



## LAND USE PERMIT

**CASE NO** #7C0206-17

**APPLICANT** Burke 2000, LLC

**ADDRESS** 223 Sherburne Lodge Road

Burke, VT 05832

and

State of Vermont

Attn: ANR Department of Forests, Parks & Recreation

1 National Life Drive, Davis 2

Montpelier, VT 05620-3801

**LAWS/REGULATIONS INVOLVED**

10 V.S.A., §§ 6001 - 6093 (Act 250)

District Environmental Commission #7 hereby issues Land Use Permit Amendment #7C0206-17, pursuant to the authority vested in it by 10 V.S.A., §§ 6001-6093. This permit applies to the tract of land identified in Book 80 Page 540 of the land records of the Town of Burke, Vermont as the subject of a deed to Burke 2000 LLC, and to adjacent land leased from the State of Vermont. This project is located at the Burke Ski Area in East Burke, Vermont.

**This permit specifically authorizes removal of a  $\pm$  60 year old poma surface lift, and its replacement with a new contemporary T-bar surface lift located in approximately the same corridor (with some alignment change as identified on the site plan), alongside the alpine ski racing training hill known as Warrens Way. The project includes three new lift attendant buildings (12'x 12' at the top and bottom, 6'x6' at the mid station).**

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. Except as amended herein, all terms and conditions of Land Use Permit #7C0206 and amendments remain in full force and effect.
2. The project shall be completed, operated and maintained in accordance with: (a) the conditions of this permit, and (b) the permit application, plans, and exhibits on file with the District Commission and other material representations.
3. 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.
4. Pursuant to 30 V.S.A. § 53, energy design and construction shall, at a minimum, comply with the *2015 Vermont Commercial Building Energy Standards*. (More information on this update can be found at [http://publicservice.vermont.gov/topics/energy\\_efficiency/cbes](http://publicservice.vermont.gov/topics/energy_efficiency/cbes)).

5. In addition to conformance with all erosion prevention and sediment control conditions, the Permittees 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 Permittees from compliance with 10 V.S.A. (§§ 1250-1284) Chapter 47, Vermont's Water Pollution Control Law.
6. All stumps shall be disposed of on-site above the seasonal high water table or at a State approved landfill so as to prevent groundwater pollution.
7. In order to protect Bicknell's Thrush (BITH) habitat, no clearing or construction may occur between May 15 and August 1, in the portions of the project located above elevation 2,500 feet. Permittees shall measure and mitigate the (potential) BITH habitat as identified in the application. Permittees shall submit a mitigation map to the Department of Fish and Wildlife (F&W) for review and approval prior to undertaking any clearing for the project above 2,500 feet, and shall submit a copy of the final approved map to the District Commission (in the event of disagreement between F&W and Permittees, the District Commission will decide the issue(s)). The map shall identify: areas of impacted BITH habitat, areas of BITH habitat mitigation at a ratio of 2 square feet mitigated:1 square foot impacted, and a description of how previously disturbed mitigation lands will be restored and maintained as montane spruce fir habitat. The forested mitigation lands shall remain undisturbed and naturally vegetated.
8. Permittees shall not commence any construction activities having potential for earth disturbance without first obtaining the applicable stormwater construction permit from the Agency of Natural Resources.
9. Permittees shall obtain approval from the Department of Public Safety prior to occupancy of the building.
10. The Permittees shall comply with the Agency of Natural Resources' Best Management Practices for Blasting to Avoid Environmental Contamination.
11. 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 have not commenced construction and made substantial progress toward completion within the three year period in accordance with 10 V.S.A. § 6091(b).
12. All site work and construction shall be completed in accordance with the approved plans by September 15, 2018, 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.
13. 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.

14. Failure to comply with all of the above conditions may be grounds for permit revocation pursuant to 10 V.S.A. § 6027(g).

Dated at St. Johnsbury, Vermont, this 3<sup>rd</sup> day of May, 2017.

By /s/ Eugene Reid  
Eugene Reid, Chair  
District #7 Commission

Members participating in this decision: Keith Johnson, Nicole Davignon

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 \$265.00 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, National Life Dewey Building, Montpelier, VT 05620-3201, 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 by the district commission was requested. 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.

## CERTIFICATE OF SERVICE

I hereby certify that I, Gina St Sauveur, Natural Resources Board Technician, District #7 Environmental Commission, sent a copy of the foregoing document **Permit Amendment #7C0206-17 for Burke 2000, LLC and State of Vermont Department of Forests, Parks, and Recreation, Burke VT** by U.S. Mail, postage prepaid to the following individuals without e-mail addresses and by e-mail to the individuals with e-mail addresses listed, on this 3<sup>rd</sup> day of May, 2017.

**Note: Any recipient may change its preferred method of receiving notices and other documents by contacting the District Office staff at the mailing address or e-mail below. If you have elected to receive notices and other documents by e-mail, it is your responsibility to notify our office of any e-mail address changes.**

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Montpelier, VT 05620  
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Jory Macomber  
Burke Mountain Racing  
60 Alpine Lane  
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[jmacomber@burkemtnacademy.org](mailto:jmacomber@burkemtnacademy.org)

Town of Burke  
Select Board  
c/o Town Clerk  
212 School Street  
West Burke, VT 05871  
[burke@BurkeVermont.org](mailto:burke@BurkeVermont.org)

Town of Burke Planning Commission  
212 School Street  
West Burke, VT 05871  
[BurkePC@BurkeVermont.org](mailto:BurkePC@BurkeVermont.org)

Northeastern Vermont  
Development Association  
PO Box 630  
St. Johnsbury, VT 05819  
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Agency of Natural Resources  
Office of Planning & Legal Affairs  
1 National Life Drive  
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Gina St Sauveur  
Natural Resources Board  
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