

**STATE OF VERMONT**

**ENVIRONMENTAL COURT  
Docket No.**

Land Use Panel of the  
Natural Resources Board,  
Petitioner

**ASSURANCE OF DISCONTINUANCE**

v.

*Summit Ventures NE, LLC*  
(D/B/A, Sugarbush Resort)  
Respondent

**VIOLATIONS**

*Failure to comply with Permit Condition 1 of Land Use Permit 5W1309.*

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

**ASSURANCE OF DISCONTINUANCE**

Pursuant to the provisions of 10 V.S.A. § 8007, the Land Use Panel of the Natural Resources Board (Panel) and *Summit Ventures NE, LLC* (D/B/A Sugarbush Resort) (Respondent) hereby enter into this Assurance of Discontinuance (Assurance), and stipulate and agree as follows:

**STATEMENT OF FACTS AND DESCRIPTION OF VIOLATIONS**

1. The Respondent owns the property identified in Book 108, Pages 392-403 of the land records of the Town of Warren, Vermont (the Project Tract).
2. Land Use Permit series 5W1309 (the Permit) applies to the Project Tract.
3. The Permit authorized the construction of a replacement and expansion irrigation distribution system at the golf course.
4. Condition 1 of the Permit states:

The project shall be completed, maintained, and operated in accordance with the plans and exhibits 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.

5. On December 28, 2012 Respondent filed an Act 250 application for a project generally described as a Winter Driving School on the Project Tract.
6. On January 11, 2013 the District 5 Environmental Commission issued an Act 250 Notice for Minor Application 5W1309-2 together with a draft permit and statement that the permit would be issued unless an interested party requested a hearing by January 21, 2013.
7. In early January 2013 the Respondents began construction of a winter automobile driving course on the Project Tract.
8. On January 18, 2013 the Agency of Natural Resources submitted an Entry Of Appearance requesting a hearing under Criterion 8A indicating that portions of the course overlap with the 300-foot buffer of an existing Deer Wintering Area.
9. From January 22, 2013 to January 27, 2013 Respondent held an event (Event) known as the Porsche Winter Driving School on the Project Tract.
10. Approximately 230 individuals participated in the Event.
11. Prior to the Event the District Environmental Commission did not issue an Act 250 Amendment for the Project Tract.
12. By failing to obtain an Act 250 Permit Amendment for the activities outlined above, the Respondent violated the Permit and Act 250 Rule 34(A).

**AGREEMENT**

Based on the aforementioned Statement of Facts and Description of Violations, the parties hereby agree as follows:

- A. Respondent shall comply with permit series 5W1309.
- B. No unauthorized activity shall occur on the Project Tract until the District 5 Environmental Commission has issued a Land Use Permit Amendment authorizing the activity.
- C. No later than 30 days following the entry of this Assurance as an Order by the Superior Court, Environmental Division, Respondent shall pay the following:
  1. pursuant to 10 V.S.A. Ch. 201, a civil penalty in the amount of Six

**Thousand Seven Hundred Fifty Dollars and Zero Cents**

**(U.S.)(\$6,750.00)**, for the violations noted herein, by good check made payable to the "Treasurer, State of Vermont",

2. the amount of **Ten Dollars and Zero Cents (U.S.) (\$10.00)**, for the purpose of paying the recording fee for the filing of a notice of this Assurance in the Town of Warren land records, by good check made payable to the "Town of Warren, Vermont".
- D. No later than 30 days following the entry of this Assurance as an Order by the Superior Court, Environmental Division, Respondents shall mail the Panel an executed Acceptance of Service, on a form approved by the Panel, showing that Respondent has actual notice of the Judicial Order and Assurance of Discontinuance.
- E. All payments and documents required by this Assurance shall be sent to:  
  
Denise Wheeler, Business Manager  
Land Use Panel of the Natural Resources Board  
National Life Records Center Building  
National Life Drive  
Montpelier, Vermont 05620-3201
- F. Respondent shall not deduct, nor attempt to deduct, any payment made to the State pursuant to this Assurance from Respondent's reported income for tax purposes or attempt to obtain any other tax benefit from such payment.
- G. The State of Vermont and the Land Use Panel reserve continuing jurisdiction to ensure compliance with all statutes, rules, and regulations applicable to the facts and violations set forth herein.
- H. Nothing in this Assurance shall be construed as having relieved, modified, waived or otherwise affected the Respondent's continuing obligation to comply with applicable state or local statutes, regulations or directives.
- I. This Assurance shall become effective only after it is signed by all parties and entered as an order of the Superior Court, Environmental Division. When so entered by the Superior Court, Environmental Division, this Assurance shall become a judicial order pursuant to 10 V.S.A. § 8007(c). In the event that such order is vacated, the Assurance shall be null and void.
- J. Pursuant to 10 V.S.A. § 8007(d), the Respondent shall not be liable for additional civil or criminal penalties with respect to the specific facts set forth herein, provided that the Respondent fully complies with this Assurance.

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- K. This Assurance sets forth the complete agreement of the parties, and it may be altered, amended, or otherwise modified only by subsequent written agreements signed by the parties hereto or their legal representatives and incorporated in an order issued by the Superior Court, Environmental Division. Alleged representations not set forth in this Assurance, whether written or oral, shall not be binding upon any party hereto, and such alleged representations shall have no legal force or effect.
  
- L. When this Assurance is entered as a judicial order, violation of any provision of this Assurance shall be deemed to be a violation of a judicial order and may result in the imposition of injunctive relief and/or penalties, including penalties under 10 V.S.A. chapters 201 and/or 211.
  
- M. This Assurance is subject to the provisions of 10 V.S.A. § 8007 and §8020.

**SIGNATURES**

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

Dated at Warren, Vermont, this 15 day of March, 2013.

**Summit Ventures NE, LLC**

By

[Handwritten Signature]  
(Signature)

HARDY L. MERRILL, Duly Authorized Agent  
(Printed Name)

STATE OF VERMONT  
COUNTY OF Washington, ss.

BE IT REMEMBERED that on the 15 day of March, 2013, personally appeared Hardy L. Merrill, as the duly authorized agent of **Summit Ventures NE, LLC** signer and sealer of the foregoing instrument who is known to me or who satisfactorily established his identity to me and acknowledged the same to be his free act and deed and the free act and deed of **Summit Ventures NE, LLC** and that he has the authority to contract on behalf of **Summit Ventures NE, LLC** and that he has been duly authorized to enter into the foregoing Assurance on behalf of that entity.

Before me,

Margaret B. Wade  
Notary Public  
My Commission Expires: 2/10/2015

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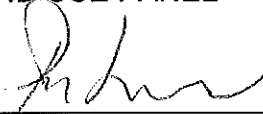
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The provisions set forth in this Assurance of Discontinuance are hereby agreed to and accepted.

Dated in Montpelier, Vermont, this 22<sup>nd</sup> day of April, 2013.

LAND USE PANEL

By:



Ronald A. Shems, Chair NRB