Land Use Permit 2S0775-1(Altered) to Allstone Corporation, George Milligan, and Green Mountain Railroad, which incorporated altered Conditions 19, 20, and 23. The Findings remained unchanged.

30. Condition 1 of Land Use Permit 2S0775-1 (Altered) states:

The project shall be completed, operated and maintained in accordance with: (a) Findings of Fact and Conclusions of Law #2S0775-1, (b) the plans and exhibits on file with the District Environmental Commission, and (c) the conditions of this permit.

The approved plans are:

Sheet C-1 – “Site Plan,” dated May 19, 2004

Sheet C-1A – “Site Plan,” dated September 14, 2004

Sheet C-2 – “Cross Sections A-A & C-C,” dated May 19, 2004

Sheet C-3 – “Cross Section B-B,” dated May 19, 2004

Sheet ECP-1 – “Erosion Control Plan,” dated May 19, 2004

Sheet ECD-1 – “Erosion Control Details,” dated May 19, 2004

Sheet EX-1 – “Phasing Plan,” dated May 19, 2004

Sheet EX-2 – “Phase 1 Plan,” dated May 19, 2004

Sheet EX-3 – “Phase 2 Plan,” dated May 19, 2004

Sheet EX-4 – “Phase 3 Plan,” dated May 19, 2004

Sheet EX-5 – “Phase 4 Plan,” dated May 19, 2004

Sheet EX-6 – “Phase 4 Reclamation,” dated May 19, 2004

31. Condition 2 of Land Use Permit 2S0775-1 (Altered) states:

No changes shall be made in the design or use of this project without the written approval of the District Coordinator or the District Environmental Commission, whichever is appropriate under the Environmental Board Rules.

32. Condition 3 of Land Use Permit 2S0775-1 (Altered) states:

By acceptance of the conditions of this permit without appeal, the permittees confirm and agree that the conditions of this permit shall run with the land and the land uses herein

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permitted, and will be binding upon and enforceable against the permittees and all assigns and successors in interest.

33. Condition 6 of Land Use Permit 2S0775-1 (Altered) states:

All conditions of Land Use Permit 2S0775 are in full force and effect except as amended herein.

34. Condition 11 of Land Use Permit 2S0775-1 (Altered) states:

The permittees shall ensure that reasonable precautions are taken at all times to control fugitive particulate matter (dust) emissions from the site including the haul roads, traffic areas, storage piles, exposed surfaces, and any site operations such as drilling, blasting, crushing and processing of materials. This shall include the application of water or calcium chloride as necessary to the haul roads, traffic areas, and storage piles and the covering of all trucks entering, exiting, or operating at the site that are loaded with materials that may generate fugitive dust. In addition, the permittees shall not allow the operation of a gravel or stone crushing plant on the premises with a maximum rated capacity (based on the crusher's largest possible setting and maximum throughput, not actual operating rate) of greater than 150 tons per hour.

35. Condition 12 of Land Use Permit 2S0775-1 (Altered) states:

The permittees shall limit hours of operation to 7:00 a.m. to 5:00 p.m., Monday through Saturday. The permittees shall not blast or drill on Saturdays.

36. Condition 13 of Land Use Permit 2S0775-1 (Altered) states:

The permittees shall comply with Exhibits 20, 21, 24, 25, 26, 27, 28, 29, 30, and 31 for erosion control and reclamation. The permittees shall prevent the transport of any sediment beyond that 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 District Environmental 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.

37. Condition 14 of Land Use Permit 2S0775-1 (Altered) states:

Starting at the commencement of excavation, a Professional Engineer shall inspect the site at least once per year and at critical times until the project is completed to ensure that the erosion control plans, and later, reclamation plans, are being followed. He or she shall certify by yearly affidavit to the District Environmental Commission that all erosion controls as specified and approved herein, are in place and properly maintained and that the permittees are reclaiming the site in accordance with the approved plans.

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38. Condition 18 of Land Use Permit 2S0775-1 (Altered) states:

The permittees and all assigns and successors in interest shall continually maintain the planting on the berm as approved by replacing any dead or diseased plantings within the season or as soon as possible after the ground thaws, whichever is sooner.

39. Condition 19 of Land Use Permit 2S0775-1 (Altered) states:

The permittees shall limit drilling to twenty hours per month.

