



State of Vermont

LAND USE PERMIT AMENDMENT

CASE NO: 3W0541-3(Remanded)
C-V Oil Company, Inc.
PO Box 656
Pittsfield, VT 05762
and
CV South, LLC
3925 VT Route 100
Pittsfield, VT 05762

LAWS/REGULATIONS INVOLVED
10 V.S.A. §§ 6001 - 6093 (Act 250)

District Environmental Commission (Commission) #3 hereby issues Land Use Permit Amendment #3W0541-3(Remanded), pursuant to the authority vested in it by 10 V.S.A. §§ 6001-6093. This permit amendment applies to the lands identified in Book 66, Page 173 of the land records of Pittsfield, Vermont, as the subject of a Confirmatory Deed to CV South, LLC and a lease agreement to C-V Oil Company, Inc., the Permittees.

This permit specifically authorizes the Permittees to demolish a barn and construct and operate a propane storage and dispensing facility on property and easements owned by Permittee, C-V Oil, as conveyed to CV South by Confirm (the "Project Parcel"). Exhibit #048 supersedes the draft Confirmatory Deed previously submitted as Exhibit #037. Act 250 jurisdiction is limited exclusively to the Project Parcel, including the easement areas described in the Confirmatory Deed over lands of Martin. The Project also includes related fixtures, utilities and infrastructure. The project is located at 53 Bakers Road, off Route 100, in Pittsfield, Vermont.

A Project Review Sheet dated September 6, 2016 established jurisdiction on this project because demolition and/or construction of improvements for commercial purpose on more than one acre in Pittsfield requires an Act 250 permit. 10 V.S.A. § 6001(3)(A). For administrative purposes, the Commission considers this to be involved land with another permitted fuel storage and dispensing facility within five miles of this project (Land Use Permit #3W0541 and amendments), owned and operated by CV Oil Company, Inc., therefore, an amendment to Land Use Permit 3W0541.

The Permittees, and their assigns and successors in interest, are obligated by this permit to complete, operate and maintain the project as approved by the District Commission in accordance with the following conditions.

1. The project shall be completed, operated and maintained in accordance with the conditions of this permit, the permit application, plans, and exhibits on file with the District Environmental Commission, and other material representations. Findings of Fact and Conclusions of Law #3W0541-3 dated October 16, 2019 remain in full force and effect except to the extent that those Findings have been amended herein.

The approved plans are:

- Cover Sheet – "Act 250 – Project Permitting Plans" (Exhibit #016 for map key);
- Sheet 1 of 4 - "Existing Conditions Site Plan," dated July 2019 (Exhibit #036);
- Sheet 2 of 4 - "Stormwater Management Plan," dated July 2019 (Exhibit #040);

- Sheet 2 of 4 - "Annotated Stormwater Management Plan," dated July 2019 (Exhibit #041);
- Sheet 3 of 4 - "Stormwater Details," dated July 2019 (Exhibit #042);
- Sheet 4 of 4 - "Construction Details," dated Aug. 2018 (Exhibit #020);
- Sheet 1 of 1 - "Easement and Riparian Management Plan," dated July 2019 (Exhibit #035);
- Sheet 2 of 4 - "Proposed Conditions Site Plan, Marked Site Plan," for lighting locations only, dated Aug. 2018 (Exhibit #025);
2. All conditions of Land Use Permit #3W0541 and amendments are in full force and effect except as further amended herein.
 3. The Permittees shall comply with all of the conditions of the following Agency of Natural Resources (ANR) Permits:
 - a. Wastewater System and Potable Water Supply Permit #WW-3-2619-R1 issued on October 13, 2017 by the Drinking Water and Groundwater Protection Division (Exhibit #009);
 - b. Authorization of Notice of Intent #8778-9015 under General Permit #3-9015 (Stormwater Discharge General Permit), issued on October 4, 2019 by the ANR Watershed Management Division (Exhibit #044).
 - c. Authorization to Discharge #8778-9020 under Construction General Permit #3-9020 issued on August 19, 2019, by the Watershed Management Division (Exhibit #045).
 4. Any nonmaterial changes to the permits listed in the preceding condition shall be automatically incorporated herein upon issuance by the ANR.
 5. Representatives of the State of Vermont shall have access to the property covered by this permit, at reasonable times, for the purpose of ascertaining compliance with Vermont environmental and health statutes and regulations and with this permit.
 6. A copy of this permit and plans shall be on the site at all times throughout the construction process.
 7. No change shall be made to the design, operation or use of this project without a permit amendment issued by the District Commission or a jurisdictional opinion from the District Coordinator that a permit is not required.
 8. No further subdivision, alteration, and/or development on the tracts of land approved herein shall be permitted without a permit amendment issued by the District Commission or a jurisdictional opinion from the District Coordinator that a permit is not required.
 9. Pursuant to 10 V.S.A. § 8005(c), the District Commission may at any time require that the permit holder file an affidavit certifying that the project is in compliance with the terms of this permit.
 10. The conditions of this permit and the land uses permitted herein shall run with the land and are binding upon and enforceable against the Permittees and their successors and assigns.
 11. The Permittees shall apply and maintain water and/or other agents approved by the Watershed Management Division in the Project's Erosion Prevention and Control Plan on all roadways or disturbed areas within the project during construction and until pavement and/or vegetation is fully established to control dust.

