VERMONT ENVIRONMENTAL BOARD
10 V.S.A., Chapter 151

RE: Didace and Susan LaCroix
d/b/a North Road Auto & Tire
RD 2 - Box 746
Bethel, VT 05032
and
Frank and Axilla Stiles
RD 2 - Box 748
Bethel, VT 05032

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER
Application #3W0485-EB

This decision pertains to appeals filed with the Environmental Board (Board) on March 20, 1986, by the Vermont Agency of Environmental Conservation (AEC) and on March 26, 1986, by the Two Rivers-Ottauquechee Regional Planning Commission (TRORPC) from the February 28, 1986 decision of District #3 Environmental Commission (Commission). That decision approved issuance of Land Use Permit #3W0485 to Didace and Susan LaCroix, d/b/a North Road Auto and Tire, and Frank and Axilla Stiles for the conversion of an existing building to an auto and tire sales and service building and for the construction of an addition and another storage building off the North Road in the Town of Royalton, Vermont.

The following parties participated in this appeal:

Permittees by Frank F. Berk, Esq. and Frank Reed
Town of Royalton by Frank F. Berk, Esq. and Frank Reed
Two Rivers-Ottauquechee Regional Planning Commission by Dana Cole-Levesque, Esq., Don Bourdon, and Kent D. Stevenson.
State of Vermont by Gordon Gebauer, Esq.
Theis Aitken (Criteria 5 and 8)
Louise Clark (Criteria 5 and 8)
Lois Shumway (Criterion 8)/1/

The first prehearing conference was held on April 16, 1986, in South Royalton, Vermont. At that time, a preliminary issue was raised over whether the Regional Plan and Land Use Policy Plan adoped in December 1984 by the TRORPC applies to this project under Criterion 10 of Act 250. In addition, the permittees had asked that if the Board rules that the regional plan is applicable to this project, the case be remanded to the Commission for a decision on whether the project is in conformance with the plan.

/1/ Lois and Peter Shurnway purchased property adjoining the Permittees' land in January, 1986. They had not participated in the initial Board proceedings, but Mrs. Shumway was permitted to appear and give testimony as a Rule 14(B) party on Criterion 8 at the Board's hearing on July 9, 1986.

On May 23, 1986, the Board held a public hearing on the preliminary issues. On June 5, 1986, the Board issued a Memorandum of Decision stating that the regional plan is applicable to the project and denying the motion to remand the proceedings to the Commission.

A second Prehearing Conference was convened in the above case on June 11, 1986, in South Royalton, Vermont.

On July 9, 1986, the Board convened a public hearing on the merits of the appeal in South Royalton, Vermont. The Board also conducted a site visit on that date.

The hearing was recessed on July 9 pending the submission of proposed findings and legal memoranda by the parties and a review of the record and deliberation by the Board. On August 6 the Permittees submitted proposed findings and on July 30 the TRORPC submitted proposed findings. The Board conducted deliberative sessions on the appeal on July 16 and August 27.

On September 8, 1986, the Board issued its initial Findings of Fact, Conclusions of Law and Order in the appeal. The Board found that the project, as proposed and as it existed, did not satisfy Criteria 5, 8 and 10. The Board indicated, however, that if the Permittees modified their plans in accordance with the Order, the Board would review the submissions, determine whether it can make positive findings on the criteria and, if so, issue an amended land use permit. The Board amended its Order on September 12 to allow the Permittees additional time to comply.

On September 29 the Permittees filed a motion for reconsideration. On October 7 the Board appointed a hearing officer to consider the request as it pertained to the project access road. The hearing officer reconvened the hearing on October 24. On November 13, acting on the recommendations of the hearing officer, the Board ordered the Permittees to file a revised site plan showing a revised access driveway which conformed with VAOT Standard B-71, Detail C and the Profile by November 24, reconstruct the access driveway to conform to the revised site plan by December 5, and have the professional engineer who prepared the revised site plan certify to the Board that the driveway, as constructed, meets the required standard. That certification was filed on December 15.

Because of the lateness of the season, the Permittees were unable to paint the building roofs or implement a revised landscaping and lighting plan before the winter season. The Board has decided to issue this revised Findings of Fact, Conclusions of Law and Order which will supersede and replace its decision of September 8 and the intervening Memoranda of Decision issued in connection with this appeal.