40. Condition 23 of Land Use Permit 2S0775-1 (Altered) states:

The permittees shall not increase the Lmax noise levels above 55 dBA at the houses along Route 103 for more than 3% of the time (76% of the total time) during normal operations and not more than an additional 15% of the time (88% of the total time) during drilling. The Lmax during normal quarry operations shall not exceed 57 dBA at the Bushee house.

41. Finding 3 of Land Use Permit 2S0775-1 (Altered) states:

Preliminary reclamation has begun at the permitted site. The Applicants expect the permitted site will be fully reclaimed and closed by 2008. Testimony.

42. Finding 33 of Land Use Permit 2S0775-1 (Altered) states:

The Applicants own a permitted dimension quarry on the northwest of this tract of land, approximately 2,900 feet away. This quarry will be phased out of production over two years as the new quarry is developed. Exhibits 2 and 21.

43. Finding 43 of Land Use Permit 2S0775-1 (Altered) states:

The base area of Phase 1 will be reclaimed as a working area for stone processing. The portable shelter will be utilized in this area. Exhibit 16.

44. Finding 47 of Land Use Permit 2S0775-1 (Altered) states:

The Applicants will use a hydraulic drill, an excavator, a 70-ton rock splitter, a loader moving metal hoppers, a generator, and a 300-ton rock splitter. Exhibit 17.

45. Finding 48 of Land Use Permit 2S0775-1 (Altered) states:

The hydraulic drill is expected to be the loudest piece of equipment. The loudest noise would be heard when the drill bit begins to penetrate the rock surface. As the drill gets deeper, noise levels slowly drop. Exhibit 17.

46. Finding 49 of Land Use Permit 2S0775-1 (Altered) states:

The excavator, although audible, did not increase the overall sound levels. The 70-ton rock splitter, the loader moving metal hoppers, the generator, and 300-ton rock splitter did not raise the overall sound levels. The high level of noise on Route 103 covers most of the project noise from the quarry. Exhibit 17.

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47. Finding 50 of Land Use Permit 2S0775-1 (Altered) states:

The Applicants reviewed possible noise impacts. Route 103 has a high ambient noise level. It has an Average Daily Traffic count of 5,000 vehicles per day. Many of these vehicles are trucks. The Applicants monitored noise at the closest residences adjacent to Route 103. Lmax sound levels are over 55 dBA 73% of the time between 7:00 a.m. and 5:00 p.m., Monday through Saturday at the houses close to Route 103. Exhibits 16, 17, and 37.

48. Finding 51 of Land Use Permit 2S0775-1 (Altered) states:

The Bushee house, which is immediately adjacent to the quarry driveway and the railroad tracks, would experience 74 dBA during initial drilling. This level of noise could occur for less than one second during the initial penetration of the bit into the rock. The drill noise drops by as much as 8 dBA for the remainder of the hole. The maximum level of noise at the Bushee residence will be between 55 and 57 dBA. Exhibit 37.

49. Finding 52 of Land Use Permit 2S0775-1 (Altered) states:

The quarry will increase the Lmax over 55 dBA at houses close to Route 103 an additional 1% to 3% of the time. When drilling is present, this number increases to 13% to 15% of the time. The drilling would be for two days per month only. This is the worst case scenario. Exhibit 37.

[NOTE: Originally issued Land Use Permit 2S0775-1 limited drilling to two days per month in Condition 19, but 2S0775-1 (Altered) changed Condition 19 to limit drilling to 20 hours per month.]

50. Finding 53 of Land Use Permit 2S0775-1 (Altered) states:

The Commission asked the Applicants to review noise levels further from Route 103 to make sure topography does not create a problem where noise is worse further from the project. The Applicants monitored 31 additional houses and found the project would have very small noise impacts, with maximum noise levels below 52 dBA. Exhibit 37.

51. Finding 54 of Land Use Permit 2S0775-1 (Altered) states:

The Applicants presented eight letters of support from project neighbors. Exhibit 36.

52. Finding 55 of Land Use Permit 2S0775-1 (Altered) states:

The Applicants have never had complaints regarding noise at the permitted quarry to the north. Testimony.

53. Finding 56 of Land Use Permit 2S0775-1 (Altered) states:

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The Applicants plan to blast approximately once per month. It is not expected that neighbors will hear or feel the blasts. Testimony.

54. Finding 57 of Land Use Permit 2S0775-1 (Altered) states:

The Applicants will use new equipment, including drills that are self-contained, quieter, and faster than older equipment. Drilling occurs one to two days before blasting. Usually five hours of drilling will create enough stone for six weeks of work. Testimony.

