

STATE OF VERMONT
District Environmental Commission #8
440 Asa Bloomer State Office Building
88 Merchants Row
Rutland, VT 05701
Telephone: (802) 786-5922
Fax: (802) 786-5915
July 17, 2013

Daniel E. Grossman
Grossman & Ripps PLLC
P.O. Box 390
Norwich, VT 05055

Subject: Jurisdictional Opinion # 3-157; 1995 Holland to Monroe (Lots 5 & 6), Bald Top Rd, Fairlee

Dear Dan Grossman:

I. Summary of Opinion

Applying the “Road Rule” to the 1995 conveyance by Holland to Monroe, I conclude there was no Act 250 jurisdiction since the common road did not serve more than five parcels and, furthermore, it did not extend more than 800 feet in common serving Lots 5, 4, 3, and 6.

II. Facts and Documents

In 1995, Harry Holland conveyed Lots 5 & 6 to Monroe. Access to these lots was a shared common road approximately 650 feet long as measured to the point at which final driveways turn off the roadway. Up to four parcels have access from this common road. You have asked whether this 1995 conveyance was subject to Act 250 under the the so-called Road Rule then in effect.

III. Analysis

Adopted in 1975 and effective until 2001, the former Environmental Board Rule 2(A)(6) stated that common roads incidental to the sale of land could trigger Act 250 if they provided access to more than five parcels or were more than 800 feet in length. The common portion of the subject roadway is only 650 feet long, and serves fewer than six parcels, accordingly, it did not trigger Act 250 jurisdiction.

IV. Conclusion

No Act 250 permit was or is required because the Road Rule did not apply.

V. Reconsideration or Appeal

This is a jurisdictional opinion issued pursuant to 10 V.S.A. § 6007(c) and Act 250 Rule 3(A). A request for reconsideration by the district coordinator, pursuant to Act 250 Rule 3(B), must be sent to the district coordinator at the above address within 30 days of the date of this opinion.

Effective July 1, 2013, no appeal may be taken from a jurisdictional opinion or coordinator's decision on reconsideration without reconsideration by the Natural Resources Board. Requests for reconsideration by the Board must be submitted to the Board within 30 days of the date of this decision or a coordinator's decision on reconsideration. The mailing address is: Natural Resources Board, Dewey Building, National Life Drive, Montpelier, VT 05620-3201. For additional information, please contact the Board's General Counsel, Melanie Kehne, at (802) 828-3305 or Melanie.kehne@state.vt.us.

Sincerely,



Warren E. Foster
Acting District Coordinator (for Linda Matteson, at
her request)

c: Certificate of Service