

STATE OF VERMONT  
AGENCY OF NATURAL RESOURCES  
OFFICE OF PLANNING

RE: Killington Pico Ski Resort ) DISTRICT ENVIRONMENTAL  
Partners, LLC ) COMMISSION #1  
)  
) APPLICATION #1R0254-3  
)  
) May 7, 2018

SUPPLEMENTAL COMMENTS

The Agency of Natural Resources (“Agency”), State of Vermont, by and through its staff, Kevin Anderson, offers the following supplemental comments in the above-captioned matter.

**Criterion 1B: Blasting**

In an email to Agency staff on March 9, 2018, the Applicant indicated the project may involve “spot” blasting. To protect groundwater quality and prevent environmental contamination from blasting, the Agency developed *Best Management Practices for Blasting Activities to Avoid Environmental Contamination* (“Blasting BMPs”).<sup>1</sup> To avoid the potential for environmental contamination from blasting, the Agency respectfully requests the District Commission include the following condition in any land use permit issued for the project:

*The Permittee shall comply with the Agency of Natural Resources’ Best Management Practices for Blasting to Avoid Environmental Contamination.*

By email to Agency staff on April 26, 2018, the Applicant agreed to the above condition.

**Criterion 1B: Stormwater**

In comments filed February 20, 2018, the Agency noted it requested the Applicant file with the District Commission erosion control plans for the project so staff from the Vermont Department of Forests, Parks and Recreation (“FPR”) could review the specific erosion control measures proposed.<sup>2</sup> FPR staff sought to ensure any seed mix used for erosion control would not contain invasive species and any erosion control matting used would not be plastic.

<sup>1</sup> Available online at:  
<http://anr.vermont.gov/sites/anr/files/Best%20Management%20Practices%20for%20Blasting%20to%20Avoid%20Environmental%20Contamination%20%28Dec%202016%29.pdf>

<sup>2</sup> The project occurs on land owned by FPR.

The project requires coverage under Construction General Permit 3-9020 (“CGP”) and Stormwater Discharge General Permit 3-9015 (“Operational Permit”). The Agency’s Department of Environmental Conservation (“DEC”) received the Applicant’s applications for CGP and Operational Permit coverage on April 5, 2018. DEC staff are currently reviewing the applications; coverage under the CGP and Operational Permit has not yet been issued.

FPR staff reviewed the materials submitted with the Applicant’s application for CGP coverage. The CGP application indicates no plastic netting will be used and seed mix will not contain invasive species. FPR staff finds their concerns regarding erosion control have been resolved, provided DEC authorizes CGP coverage for the project. FPR staff encourage the Applicant to use straw instead of hay as mulching material and that mulching material be free, to the greatest extent possible, of non-native invasive plants.

**Criterion 8A: Necessary Wildlife Habitat and Endangered Species**

Tim Appleton, Wildlife Biologist with the Agency’s Fish and Wildlife Department, reviewed the application. Approximately 0.4 acres of montane spruce-fir forest would be cut or trimmed to accommodate replacement of the ski lift and establish a corridor for its operation. Bicknell’s Thrush, a bird species designated as a Species of Greatest Conservation Need in Vermont, breeds and nests in montane spruce-fir forest from May 15 to August 1. The Agency of Natural Resources considers montane spruce-fir forest “necessary wildlife habitat” for Bicknell’s Thrush, as that term is defined in 10 V.S.A § 6001.

To mitigate the project’s removal of 0.4 acres of Bicknell’s Thrush habitat, the Applicant has agreed to implement the attached *2018 Bicknell’s Thrush Habitat Mitigation Plan* (“Mitigation Plan”). The mitigation plan provides for the replacement of Bicknell’s Thrush habitat to be removed through closure of the upper portion of the nearby Juggernaut ski trail. The mitigation plan includes provisions for monitoring and managing the closed portion of the Juggernaut ski trail in cooperation with the Agency to ensure the area is successfully revegetated.

Project construction (*i.e.*, installation of the chairlift and associated site preparation) would occur near remaining Bicknell’s Thrush habitat. Such activities, due to their noise and physical presence, have the potential to disrupt or interfere with Bicknell’s Thrush breeding and nesting if they occur between May 15 and August 1.

To ensure the project does not significantly imperil necessary wildlife habitat for Bicknell’s Thrush, the Agency respectfully requests the District Commission include the following conditions in any land use permit issued for the project:

*To protect Bicknell’s Thrush habitat, no blasting, pre-blast drilling, ledge hammering, or transport and installation of project components by helicopter may occur between May 15 and August 1 in the portions of the South Ridge chairlift corridor located within 300 feet of the area between the top of the Jug Handle ski trail and the top terminal of the South Ridge chairlift.*

*The Permittee shall implement the 2018 Bicknell's Thrush Habitat Mitigation Plan in Exhibit OXY. All areas identified for mitigation shall be left undisturbed and naturally vegetated.*

By email to Agency staff on May 2, 2018, the Applicant agreed to the above conditions.