55. Exhibit 2 of Land Use Permit 2S0775-1, application Schedule B, states in relevant parts:

Criterion 1(a), Air Pollution: The rock will be removed with the use of explosives and hydraulic excavators...

Criterion 4, Soil Erosion: At the conclusion of quarry activities in the fall, all the disturbed slopes and surfaces will be stabilized through seeding and mulching by September 15th, erection of temporary erosion control devices (filter fence/stone check dams) and by directing all potential flows through stone-lined drainage swales, velocity dissipaters and stone checkdams...

Criterion 8(b)(i), Scenic Beauty, Historic Sites, and Natural Areas: The proposed quarry, which will be partially screened from the state highway and the residences, will gradually replace operations at the northern quarry on Route 103.

Criterion 9(a), Impact of Growth: The proposed quarry relocation will not result in a significant increase or growth in population, any financial burdens to the town or regions, any reductions in public utility availability, nor will it cause an undue burden on the existing/potential financial capacity of the Town of Chester.

Criterion 9(d)/9(e)(c)(iii), Earth Resources: Site reclamation will be performed on an on-going basis following the depletion of dimension material in any given section of the quarry. Reclamation consists of construction of the traditional "step and bench" profile that allows for re-vegetation in the relatively horizontal bench area. There is no plan for further commercial development of the quarry area once all dimension stone has been removed. The initial planting or re-vegetation plan consists of applying a seasonally appropriate conservation mix on 4 to 6 inches of properly placed organic soils to insure prompt rooting and effective erosion control. The slope profile encourages the "capture" of native seed stock and gradual re-vegetation of native tree and shrub species. The natural processes of vegetation and succession will be encouraged. (See Quarry Development & Reclamation Plan for details, Exhibit 14.)

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56. Exhibit 16 of Land Use Permit 2S0775-1 (Altered), Allstone Dimension Rock Quarry, Chester, Vermont, Quarry Development and Reclamation Plan states in relevant part:

Page 1 (Introduction): The existing quarry involves approximately 2 acres and will be phased out of production over two years as the new quarry is developed.

Page 2 – Quarry Development: It is anticipated the start-up of the quarry will require at least two seasons to develop the screening berms, working area, and to develop the rock veins for production of the stone. This start-up will coincide with the phased closure and reclamation of the existing quarry.

Page 3 – Quarry Development – Phase 1: Development of Phase 1 will include the construction of 15' high, earth, screening berm, along the northern boundary of Phase 1 to minimize the potential visual and noise impacts from the development of the quarry. This berm will be constructed from overburden materials removed to uncover the usable stone in the earlier portions of Phase 1. The top and northern side of the berm will be planted with 8' to 10' high evergreen trees to further buffer the potential visual impact of the quarry.

Page 3 – Quarry Development – Phase 2: The first portion of Phase 2 to be developed will be directly south of Phase 1. This portion of Phase 2 will continue the extraction of the stone started in Phase 1 and will proceed generally from the east to the west along rock axis. As this portion of Phase 2 is developed and the Phase 1 area is reclaimed, the southeasterly portion of Phase 2 will be developed...At the same time, the base area of Phase 1 will be reclaimed as a working area for stone processing. The base of the quarry will be covered with crushed stone to provide a stable base upon which to work and to divert surface water away from the work area. The portable shelter housing the stone processing equipment will be first utilized within this reclaimed Phase 1 area of the quarry. Those Phase 1 areas, which will not be used for processing, will be re-claimed in accordance with the project erosion control plan.

Page 5 – Noise Control: Although the closest neighbor is only 400 feet from the working quarry there have been no noise complaints related to the existing operation. This is both because of the relative low level of noise emanating from the operation and high ambient noise associated with Route 103. Route 103 has Average Daily Traffic counts of 5,000 vehicles per day with many of these trucks. The noise levels produced from the proposed quarry are expected to be similar to those produced by the existing quarry.

57. Exhibit 20 of Land Use Permit 2S0775-1 (Altered), Allstone Quarry Erosion Prevention and Sediment Control Plan, dated May 2004, states in relevant part:

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Page 1 (introduction): *The quarry will be developed and stabilized in four phases. Each phase will be revegetated as it is completed.*

Section 3, Project Grading Plans: *As each phase will be stabilized as it is completed and the next phase will not be operated in its entirety at the start of the phase, the total area disturbed at one time will be approximately 3 acres.*

58. Exhibit 21 of Land Use Permit 2S0775-1 (Altered), Site Plan, Sheet C-1, dated May 19, 2004:

Construction Note 2: *Construct earth berm, plant a row of 5' – 6' tall arborvitae (Thuja occidentalis "nigra") 8 ft. on O.C. (on center) along the top of the berm.*

The berm is located within Phase 1 and designed to reduce noise.

