

SOLAR HAVEN FARM LLC

07/16/13

Melanie Kehne, General Counsel
Natural Resources Board
National Life Records Center Building
National Life Drive
Montpelier, Vermont 05620-3201

Re: WhistlePig LLC
Comments on Proposed Agreement of Discontinuance

Dear Ms. Kehne:

I am writing you to comment on the proposed WhistlePig LLC Agreement of Discontinuance (AOD) that has been posted at the Natural Resources Board web site on June 16th 2013. My wife and I are the citizens who brought to the Natural Resource Board's attention the violations cited by this AOD document. Starting on November 26th 2012, at substantial legal expense and without reimbursement, we filed a series of four sworn affidavit complaints about WhistlePig LLC violations with John Wakefield, the NRB Act 250 Compliance Officer. These Act 250 and related permitting violations spanned over three years of commercial activities at the WhistlePig LLC facility in Shoreham Vermont. Had we not intervened, WhistlePig LLC would have gone on to build its distillery facility without any Act 250 permit, fire safety permit, local zoning permit, wastewater permit, or any other Agency of Natural Resources permit.

Although we agree with Natural Resource Board's finding that these violations had occurred as we had alleged, we are disappointed at the proposed leniency of the penalties. We hope you would please reconsider and increase the penalties levied in the final AOD order in light of the additional information we will present to you in this letter. Such an action would reaffirm the Natural Resource Board's central role in defending the public's interest against business entities who have willfully evaded the provisions of the Act 250 statues and other regulations of the State of Vermont.

In this case, we are confronted with a company that has egregiously dodged Act 250 regulation for over three years while growing into a multi-million dollar whiskey importing business. Building a business of this scale in so short a time is a feat achieved by accomplished business professionals. Their assertions that they were "confused" by the Act 250 regulatory process are disingenuous and not credible. Today, WhistlePig LLC's operations continue to flourish unabated without waiting for an Act 250 permit. Implicit in this outcome is a message to the wider Vermont

977 BATES ROAD • SHOREHAM VT • 05770
PHONE: (802) 897-5339 • FAX: NONE
E-MAIL: GEORGE@SOLARHAVENFARM.COM

business community that such behavior is profitable and that the Act 250 violation penalties have essentially no deterrence value when they are compared to those profits.

Consequently, it is our point of view that the proposed AOD penalties for WhistlePig LLC do not fulfill the spirit of the 10 VSA § 8001 *Legislative Findings* statute:

(2) *prevent the unfair economic advantage obtained by persons who operate in violation of environmental laws;*

(3) *provide for more even-handed enforcement of environmental laws;*

Our interpretation of this statutory language is substantiated by calculating an estimate of the number of days of WhistlePig LLC's revenue would be lost to pay for their proposed AOD penalty. WhistlePig LLC's year 2012 income is estimated at \$6,433,613. Please refer to Attachment A for the details of this estimate. The proposed AOD penalty is \$18,750 plus \$293.40 reimbursement for enforcement. The proposed WhistlePig LLC penalty is equivalent to WhistlePig losing slightly more than one day of revenue. Even if one disputes WhistlePig's estimated income as being overstated by 50%, then the proposed penalty is still less than three days of lost revenue. Viewed another way, the Agreement of Discontinuance proposes only \$16.42 of penalties per day of violation [¹] out of a WhistlePig daily revenue of \$17,636. The proposed penalty rewards bad behavior, placing at an unfair economic advantage those responsible Vermont businesses who respect the rules and have incurred the cost of obeying the State of Vermont's 10 VSA statutes.

It is also instructive to compare the penalties levied for other violating businesses that have recently entered into an AOD final order. Attachment B shows a sampling of recent AOD orders. To be fair, the number of days of lost revenue should be scaled higher when the Act 250 violations are more severe or longer in duration and scaled lower when the violations are less severe. It is also hard to accurately gauge the annual revenue of small-scale privately held firms. With the exception of the Automaster Honda, most of these businesses in Attachment B appear to be far smaller in revenue scale than WhistlePig LLC. The proposed WhistlePig penalty is among the top three of these penalties. However, the AOD final orders do not make publicly available any information to discern whether these penalties have been fairly adjusted to scale for a firm's willful violation or its ability to pay.

If one looks back at the history of WhistlePig LLC's behavior (refer to Attachment C) over the last three years then a pattern emerges, laying bare WhistlePig's contempt for regulatory oversight. The Act 250 prohibits construction during the permitting process and Raj Bhakta had certified in the WhistlePig application 9A-0348 he would honor that directive. Paragraphs 10 through 13 in Attachment C document a particularly egregious example of violating this directive by reconstructing the South barn. The State of Vermont should recognize that WhistlePig has exploited the Act 250 exemption for agricultural structures as a cover story to advance its commercial distillery's construction by four months. It is deceptive for WhistlePig to claim the new location of the 35' tall column still was not already in their distillery's business plan when the South barn's construction began in December 2012. This behavior

¹ \$18,750 penalty / (3 * 365 + 31 + 16) days of violations for the period May 1st 2010 through June 16th 2013. Note that it is not clear whether the penalty is still being increased for every day that WhistlePig continues to operate without a permit.

should be punished by increasing the severity of the penalties levied by the Agreement of Discontinuance order.

Both Solar Haven Farm LLC and we believe many of our fellow neighbors are disappointed in how this matter has been handled up until now by the State of Vermont. It is regrettable that the State of Vermont had not acted sooner in this matter to compel WhistlePig LLC to apply for and complete an Act 250 permit. We would hope that the adjusted AOD penalty would send a clear message to the Vermont business community that evasion of Act 250 carries strong consequences.

If you have any questions you are welcome to call us.

Sincerely,

George M. Gross, Solar Haven Farm LLC

Cc: Geoffrey W. Green, District 9 Coordinator, Natural Resource Board
Gerald R. Tarrant, Esq.
Jon Anderson, Esq.

Attachment A: WhistlePig LLC Estimated Year 2012 Income

At the Act 250 application #9A-0348 public hearing held on March 22nd 2013, Sivan Cotel acknowledged [2] that WhistlePig had paid \$439,000 in Federal liquor taxes from year 2010 through year end 2012 on their 100 proof Rye whiskey. This tax was paid at a rate of \$13.50 per 100 proof gallon. This equates to 32,518 gallons of whiskey sales. Prior to the public hearing, Barbara Wilson [3] in her pre-filed testimony had estimated WhistlePig LLC's year 2012 whiskey sales at 80% of that total: 26,014 gallons. When bottled as a retail product, there are 5.0472 bottles of 750ml each per gallon of whiskey. The prevailing retail price of a WhistlePig Rye whiskey bottle is about \$70. Therefore, the WhistlePig Rye whiskey retail sales volume for year 2012 is estimated at $\$70 * 26,014 * 5.047214 = \$9,190,875$. Backing off from the retail sales volume by 30% to get the wholesale sales volume paid to WhistlePig LLC yields \$6,433,613 of annual income. This is a credible number when one considers that as of year end 2012, WhistlePig had a national distribution network of over 2,500 retail outlets [4].

