

STATE OF VERMONT
ENVIRONMENTAL COURT

LAND USE PANEL of the NATURAL)
RESOURCES BOARD,)
)
Petitioner,)
)
v.)
)
J. MICHEL GUITÉ,)
)
Respondent.)

Docket No. ____-1-10 Vtec

ASSURANCE OF DISCONTINUANCE

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

I. STATEMENT OF FACTS

1. On July 11, 2008, Respondent purchased certain land and premises covering roughly 148 acres and located at or near Ayers Road in Hartland Four Corners, Vermont (the "Property").
2. Respondent acquired the Property from Unified Buddhist Church, Inc. ("UBC").
3. The Property had historically been used for farming and agricultural purposes, with a main residence, a guest residence, two barns, and various other farm-related structures located thereon.
4. Some time prior to August 17, 2005, UBC engaged in a variety of renovations of the existing buildings on the Property (collectively, the "Renovations") as an interim measure pending resolution of the multiple permit appeals that followed issuance of the Act 250 Permit. The Renovations included the following:
 - a. Renovation of an existing pole barn to create Spartan sleeping quarters in the stalls;
 - b. Renovation of an existing sheep barn to create Spartan sleeping quarters in the stalls;
 - c. Renovation of an outbuilding as an outdoor shower facility;

d. Renovation of a dilapidated barn as a new and carpeted meditation hall with a finished, arched pine ceiling;

e. Renovation of a large horse barn as a large "Buddha Hall" meeting room, with bathrooms and a laundry facility, and new carpeting on what had formerly been a large horse ring;

f. Renovation of a guest/hired-hand house by adding walls and remodeling the bathroom; and

g. Construction of a large interior room in the main residence/office to serve as a large dining room or daily meeting room, with the addition of bathrooms, thereby enabling conversion of the main residence to UBC's Vermont office.

5. On August 17, 2005, the District #3 Environmental Commission (the "Commission") issued Land Use Permit #3W0929(Altered) to UBC (the "Act 250 Permit").

6. The Act 250 Permit authorized the construction of a Buddhist Dharma Center/Retreat on the Property, which involved the renovation of certain existing buildings (as set forth above in Paragraph 4), and the construction of several new buildings as part of a retreat complex.

7. The Renovations involved interior work only, and did not involve the construction of any new buildings, or the expansion of any existing buildings.

8. Eventually, UBC abandoned its plans to build the Buddhist Dharma Center/Retreat authorized by the Act 250 Permit and opted, instead, to sell the Property to Respondent.

9. Respondent has not undertaken any development or other renovation or construction activity on the Property since its acquisition.

10. Respondent has, pursuant to the terms of this settlement, abandoned all efforts to secure or maintain permits related to the prior Buddhist Dharma Center/Retreat project, or to advance or implement any other plans or permits for commercial development. Instead, he has agreed to return the Property to its historical use as an operating family farm and agricultural enterprise.

11. On October 10, 2008, the District Coordinator for the Commission (the "Coordinator") issued Jurisdictional Opinion #3-128 (the "JO"). The JO found that various aspects of the Renovations had been performed for a commercial purpose. Thus, according to the Coordinator, continuing Act 250 jurisdiction over the Property had been triggered independent of the Act 250 Permit, and prior to the Act 250 Permit's issuance.

12. Respondent was unaware of the September 21, 2008 request for a jurisdictional opinion until the JO itself was issued on October 10, 2008.

13. Respondent appealed the JO to the Vermont Environmental Court: *In re: Guité Act 250 Permit Amendment Jurisdictional Opinion*, Docket No. 265-11-08 (the “Initial Appeal”).

14. The Court issued a Remand Order in the Initial Appeal on January 12, 2009 (a) to provide Respondent with an opportunity to formally petition the Commission for abandonment of the Act 250 Permit, and (b) to allow the Coordinator to reconsider the JO in light of the Commission’s abandonment decision.

15. On June 5, 2009, the Commission issued a decision denying Respondent’s Petition for Abandonment (the “Abandonment Decision”).

16. On June 11, 2009, the Coordinator issued a revised jurisdictional opinion (the “Revised JO”) reaffirming the JO’s prior conclusion that Act 250 jurisdiction had attached to the Property due to certain aspects of the Renovations, independent of the subsequent issuance of the Act 250 Permit.

17. After motions for reconsideration were denied by the Commission and the Coordinator, Respondent appealed the Abandonment Decision and the Revised JO to the Vermont Environmental Court. These two appeals were consolidated as *In re: Guité JO #3-128 Revised* and *In re: Guité Petition for Abandonment*, Docket Nos. 126-7-09 Vtec and 127-7-09 Vtec (the “Consolidated Appeals”).

18. Respondent continues, pursuant to the terms of this settlement, to be willing to abandon any plans for commercial development, and to instead return the Property to its historical agricultural use as a Vermont family farm producing organic, artisan products.

19. The parties have agreed to this AOD as part of a comprehensive settlement resolving the question of ongoing Act 250 jurisdiction over the Property and the remaining issues raised in the Consolidated Appeals.

