

VERMONT ENVIRONMENTAL BOARD
10 V.S.A. §§ 6001-6092

Re: *Green Crow Corporation*

Land Use Permit #3R0903-EB
Docket No. 845

MEMORANDUM OF DECISION
ON MOTION TO REMAND

Green Crow Corporation (Green Crow) requests that the Environmental Board (Board) remand this matter to the District 3 Environmental Commission (Commission), effective July 1, 2008. As set forth below, the Board remands to the Commission with instructions to consider Green Crow's continuance request.

The merits issues on appeal remain to be resolved pursuant to the Vermont Supreme Court's ruling, *In re Green Crow Corp.*, 2007 VT 137. In that ruling, the Court reversed the Board's decision denying Green Crow's motion for summary judgment, holding that "no permit conditions may be imposed on the activities below 2,500 feet that are the subject of this appeal." *Id.* ¶ 18. The Court remanded for further proceedings consistent with its decision, noting that the Board "may modify permit conditions applicable to land above 2,500 feet if such modification is necessary in light of our holding today." *Id.* The merits issues are set forth in the Board's June 14, 2006 Memorandum of Decision.

The Board has not held a hearing on the merits issues in this appeal, but Commission has taken evidence on this Project. It is clear that the requested remand would be consistent with principles of administrative economy and efficiency. In addition, no party has opposed Green Crow's motion. Under these circumstances, remand is appropriate.

Green Crow also asks that the Board stay this matter until July 1, 2008, so that Green Crow will have time to assess whether the Project is still viable. Because the Commission will have jurisdiction over this matter upon remand, the Board cannot grant this request. The most expedient thing is to have the Commission consider Green Crow's requested continuance until July 1, 2008 upon remand. No further action by Green Crow shall be necessary.

ORDER

1. This appeal is hereby remanded to the District 3 Environmental Commission for further proceedings consistent with the Vermont Supreme Court's decision, *In re Green Crow Corp.*, 2007 VT 137.
2. The Commission shall consider Green Crow's request to stay this proceeding until July 1, 2008, as stated in its Motion for Remand.

DATED at Montpelier, Vermont this 25th day of March, 2008.

ENVIRONMENTAL BOARD

/s/Patricia Moulton Powden
Patricia Moulton Powden, Chair
George Holland
W. William Martinez
John Merrill
Patricia Nowak
Richard C. Pembroke, Sr.