2 Act 250 application #9A-0348 public hearing transcript, held on March 22nd 2013, page 52 lines 4 through 18.

3 Act 250 application #9A-0348 Barbara Wilson pre-filed testimony, March 1st 2013, responses to questions 22 through 24 and accompanying Exhibit BJW-2 slides 16 through 21.

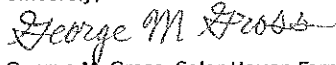
4 Act 250 application #9A-0348 Barbara Wilson pre-filed testimony, Exhibit BJW-7.

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Attachment B: Table of Recent NRB Final AOD Orders

Respondents	Violation Synopsis	Violation Severity (subjective)	Penalty
Mark and Julie Pernokas	Disturbing soil foot print of 18' to 20' width x 140' length	Low	\$6,500
Gerry & Ron Devost Leasing	Logged 2/3 of 24 acre tract, not using BCP above 2,500' elevation	High	\$17,800
Jewell Brook LLC	Commenced deconstruction prior to identification and removal of asbestos and mercury	Low	\$3,000
Summit Ventures	Held Winter Driving school rally event in violation of Act 250 permit.	Low	\$6,750
Nancy Tooley Trust	Cleared 4 acres without permit amendment	Low	\$6,280
Automaster Motor Company	Cleared restaurant and other land for parking lot on lot adjacent to permit land.	Low	\$6,750
Dupoise Ethan Allen Highway Storage	Built storage buildings 3, 4, 5 through 8 without permit.	Medium	\$8,325
Hawk Rock Holdings	Removed gravel in excess of permit.	High	\$29,516
Burt Allen	Extensive building without a permit.	High	\$20,112

Attachment C: WhistlePig's History Of Evading Regulatory Oversight

1. In an e-mail dated February 12th 2010, Dave Pickerell (D.B.A. as Oak View Consulting) acting as an authorized agent on behalf of WhistlePig LLC contacted Rick Oberkirsch, State of Vermont permit specialist. As can be seen in the Attachment D on page 2, the cited e-mail describes both the phase 1 whiskey importing/bottling operation and also the phase 2 whiskey distillery process. Mr Pickerell also stated in the e-mail "*.... we would like to proceed based on phase 1 only at this time in order to move the process along. We will move separately on phase II once we have this portion underway.*" Mr. Oberkirsch guided Mr. Pickerell on navigating the various State of Vermont agencies and their required permits. This interaction included Rick Oberkirsch requesting a Jurisdictional Opinion from the Environmental District 9 Coordinator for the two phases of the proposed project on March 29th 2010 (refer to page 5 of Attachment D).
2. On April 1st 2010, the Environmental District 9 Coordinator, Geoff Green, issued a Jurisdictional Opinion that the proposed project was a commercial project, subject to Act 250 review and a permit would be required.
3. WhistlePig did not ask for reconsideration or clarification of the Jurisdictional Opinion, nor did they appeal the Jurisdictional Opinion.
4. Starting in year 2010 and continuing through 2013, WhistlePig operated its business under the radar yet in plain sight. It engaged in the un-permitted demolition of dairy farm structures followed by the construction of a bottling room, Office, a restroom with its toilet connected to the manure pond, and the storage of whiskey barrels and 250 gallon Ethanol storage totes in a former dairy barn. WhistlePig did not acquire a zoning permit, ANR wastewater permit, or an Act 250 permit for its phase 1 project.
5. George Gross and other neighbors of WhistlePig's Quiet Valley property became aware of WhistlePig's plans to build a distillery in late Summer 2012. We were concerned about the prospect of WhistlePig whiskey maturation warehouses being built without Ethanol pollution controls. Without such controls, we suspected we would be at risk for Whiskey Mold colonization on our properties. Repeated attempts by the neighbors to get a written statement from WhistlePig describing the project's scale and its content were deflected with non-substantive verbal assurances to not worry about this impending "small scale artisan" distillery. A search of the NRB web site database did not turn up any indication that any aspect of the project had a Jurisdictional Opinion. Nor had it gone through the public review process leading to an Act 250 permit. On October 10th 2012, George Gross requested Geoff Green, Environmental District 9 Coordinator, to issue a Jurisdictional Opinion on the WhistlePig project.
6. On October 18th 2012, Geoff Green sent an e-mail to George Gross saying that: "*This PRS was just found, and indicates Act 250 based on the proposed construction. It has been forwarded to Mr. Anderson for his knowledge.*" The Project Review Sheet (PRS) document was attached, showing a Jurisdictional Opinion had been rendered by Geoff Green on April 1st 2010.

7. On October 29th 2012, in a letter addressed to Geoff Green, Mr Anderson as counsel for WhistlePig asserted they would be moving rapidly to acquire all permits:

"... it appears that WhistlePig will be unable to finance construction without resolving this issue. Obtaining an Act 250 permit is likely the most expeditious and cost-effective way to resolve the issue. WhistlePig expects to file simultaneously for necessary water and wastewater permits and a local zoning permit. WhistlePig will not proceed with construction without either obtaining an Act 250 permit or, in the unlikely event WhistlePig determines it can finance the project without an Act 250 permit, giving you such notice as you require of its intention to do so so that you can rule on the question before construction commences." [emphasis added]

Yet in fact, WhistlePig did not file for a zoning permit until January 2013. It did not file for an Ethanol air pollution permit from ANR APCD until June 2013. To my knowledge, they still have not filed for an underground wastewater injection permit or an indirect discharge wastewater permit as of the time of this letter being written.

8. On November 16th 2012, WhistlePig filed a materially deficient Act 250 application 9A-0348. It did not admit its whiskey maturation warehouse would emit Ethanol pollution. It did not acknowledge its distillery wastewater effluent contained strongly acidic organic compounds and it would require special waste treatment protocols. Instead, they proposed this effluent would be dumped into the vestigial dairy farm manure pond. The site plan did not show the actual location of the proposed distillery, which four months later was changed to designate a different building. The site plan did not show the driveways and traffic flows within the site. The proposal did not describe their plan for the distillery to offer retail whiskey sales. The project's cost statement was inaccurate. There were no elevation drawings for the proposed whiskey maturation warehouse.
9. The referenced Act 250 permit application item 15 on page 2 shows the signature of Raj Bhakta dated November 12th 2012, where he confirms pursuant to Act 250 requirements:

"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. Sec. 6081."

10. On December 11th 2012, Barbara Wilson and I filed an Act 250 violation complaint letter with John Wakefield, Act 250 permit compliance officer. We documented the start of construction at the Quiet Valley site's South Barn.
11. In response to our complaint, Jon Anderson filed a letter on January 3rd 2013 addressed to John Wakefield. In that letter, Jon Anderson asserted:

"Present construction is occurring only because a structural engineer said that one barn was in imminent danger of collapsing."

However, Mr. Anderson's letter did not provide the identity, credentials, or a substantiating affidavit from that structural engineer. Nor did they bother to first acquire permission from the State of Vermont to begin the construction. They just did it without asking. The State of Vermont choose not to issue a

stay order to stop the South barn construction, apparently because they believed Mr. Anderson's assertions.