**Landowner Signature**

The application did not include the signature of the Commissioner of FPR. An executed signature page is attached.

Respectfully submitted,  
State of Vermont  
Agency of Natural Resources

By:

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Kevin Anderson  
Regulatory Policy Analyst  
ANR Office of Planning  
(802) 798-2087

E-Notification CERTIFICATE OF SERVICE FILE #1R0254-3

I hereby certify that I, Kevin Anderson, Regulatory Policy Analyst for the Agency of Natural Resources Office of Planning, sent a copy of the foregoing **Agency Comments and Entry of Appearance**, dated May 7, 2018, regarding File #1R0254-3 by U.S. mail, postage prepaid, to the individuals without email addresses and by electronic mail to those with email addresses as indicated:

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Kevin Anderson, Regulatory Policy Analyst  
Office of Planning

## Killington / Pico Ski Resort Partners (KPSRP) – 2018 Bicknell's Thrush Habitat Mitigation Plan

### Project Description

Per VT Department of Fish & Wildlife's (VTDFW) Bicknell's Thrush Habitat replacement requirements, Killington/Pico Resort Partners (KPSRP) is required to replace 0.57 acres of Bicknell's Thrush habitat at a 2:1 ratio. The 0.57 acres being cut / trimmed are due to ski lift replacement projects. The acreage being removed is made up of the following projects;

- 1R0254-3 South Ridge Lift Replacement – 0.4 acres
  - This acreage is the lift pathway with 25' either side off center line of the ski lift, beginning from the top of the Jug Handle ski trail (3400' elevation) to the top terminal.
  
- 1R0061-2 Snowdon Lift Replacement – 0.17 acres.
  - This acreage is made up of two small tree islands, and the northern edge of a third island, adjacent to the top of the replaced Snowdon Quad ski lift.

### Replacement Habitat

At the 2:1 ratio, KPSRP is required to replace 1.1 acres, and will permanently close the Juggernaut Trail. Due to the configuration of a ski trail being permanently closed, the actual acreage of replacement terrain will be approximately 5 acres. The difference between what is required and what is being closed is 3.8 acres. KPSRP believes this terrain is very high value habitat and requests to use the balance of 3.8 acres on future projects at the resort for replacement terrain upon approval by VTDFW.

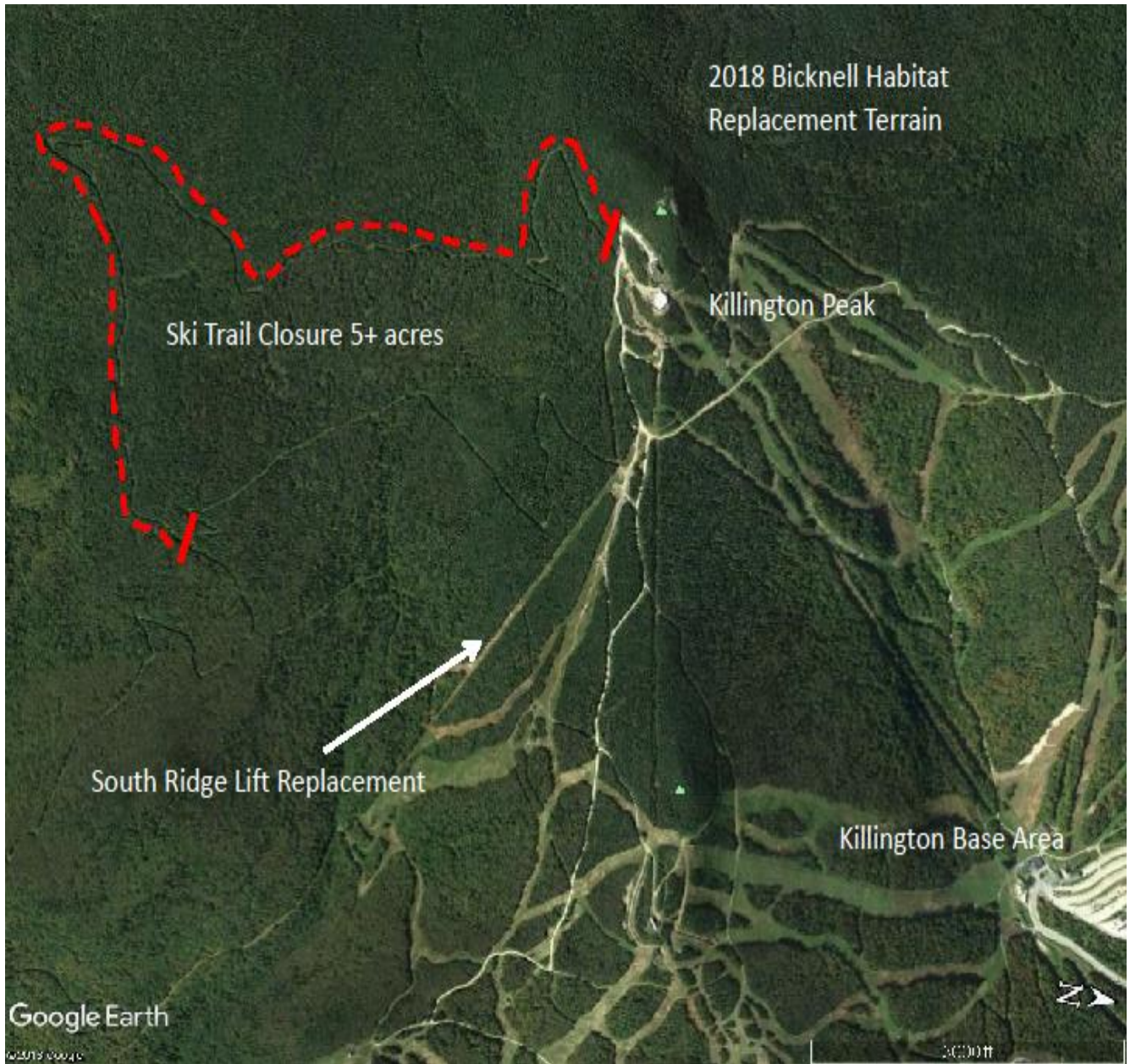
(See attached aerial photo with the 5 acres of replacement habitat marked in "red". The ski trail entrance is at 4081' of elevation, trail exit is at 3417' of elevation.)