The following findings of fact and conclusions of law are based exclusively upon the record developed during the two hearings and the site visit taken by the Board on July 9. To the extent we agreed with and found necessary any findings proposed by the parties, they have been incorporated herein; otherwise, the parties' requests to find are hereby denied.

I. ISSUES IN THE APPEALS

The appeals filed by the Commission and the State ask the Board to review Criteria 5 (Traffic), 8 (Aesthetics), and 10 (Regional Plan). By agreement of the parties, the Board deferred consideration of these criteria until it had decided two preliminary issues:

1. Is the regional plan applicable under Criterion 10 to a project within a town that is not a member of the regional planning commission which adopted the plan and that has never accepted the plan?

2. If the regional plan is applicable, should the case be remanded to the District #3 Environmental Commission for a determination of whether the project is in conformance with the duly adopted regional plan?

In issuing a permit for the project, the Commission decided that the regional plan was not applicable to the project because the Town of Royalton was not a member of the Regional Planning Commission. Thus, the District Commission never reached the question of whether the project is in conformance with the regional plan.

On June 5, 1986, the Board issued a Notice of Decision with regard to these preliminary issues in which it stated that: (1) the regional plan is applicable to the project, and (2) the motion to remand the proceedings to the Commission is denied. The Board did not issue a full opinion on its decision at that time but stated that it would do so in its final decision in this case. The Board's opinion on these two issues is set forth below.

II. FINDINGS OF FACT

1. This project consists of the conversion of an existing 40' x 66' steel frame building into an auto and tire sales and service center (garage) with a 50' x 50' addition added on the east side. A 28' x 40' storage building also has been constructed with associated driveway, parking, landscaping and utilities partially completed. The tract of land

consists of 35.7± acres with approximately 1.5-2 acres involved in the immediate project area. The land is owned in fee simple by Frank and Axilla Stiles but subject to a long-term lease with North Road Auto and Tire. The project is located on the North Road in Royalton, Vermont.

2. The Permittees' business consists of sales, service, auto repairs, auto body work, painting of cars, and state inspections. North Road Auto and Tire employs five people. The business will find and sell approximately SO-70 new cars per year through existing franchise dealers in response to requests from customers but will not keep new cars on the premises.

3. The two existing buildings are painted brown with white trim and have steel roofs. The current color of the roof is silver, but the Permittees plan to repaint it an earthtone (sand) color. The garage has plumbing and floor drains.

4. A lighted Coke machine on the premises faces directly toward the Shumways' house to the south and is visible to them at night.

5. A large spot light stays on all night and can be seen by several neighbors.

6. The North Road is classified as a Class 2 town highway. It is paved its entire length of 6.5 miles. It extends northerly from Barnard Village to Bethel Village where it intersects with Routes 12 and 107. The road runs through the Towns of Barnard, Royalton, and Bethel. The project site is approximately 1½-2 miles south of Bethel Village.

7. The Permittees will keep up to 50 used vehicles on the premises. The area to be used to store the vehicles is less than ½ acre. The Permittees are planning to construct an additional parking lot behind the buildings for storing cars which have suffered collision damage and are waiting for parts.

8. Approximately 10-15 vehicles are currently being stored across the road. None of the stored vehicles or parts will be used in connection with this project.

9. Most of the additional traffic that will be generated by the project will be traveling to and from the Bethel/ Randolph area and Interstate 89.

10. The North Road is used for traffic between Bethel and Barnard. Approximately 400 cars travel the North Road on a daily basis. The project will generate an additional 35-40 cars per day.

11. The parking lot and buildings lie substantially below grade of the North Road. The driveway leading from the parking lot to the edge of the road has been reconstructed to conform with Vermont Agency of Transportation (VAOT) Standard B-71, Detail C and the Profile of Drive and Side Road Intersection (fill section), as shown on the attachment of Exhibit #17. This standard requires a maximum grade of 3% from the edge of the roadway shoulder for at least 20 feet before transitioning to a maximum grade of 15%.

12. If the driveway access to the project is maintained in accordance with this standard, trucks and other vehicles will be able to stop in all weather conditions before turning onto the North Road without causing an unreasonable hazard to themselves or vehicles traveling on the North Road.

13. There are a total of 84 residential dwellings along the length of the North Road. There are 10 non-residential uses along the road, including six home occupations and several businesses. (A home occupation is defined as a business that is incidental to the principal use as a residence.) Of these, there is an equipment and logging truck repair business, a small lumber business, and a metal building that is leased to someone who repairs heavy equipment. All of these businesses are small operations. Rousseau's lumber mill operated on the North Road for more than 40 years but it is no longer operating.

