

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


RE: Flanders Lumber Co. by Memorandum of Decision  
A. Jay Kenlan, Esq. Land Use Permit #4C0695-EB  
Abell, Kenlan, Schwiebert  
& Hall  
P.O. Box 578  
Rutland, VT 05701

On November 4, 1987, the Applicant filed a Motion to Clarify Decision. The Applicant requested the Board for a determination of whether its decision dated October 6, 1987, in which it concluded that the project site does contain primary agricultural soils as defined in 10 V.S.A. § 6001(15), is a final decision and, therefore, ripe for appeal to the Supreme Court.

The decision of the Board is that its October 6 decision is not final for purposes of appeal. The Board considers the determination of whether a project site contains primary agricultural soils to be an integral part of a review under Criterion 9(B). Since an applicant must proceed with a review under Criterion 9(B) if a Commission or Board determines that primary agricultural soils are involved, the entire matter of compliance with Criterion 9(B) is not resolved until that review takes place and a final decision is rendered. See Re: Petition No. 152, Central Vermont Railway, Inc., No. 86-389 (Vt. S. Ct. June 12, 1987). At that time, an appeal of the final decision may include an appeal of the decision that the site contains primary agricultural soils.

Dated at Montpelier, Vermont this 23rd day of November, 1987.

ENVIRONMENTAL BOARD

  
Leonard U. Wilson  
Chairman

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