II. AGREEMENT

Based upon the foregoing Statement of Facts, the parties agree as follows:

A. Respondent shall demolish, dismantle and remove the entirety of each structure referenced in Paragraph 4 of this AOD as having been partially renovated by UBC, thereby removing (i) the potential for Respondent to make commercial or other use of the improvements found to have triggered Act 250 jurisdiction over the Property, and (ii) any potential environmental or land use impacts arising from the unauthorized Renovations.

B. Upon completion of said removal process, the underlying land shall be graded and seeded.

C. Said removal process shall be done consistent with any pertinent federal, state and local laws and regulations.

D. Upon completion of said removal process, and after the grading and seeding of the underlying land is concluded, Respondent shall notify the Coordinator that said removal process has been completed consistent with the terms of this AOD. Within thirty (30) days of being notified by Respondent that such work is complete, the Coordinator shall either (i) certify to Respondent in writing that such work has been completed, or (ii) inform Respondent in writing that said removal process is incomplete and state what further work needs to be done to comply with Paragraphs A and B of this AOD. The Coordinator's role in this AOD is limited to this Paragraph and Paragraph G of this AOD.

E. Respondent shall record the Coordinator's certification in the Town of Hartland Land Records. Upon such recording, all jurisdiction arising under 10 V.S.A. Ch. 151 (Act 250) that has attached to the Property shall be dissolved.

F. Upon the recording of said certification, the Consolidated Appeals shall be dismissed.

G. Respondent shall maintain an undisturbed, vegetated fifty (50) – foot buffer along each established bank of the Lull Brook, said fifty (50) feet being measured along the surface of the ground from the water's edge. If Respondent wishes to encroach upon this buffer for any purpose, he shall inform the Coordinator prior to such encroachment and shall comply with the Coordinator's directives concerning such encroachment. The Coordinator's directives shall be issued within thirty (30) days of the date of notification by Respondent, shall be reasonable, and shall be limited only to ensuring that there is no adverse environmental impact to the waters of the Lull Brook from such encroachment.

H. Upon the Court's entry of this AOD as a judicial order, Respondent agrees to promptly enroll the Property in the State of Vermont's Agricultural and Managed Forest Land Use Value Program, 32 V.S.A. §§ 3751-3763 (the "Program"), for a continuous period covering not less than ten (10) years from the date of such entry. If, at any time hereafter, (i) the Program is discontinued by the State of Vermont, or (ii) the Program as it applies to the Property is substantially altered by the Vermont General Assembly, then Respondent need not enroll the Property or keep the Property enrolled in the Program, but shall instead keep the Property solely in agricultural use for a continuous period covering not less than seven (7) years from the date of the Court's entry of this AOD as a judicial order.

I. Nothing in this AOD shall be construed as having relieved, modified, waived or otherwise affected Respondent's continuing obligation to comply with all other applicable state or local statutes, regulations or directives applicable to Respondent and/or the Property.

J. This AOD shall become effective only after it is signed by all parties and entered as an order of the Vermont Environmental Court. When so entered by the Vermont Environmental Court, this AOD shall become a judicial order pursuant to 10 V.S.A. § 8007(c). In the event that such order is vacated, the AOD shall be null and void.

K. 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 Panel has notice on the date the Vermont Environmental Court signs this AOD, provided that Respondent fully complies with the terms set forth above.

L. The parties agree that time is of the essence. Therefore, the parties each agree to proceed with fulfilling their obligations under the terms of this AOD as rapidly as practicable.

M. This AOD 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 AOD, whether written or oral, shall not be binding upon any party hereto, and such alleged representations shall have no legal force or effect.

N. 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.

O. This AOD is subject to the provisions of 10 V.S.A. § 8007.

P. The Panel shall file a notice of this AOD in the Town of Hartland Land Records after this AOD is signed by the Environmental Court. Respondent shall be responsible for the payment of the recording fee for such notice, and shall send to the Panel a check in the amount of Ten Dollars (\$10.00), made payable to the Town of Hartland.

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III. SIGNATURES

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

Dated at Springfield, Vermont, this 6th day of January, 2010.

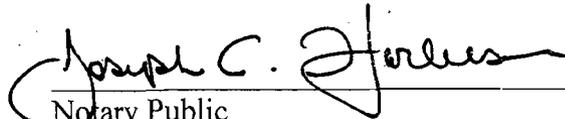


J. Michel Guité

STATE OF VERMONT
COUNTY OF Windsor, SS.

BE IT REMEMBERED that on the 6th day of January, 2010, personally appeared J. Michel Guité, signer of the foregoing instrument who is known to me or who satisfactorily established his identity to me, and acknowledged the signing of this Assurance of Discontinuance to be his free act and deed.

Before me,

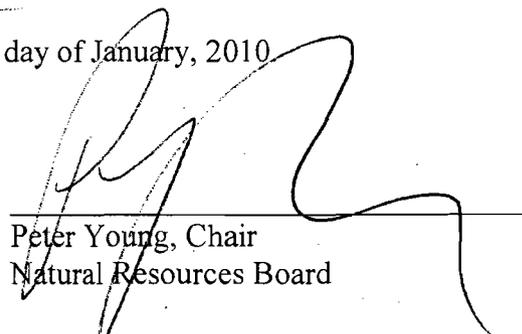


Notary Public

My Commission Expires: 2/10/10

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

Dated at Montpelier, Vermont this 7th day of January, 2010



Peter Young, Chair
Natural Resources Board

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