59. Exhibit 22 of Land Use Permit 2S0775-1 (Altered), Cross Sections for Allstone Quarry in Chester, Vermont, Cross Sections for A-A and C-C, Sheet C-2, dated May 19, 2004:

Cross Section A-A note: *5' – 6' tall arborvitae to be planted along top of berm (will grow to 20' tall).*

60. Exhibit 23 of Land Use Permit 2S0775-1 (Altered), Cross Sections for Allstone Quarry in Chester, Vermont, Cross Sections for B-B, Sheet C-3, dated May 19, 2004:

Cross Section B-B note: *5' – 6' tall arborvitae to be planted along top of berm (will grow to 20' tall).*

61. Exhibit 24 of Land Use Permit 2S0775-1 (Altered), Erosion Control Plan, Sheet ECD-1, dated May 19, 2004:

Construction Notes 1 – 2: *(1) Place erosion control matting on all disturbed soil slopes steeper than 1 on 2; (2) Seed and mulch temporary topsoil stockpile in each phase and surround with silt fence.*

62. Exhibit 25 of Land Use Permit 2S0775-1 (Altered), Erosion Control Details, Establishing Permanent Vegetation, Sheet ECD-1, dated May 19, 2004:

Note 1 Site preparation: *Where practical, exposed areas shall be covered with a 3-4 inch layer of topsoil which was stockpiled during initial site grading. Topsoil should be free of sticks, stone, and debris which can hinder final grading and future mowing.*

Note 2 Seeding: *An approximate balance of lime, fertilizer and slope seed mix will be applied to the trail based upon test results from soil conservation service.*

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Note 3 Mulch: Seeded areas shall be covered with a hay or straw mulch to a depth of 3 inches at a rate of at least 3 tons per acre. On steep slope sides, mulch shall be anchored by running a tracked machine up and down the slope sides or other appropriate means.

63. Exhibit 26 of Land Use Permit 2S0775-1 (Altered), Phasing Plan for Allstone Quarry in Gassetts, Vermont, Phasing Plan, Sheet EX-1, dated May 19, 2004:

The phasing plan depicts the sound berm.

64. Exhibit 27 of Land Use Permit 2S0775-1 (Altered), Phasing Plan for Allstone Quarry in Gassetts, Vermont, Phase 1 Plan, Sheet EX-2, dated May 19, 2004:

The phasing plan shades the area of Phase 1 where the sound berm is located with parallel lines which identify it as the active phase.

65. Exhibit 28 of Land Use Permit 2S0775-1 (Altered), Phasing Plan for Allstone Quarry in Gassetts, Vermont, Phase 2 Plan, Sheet EX-3, dated May 19, 2004:

The phasing plan shades the area of Phase 2 with parallel lines as the active area and Phase 1 with stipple points (reclamation).

66. Exhibit 29 of Land Use Permit 2S0775-1 (Altered), Phasing Plan for Allstone Quarry in Gassetts, Vermont, Phase 3 Plan, Sheet EX-4, dated May 19, 2004:

The phasing plan shades Phase 3 with parallel lines to identify it as the active area with Phase 2 identified with stipple points (reclamation), and no shading for Phase 1, but the sound berm is still identified.

67. Exhibit 30 of Land Use Permit 2S0775-1 (Altered), Phasing Plan for Allstone Quarry in Gassetts, Vermont, Phase 4 Plan, Sheet EX-5, dated May 19, 2004:

The phasing plan shades Phase 4 with parallel lines to identify it as the active area with Phase 3 identified with stipple points (reclamation), and no shading for Phases 1-2, but the sound berm is still identified.

68. Exhibit 31 of Land Use Permit 2S0775-1 (Altered), Phasing Plan for Allstone Quarry in Gassetts, Vermont, Phase 4 Reclamation, Sheet EX-6, dated May 19, 2004:

The phasing plan shades Phase 4 with stipple points (reclamation), and no shading for Phases 1-3, but the sound berm is still identified.