14. The predominant land use has changed over the years from agricultural to rural residential. Only one operating dairy farm remains on the North Road. A significant amount of land is open, although the amount of land in active agricultural use is undetermined.

15. The North Road offers striking panoramic views to the west of distant hillsides and mountains as well as closer views of farmland pastures and woods.

16. While the North Road has not been designated a scenic highway under the Vermont Scenic Highway Act, an analysis of the road's characteristics under the Scenic Values inventory, as well as direct observation, indicates that the road is highly scenic.

17. The project is clearly visible from the North Road, particularly to persons travelling north on the road. The glare of the steel roofs especially draws one's attention to the project.

18. On May 1, 1986, the Permittees, Town, State and Commission submitted a Stipulation of Facts to the Board. As no other parties objected to the Stipulation and the evidence at the hearing confirmed those facts, the Board adopts the Stipulation as part of its Findings, as follows:

A. The Town of Royalton does not have a duly adopted Town Plan.

B. The Two Rivers Regional Land Use Policy Plan was originally adopted in 1977, and was amended and readopted in December 1984. The TRORPC adopted a Regional Plan together with an official map in December 1984.

C. The Two Rivers Regional Planning Commission and Ottauquechee Regional Planning Commission merged into the Two Rivers-Ottauquechee Regional Planning Commission in July 1980.

D. Although interested citizens of Royalton may have participated in the public process of developing the Regional Plan, which purports to cover the geographical limits of the Town of Royalton, those individuals were not acting as representatives of the Town of Royalton or the Royalton Planning Commission.

E. The municipality did not officially participate in the preparation of the regional plan. The Town of Royalton did receive a copy of the proposed regional plan.

F. In 1968, the voters of the Town of Royalton voted to join the White River Valley Planning Commission ("WRVPC") and appropriated Four Hundred Dollars ($400.00) to this Commission./2/

G. In 1969, 1970 and 1972, the voters of the Town of Royalton rejected membership in and appropriations for the TRORPC.

H. In 1971, the voters of the Town of Royalton rejected membership in and appropriations for the White River Valley Regional Planning Commission.

/2/ The WRVPC was in the process of being formed in 1968 when the Town of Royalton voted to join it. In July, 1968, several months after this vote, the WRVPC formally organized and adopted by-laws. It subsequently changed its name to the Two Rivers Regional Planning Commission.

I. The legislative body of the Town of Royalton has never acted or voted to join any regional planning commission ("RPC").

J. The Towns of Barnard, Bethel, Randolph, Tunbridge, Sharon, Pomfret and Strafford abut Royalton and are all members of the TRORPC as specified in the Commission's bylaws.

K. The TRORPC performs contract services for the State of Vermont, Agency of Development and Community Affairs, as described in CONTRACT FOR SERVICES, Vt-RPGP FY86(11).

19. In 1966, the Central Planning Office (later State Planning Office, now Office of Policy, Research and Coordination) began work to modernize Vermont's planning and zoning laws. A bill was introduced in January 1967 and was adopted after many changes in 1968. That legislation, 24 V.S.A., Chapter 117 (formerly Chapter 91), provides the basic framework for local and regional planning which is still in existence today.

20. At the time Chapter 117 was enacted, only 30-35 towns in Vermont had adopted zoning bylaws. At least one RPC (Windham) had been established. Twenty out of 22 towns in the Windham region had voted to join that Commission. By 1969, RPCs had been designated for every municipality in the state.

21. In most cases, RPCs were formed by votes of the municipalities and approved by the State. In a few instances, such as in the Northeast Kingdom and Lamoille County, an already-established regional development corporation simply took on additional planning functions. The boundaries of RPCs have been modified from time to time. The TRORPC and Ottauquechee Regional Planning Commission, for example, merged to become a single commission in 1980. The Department of Housing and Community Affairs ("DHCA") reviews these changes. Both in designating the original boundaries and in approving changes, DHCA seeks to form a region that has common geographic and socioeconomic characteristics and is large enough to enable the RPC to address areawide problems.

