

COLTON ENTERPRISES, INC.
1697 ROUTE 100, PO BOX 688
PITTSFIELD, VT 05762

October 9, 2018

Commission on Act 250 at 50 (Act 47)

Dear Commission,

Thank you for this opportunity. Please consider our Act 250 experiences as you review Act 250 Permit impacts on forest products businesses like ours. Changes to Act 250 have the potential to significantly impact Vermont forest product businesses.

COLTON ENTERPRISES HISTORY

Ray Colton is the founder and President of Colton Enterprises. Ray has been in the firewood business for 45 years and at his current site selling kiln dried firewood since 1983. Colton Enterprises is a family business that uses Vermont trees, Vermont foresters, Vermont loggers, Vermont truckers, Vermont employees and offers a quality Vermont product.

In addition to our line of firewood products, during the spring and summer months we also offer a high quality line of ground bark mulches, wood chips, and sawdust for farmers.

We are located in the center of the state, far from the major pulp mills in New York and Maine so our operation provides a critical market and adds value to hardwood that is not good enough for sawlogs but too good for pulp. Annually, we spend approximately \$600,000 dollars on low grade logs typically purchased from 45 loggers and truckers. We now have 7 full time and 4 seasonal employees; 3 have been with the business for over 20 years.

Colton Enterprises has worked hard to evolve as the business climate and the needs of Vermont's forest products industry have changed. We will continue to evolve in a responsible manner that meets the needs of its suppliers, its customers and helps promote strong forests, a strong forest products industry, and is beneficial to the State and the surrounding community.

Over the years, we have expanded our customer base and products. Having a robust and diverse business would allow us to both create a year round market for Vermont's loggers and forest owners, and to create year round, full-time jobs for Vermonters. Full time employment also allows us to provide a full benefit package. Our business is seasonal by nature but there are many ways to create work in the slower periods if we are allowed the necessary flexibility.

OVERVIEW OF COLTON ENTERPRISES 10 ACT 250 PERMITS

Before purchasing in 1982, Ray sat down and visited each adjoining landowner to make sure that no one had any opposition to this business.

The initial Act 250 permit for the firewood processing plant was issued in 1983. From the first fall season, demand was constant and much greater than we could have anticipated. Through 1996, we amended our permit 4 more times to add capacity to our kilns, cooling sheds, boilers, generators and the use of byproducts from the splitting operation.

During these first 5 Act 250 permits we received approvals and were commended for our use of what were considered to be waste forest products. In 2001, 18 years after starting the business, things changed.

For the first time, we did not seek a permit amendment but Colton Enterprises was told by the District 3 Coordinator, that we had to go through another amendment process, "to bring our permit up to date". We were advised that there was no need for an attorney; it would be a friendly gathering to simply get things updated. Since previous applications were approved, all indications were that there would be no problems and that this would support our business. We believed it and went to the hearing without an attorney. One of the most significant and costly mistakes we ever made in our business.

At the hearing there were newspaper reporters and well-prepared neighbors. Permit conditions were drafted by neighbors and acted upon by the Commission.

The resulting 5 page permit and 28 page Findings of Fact and Conclusions of Law had so many restrictions we could no longer operate as we had been. The two restrictions that were most catastrophic were regarding Hours of Operations and Truck Activity.

We could not operate or change kilns on Sundays or holidays or after hours. Could not accept log deliveries when they were available, could not return to the yard after 6:30 PM, could not make our own chip fuel when needed, could not store enough logs to get us through mud season for example. If we wanted to stay in business we had no choice but to appeal.

We appealed to the Environmental Board and were denied. We still could not change kilns on Sunday and truck traffic and access remained prohibitively restrictive. Removing our ability to change over a kiln on Sundays resulted in a 15% loss of business production.

Even a layperson can see by skimming our permits that this has severely hindered our ability to operate, and the inconsistent and uncoordinated conditions imposed are absurd. Could any of you read the documents and tell me exactly when this operation is open for business, what machines can be run or what trucks loaded and which driveway to leave or enter at what time and how we could explain this to our customers and suppliers?

1. Hours of Operation. . . the hours of operation shall be limited to Monday through Saturday, except holidays from 7 AM until 6:30 PM. . . . Emptying and refilling the kiln outside the permitted hours and days shall be prohibited, except for Sundays and holidays falling between August 15 and May 31 when such operations may take place from 7 AM until 4 PM.

Limiting our hours of operation does not take into consideration the actual process of receiving raw product and drying firewood and the seasonal demand for our product.

2. Truck activity. . . prohibit all truck activity, including deliveries, shipments and idling, from 6:30 PM until 7 AM, From August 15 to April 30 may have a maximum of 14 trailer trucks per calendar month leaving their yard to make deliveries during the hours of 6:30 PM to 7 AM. From May 1 to August 14 may have a maximum of 3 trailer trucks per week leaving their yard to make deliveries during the hours of 6:30 PM to 7 AM. From May 1 through August 14 no trailer trucks shall be allowed to leave the premises from 4:30 PM Saturday through midnight on Sunday.