12. The construction on the South barn continued until March 2013. The work in progress on the South barn was clearly visible to the District 9 Environmental Commission during their site visit on January 15 2013. While the District Commissioners listened, a member of the visiting public asked Raj Bhakta to explain for what purpose was the South barn going to be used after its repairs completed. He stated that the barn was going to be used for agricultural/farming related storage.
13. On February 27th 2013 in a letter addressed to Geoff Green, seven weeks after Mr. Anderson claimed there was no connection to the WhistlePig distillery project, Mr. Anderson claimed that they had just realized they needed to make room in their distillery for a 35' tall column still:

"Accordingly, WhistlePig now plans to locate the still in a portion of the most southerly barn on its property."

14. On April 9th 2013, the District 9 Environmental Commission issued a Recess Order directing WhistlePig to comprehensively correct the many deficits in their Act 250 permit application by June 3rd 2013.
15. During the week of May 26th 2013, WhistlePig approached Geoff Green to request a three month extension to the District 9 Environmental Commission's June 3rd 2013 deadline. To our knowledge, no written motion requesting the deadline extension was filed in the public domain, where it would be visible to the interested parties. Further, although the District Commission granted the extension, no written statement was published.
16. In contradiction to their request to extend their June 3rd 2013 deadline for to respond to the District Commission's Recess Order, Jon Anderson also wrote in a letter on May 23rd 2013 addressed to Jackie Fletcher, Clerk of the Environmental Court, stating that WhistlePig would be filing the information that had been requested by the Recess Order in early June:

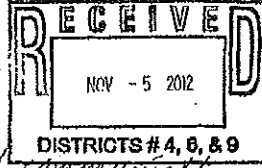
"My client plans to respond to a recess order from the District Commission in early June."

This letter leads to the conclusion that WhistlePig was posturing two different stories to the State of Vermont at the same time. When facing the Environmental Court, WhistlePig asserted it was making good on its timely compliance to the Recess Order. On or about the same day, when facing the District Commission, WhistlePig presented a story of being overwhelmed by the Recess Order's requirements for complete information. Observe that their three month deadline extension request occurred seven months after WhistlePig had filed its original November 16th 2012 permit application and nearly three months after the Recess Order was published. In essence, WhistlePig was dragging their feet on the application while continuing to operate their business without a permit.

17. Finally, on July 12th 2013, WhistlePig filed what appears to be a partial response Act 250 permit application package to meet their obligations of the District 9 Environmental Commission's April 9th Recess Order. This milestone has occurred three years and three months after WhistlePig received the April 1st 2010 Jurisdictional Opinion.

To: State of Vermont
Natural Resource Board.

November 5th 2012



Dear Geoff Green,

In follow up to our verbal ~~communications~~ at your office on November 5th 2012, I hereby request a copy of all electronic and written and other communications between your office and the Whistlepig Farm LLC, Raj Bhatra, Dave Pickernell, and any other employee or legal representative for the period spanning April 1st 2010 through today, November 5th 2012. You may e-mail these public records to me in PDF file format at the address george@solarhavenfarm.com

Thank you for your prompt handling of this request.

Sincerely,
George M. Gross

Oberkirch, Rick

From: David Pickerell [dspickerell@insightbb.com]
Sent: Friday, February 12, 2010 11:57 AM
To: Oberkirch, Rick
Cc: 'Raj Peter Bhakta'
Subject: Whistlepig farm distillery in Shoreham, VT
Attachments: Whistle Pig_Site Plan 01 18 10-A0 1 (2).pdf

Rick,

You and I talked at length about this distillery project some time back. We have progressed our federal permits along, and are now ready to address any potential state issues. First, the items you requested:

1. The land to be used for this project is the Whistlepig Farm, which is titled to Raj P. Bhakta.
2. The address of the property is 1030 Palmer Rd., Shoreham, VT 05770
3. The site plan is attached.
4. Narrative description of the process:

We intend to move this project along in 2 phases. The first phase will be importing, processing, bottling, warehousing, and shipping only. The second phase will include the construction of a farm-based distillery.

Phase I process:

Standard 275 gallon IBC totes will be received from the manufacturer by truck, off-loaded, and stored in a secure area until ready for processing.

On-site well water will be carbon filtered and demineralized before use. As such, any wash-up water used will be cleaner than the state in which it was received.

One at a time, the totes will be pumped into a 550 gallon processing tank and diluted to the proper proof using demineralized water.

Once prepared, the product will be pumped to a small bottling machine where the product will be placed into glass bottles.

The filled bottles will be sealed, labeled, and placed in cardboard shipping cases and stored on pallets until they are shipped out to customers.

Phase II process:

Locally grown rye grain will be received at the distillery and stored until needed.

The rye will be milled on site using a roller mill.

On-site well water will be put into the cooker and heated up using a small, propane fired boiler.

When an appropriate temperature is reached, the milled rye will be placed into the cooker and brought to a boil.

The temperature will then be cooled down using non-contact, on-site water ... which will be allowed to cool properly before discharge.

Barley malt and/or enzymes will be added to convert the starch to sugar.

The cooked grain will be pumped to a fermenter and a yeast will be added.

Fermentation will take approximately 3 days.

Once fermented, the mixture will be sent to a separator that will remove the grain solids and the rest will go to the still system.

The alcohol will be separated from the remainder of the grain and water in the still and the alcohol will be collected for maturation.

The still bottoms will be combined with the grain solids and sent to local cattle farmers as feed

supplement.

The alcohol will be placed in oak barrels and stored in a warehouse for proper aging.

Once aged, the barrels will be emptied into the processing operation described in phase I.

For the purposes of this project, we would like to divide effort and focus on phase I right now, because we would like to have product in the stores before mid April this year. Phase II will not begin until later on this year.

Per our previous discussions, we do not intend, at this time, to disturb the property ... only to modify existing structures ... and only minimally at that. We also understand that, even for phase II we will not require an air permit because of the small size of the boiler and the use of propane fuel. For phase I, we believe we will also not require a wastewater permit, since there will only be a very minimal amount of water discharged, (rinse down water only) and that water will be of higher quality than the water received. For phase II, we discussed taking the rinse water and piping it back to the existing septic system at the house on the property.

Please review the foregoing, and provide guidance on how we need to proceed. Again, we would like to proceed based on phase I only at this time in order to move the process along. We will move separately on phase II once we have this portion under way.

If you have any questions, I can be reached at this e-mail or at the following numbers:

H/O: 502-538-0655

C: 502-418-7253

Thank you for your consideration.