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69. Exhibit 37 of Land Use Permit 2S0775-1 (Altered), Response to Item #4 on the District Environmental Commission's Hearing Recess Memo (aka Additional Noise Response), dated September 13, 2004, states in relevant part:

Page 2: The modeling included the following sources of noise:

- 1) Hydraulic Rock Drill*
- 2) Excavator*
- 3) Loader*
- 4) 70-ton Rock Splitter*
- 5) 300-ton Rock Splitter*
- 6) Haul Trucks on the Quarry Driveway...*

The modeling indicates that the hydraulic drill will likely create the highest sound pressure levels at this home....

Page 3: As previously noted, drilling is estimated to be needed for roughly 12 hours per month (generally over two days). During these hours at initial quarry extraction (Scenario A), the maximum levels from the drill are predicted to be near 74 dBA at this home (Figure 3). These levels could occur for less than one second at the beginning of each new drilling hole when the drill bit penetrates the rock surface. After penetration, the drill noise drops by as much as 8 dB for the remainder of the hole...However, on the majority of working days, the drill is not present.

Investigation of Complaints, 2018 - 2025

70. **Beginning in 2018 and continuing until present day**, the Board began receiving numerous complaints from 10 – 15 nearby residents about three quarries operated by the Respondents. The main complaints are about an expired quarry continuing to operate, disruptive noise from operating an excavator-operated hydraulic hammer, disruptive noise from blasting, a third quarry currently not permitted, and cloudy/silty discharge into surface water. Violations or complaints at each of the three quarries are briefly described as the following:

North Quarry

- The North Quarry was scheduled to be closed by 2008 and continues to operate regularly.
- An excavator-operated hydraulic hammer is being used to excavate rock material for processing.

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- The hydraulic hammer is used regularly and creates a loud, repetitive percussive noise that is disruptive to nearby neighbors.
- Neither Land Use Permit 2S0775 nor 2S0775-1 authorized the use of a hydraulic hammer to operate in the quarry.
- Blasting with dynamite is not following a prescribed plan, is disruptive, and resulting fly-rock poses dangers to vehicles (train, car).
- No required reclamation has occurred at the North Quarry.

Allstone Quarry

- An excavator-operated hydraulic hammer is being used to excavate rock material for processing.
- The hydraulic hammer is used regularly and creates a loud, repetitive percussive noise that is disruptive to nearby neighbors.
- Land Use Permit 2S0775-1 did not authorize the use of a hydraulic hammer to operate in the quarry.
- No required reclamation has occurred at the Allstone Quarry.
- The sound berm planted to trees has not been constructed/maintained.

Chandler Road Quarry

- This quarry is not operating under a permit.
- An excavator-operated hydraulic hammer is being used to excavate rock material for processing.
- The hydraulic hammer is used regularly and creates a loud, repetitive percussive noise that is disruptive to nearby neighbors.
- Hydraulic hammer-excavated material is trucked from the North and Allstone quarries to the Chandler Road for processing into dimensional products.

All three quarries

- On a site visit on April 13, 2021, the Board's Enforcement Officer observed the three quarries operating collectively as a dimensional stone quarry. The Enforcement Officer observed stone being quarried from the North Quarry, trucked in a dump truck to the Chandler Road Quarry, and then a flat-bed truck delivering crates of processed dimensional stone to the Allstone Quarry Stone Store for sale.

71. **During this same time period**, the United States Mine Safety and Health Administration (MSHA) conducted annual inspections at all three quarries. Records received by the Board from 2018 – 2022, after a formal records request, documented inspections and citations for federal safety violations at all three quarries. These

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records also verified the use of rock splitters, feed conveyors, a mine process building, a front loader, and an excavator at the Chandler Road Quarry.

72. **On April 13, 2021**, the Board's Enforcement Officer and the District 2 Environmental Coordinator conducted a site visit from the roadside of all three quarries, but did not enter the quarries. They observed a red and orange dump truck being loaded at the North Quarry, driving to the Chandler Road Quarry to dump the load, and returning to the North Quarry to be reloaded. They also observed a flatbed truck leaving the Chandler Road Quarry loaded with crates of processed stone, and then parking at the Stone Store near the Allstone Quarry, either to proceed to a delivery location or unload the materials on-site.

73. **On September 25, 2023**, the Board's Enforcement Officer and Associate General Counsel joined a site visit to all three quarries convened by the Town of Chester Development Review Board. The site visit further substantiated evidence collected from aerial photos, roadside photos and videos and observations that the Respondents were required to obtain permit amendments to operate all three quarries.

