

State of Vermont  
Superior Court – Environmental Division

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ENTRY REGARDING MOTION

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In re Bennington Wal-Mart Demolition/Constr. Permit                      Docket No. 158-10-11 Vtec  
(Appeal from District #7 Environmental Commission Determination)

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Bennington Wal-Mart Municipal Permit    Docket No. 26-2-06 Vtec

Title: Request to Dismiss (Filing No. 5)  
Filed: February 14, 2013  
Filed By: Appellant Vermont Natural Resources Council, Appellant Citizens for Greater Bennington, BLS Bennington LC and Wal-Mart Real Estate Business Trust  
Response filed: None

X Granted                       Denied                       Other

The Vermont Natural Resources Council (VNRC) and Citizens for a Greater Bennington (CFGB), and thirty-seven Appellants in Docket No. 26-2-06 Vtec (Individual Appellants), and BLS Bennington LC and Wal-Mart Real Estate Business Trust filed a Stipulation of Dismissal (Stipulation) on February 13, 2013. Based upon the Stipulation, the Individual Appellants voluntarily dismiss with prejudice their appeal of the January 17, 2006 Town of Bennington Development Review Board decision (Docket No. 26-2-06 Vtec). Also, pursuant to the Stipulation, VNRC and CFGB voluntarily dismiss with prejudice their appeal of the September 23, 2011 District 8 Environmental Commission Permit #8B0079-8 (Docket No. 158-10-11 Vtec).

With respect to Docket No. 26-2-06 Vtec, cross-Appellant BLS Bennington LC withdrew its cross-appeal pursuant to a settlement agreement filed with this Court on or about July 30, 2009. Accordingly, as the Individual Appellants were the only remaining parties with standing to maintain the appeal, upon the terms expressed within the Stipulation, we hereby **DISMISS** the appeal. The January 17, 2006 Town of Bennington Development Review Board Decision granting development plan and design plan approval and zoning permit approval, as modified, if at all, by the 2009 settlement agreement and the Stipulation, is now final and binding. This completes the appeal proceedings in this matter.

With respect to Docket No. 158-10-11 Vtec, upon the terms expressed within the Stipulation, we hereby **DISMISS** VNRC's and CFGB's appeal. Because, however, there is a cross appeal in this matter by Cross Appellants Down to Earth Golf Course Construction, Inc. d/b/a Mt. Anthony Country Club and David Griffin and Maru Leon Griffin, this matter will now proceed upon the cross appeal only. We note that there is a pending interlocutory appeal to the Vermont Supreme Court (Supreme Court Docket No. 2012-347). We must await jurisdiction being returned to this Court prior to reactivating our proceedings.

Neither the Stipulation nor this Entry Order impact a third related appeal entitled Bennington Wal-Mart Stormwater Permit (Docket No. 49-3-10 Vtec).

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Thomas G. Walsh, Judge  
February 20, 2013  
Date

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Date copies sent: \_\_\_\_\_

Clerk's Initials: \_\_\_\_\_

Copies sent to:

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Attorney David Grayck for Cross Appellants Down to Earth Golf Course Const. dba Mt. Anthony Country Club, David Griffin, and Maru Leon Griffin

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Attorney John H. Hasen for Interested Person Natural Resources Board/LU Panel

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