David S. Pickerell

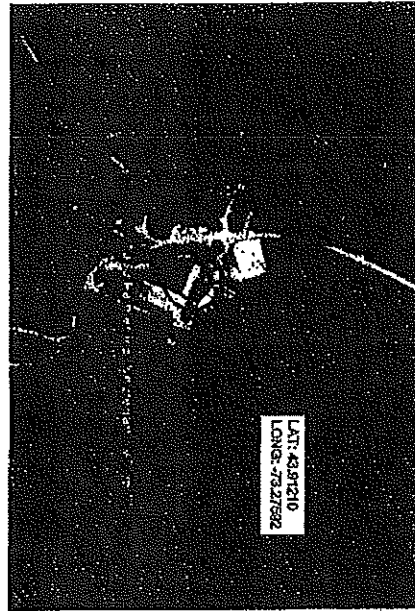
Oak View Consulting, LLC

Whistlepig Farm Distillery, LLC

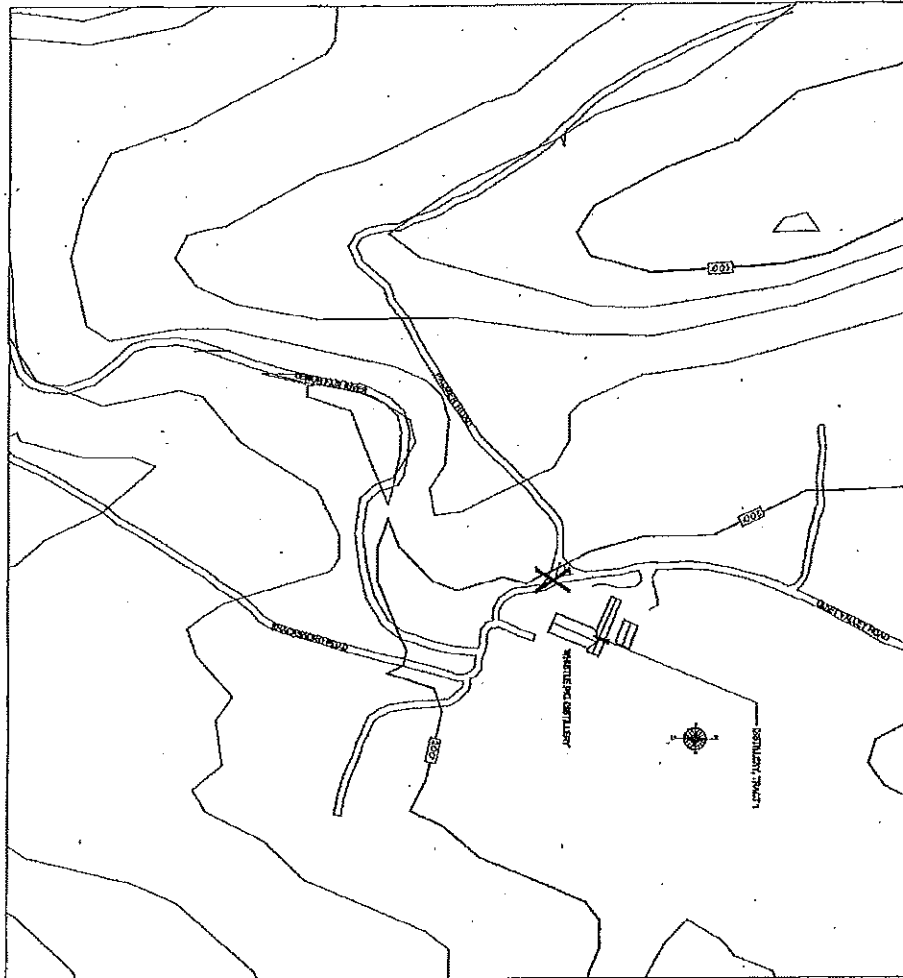
Whistle Pig Farm

Shoreham, Vermont

Locust Map
NTS



Existing Site Plan
Scale 1"=50'



AO.1

DATE	REVISION

Project Name:
Whistle Pig Distillery
Shoreham, VT

Sheet Title:
SITE PLAN

1010 Faber Road Shoreham, VT 05470 877-433-0724
1366 Hunt Road New Haven, VT 05471 802-842-1844

DATE	REVISION	DATE	REVISION

PROJECT REVIEW SHEET
THIS IS NOT A PERMIT

File

TOTAL # OF DEC PERMITS: _____
 RESPONSE DATE *3/29/10*
 DISTRICT: **9**

TOWN: **Shoreham**

PRE-APPLICATION REVIEW: _____
 PENDING APPLICATION #: _____
 PIN _____

OWNER OF PROJECT SITE: Raj P. Bhakta 1030 Palmer Road Shoreham, VT 05770	APPLICANT OR REPRESENTATIVE: David Pickerell Oak View Consulting 502-538-0655 C-502-418-7253
Project Name: PHASE 1 - Whistle Pig distillery	

Based on written information provided by David Pickerell received on 2/12/10, a project was reviewed on a tract of land located on Palmer Road in Shoreham. The project is generally described as:

- conversion of an existing dairy barn into a farm based distillery. Phase I consists of importing, processing, bottling, warehousing and shipping. Modification of an existing water source by adding filtering treatment, construction of a connection to an existing septic system.
- Phase II consists of construction of a farm based distillery

Prior permits from this office: **None Known**

**PERMITS NEEDED FROM THE DISTRICT ENVIRONMENTAL OFFICE
 PRIOR TO COMMENCEMENT OF CONSTRUCTION**

I hereby request a jurisdictional opinion from the District Coordinator or Assistant District Coordinator regarding the jurisdiction of 10 V.S.A. Chapter 151 (Act 250) over the project described above. *Rick P. ... 3/29/10*
 Landowner/Agent Permit Specialist Other Person

ACT 250: THIS IS A JURISDICTIONAL OPINION BASED UPON AVAILABLE INFORMATION, AND A WRITTEN REQUEST FROM THE ANR PERMIT SPECIALIST, THE LANDOWNER/AGENT, OR OTHER PERSON. ANY NOTIFIED PERSON OR ENTITY WILL BE BOUND BY THIS OPINION UNLESS THAT PERSON OR ENTITY FILES A REQUEST FOR RECONSIDERATION WITH THE DISTRICT COORDINATOR (10 V.S.A. § 6007 (c) AND ACT 250 RULE 3 (b) OR AN APPEAL WITH THE ENVIRONMENTAL COURT WITHIN 30 DAYS OF THE ISSUANCE OF THIS OPINION (10 V.S.A. Chapter 220). (#47)

Project: Commercial Residential Municipal
 Has the landowner subdivided before? Yes No When/where: _____ # of lots: _____
 AN ACT 250 PERMIT IS REQUIRED: Yes No Copies sent to Owner _____
 Applicant or Representative: _____ Other: _____ (Attach certificate of service if necessary.)

BASIS FOR DECISION: *Construction of improvements for commercial use is a development*

SIGNATURE: *[Signature]* DATE: *4/6/10* ADDRESS: District # **9** Environmental Commission
 District Coordinator Telephone: 786-5920 440 Asa Bloomer Building
 Rutland, VT 05701

1. WASTEWATER MANAGEMENT DIVISION REGIONAL OFFICE: PERMIT/APPROVAL REQUIRED? Yes No
 Wastewater System and Potable Water Supply Permit (#1 & #2)** Notice of Permit Requirements (deferral language) (#2)
 Floor Drains (#1.2) Campgrounds (#3) Extension of sewer lines (#5)

"Wastewater" permit required

SIGNATURE: *[Signature]* DATE: *3/29/10* ADDRESS: Dept. of Environmental Conservation
 Environmental Assistance Division, Permit Specialist Telephone: 802-786-5907 450 Asa Bloomer Building
 Wastewater Management Division, Telephone: Rutland, VT 05701

****NOTE: NUMBERS IN PARENTHESES (#) REFER TO PERMIT INFORMATION SHEETS IN THE VERMONT PERMIT HANDBOOK**
http://www.anr.state.vt.us/dec/permit_hb/index.htm

(OVER) →

THIS IS A PRELIMINARY, NON-BINDING DETERMINATION REGARDING OTHER PERMITS WHICH YOU MAY NEED PRIOR TO COMMENCEMENT OF CONSTRUCTION. PLEASE CONTACT THE DEPARTMENTS INDICATED BELOW.

