

STATE OF VERMONT

SUPERIOR COURT  
WASHINGTON UNIT

CIVIL DIVISION  
DOCKET NO.

STATE OF VERMONT, AGENCY )  
OF NATURAL RESOURCES, )  
Plaintiff, )  
)  
v. )  
)  
KS PINE LLC, )  
Defendant. )

**STIPULATION FOR THE ENTRY OF CONSENT ORDER**

Plaintiff, the State of Vermont, Agency of Natural Resources (the State), through the Office of the Attorney General, and Defendant, KS Pine LLC (KS Pine), through the undersigned counsel, stipulate and agree as follows:

WHEREAS, on September 8, 1983, the United States Environmental Protection Agency (EPA) pursuant to Section 105 of the Comprehensive Response Compensation and Liability Act (CERCLA) placed the Pine Street Canal Superfund Site (Site) on the National Priorities List set forth at 40 C.F.R. Part 300, Appendix B, by publication in the Federal Register at 48 Fed. Reg. 40658; and

WHEREAS, the Site is an abandoned shipping canal and former coal gasification plant located in Burlington, Vermont, and depicted generally on the map attached to the proposed Consent Order as Appendix A; and

WHEREAS, the Site includes a parcel located at 501 Pine Street that is the subject of this action and is referred to as 501 Pine Street Gatehouse, and all areas in which hazardous substances, pollutants, and/or contaminants have come to be located; and

WHEREAS, 501 Pine Street Gatehouse is owned by KS Pine, is identified as 053-1-001-000 on Appendix A, and is subject to a Grant of Environmental

Restrictions and Right of Access in favor of ANR dated July 8, 2004, recorded in the City of Burlington Real Property Records at Book 880 Page 623 (Grant); and

WHEREAS, 501 Pine Gatehouse includes areas where EPA has already determined or may in the future determine that Institutional Controls<sup>1</sup> are necessary; and

WHEREAS, KS Pine purchased 501 Pine Gatehouse to develop a seasonal outdoor patio and picnic area that offers open-air dining via container kitchens, food trucks and/or food carts at the property.

WHEREAS, the State alleges that KS Pine is a current “owner” of a “facility” under 10 V.S.A. § 6615(a)(1).

WHEREAS, KS Pine neither admits nor denies that it is a current “owner” of a “facility” under § 6615(a)(1).

WHEREAS, KS Pine facilitated the formation and adequately capitalized KS Pine for the purposes of (1) purchasing 501 Pine Gatehouse from Vermont Gas Systems, Inc.; (2) completing the Corrective Action Plan described in Appendix B; (3) preserving EPA’s and ANR’s access to the site; and (4) complying with the Grant.

WHEREAS, the proposed Consent Order addresses the obligations of KS Pine for the remediation and long-term management of 501 Pine Gatehouse as set forth in the Corrective Action Plan described in Appendix B.

WHEREAS, the Attorney General pursuant to 3 V.S.A. Chapter 7 has the general supervision of matters and actions on behalf of the State and may settle such matters as the interests of the State require; and

WHEREAS, KS Pine and the State seek to avoid the costs and uncertainties of litigation concerning KS Pine’s rights and obligations with respect to the Facility and Corrective Action there; and

---

<sup>1</sup> See definition of “Institutional Controls” at ¶1(G) of the parties’ proposed Consent Order.

WHEREAS, the Attorney General believes this settlement is in the State's interest as it will facilitate the remediation and long-term management of a contaminated site within the State and will further the goals of the statutory program in 10 V.S.A. Chapter 159.

NOW, THEREFORE, the State and Defendant hereby stipulate and agree as follows:

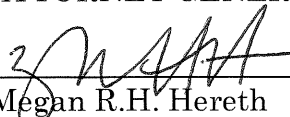
1. The Consent Order may be entered by the Court;
2. The Consent Order has been negotiated by the State and Defendant in good faith, and is in the State's interest;
3. The State and Defendants hereby waive all rights to contest or appeal the Consent Order and they shall not challenge, in this or any other proceeding, the validity of any of the terms of the Consent Order or this Court's jurisdiction to enter or enforce the Consent Order; and
4. The Consent Order 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' legal representatives and incorporated in an order issued by the Court.
5. This Consent Order may be executed in counterparts, each of which shall be deemed an original, and all such counterparts shall constitute one and the same instrument.

*(Remainder of page intentionally blank, signature pages to follow)*

STATE OF VERMONT

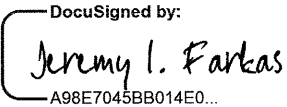
CHARITY R. CLARK  
ATTORNEY GENERAL

Dated: 1/19/24

By:   
Megan R.H. Hereth  
Assistant Attorney General  
Attorney General's Office  
109 State Street  
Montpelier, VT 05609-1001  
(802) 828-4605

KS PINE LLC

Dated: 1/19/2024

By:   
A98E7045BB014E0...  
Jeremy Farkas  
MSK Attorneys  
275 College St., P.O. Box 4485  
Burlington, VT 05406-4485  
jfarkas@mskvt.com  
(802) 861-7000 x1180