12. Prior to construction of the wastewater disposal system and the proposed future garage and office buildings, the Permittees shall amend this permit. An archeological assessment for precontract archeological sites may be required for this future construction.
13. The Permittees shall prevent the transport of any sediment beyond that area necessary for construction approved herein. All erosion prevention and sediment control devices shall be periodically cleaned, replaced and maintained until vegetation is permanently established on all slopes and disturbed areas.
14. In addition to conformance with all erosion prevention and sediment control conditions, the Permittee shall not cause, permit or allow the discharge of waste material into any surface waters. Compliance with the requirements of this condition does not absolve the Permittee from compliance with 10 V.S.A. (§§ 1250-1284) Chapter 47, Vermont's Water Pollution Control Law. Stormwater disposal from the Project Parcel shall occur in substantial conformity with the narrative of the Project Engineer incorporated into the record as Exhibit #046; and Exhibit #047 (boundary survey) dated 11/08/2019.
15. Except as described herein, the Permittees shall maintain those portions of the Project Parcel shown in red cross-hatching and denominated "Area to be Undisturbed (F&W)" on the Easement and Riparian Management Plan, Exhibit #035, in an undisturbed, naturally vegetated condition. The term "undisturbed" shall mean that no activities shall be conducted which may cause or contribute to ground or vegetation disturbance or soil compaction including, but not limited to, construction, earthmoving activities, storage for materials, tree trimming or canopy removal, tree, shrub or ground cover removal, plowing of snow and grazing and mowing. Grading and Stormwater/snowmelt disposal from the Project within the undisturbed area shall be allowed in the areas depicted on the approved plans. In the "Area to be Undisturbed (F&W)" from the facilities shall be allowed. The foregoing condition shall supersede all other exhibits, findings or conditions with respect or referring to the undisturbed Tweed River "riparian buffer."
16. The Permittee shall not further protect the proposed empty tank storage enclosed by chain link fence in the event that the South Branch of the Tweed River adjusts laterally on the landscape in the future; this includes riprap or other channel management activities which may decrease the ability of the stream to migrate naturally.
17. Farming is permitted on lands exempt from amendment jurisdiction pursuant to 10 V.S.A. § 6081(s).
18. The installation of exterior light fixtures is limited to those approved in Exhibits #012 and #025. All exterior lighting shall be installed or shielded in such a manner as to conceal light sources and reflector surfaces from view beyond the perimeter of the area to be illuminated. If the sign is lit, the fixture shall be shielded and downlit.
19. The Permittees shall not erect additional exterior signage without prior written approval from the District Coordinator or the Commission, whichever is appropriate under the Act 250 Rules. Signage includes banners, flags, and other advertising displays, excepting temporary real estate marketing signs and temporary Grand Opening signs.
20. The Project Parcel may contain historic resources. As such, any future construction or excavation on the Project Parcel shall be reviewed by the Division for Historic Preservation and the Commission. No change shall be made to the design, operation or use of this project without first obtaining a Jurisdictional Opinion.
21. The Permittees shall reference the requirements and conditions imposed by Land Use Permit 3W0541-3(Remanded) in all deeds of conveyance and leases.