2. WASTEWATER MANAGEMENT DIVISION, ANR (802-44-3822)

Contact: _____

- Discharge Permits: pretreatment, industrial, municipal (#7.1, 7.2, & 8) Indirect Discharge Permits (#9 & 9.1) Residuals Management (#10)

3. AIR POLLUTION CONTROL DIVISION, ANR (888-520-4879)

Contact: _____

- Construction/modification of source (#14) Open Burning (#18) Wood Chip Burners (>80 HP) (#14)
 Furnace Boiler Conversion/Installation (#14) Industrial Process Air Emissions (#14) Diesel Engines (>450 bHP) (#14)

4. WATER SUPPLY DIVISION, ANR (802-241-3400) (800-823-8500 in VT)

Contact: Greg Bostack 241-3407

- New Hydrants (#22) >500' waterline construction (#22) Community Water System (CWS) Bottled Water (#20) Operating permit (#21)
 Transient Non-Community water system (TNC) (#21) Capacity Review for Non-transient non-community water systems (NTNC) (#21)

6. WATER QUALITY DIVISION, ANR

STORMWATER PERMITS (Hotline 802-241-4320) (#6 - 6.5)

Contact: _____

Contact: Mathew Probasco 802-241-4581

- River Management (241-3770) Ponds (#32.1) Construction General Permits >1AC of disturbance (#6.1) 241-3779
 Shoreland Encroachment (241-3777) Steve Hanna (#28) Stormwater from new development or redevelopment sites (#6.2 & 6.3)
 Wetlands (241-3770) (#29) Multi-Sector General Permit (MSGP) Industrial activities w/ SIC codes (#6.4)
 Stream Alteration / Section 401 Water Quality Certification / Stream Crossing Structures (751-0129 / 879-5631 / 786-5906 (#27 & 32)
Flood Plain Management 241-1554

7. WASTE MANAGEMENT DIVISION, ANR

Contact: _____

- Hazardous Waste Handler site ID (241-3888) (#36) Underground Storage Tanks (241-3888) (#33)
 Lined landfills; transfer stations, recycling facilities drop off (241-3444) (#37, 39, 40) Asbestos Disposal (241-3444)
 Disposal of inert waste, untreated wood & stumps (241-3444) (#41 & 44) Composting Facilities (241-3444) (#43)
 Waste oil burning (241-3888) Waste transporter permit (#35) Demolition waste 241-3477 Used septic system components/stone (#41)

8. FACILITIES ENGINEERING DIVISION, ANR

Contact: _____

- Dam operations (greater than 500,000 cu. ft.) (241-3451) (#45)
 State-funded municipal water/sewer extensions/upgrades and Pollution Control Systems (241-3750)

9. POLLUTION PREVENTION & MERCURY DISPOSAL HOTLINE (1-800-974-9559) (#46)

Contact: _____

SMALL BUSINESS & MUNICIPAL COMPLIANCE ASSISTANCE (1-800-974-9559)

Contact: Judy Mirro/John Daly

RECYCLING HOTLINE (1-800-932-7100)

Contact: _____

10. FISH & WILDLIFE DEPARTMENT (802-241-3700)

Contact: _____

- Nongame & Natural Heritage Program (Threatened & Endangered Species) (#47.4)

- Stream Obstruction Approval (#47.5)

11. DIVISION OF FIRE SAFETY (802-479-7561) or District Office

Contact: Williston 879-2300

- Construction Permit fire prevention, electrical, plumbing, accessibility (Americans with Disabilities Act) (#49, 50, 50.1, 50.2)
 Storage of flammable liquids, explosives LP Gas Storage Hazardous Chemical Use/Tier II Reporting (800-347-0488)
 Plumbing in residences served by public water/sewer with 10 or more customers (#50.2) Boilers and pressure vessels (#50.3)

12. DEPARTMENT OF HEALTH (800-439-8550 in VT) (802-863-7221) (Lab 800-860-9997)

Contact: Spary Sawyer

- Food, lodging, bakeries, food processors (#51, 51.1, 52, 53, 53.1) Program for asbestos control & lead certification (#54, 55, 55.1)
 Children's camps Hot Tub Installation & Inspection - Commercial (#51.1)

13. AGENCY OF HUMAN SERVICES

Contact: _____

- Child care facilities (1-800-649-2642 or 802-241-2159) (#57) Residential care homes (241-2345) (Dept. of Aging & Disabilities) (#59)
 Nursing Homes (241-2345) (#59) Assisted Living and Therapeutic Community Residences (241-2345) (#59)

14. AGENCY OF TRANSPORTATION

Contact: _____

- Access to state highways (residential, commercial) (828-2653) (#66) Junkyards (828-2053) (#62)
 Signs (Travel Information Council) (828-2651) (#63) Railroad crossings (828-2710) (#64)
 Development within 500' of a limited access highway (828-2653) (#61) Airports and landing strips (828-2833) (#65)
 Construction within state highway right-of-way (Utilities, Grading, etc.) (828-2653) (#65) Motor vehicle dealer license (828-2067) (#68)

15. DEPARTMENT OF AGRICULTURE (800-675-9873)

Contact: _____

- Use/sale of Pesticides (828-3429) (#72, 73, 74, 75, 76, 77, 78) Slaughter houses, poultry processing (828-3429) (#81)
 Milk Processing Facilities (828-3429) (#83, 83.1, 85, 87) Animal shelters/pet merchant/livestock dealers (828-3429) (#89, 89.1)
 Golf Courses (828-2431) (#71) Weights and measures, Gas Pumps, Scales (828-2436) (#88)
 Green Houses/Nurseries (828-2431) (#79) Retail Sales/Milk/Meat/Poultry/Frozen Dessert/Class "C" Pesticides (828-3429) (#75.1, 80)

16. VERMONT ENERGY CODE ASSISTANCE CENTER TOLL FREE 888-373-2255

VT Building Energy Standards (#47.2)

17. DIVISION FOR HISTORIC PRESERVATION (802-828-3211)

Historic Buildings (#47.1 & 101) Archeological Sites (#47.1 & 101)

18. DEPARTMENT OF LIQUOR CONTROL (1-800-832-2339)

Liquor Licenses (#90) General Info (1-800-642-3134)

19. SECRETARY OF STATE (1-802-828-2386)

Business Registration (#90.1) Professional Boards (1-800-439-8683) (#90.2)

20. DEPARTMENT OF TAXES (802-828-2561 & 828-5787)

Income & business taxes (sales, meals/ rooms, etc) (#91, 92, 93, 94, 95, 96)

21. DEPARTMENT OF MOTOR VEHICLES (802-828-2070)

Fuel Taxes; Commercial Vehicle (#69-70)

22. LOCAL PERMITS (SEE YOUR TOWN CLERK, ZONING ADMINISTRATOR, PLANNING COMMISSION, OR PUBLIC WORKS)

23. U.S. ARMY CORPS OF ENGINEERS, 8 Carmichael St., Ste. 205, Essex Jct., VT 05452 (802) 872-2893 (#97, 98, & 99)

24. OTHER: Federal - ATF

Sections #3-#24 above have been completed by Permit Specialist: Rick Oberkirch Date: 3/29/10

I may be reached at 802-786-5907 Revised 4/08

Oberkirch, Rick

From: Bostock, Greg
Sent: Thursday, April 08, 2010 3:00 PM
To: David Pickerell
Cc: Oberkirch, Rick
Subject: RE: WhistlePig Farm Distillery
Dave Pickerell,

Based on a review of your April 7, 2010 e-mail, it the Water Supply Division's understanding that your project as currently proposed does not involve the construction and operation of a public water system. Therefore, at this time you are not required to submit a permit application to the Water Supply Division.