No more than one truck per month will be allowed to return to their yard between the hours of 6:30 PM and 7 AM (which meant no fire trucks) between 6:30 PM and 7 AM idling of trucks making these shipments shall be kept to a minimum with a maximum 15 minutes of idling during those months when the temperature is below freezing and with a maximum of 10 minutes during those months when the temperature is above freezing. All idling during these hours shall occur behind existing buildings so as to reduce any idling noise to the neighbor's property.

Our customers are located all over the greater New England area. It is difficult to start at the required 7 AM, empty a kiln, load the truck, drive to CT, deal with traffic, drop your load, take mandatory driving breaks, drive back from CT and get back into the yard by the required cutoff time. We are limited by time, idle time, which driveway and direction of travel.

3. New truck access driveway and entrance . . . shall require all tractor trailer trucks entering or leaving their premises after 6:30 PM and prior to 7 AM to use the new truck access driveway and entrance. . . shall prohibit all tractor trailer trucks leaving their premises during said hours from turning south on Vermont Route 100 and shall require them to only proceed north on VT Route 100 upon leaving the premises. In the event the tractor trailer trucks desire to travel south on Route 100, they shall first exit the Colton's yard driving north on 100 and find a suitable place to turn around and then proceed south on Route 100 so they will pass the next door residence at normal highway speeds.
4. Loaders . . . between June 1 and August 15 the loaders are prohibited from operating after 4 PM, except for loading of pickup trucks and to load boilers and move split wood until 4:30. In the event of a late arrival of a trailer truck which needs to be loaded that day, a loader may be operated until 4:30 PM to load that trailer truck provided such loading commenced before 4 PM. In any event, there shall not be more than 10 trailer trucks loaded after 4 PM between each June 1 and August 15. The loaders will not be used to load trailer trucks between 6:30 PM and 7 AM year round.

We appealed and were forced into State-mandated mediation, and the mediation cost was ours alone to pay.

In 2002 our project passed the "Stowe Club Highlands" test. This allowed us to request amendments with the Commission and not the Environmental Board. Subsequently, we requested changes in truck traffic, truck access, hours of operation, etc. Only slight changes to the permit conditions were approved in 2002 and 2003 that allowed us to change kilns on Sundays and continue with limited truck operations.

Our current permit conditions that restrict us the most are:

1. Kilns – May 1 through August 14 the permittees shall not operate kilns on Sunday and holidays and shall only operate the kilns a maximum of 3 sessions, with each session to be limited to a maximum of 96 hours. The permittees shall give Gordon and Sarah Gray at least 24 hours written notice before each of these sessions. If Sarah Gray is away from her home place for a period of two days or more during May 1 through August 14 the permittees will be allowed to operate the kilns during her absence, exclusive of Sundays and holiday, in addition to the maximum number of sessions allowed.

In the 16 years since this was issued we have never been notified of her being away and they no longer live next door full time. Had we been able to have as few as 3 additional 96-hour drying sessions each of the last 16 years, we could have dried an additional 3,888 cord with a value of \$1.3 million.

2. Chipping - Chipping wood no more than 24 hours per year. Having our boiler fuel source limited by hours makes no practical sense. If it is extremely cold we use more fuel and have no flexibility to be able to make more when needed.
3. Trips/Log Storage - 40 vehicle round trips per day. Logging is very seasonal and we need a steady supply of raw material. We must build inventory during good weather when loggers can harvest and haul on appropriate ground conditions and restrictions on trucking and log storage don't allow us any flexibility. There are times when very few trucks arrive or leave. Possible solution might be to average our trips to account for the ebb and flow of harvesting.

It is difficult to quantify the money spent on lawyers, engineers and experts. Our time spent is too vast to monetize.

In 2004 Colton Enterprises purchased property at an industrial park in Sharon, VT. We now truck firewood down, store it and then retrieve it to offset our inability to dry firewood year round. The purchase price of \$175,000 and subsequent upgrades, are a direct result of our Act 250 permit restrictions. This resulted in 535 additional truck trips since 2004.

We now compete with many kiln dried firewood businesses that operate unencumbered by Act 250 restrictions as we are. In order remain competitive; we considered several options including upgrading an existing facility in a non-Act 250 town, adding onto our Sharon location or building a new site in NH.

As General Manager of Colton Enterprises and the potential next generation of this business, I have to help ascertain if this business has the ability to prosper going forward. Growth and efficiencies are critical to the success of any business and ours is no exception. Without the flexibility to make good decisions for our forest products business, success in Vermont is not assured.

Sincerely,

Christi Bollman
General Manager