22. Pursuant to 10 V.S.A. § 6090(b)(1) this permit amendment is hereby issued for an indefinite term, as long as there is compliance with the conditions herein. Notwithstanding any other provision herein, this permit shall expire three years from the date of issuance if the Permittees has not commenced construction and made substantial progress toward completion within the three-year period in accordance with 10 V.S.A. § 6091(b).
23. All site work and construction (of roadways and utilities) shall be completed in accordance with the approved plans by **October 15, 2022** unless an extension of this date is approved in writing by the Commission. Such requests to extend must be filed prior to the deadline and approval may be granted without public hearing.
24. The Permittees shall file a Certificate of Actual Construction Costs, on forms available from the Natural Resources Board, pursuant to 10 V.S.A. § 6083a(g) within one month after construction has been substantially completed or two years from the date of this permit, whichever shall occur first. Application for extension of time for good cause shown may be made to the District Commission. If actual construction costs exceed the original estimate, a supplemental fee based on actual construction costs must be paid at the time of certification in accordance with the fee schedule in effect at the time of application. Upon request, the Permittees shall provide all documents or other information necessary to substantiate the certification. Pursuant to existing law, failure to file the certification or pay any supplemental fee due constitutes grounds for permit revocation. The certificate of actual construction costs and any supplemental fee (by check payable to the "State of Vermont") shall be mailed to: Natural Resources Board, Dewey Building, 1 National Life Drive, Montpelier, VT 05620-3201; Attention: Certification.

Failure to comply with any condition herein may be grounds for permit revocation pursuant to 10 V.S.A. § 6027(g).

Dated at Springfield, Vermont, this 3rd day of April 2020.

By 
Tim Taylor, Chair
District #3 Environmental Commission

Members participating in this decision: Roderick Maclay and Clotilde Hyrshko

Any party may file a Motion to Alter with the District Commission within 15 days from the date of this decision, pursuant to Act 250 Rule 31(A). Any appeal of this decision must be filed with the Superior Court, Environmental Division within 30 days of the date the decision was issued, pursuant to 10 V.S.A. Chapter 220. The Notice of Appeal must comply with the Vermont Rules for Environmental Court Proceedings (VRECP). The appellant must file with the Notice of Appeal the \$295 entry fee required by 32 V.S.A. § 1431. The appellant must also serve a copy of the Notice of Appeal on the Natural Resources Board, 10 Baldwin Street, Montpelier, VT 05633-3201, and on other parties in accordance with Rule 5(b)(4)(B) of the Vermont Rules for Environmental Court Proceedings. Decisions on minor applications may be appealed only if a hearing was held by the District Commission. Please note that there are certain limitations on the right to appeal. See 10 V.S.A. § 8504(k). For additional information on filing appeals, see the Court's website at: <http://www.vermontjudiciary.org/GTC/environmental/default.aspx> or call 802-951-1740. The Court's mailing address is: Vermont Superior Court, Environmental Division, 32 Cherry Street, 2nd Floor, Suite 303, Burlington, VT 05401.

E-Notification CERTIFICATE OF SERVICE #3W0541-3(Remanded)

I hereby certify that I, the undersigned, sent a copy of the foregoing Remanded Land Use Permit and Findings of Fact on April 3, 2020, by U.S. Mail, postage prepaid, to the individuals without email addresses, and by electronic mail to the following with email addresses. All email replies should be sent to NRB.Act250Springfield@vermont.gov. **Note: Any recipient may change its preferred method of receiving notices and other documents by contacting the NRB District Office staff at the mailing address or email below. If you have elected to receive notices and other documents by email, it is your responsibility to notify the District Office of any email address changes.**

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FOR INFORMATION ONLY

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