Thank you for contacting the Water Supply Division. If your additional assistance, please contact me.

Greg Bostock
Engineer
Water Supply Division
802-241-3407

From: David Pickerell [mailto:oakviewconsulting@gmail.com]
Sent: Wednesday, April 07, 2010 2:13 PM
To: Bostock, Greg
Subject: WhistlePig Farm Distillery

Greg,

Thanks for taking my call this afternoon. This email will confirm our discussions.

As our project is currently conceived, We are planning to import straight rye whiskey at near bottling proof in small IBC tote type containers. We will purchase distilled water in bottles to reduce the proof of the whiskey to final bottling proof. Then, we will fill and label bottles and ship them out of state.

Confirming several details:

1. We are no longer planning to use water from on site. Instead, we will purchase bottled distilled water.
2. There will be no full time employees hired for this project.
3. The work will only be part time, and only for a few days a year, since we only have enough product to bottle about 1,000 cases for the first year.
4. We will have no liquid waste discharge either.

We are trying very hard to have all issues resolved at the state and federal level such that we can do a VERY limited bottling run (of somewhere around 10 to 15 cases) by the third week of April 2010).

As such, I would appreciate your swift ruling on this matter.

Thank you again for your assistance.

Dave Pickerell
WhistlePig Farm

4/8/2010

Oberkirch, Rick

From: Oberkirch, Rick
Sent: Friday, April 09, 2010 10:41 AM
To: 'oakviewconsulting@gmail.com'
Subject: WhistlePig Farm project

Hello Dave,

Based upon the information that you have provided in your E-mail to me dated 4/7/10, the scope of your proposed project (Whistlepig Distillery Phase 1) has changed considerably.

This project can now be described as: "a limited distillery operation that will not modify an existing water supply, and will not create an increase in the design flows of an existing, exempt wastewater system. There is no process wastewater generated".

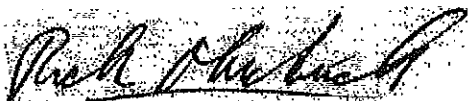
The scope of this project, Phase 1, does not trigger the "The State of Vermont Environmental Protection Rules, Chapter 1, the Wastewater System and Potable Water Supply Rules, effective September 29, 2007".

No permit is required from the Wastewater Management Division at this time.

This supersedes the Project Review Sheet, Section 1, which was issued 3/29/10

Please let me know if I can be of further assistance with this, or other projects.

Sincerely,



Rick Oberkirch

4/9/2010

From: David Pickerell [mailto:oakviewconsulting@gmail.com]
Sent: Wednesday, April 07, 2010 3:06 PM
To: Oberkirch, Rick
Subject: WhistlePig Farm project

Rick,

I got a look at the project review sheet yesterday. We have already had meetings with the Department of Health and the Liquor Control Department. The Health Department said they have no requirements for us until such a time that we decide we want to do on-site sampling, and the Liquor Control folks had a form for us to fill out and submit (we did so on the spot). They also trained us while they were here.

We expect the department of state and taxes to be resolved sometime this week or early next. I contacted Greg Bostock at the water supply division today. We have modified our project scope, and now do not plan to withdraw any water. We are going to have the product imported at nearly bottling proof, and will reduce the proof with bottled distilled water that we will purchase elsewhere. Hence, there should be no issue with the water supply division. Similarly, since we are not using the well water or a deionizer for the project, there will be no waste water of any kind. Hence, we believe there will no longer be a requirement for a waste water permit.

I have been trying to contact you by phone all day, in hopes of discussing these issues while I am in town. I am sorry we could not connect.

As I mentioned, we are trying to do a VERY limited bottling run the third week of this month (maybe 10 to 15 cases) for samples (all out of state) for our product launch. Anything you can do to help out would be greatly appreciated.

I will continue to reach out to you, but wanted to make sure you got this information as soon as possible.

Thanks,

Dave Pickerell
WhistlePig Farm

From: [McCrum, Jeannine](#)
To: [Snook, Steven](#)
Cc: [Elliott, Doug](#); [Green, Geoffrey](#)
Subject: RE: Distilleries - agricultural exemption?
Date: Thursday, September 20, 2012 6:21:27 PM

Steve,

First of all, I want me some of that Whistlepig whiskey:) I've copied the District Coordinator, Geoff Green, on this as I don't know the answer to your question. Geoff should be able to help us and thanks for the heads up.

Jeannine

From: Snook, Steven
Sent: Thursday, September 20, 2012 4:07 PM
To: McCrum, Jeannine
Cc: Elliott, Doug
Subject: Distilleries - agricultural exemption?

Jeannine,

I have been contacted by George Gross of Shoreham regarding a proposed rye whiskey distillery: the Whistlepig Distillery. George is an abutter to the farm which is the proposed site for the distillery. George has a number of concerns including the possibility that the project will be able to avoid permitting requirements of the DEC and Act250 through an agricultural exemption.

Are you familiar with how agricultural exemptions work, and might they apply to a modest sized distillery that is proposing to grow its own rye as the grain for the distillery?

<http://whistlepigwhiskey.com/home.php>

Thanks
Steve

Steven Snook
Environmental Engineer
Vermont Air Pollution Control Division
103 South Main Street, Building 3 South
Waterbury, VT 05671-0402
Office: 802-583-7121

Due to flooding of the Waterbury Complex by hurricane Irene the Air Division has been relocated to temporary office space in Waitsfield. Until a new mailing address is established, please continue to send mail to the Waterbury address shown above and it will be forwarded to us at our new location.

From: Green, Geoffrey
Sent: Thursday, October 11, 2012 1:11 PM
To: 'info@whistlepigfarm.com'
Subject: Whistlepig Whiskey

Dear Whistlepig Whiskey;

Attached is some e-mail traffic regarding your operation in Shoreham known as Whistlepig Whiskey. As you can see from the e-mails, I've been asked to render a jurisdictional opinion regarding whether your operation triggers the need for an Act 250 permit. This is an opportunity to comment on the information submitted and offer an opinion regarding whether your operation triggers the need for an Act 250 permit.

Please respond as soon as possible regarding your intentions. If I do not hear from you by October 19, 2012, I will move forward and issue an opinion based on the facts presented in the e-mails.

If you have any questions, please do not hesitate to contact me.