Jurisdictional Opinion 2-324, 2023

74. **On October 8, 2022**, a complainant requested a Jurisdictional Opinion from the Board's State Coordinator about whether a permit amendment was required to operate a hydraulic hammer at all three quarries, continue operating the North Quarry, and to operate the Chandler Road Quarry without a permit. Other concerns were related to operating outside the blasting plan, and noncompliance with the reclamation plans.

75. **On March 6, 2023**, the State Coordinator issued Jurisdictional Opinion (JO) 2-324. The nine-page JO made the following conclusions, all requiring permitting.

Hydraulic hammering

It is clear from the permit record that hydraulic hammering was not contemplated during the permitting of the North and Allstone Quarries. At the time of permitting, the applicants represented that stone would be removed using a combination of drilling, blasting, and an excavator with a bucket, and cut using a 70-ton rock splitter. The commission carefully considered the applicants' evidence that the drilling of blast holes would create the most noise, and conditioned the permit to limit drilling accordingly. The

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introduction of a hydraulic hammer to regular operations on the Permitted Project Tract is a material change to the permitted project with significant impacts under findings 47 through 57 of Land use Permit 2S0775-1 and the potential for significant adverse impacts under Criterion 8, Aesthetics, specifically with regard to the nuisance impacts of noise.

North Quarry

The permit record clearly documents that the North Quarry land use permit expired on July 15, 2008. Reclamation of the North Quarry was to be completed incrementally as excavation proceeded. When the Allstone Quarry was permitted in 2005, the applicants assured the District 2 Commission that the North Quarry would be reclaimed and closed prior to the 2008 expiration date. To date, no obvious reclamation has occurred within the North Quarry, and quarrying operations have continued for more than fourteen years beyond the permit's expiration date. The continued operation of the North Quarry is a material change to the permitted project that required a land use permit amendment prior to July 15, 2008.

Chandler Road Quarry

The Chandler Road Quarry is jurisdictional as involved land and a material change to permit series 2S0775.

The owners of the Chandler Road Quarry tract commenced development when they installed the stone splitters on the Chandler Road Quarry tract and began accepting stone from the North Quarry and the Allstone Quarry for processing and delivery to the Stone Store tract for sale. They further commenced development when they constructed the commercial building permitted by the Town in 2021. The North Quarry/Allstone Quarry tract and the Stone Store tract are involved in the development of the Chandler Road Quarry tract, and a permit for the Chandler Road Quarry tract was required at the time that the property owners began receiving stone for processing and/or delivering processed stone to and from the Permitted Project Tract.

The transportation of stone from the Permitted Project Tract to the Chandler Road Quarry tract for processing and splitting, and the subsequent delivery of cut stone products from the Chandler Road Quarry tract back to the Permitted Project Tract for storage and sale is a material change to land use permit series 2S0775 with potential for significant adverse impacts under, at minimum, Criterion 5 – Transportation, Criterion 8 – Aesthetics, and Criterion 9(E) – Extraction of Earth Resources, specifically with regard to the safe use of highways, the nuisance impacts of exhaust, dust, and noise; the rehabilitation of the permitted extraction site, and the disposal of waste from the processing of mineral resources. Therefore, land use permit 2S0775-1(Altered) requires an amendment to incorporate the ongoing use of the Chandler Road Quarry tract.

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76. **On March 31, 2023**, legal counsel for the Respondents timely requested reconsideration of JO 2-324.
77. **On April 20, 2023**, the State Coordinator timely sent a response to the request for consideration. The response affirmed the conclusions of JO 2-324, and stated that the State Coordinator declined to modify the decision.
78. **On April 27, 2023**, the Respondents submitted a Notice of Appeal of JO 2-324 to the Superior Court.
79. **On March 13, 2024**, the Superior Court issued a Judgment Order (Docket No. 23-ENV-00043) in favor of the Board. The order concluded:

For all the reasons stated in the Entry Order that accompanies this Judgement Order, we conclude that there is no genuine dispute of material fact regarding Julian Materials, LLC's ("Julian") operations at the North, South, and Chandler Quarries in the Town of Chester, such that these activities require Julian to seek a permit amendment.

80. Act 250 Rule 2(C)(6) states:

"Material change" means any cognizable change to a development or subdivision subject to a permit under Act 250 or findings and conclusions under 10 V.S.A. 6086b, which as a significant impact on any finding, conclusion, term or condition of the project's permit or which result in a significant adverse impact with respect to any of the criteria specified in 10 V.S.A. 6066(a)(1) through (a)(10).

81. Act 250 Rule 2(C)(26) states:

"Cognizable change" means any physical change or change in use, including, where applicable, any change that may result in a significant impact on any finding, conclusion, term or condition of the project's permit.