### Management of Replacement Habitat

This 6% grade, 30' wide ski trail adjacent to the South Ridge project area, named Juggernaut (upper), will be managed as follows;

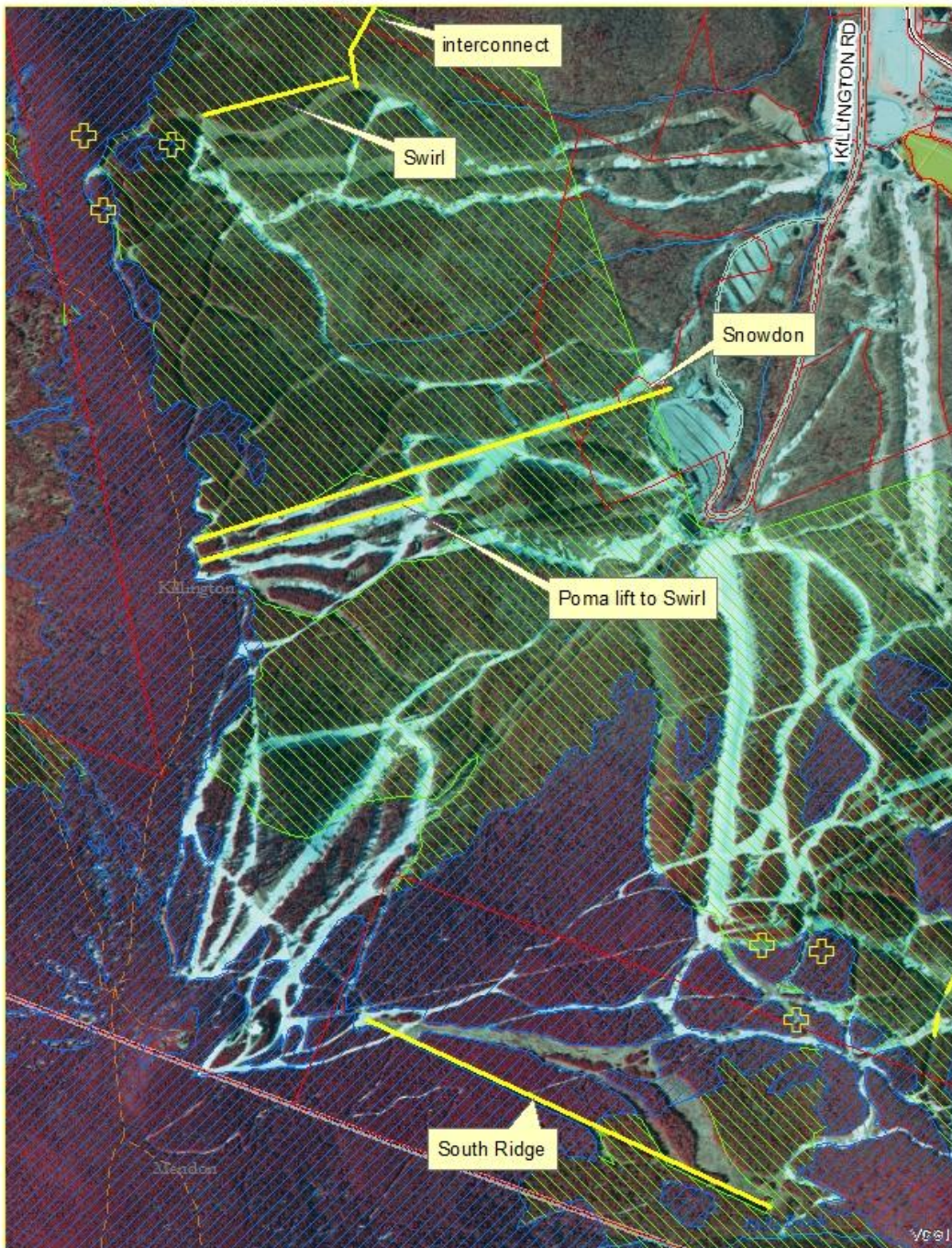
1. Closed ski trail will be permanently closed for all activities, summer and winter. (currently closed for mountain biking during the Bicknell's Thrush nesting season)
2. The ski trail entrance will be closed with a permanent fence structure, versus rope, and signed with verbiage provided by Vermont Wildlife describing the restoration program to educate the public.
3. This habitat replacement area will be monitored in conjunction with VTFPR as part of annual visits. The audits will determine whether further mechanical soil action or planting is required to enhance the growth of vegetation (Montane Spruce-Fir).
4. KPSRP will work in partnership with VTDFW to put together a document summarizing past mitigation sites and results and current required habitat replacement that the KPSRP has undertaken. The document will include a mapping from VTDFW denoting Bicknell's Thrush habitat as well as replacement terrain and other terrain undergoing various mitigation techniques as a result of previous Act 250 permit conditions, specifically from Land Use Permit 1R0322-11.