22. RPCs have two principal planning functions: they prepare a regional plan (including a land use map and transportation plan) for the entire region, including non-member towns; and they provide technical services to member towns who wish to undertake local planning and zoning. The state provides a portion of the RPCs' funding through a contract for services (Exhibit #4). Each RPC receives a

base grant of $30,000 per year, with the balance of the State's appropriation being divided among the RPCs on the basis of population (40%) and number of towns (60%), including nonmember towns, in each region. The RPCs make up the balance of their budgets through contributions from member towns, federal grants, and other sources. The State's appropriation for support of RPCs totalled $660,300 for fiscal year 1987.

23. The Two Rivers-Ottauquechee Regional Plan (Exhibit #22) states among its goals to "protect the region's rural character, scenic landscape, and recreational resources," and to "encourage carefully planned residential, commercial and industrial development to improve the economic climate of the Region, with due consideration to ... the suitability of project size and scale ... [and] the appropriateness of the project location relative to the character of the area ...."

24. The Two Rivers Regional Land Use Policy Plan (Exhibit #23) includes a guideline that "[g]as stations, drive-in restaurants, motels and other similar businesses that generate traffic and turning movements should be avoided along those sections of highway with low sufficiency ratings due to visibility, grade, etc.," indicating its concern that commercial development should not create unsafe traffic conditions.

25. The TRORP does not specifically prohibit uses in certain areas nor does it specifically identify the North Road as an area where no commercial or industrial activity should be allowed.

III. CONCLUSIONS OF LAW

1. Request for Remand

The Permittees requested that if the Board holds the regional plan to be applicable, the case can be remanded to the District Commission for a determination of whether the project is in conformance with a regional plan.

It is not uncommon under Act 250 that a District Commission is faced with a series of questions in a particular criterion and that the answer to the initial question or questions may preclude the need to answer the others. In Criterion 9(B), for example, if a Commission decides that the project site does not contain "primary agricultural soils" as defined in 10 V.S.A. § 6001(15), it never goes on to the next two levels of analysis, which is to determine whether the project would cause a significant deduction in the agricultural potential of those

soils and, if so, whether it satisfies the four subsections of Criterion 9(B). A similar situation arises under Criterion 10, if a party disputes whether a local plan is duly adopted. If the challenge is successful, the District Commission does not look at the issue of conformance.

Faced with the prospect of having to remand a case whenever a Commission's answer to a threshold question is appealed and the Board reaches a different conclusion, the Board declines to remand this case. A remand would be required if new land were involved and new adjoining landowners were affected (see In Re: Application of Juster Associates, 136 Vt. 577 (1978)). An appeal should also be remanded if a project has been substantially redesigned since the Commission's hearings (see Windsor Improvement Corp., #2S0455-EB (March 27, 1980)). Neither factor is present here. Since the Board still had to hear the appeal on Criteria 5 and 8, regardless of the outcome on Criterion 10, judicial economy and the need to reduce expense and delay for the parties required that this proceeding go forward.

2. Traffic Safety and Congestion (Criterion 5)

We conclude that this project, if maintained to conform with VAOT Standard B-71, Detail C and the Profie of Drive and Side Road Intersection (fill section), will not cause unreasonable safety or congestion conditions with respect to highways or other means of transportation. The driveway as originally proposed was much too steep to safely accommodate vehicles turning onto the North Road from the project's driveway. However, with the modifications implemented by the Permittees last fall, the concerns of the Regional Planning Commission and this Board have been satisfied.

3. Aesthetics (Criterion 8)

In Re: Quechee Lakes Corporation, Permit #3W0411-EB and #3W0439-EB issued November 4, 1985, we described the protocol that should be applied when Criterion 8 (aesthetics) is at issue. The first step in this analysis is the determination of whether the aesthetic impact of a proposed project is "adverse." This requires the identification of a proposed project's context and a determination of whether a proposed project would fit into that context. The same analysis applies when a commission or the Board is reviewing a project that was built before a permit was obtained.

We have found that the North Road is predominated by rural residential uses and provides an unusually lovely view of hillsides and mountains interspersed with open fields and occasional sweeping western views. The few commercial businesses that exist are mostly home occupations and are of a

small scale. We conclude that this project's large commercial buildings with parking lots with used cars are clearly not compatible with the existing rural-residential character of the North Road and that the project therefore has an adverse impact.

The second step of the "Quechee" analysis consists of a determination of whether the adverse impact is "undue." This requires a positive answer to three questions:

1) Is the proposed development compatible with any written community standard adopted for the purpose of preserving area aesthetics and scenery?

2) Can the Board conclude that the project does not offend the sensibilities of the average person?