82. Act 250 Rule 34(A) states:

Material change to a permitted development or subdivision. A permit amendment shall be required for any material change to a permitted development or subdivision, or administrative change in the terms and conditions of a land use permit. Commencement of construction on a material change to a permitted development or subdivision without a permit amendment is prohibited. Applications for amendments shall be on forms

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provided by the board, and shall be filed with the District Commission having jurisdiction over the project. Upon request, the district coordinator will expeditiously review a proposed change and determine whether it would constitute a material change to the project, or whether it involves administrative changes that may be subject to simplified review procedures pursuant to 10 V.S.A 6025(b)(1). Continuing jurisdiction over all developments and subdivision permits is vested in the District Commissions.

83. Act 250 Rule 2(C)(5) states, in relevant part:

Involved land. The entire tract or tracts of land, within a radius of five miles, upon which the construction of improvements for commercial or industrial purposes will occur, and any other tract, within a radius of five miles, to be used as part of the project or where there is a relationship to the tract or tracts upon which the construction of improvements will occur such that there is a demonstrable likelihood that the impact on the values sought to be protected by Act 250 will be substantially affected by reason of that relationship. In the event that a commercial or industrial project is to be completed in stages according to a plan, or is part of a larger undertaking, all land involved in the entire project shall be included for the purpose of determining jurisdiction.

84. 10 V.S.A. 6081(a) states, in relevant part:

Permits required....no person shall commence development without a permit.

85. 10 V.S.A. 6001(3)(A) states, in relevant part:

Development....(i) The construction of improvements on a tract or tracts of land, owned or controlled by a person, involving more than 10 acres of land within a radius of five miles of any point on any involved land, for commercial or industrial purposes in a municipality that has adopted permanent zoning and subdivision bylaws.

Chester has adopted permanent zoning and subdivision bylaws and is a “10-acre Town” for the purposes of determining Act 250 jurisdiction.

Violations, 2018 - 2025

86. By continuing to operate with North Quarry, which was scheduled to be closed in 2008, the Respondents violate Land Use Permits 20755 and 20775-1 (Altered), and JO 2-324 and Superior Court Judgment Order Docket NO. 23-ENV-00043.

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The specific conditions, findings, and exhibits include:

Land Use Permit 2S0775 Conditions 1, 2, 8, and 11

Land Use Permit 2S0775 Findings 1, 1(A), 3, 4(c), and 8(a)

Land Use Permit 2S0775 Exhibits 3, 20, 23, 24, and 25

Land Use Permit 2S0775-1 (Altered) Conditions 1, 2, 3, 6, 11, 12, 13, 14, 18, and 19

Land Use Permit 2S0775-1 Findings 3, 33, and 43

Land Use Permit 2S0775-1 Exhibits 2, 16, and 20

87. By continuing to use a hydraulic hammer at the North Quarry, Allstone Quarry, and Chandler Road Quarry, the Respondents violate Land Use Permits 2S0775 and 2S0775-1 (Altered), and JO 2-324 and Superior Court Judgment Order Docket NO. 23-ENV-00043.

The specific conditions, findings, and exhibits include:

Land Use Permit 2S0775 Conditions 1 and 2

Land Use Permit 2S0775 Exhibit 3

Land Use Permit 2S0775-1 (Altered) Conditions 1, 2, 3, 6, 11, 12, 19, and 23

Land Use Permit 2S0775-1 Findings 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, and 57

Land Use Permit 2S0775-1 Exhibits 2, 16, and 37

88. By failing to implement the reclamation plans at the North Quarry and Allstone Quarry, the Respondents violate Land Use Permits 2S0775 and 2S0775-1 (Altered), and JO 2-324 and Superior Court Judgment Order Docket NO. 23-ENV-00043.

The specific conditions, findings, and exhibits include:

Land Use Permit 2S0775 Conditions 1 and 2

Land Use Permit 2S0775 Findings 1(A), 3, 4(c), and 8(a)

Land Use Permit 2S0775 Exhibits 20, 23, 24, and 25

Land Use Permit 2S0775-1 (Altered) Conditions 1, 2, 3, 6, 13, 14, and 18

Land Use Permit 2S0775-1 Findings 3, 33, and 43

Land Use Permit 2S0775-1 Exhibits 2, 6, 20, 24, 25, 28, 29, 30, and 31

89. By failing to install and maintain the sound berm at the Allstone Quarry, the Respondents violate Land Use Permit 2S0775-1 (Altered).