Geoff Green

From: [Wheeler, Denise](#)
To: [George Gross](#)
Cc: [Hasen, John](#); [Green, Geoffrey](#)
Subject: RE: guidance from NRB
Date: Thursday, October 11, 2012 12:08:49 PM

Good morning Mr. Gross - I got your vm when I got in today - I'm not sure who it is you're looking for (I didn't recognize the name that you stated?). I would encourage you to talk w/ your local ZA or DRB and find out and attend their public hearing.

Shoreham is in our Dist. #9 - Geoff Green is the coordinator - his # is 879-5657 you should contact him with any Act 250 related questions.

I'm not sure who you would contact at ANR but you could start with the Sec. of DEC's office - here's a link to their website <http://www.anr.state.vt.us/dec/co/codec.htm>

You may also want to contact the Dept. of Ag. here's a link to their website <http://www.vermontagriculture.com/>

I'm also cc'ing our General Counsel, John Hasen who may have thoughts.

Denise Wheeler, Business Manager, Natural Resources Board, National Life Records Ctr. Bldg., 1 National Life Dr., Montpelier, VT 05620-3201 ** Telephone 802-828-5441 ** www.nrb.state.vt.us

-----Original Message-----

From: George Gross [<mailto:george@solarhavenfarm.com>]
Sent: Wednesday, October 10, 2012 3:46 PM
To: Wheeler, Denise
Cc: george@solarhavenfarm.com; barb@solarhavenfarm.com; Bruce & Jane Lustgarten; Bob & Maureen Rahner; Bob & Marie Doran; Will Porter; Will & Judy Stevens
Subject: guidance from NRB

Hi Ms. Wheeler,

I left you a voice mail today, and afterwards thought I might do well to follow up with an e-mail. I was referred to your office from my state representative, Will Stevens. Describing the situation for which I need your interpretation via a phone call would be time consuming and prone to omissions.

My wife and I live in Shoreham, and our farm property is adjacent to the proposed Whistlepig Whiskey distillery (DBA Go America Go Beverages). The proposed distillery site is in Shoreham's AR-25 zone, which allows agricultural uses and residential development. The AR-25 zone prohibits commercial or industrial development unless granted by an approval of the ZRB after a conditional use review hearing. As of today, the distillery owners have not yet filed any local zoning construction permits or applied for an Act 250 permit.

However, we anticipate that Whistlepig Whiskey will claim exemption from Shoreham ZRB conditional use review and Act 250 because they will assert that the distillery is a farming structure, as per 24 VSA 4413 (D). In particular, they will claim that their whiskey is an agricultural product "principally produced" on the farm because starting this year they are growing Rye grain that eventually after 10 years of aging will become Rye Whiskey. Note that until their own Rye grain and distillery fills the pipeline, for the next 10 years they will continue to import and bottle under their label a Canadian Rye whiskey sourced from an undisclosed supplier. So their whiskey product will not be "principally produced" on their farm for at least a decade.

In addition, we anticipate that they will be re-tasking the existing vestigial dairy farm buildings into the distillery plant with minimal or no visible alteration of the building footprints or exterior appearance. On a visit at the Whistlepig property this past June, I have personally seen several hundred oak barrels

in one of the buildings, waiting to be filled with whiskey. The owner and founder of Whistlepig Whiskey, Raj Bhatra, also showed me a former dairy milking parlor he said would become the distillery's plant floor.

Despite several queries by myself and other neighbors, the owners are unwilling to quantify the size of their plant or their time line for beginning the construction. My own analysis of their business (see attachment) suggests that they will be distilling over 40,000 gallons of whiskey per year and storing over 400,000 gallons flammable liquids (i.e. whiskey) on the premises. I stress that these numbers are first order approximations and they need vetting. None the less, the scale of the operation suggests we should be concerned. The warehouse for storing the 7,000 barrels has yet to be built but it would disturb more than one acre (unless they stack the barrels). Relative to this neighborhood, this is not a small operation. It is an industrial process using "farming" as a cover story to evade public review and subsequent regulation.

A final regulatory issue in this situation is ethanol emissions. A recent NYT article described a class action suit filed by residents in neighborhoods adjacent to distilleries in Louisville Kentucky. The suit claims damages from the black mold growing on their properties, triggered by the distillery's ethanol emissions. See attached article.

We as a community can not safely assume that the threshold for triggering ethanol induced mold will not be exceeded.

I am approaching the NRB to formally make a jurisdictional ruling on the following issues:

- 1) is operating a distillery as described above considered by the NRB to an "accepted agricultural practice"?
- 2) is re-tasking the dairy farm structures into a Rye Whiskey distillery considered by the NRB to fit the definition of a farming structure exempt from local zoning ordinances and Act 250 review?
- 3) regardless of whether it is an AAP, is storing whiskey that emits ethanol exempt from needing a permit as required by Vermont ANR's permit threshold for facilities releasing 5 tons or more of Volatile Organic Compounds (VoC) per year?
- 4) The Shoreham Zoning Bylaws section 521 specifically says "In all districts the following use is not permitted except after the issuance of a Conditional Use Permit by the Board of Adjustment: The storage of any flammable liquid in tanks above ground with unit capacity of greater than one thousand gallons". Is the proposed distillery exempt from this provision regardless of the ensuing public safety hazards?

You are welcome to contact me with follow up questions and to offer guidance on how to proceed. I can be reached at 802-897-5339 or via e-mail. When replying by e-mail, please use "reply to all parties" to keep everyone informed on the e-mail cc'ed list. I look forward to hearing from you.

best regards,

George Gross

--
George Gross <george@solarhavenfarm.com> Solar Haven Farm

From: Snook, Steven
To: "George Gross"
Cc: Elliott, Doug; Green, Geoffrey
Subject: Ref: Whistlepig Distillery and Air Pollution Control Division
Date: Friday, October 12, 2012 5:06:33 PM

George,

The Air Pollution Control Division will be coordinating with the Natural Resources Board as we review the potential need for an air permit for the proposed Whistle Pig distillery.

Note that the bulk of the predicted ethanol emissions from a whiskey distillery is from the aging of whiskey in barrels; this accounts for over 99% of the estimated ethanol emissions. Based on the EPA's AP-42 ethanol emission factor of 6.9 lb/barrel/year, an estimated 'threshold' for an air permit would be approximately 1450 barrels of aging whiskey - this results in annual emissions of 5 tons of VOCs (ethanol).

If we determine that an air permit is required for the Whistlepig facility, and they have not already submitted the application, then the Agency will send a letter instructing them to submit the required permit application.

Steve

Steven Snook
Environmental Engineer
Vermont Air Pollution Control Division
103 South Main Street, Building 3 South
Waterbury, VT 05671-0402
Office: 802-583-7121

Due to flooding of the Waterbury Complex by hurricane Irene the Air Division has been relocated to temporary office space in Waitsfield. Until a new mailing address is established, please continue to send mail to the Waterbury address shown above and it will be forwarded to us at our new location.

-----Original Message-----

From: George Gross [<mailto:george@solarhavenfarm.com>]
Sent: Wednesday, October 10, 2012 4:21 PM
To: Snook, Steven
Cc: george@solarhavenfarm.com
Subject: [Fwd: guidance from NRB]

Hi Steven,

In the e-mail being forwarded below, I've asked the NRB to weigh in on which agencies have jurisdiction wrt/ to various facets of the Whistlepig distillery problem.