3) Has the Applicant taken all generally available mitigative steps which a reasonable person would employ to reduce negative aesthetic impacts?

We have not found any written community standard applicable to the North Road. The Town of Royalton has no local plan, and the regional plan does not specify an aesthetic standard for the North Road. Furthermore, the North Road has not been designated a scenic highway under the Vermont Scenic Highway Act. Therefore, the first question is not applicable.

We conclude that the second and third questions must be answered negatively unless the Permittees take extensive mitigative measures to screen the entire project from view by implementing a comprehensive landscaping plan. In order for the Board to find that this project will not have an undue adverse impact on aesthetics and scenic beauty, the Permittee must take the following actions:

The Permittees shall retain a landscape architect to prepare a revised landscaping and lighting plan that will result in the screening of the entire project so that it will not be visible from the road after a period of 5 years or from any of the neighbors' properties after 10 years. The security lights must be on poles no higher than 12 feet. The Permittees shall be required to submit the plan to the Board for its review and approval.

In addition, the Permittees must modify the existing security lights on the project site so that the light is directed downward to conceal the light sources and reflective surfaces beyond the perimeter of the area to be illuminated. The Coke machine that had been located outside on the premises must be maintained indoors.

4. Applicability of the Regional Plan

Criterion 10 requires that a project conform with "any duly adopted local or regional plan ...." The issue here is whether Criterion 10 applies to a project within a town when the town is not a member of the regional planning commission. In order to address this question, one must turn to 24 V.S.A., Chapter 117 to understand the evolution of the role of the regional planning commission in regulatory proceedings such as Act 250.

At the May 23, 1986, hearing the Board heard substantial testimony as to the General Assembly's intent when it first enacted 24 V.S.A., Chapter 117 in 1968. Chapter 117 was intended to be enabling only, and not mandatory upon the towns. Except for the procedural requirements for the adoption of local plans and zoning bylaws, the language of Chapter 117 is usually couched in "may's" rather than "shall's." The General Assembly was obviously firmly wedded to the concept of "local control" in deciding what the destinies of its towns and regions would be.

That concept eroded somewhat when the General Assembly enacted 10 V.S.A., Chapter 151 (Act 250) in 1970. Act 250 not only required a state land use permit for major subdivisions and developments, but under Criterion 10 (10 V.S.A. § 6086(a)(10)), projects falling under Act 250's jurisdiction must conform "with any duly adopted local or regional plan ...." It was clear that if a project did not conform with the plan for the town in which it was located, the permit must be denied. It was also clear that if the project did not conform with the plan for the "region" in which it was located, the permit must be denied.

What was less clear at the time was whether the 'region" included towns which were not members of the regional planning commission, or which plan should be given effect when the town and regional plans were in conflict. The Attorney General's Office has rendered two opinions on the definition of a "region." In a letter opinion written on December 9, 1968, the Attorney General's Office took a broad view. That opinion stated that regional plans could cover nonmember as well as member municipalities in the region.

In October 1970, the Attorney General's Office took a narrow view of the term "region," relying upon the then language of 24 V.S.A. § 4341(a) dealing with the formation of regional planning commissions:

> (a) A regional planning commission may be created at any time by the act of the voters or the legislative body of each of a number of contiguous municipalities [and] such area shall be referred to herein as a region. (Emphasis added.)

In 1972, the General Assembly amended 24 V.S.A. § 4345(7) dealing with the regional planning commissions' authority to gather information from local communities. The original language of the section stated:

> (7) Require from the departments and agencies of each member municipality such available information as relates to the work of the regional planning commission. (Emphasis added.)

After the 1972 amendment, the language read:

> "(7) Require from the departments and agencies of each municipality in its area such available information as relates to the work of the regional planning commission. (Emphasis added.)

Another Attorney General Opinion No. 64-76, issued in 1976, took the position that if there is a conflict between a duly adopted local plan and a duly adopted regional plan, the local plan should govern in Act 250 proceedings. Decisions by the District Commissions in Act 250 proceedings sometimes agreed and sometimes disagreed with that interpretation, and the uncertainty persisted until the adoption of 24 V.S.A. § 4348(h) in 1982.