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The specific conditions, findings, and exhibits include:

Land Use Permit 2S0775-1 (Altered) Conditions 1, 2, 3, 6, 13, 14, and 18

Land Use Permit 2S0775-1 Exhibits 2, 16, 20, 21, 22, 23, 26, 27, 28, 29, 30, and 31

90. By operating the Chandler Road Quarry, the Respondents violate JO 2-324 and Superior Court Judgment Order Docket NO. 23-ENV-00043.

Specific acts and statues include:

Rule 2(C)2

Rule 2(C)5

Rule 2(C)26

Rule 34(A)

10 VSA 6081(a)

10 VSA 6001(3)(A)

91. By not applying for a permit amendment to Land Use Permit series 2S0775, the Respondents violate JO 2-324.
92. The Board has considered the economic effect of a “stop work” order, and concludes that it will not have a substantial economic effect on individuals other than the Respondents.

Order

- A. ***Immediately***, Respondents shall comply with all conditions and findings in Permit series 2S0775, JO 2-324, and the Superior Court Judgment Order dated March 13, 2024 in Docket No. 23-ENV-00043.
- B. ***Immediately***, the Respondents shall cease all operations until permit amendments are received from the District 2 Commission that address all material changes and currently unpermitted pursuits. This constitutes a “stop work” order directing Respondents to stop work at all three quarries until all necessary permit amendments are issued and compliance with the existing permitting scheme is achieved pursuant to 10 V.S.A. § 8008(c)(1).
- C. ***No later than July 31, 2025***, the Respondents shall file a complete application for an Act 250 Land Use Permit amendment with the District 2 Environmental Commission. The Respondents shall diligently pursue the application.

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“Diligently pursue” shall mean that the Respondents shall (a) respond to any and all requests for information from the Act 250 District 2 Environmental Commission, the Coordinator for the Commission by the date set by the Commission or Coordinator; and (b) in good faith meet and comply with all scheduling or other orders or memoranda issued by the Commission. Respondents shall not be responsible for delays outside their control. The permit amendment application will be reviewed under current laws. It is recommended that the Respondents cease operations until the permit amendment is issued, and if operations continue in the interim, the Respondents operate at their own risk for enforcement actions.

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

1. pursuant to 10 V.S.A. § 8010, a civil penalty in the amount of Twenty-seven thousand five hundred (**\$27,500.00 Dollars** (U.S.)), for the violations noted herein, by check made payable to the “Treasurer, State of Vermont.”

2. pursuant to 10 V.S.A. § 8010(e)(2), the amount of Two thousand four-hundred fifty-seven (**\$2,450.00 Dollars** (U.S.)), to reimburse the Land Use Review Board for the costs of this enforcement action, by check made payable to the “State of Vermont Land Use Review Board.”

3. the amount of **Fifteen (\$15.00 Dollars** (U.S.)), to pay the recording fee for the filing of a notice of this Administrative Order in the Town of Chester land records, by check made payable to the “Town of Chester, Vermont.”

Payments shall be sent to:

Land Use Review Board
10 Baldwin Street,
Montpelier, Vermont 05633-3201

E. The Board reserves the right to augment the above stated penalties through evidence presented at hearing. In accordance with 10 V.S.A. §8010, the penalties may be increased by the costs incurred by the Board for the enforcement of the described violation, the amount of economic benefit gained by the Respondents from the violation, the need for deterrence, and any and all other penalty factors enumerated in 10 V.S.A. § 8010(b), each according to proof at the hearing.

F. 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

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considered to be a charitable contribution, business expense, or other deductible expense under the federal or state tax codes. Respondents shall not deduct, nor attempt to deduct, any payments, penalties, contributions or other expenditures required by this Administrative Order from Respondents' state or federal taxes.

RESPONDENTS' 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 the Respondent receives this Administrative Order. The Notice of Request for Hearing must be filed with both the Land Use Review Board and the Environmental Division at the following addresses:

General Counsel
Land Use Review Board
10 Baldwin Street
Montpelier, VT 05633-3201

Superior Court
Environmental Division
32 Cherry Street, 2nd Floor
Suite 303
Burlington, VT 05401

If a hearing is requested, the Land Use Review Board 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 Review Board

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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: _____

Janet M.
Hurley

Digitally signed by
Janet M. Hurley
Date: 2025.06.16
16:27:01 -04'00'

Janet Hurley, Chair
Land Use Review Board