Since we spoke on September 20th, I've been continuing my investigation into the various aspects of the proposed Whistlepig Distillery. I've developed an estimated business model spreadsheet of their operations. One key finding is the likelihood that annual ethanol emissions from aging the Whistlepig whiskey might exceed 5 tons per year. See attached e-mail and the PDF file attached to it. This implies they are a bigger facility than what we had supposed during our phone call on September 20th.

My question to you is: Assuming the NRB rules that ANR has jurisdiction, what is the process through which Whistlepig is required (i.e. compelled) to submit a VoC air emissions permit if they fail to do so voluntarily?

br,
George

Specific to ethanol emissions, my model's forecast is predicated on the Whistlepig distillery plant operating one batch per day during normal working day time hours and the

George Gross <george@solarhavenfarm.com> Solar Haven Farm

From: [Amy Billings](#)
To: [Green, Geoffrey](#)
Cc: [George Gruis \(george@solarhavenfarm.com\)](mailto:george.gruis@solarhavenfarm.com)
Subject: WhistlePig, LLC
Date: Tuesday, October 16, 2012 2:46:39 PM
Attachments: [JTA.Green.10.16.12 \(00039868\).PDE](#)

Good afternoon,

Attached please find a letter from Jon Anderson, Esq. regarding WhistlePig, LLC.

Sincerely,

Amy

AMY BILLINGS
LEGAL ASSISTANT | BURAK ANDERSON & MELLONI, PLC
30 MAIN STREET - SUITE 210 | PO BOX 787
BURLINGTON, VERMONT 05402 -0787
VOICE - 802 862-0500 | FAX - 802-862-8176
ABILLINGS@VTLAW1.COM
WWW.VTLAW1.COM

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**BURAK &
MELLONI** PLC

Counsellors at Law

Michael L. Burak*
Jon Anderson
Thomas R. Melloni*
Michael B. Rosenberg*
Shane W. McCormack*‡

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Phone: 802 862-0500
Fax: 802 862-8176
www.tlaw1.com

*Also admitted in New York
*Also admitted in the District of Columbia
‡Also admitted in Massachusetts

October 16, 2012

VIA E-MAIL

Mr. Geoffrey W. Green
Coordinator
District 6 Environmental Commission
111 West Street
Essex Junction, VT 05452


Re: WhistlePig, LLC

Dear Geoff:

WhistlePig, LLC has asked me to respond to your e-mail dated October 11, 2012 concerning whether their operation triggers the need for an Act 250 permit. Unfortunately, my brother, and only sibling, died last month, and I am leaving on Wednesday afternoon to speak at his memorial service this weekend. Next week is already busy for me so I am hoping I can extend the response date to October 30, 2012.

Many thanks.

Very truly yours,



Jon Anderson

JTA/alb

cc: Mr. George Gross (via e-mail)

From: [Oberkirch, Rick](#)
To: [Green, Geoffrey](#)
Subject: Whistlepig Distillery
Date: Wednesday, October 17, 2012 2:28:56 PM
Attachments: [Bhakta, Raj, Whistlepig Distillery, PRS Shoreham 2010 .pdf](#)
[Bhakta, Raj, Whistlepig Distillery, Information, Shoreham, 2010Untitled.pdf](#)

Hello Jeff,

I just spoke to a John Anderson, Esq. regarding the Whistlepig project in Shoreham. I will send this info to him, and wanted to also copy you.

Rick

**BURAK & ANDERSON
&
MELLONI, P.L.C.**
Counselors at Law

Michael L. Burak
Jon Anderson
Thomas R. Melloni
Michael R. Rosenberg
Shane W. McCormick

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Fax: 802 562-8176
www.thmlc.com

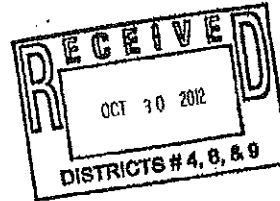
* Also admitted in New York
* Also admitted in the District of Columbia
* Also admitted in Massachusetts

October 29, 2012

Mr. Geoffrey W. Green
Coordinator
District 6 Environmental Commission
111 West Street
Essex Junction, VT 05452

Re: WhistlePig, LLC

Dear Geoff:



In response to your e-mail, WhistlePig, LLC, through its counsel, Burak Anderson & Melloni, P.L.C., asks that you delay ruling on whether Act 250 applies to its proposed operations as described in a letter from George Gross. WhistlePig has not yet engaged in the operations described by Mr. Gross. Before it does so, WhistlePig expects to file (possibly by the end of this week) an Act 250 application whether or not its project is subject to Act 250 jurisdiction. So far, it appears that WhistlePig will be unable to finance construction without resolving this issue. Obtaining an Act 250 permit is likely the most expeditious and cost-effective way to resolve the issue. WhistlePig expects to file simultaneously for necessary water and wastewater permits and a local zoning permit. WhistlePig will not proceed with construction without either obtaining an Act 250 permit or, in the unlikely event WhistlePig determines it can finance its project without an Act 250 permit, giving you such notice as you require of its intention to do so so that you can rule on the question before construction commences.

If, despite its request, you rule that Act 250 jurisdiction applies, to protect its position, WhistlePig will likely have to appeal your decision pending issuance of WhistlePig's permits. You should allow all parties to conserve their resources by ruling on jurisdiction only if and when there is a real need to do so.

Very truly yours,

Jon Anderson
Jon Anderson

JTA/alb
cc: Mr. George Gross (via e-mail)

G. Jarrard @ fgnet.com

From: [George Gross](#)
To: [Green, Geoffrey](#)
Cc: barb@solarhavenfarm.com
Subject: Re: FW: Whistlepig Distillery
Date: Thursday, October 18, 2012 9:20:51 AM
Attachments: [signature.asc](#)

Hi Geoff,

Thank you, this is an important development and I'm pleased that Rick found the PRS. When I spoke with Rick in September, this document must have escaped his memory...

I took a quick review of the PRS. I noticed the following permits might be required but were not check marked:

3. Air Pollution Control Division, ANR: "Construction/modification of source" for ethanol emissions during whiskey aging storage.

11. Division of Fire Safety: "Storage of flammable liquids, explosives" for the whiskey storage.

11. Division of Fire Safety: "Boilers and pressure vessels" for the distillery's steam generation plant.

I infer that the PRS binds Whistlepig to Act 250 review because they did not contest this jurisdictional opinion within the 30 days of the issuance. Is that correct?

best regards;

George Gross

On Thu, 2012-10-18 at 07:24 -0400, Green, Geoffrey wrote:

> George;
>
>
>
> This PRS was just found, and indicates Act 250 based on the proposed
> construction. It has been forwarded to Mr. Anderson for his
> knowledge.
>
>
>
> Geoff Green
>
>
>
> From: Oberkirch, Rick
> Sent: Wednesday, October 17, 2012 2:29 PM
> To: Green, Geoffrey
> Subject: Whistlepig Distillery
>
>
>
> Hello Jeff,
>

>

>

> I just spoke to a John Anderson, Esq. regarding the Whistlepig project
> in Shoreham. I will send this info to him, and wanted to also copy
> you.

>

>

>

> Rick

>

>

George Gross <george@solarhavenfarm.com>
Solar Haven Farm