

## STATE OF VERMONT

SUPERIOR COURT  
Vermont Unit

ENVIRONMENTAL DIVISION  
Docket No. 21-2-13 Vtec  
Docket No. 58-5-14 Vtec  
Docket No. 60-5-14 Vtec

WhistlePig, LLC Act 250 JO (#9-070)
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### ENTRY REGARDING MOTION

Title: Motion to Continue Trial Stipulated (Motion 9)  
Filer: WhistlePig LLC  
Attorney: Jon T. Anderson  
Filed Date: January 13, 2015

Agreed by all parties during 1/13/2015 conference

**The motion is GRANTED.**

The above three appeals had been scheduled for a coordinated trial to begin on Monday, January 26, 2015. The Court most recently granted Appellants Solar Haven Farm, LLC, Barbara Wilson, and George Gross's request to dismiss their appeal of the conditional use approval issued by the Town of Shoreham Zoning Board of Adjustment (Docket No. 60-5-14 Vtec), although the Court afforded Appellants additional time to withdraw their voluntary dismissal, given that the Court chose to grant the dismissal with prejudice to that specific conditional use application. See In re WhistlePig, LLC CU Permit Appeal, No. 60-5-14 Vtec (Vt. Env'tl. Div. Jan. 9, 2014)(Durkin, J.). At the final pre-trial conference, held on January 13, 2015, Appellants' attorney advised the Court that he would file a response shortly on behalf of his clients.

As to the appeal filed on behalf of WhistlePig, LLC from a jurisdictional opinion issued by the District 9 Environmental Commission Coordinator (Docket No. 21-2-13 Vtec), WhistlePig's attorneys, Jon T. Anderson and Alexander J. LaRosa, represented to the Court that they believed that the Court's decision last April in that docket resolved all legal issues that could be addressed. See In re WhistlePig, LLC Act 250 JO (#9-070), No. 21-2-13 Vtec (Vt. Env'tl. Div. Apr. 11, 2014)(Durkin, J.). Attorney LaRosa volunteered to draft and circulate a stipulation for dismissal of that appeal.

Lastly, in the appeal by WhistlePig from the Act 250 permit issued by the District 9 Environmental Commission (Docket No. 58-5-14 Vtec), Attorneys Anderson and LaRosa advised

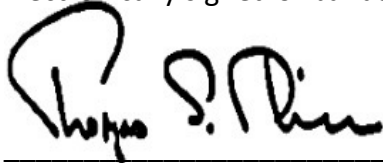
that they believed that all legal issues raised by the WhistlePig appeal could be addressed by the motion and cross-motion for summary judgment that will come under advisement upon the filing of responsive memoranda (due by January 22, 2015) and that, because of that assessment, the Court should cancel or postpone the upcoming trials. Attorneys for all other parties were present during this pre-trial conference and concurred with Attorneys Anderson and LaRosa's assessment.

Based upon these representations, the Court made the following directives:

1. Attorney Tarrant shall consult with his clients, and advise the Court no later than **Tuesday, January 20, 2015**, whether they object to the terms of the dismissal of Docket No. 60-5-14 Vtec announced by the Court in its January 9, 2015 decision.
2. The parties shall file their Stipulation for Dismissal of Docket No. 21-2-13 Vtec, if successfully negotiated, with the Court no later than **Thursday, January 22, 2015**.
3. All responses to and replies for the outstanding pre-trial motions in Docket No. 58-5-14 Vtec shall be filed no later than **Thursday, January 22, 2015**. After that date, those motions shall go under advisement and shall be considered by the Court.
4. The coordinated trial for all Dockets, scheduled to begin on Monday, January 26, 2015, is hereby **POSTPONED**. The Court shall determine whether a further evidentiary hearing is needed as it considers the pending motions.

**So ordered.**

Electronically signed on January 16, 2015 at Newfane, Vermont, pursuant to V.R.E.F. 7(d).



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Thomas S. Durkin, Judge  
Environmental Division

Notifications:

Jon T. Anderson (ERN 1856), Attorney for Appellant WhistlePig LLC  
Melanie Kehne (ERN 2561), Attorney for Interested Person Natural Resources Board  
Elizabeth Lord (ERN 4256), Attorney for Interested Person Agency of Natural Resources  
Gerald R. Tarrant (ERN 3786), Attorney for Interested Person George Gross  
Gerald R. Tarrant (ERN 3786), Attorney for Interested Person Barbara Wilson  
Gerald R. Tarrant (ERN 3786), Attorney for Interested Person Solar Haven Farm, LLC  
Jon T. Anderson (ERN 1856), Attorney for Appellant Raj Bhakta  
For Informational Purposes Only Town of Shoreham  
For Informational Purposes Only John Kiernan  
Alexander J. LaRosa (ERN 5814), Attorney for party 2 Co-counsel