In 1982, as part of a comprehensive series of amendments to Chapter 117, the General Assembly enacted Section 4348(h) to resolve the issue of the applicability of regional plans in state regulatory proceedings. The section states:

> (h) In all regulatory proceedings, including but not limited to proceedings under 10 V.S.A., Chapter 151 and 30 V.S.A. § 248, in which the provisions of a regional plan or a municipal plan are relevant to the determination of any issues in those proceedings:
>
> (1) the provisions of the regional plan shall be given effect to the extent they are not in conflict with the provisions of a duly adopted municipal plan applicable to the area in question.
>
> (2) when a conflict exists between a regional plan and a duly adopted municipal plan, the regional plan may be given effect if it is demonstrated that the project under consideration would have substantial regional impact.

The District Commission concluded that because the Town of Royalton chose not to participate as a member of the Regional Planning Commission, the Town is not part of the region and therefore the Regional Plan does not apply. We disagree.

First of all, the Town of Royalton joined the White River Valley Planning Commission, the original planning commission for that region and the predecessor to the TRORPC, when it was formed in 1968. Therefore, the Town was part of the region as defined in 24 V.S.A. § 4341(a). Second, we believe that the changes that the legislature has made to 24 V.S.A., Chapter 117 with regard to the role of regional planning commissions, and the plain language of 24 V.S.A. § 4348(h)(l), indicate the legislature's intent to include all towns within a defined geographical area as part of the region for planning purposes and subject to the appropriate regional plan to the extent that the provisions of that plan do not conflict with the provisions of a local plan. Since Royalton does not have a duly adopted local plan, there is no local plan with which the regional plan can conflict. Therefore, the regional plan applies and a permit must be denied if we do not find that the project conforms with the regional plan.

5. Conformance with the Reaional Plan

As we have found, the Regional Plan consists of broad policy statements and goals but does not prohibit specific uses in specific areas. Therefore, the Board can only look to the Regional Plan as a guide. It contains a number of general goals with regard to the balance of economic growth with preservation of rural character. It encourages the protection of rural character and scenic landscapes and it also encourages commercial development. The North Road is clearly not an appropriate site for large scale commercial or industrial development under the Regional Plan. Nevertheless, the North Road is not entirely rural residential, as businesses and commercial activities already exist to a limited extent along the road. It would be unreasonable to limit any commercial use totally, given the existing uses along the road.

Most of the existing commercial uses on the North Road, however, are small home occupations. Clearly, large-scale commercial uses on the North Road would not be appropriate and we are concerned that piecemeal development on the North Road would destroy the rural character and scenic beauty of the road. In this case, given the fact that the project is on the downslope of the road and can be screened from view, we conclude that if the Permittees develop and implement a comprehensive landscaping plan that totally screens the site from the road, the project would be in conformance with the Regional Plan.

ORDER

Based upon the Findings of Fact and Conclusions of Law, we conclude that the project will satisfy Criteria 5, 8, and 10 provided the Permittees take the steps described in the Findings and Conclusions above. A revised land use permit shall be issued containing the following conditions:

1. The Permittees shall keep the floor drains in the garage permanently plugged with cement so that they are unusable. The Permittees are prohibited from spray painting or washing any vehicles on the premises.

2. The Permittees shall maintain the access driveway in accordance with the VAOT standards described in Conclusion of Law #2 (page 9) herein. All exposed soils must be seeded and mulched.

3. By June 15, 1987, the Permittees must modify the existing security lights so that the light is directed downward, and either remove the Coke machine or move it inside.

4. By June 15, 1987, the Permittees shall paint the roofs of the existing buildings the non-reflective earthtone color proposed by the Permittees (Rust-Oleum #7771 "sand") or its equivalent.

5. By May 30, 1987, the Permittees shall submit to the Board for its approval a landscaping and lighting plan as described in Conclusion of Law #3 (page 10) herein. The Permittees shall completely implement the approved plan by October 1, 1987.

In the event that the Permittees shall fail to comply with any of the requirements of this Order, Permit #3W0485 may be revoked.

Dated at Montpelier, Vermont this 27th day of April, 1987.

VERMONT ENVIRONMENTAL BOARD

Darby Bradley, Chairman

Members participating in
this decision:

Ferdinand Bongartz
Dwight E. Burnham, Sr.
Elizabeth Courtney
Jan S. Eastman
Samuel Lloyd

Member dissenting:
Lawrence H. Bruce, Jr./3/

/3/ Dissenting Opinion of Member Bruce.

I do not believe this project should be approved because the traffic problem created by the access driveway into the project has not been resolved and the project creates an undue adverse impact upon the aesthetics and scenic and natural beauty of the area.