**Bicknell's Thrush Habitat Replacement Terrain - upper Juggernaut Trail.  
Approximately 5 acres adjacent to the South Ridge Ski Trail/Lift**





## Killington Lift Replacements-South Ridge, Snowdon & Swirl Bicknell's Thrush Habitat and Documented Presence



T. Appleton VTFW-04/23/2018  
Blue hatched= Montane Spruce-Fir  
Green hatched= Montane Yellow Birch-Red Spruce  
Yellow Crosses= documented BITH occurrence from 1997 & 2008 Pioneer Studies

ATTACH THE FOLLOWING UNLESS WAIVED BY THE DISTRICT COORDINATOR:

 Schedule A - Fee Information

 Schedule E - Project Adjoiner Information

 Act 250 fee (payable to "State of Vermont")

### Signatures

I hereby swear that the information provided above or attached to this application is true and accurate to the best of my/our knowledge.

SIGNATURE OF APPLICANT

CLEARLY PRINT NAME

DATE

I hereby certify that I understand that I must not commence construction, demolition, remodeling or commercial use of the property as described in Act 250 Rule 2(C) until I have received an Act 250 Land Use Permit as required by 10 V.S.A. § 6081.

SIGNATURE OF APPLICANT

CLEARLY PRINT NAME

DATE

I hereby authorize the processing of this application for the above project on land(s) that I/we own, control, or have significant property interest in (attach letter if easier).

SIGNATURE OF LANDOWNER

CLEARLY PRINT NAME

DATE



 Submitted for use on  
 10 VSA Chapter

3/19/18

### Submission Instructions

**For Applications and Completion Date Extensions:**

- Submit one electronic copy of the application and accompanying documentation, including Schedule G - Notice of Application Filing, to our FTP site, or on CD-ROM or flash drive, or, with District Office permission, by email. For all parts of the application that require signatures, please scan to PDF those pages, and include them with your electronic submission so that all parties' signatures are visible.
- In addition, submit one (1) complete, original paper application and accompanying documentation (site plans, etc.) to the District Coordinator for your district. See [Act 250 District Office map](#) for location of districts and staff contacts.
- Email Schedule G to the municipality, municipal planning commission, regional planning commission, and Agency of Natural Resources; if the property is located on a town line, also email Schedule G to the adjoining municipality and planning commissions.
- See the [Application Guide](#) for additional information regarding submission requirements.

**For Administrative Amendments:**

- Submit one electronic copy and one paper copy to the Act 250 District Office. For District 2 applications, submit one electronic copy only.