

State of Vermont  
ENVIRONMENTAL BOARD  
10 V.S.A. §§ 6001 - 6092

Re: Munson Earth-Moving Corporation  
Application #4C0986-EB  
Docket #660

ORDER

This order pertains to the issuance of Land Use Permit #4C0986-EB.

I. PROCEDURAL BACKGROUND

On June 14, 1996, the District #4 Environmental Commission ("Commission") issued Findings of Fact, Conclusions of Law, and Order denying Land Use Permit Application #4C0986 ("Application"), filed by Munson Earth-Moving Corporation ("Munson"). Munson sought approval for a 28-lot residential subdivision off Woodside Drive in Colchester, Vermont ("Project"). The Commission concluded that the Project complied with all Act 250 criteria except Criterion 9(K) (development affecting public investments). 10 V.S.A. § 6086(a)(9)(K). Even though it denied the Application, the Commission noted what conditions it would impose were it to issue a Land Use Permit for the Project.

On June 28, 1996, Munson appealed the Commission's findings and conclusions with respect to Criterion 9(K) to the Environmental Board ("Board"). Like the Commission, the Board issued a decision denying the Application on the basis that the Project did not comply with Criterion 9(K). Re: Munson Earth-Moving Corporation, #4C0986-EB, Findings of Fact, Conclusions of Law, and Order (Revised) (July 30, 1997) [EB #660].

On August 22, 1997, Munson appealed the Board's decision to the Vermont Supreme Court. On August 13, 1999, the Court issued an Opinion reversing the Board's decision. The Court remanded the matter to the Board for issuance of a permit. In re Munson Earth Moving Corporation, Docket No. 97-327 (Vt. Aug. 13, 1999).

On August 26, 1999, the Chair of the Board sent a status memorandum to the parties in which she indicated that the Board would deliberate with respect to a draft permit at its next scheduled meeting. She provided the parties with an opportunity to file objections by September 7, 1999, with respect to: (1) the Board taking official notice of the Commission's record in #4C0986 and (2) the issuance of a permit by the Board rather than remand of the matter back to the Commission for that purpose.

No party filed timely objections in response to the Chair's status memorandum.

Accordingly, the Board deliberated on September 15, 1999. It took official notice of the Commission's record and Findings of Fact, Conclusions of Law, and Order in #4C0986, in

[DOCKET #660]

In re Munson Earth Moving Corporation  
Land Use Permit #4C0986-EB  
Order  
Pane 2

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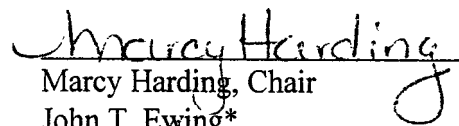
determining what conditions should be imposed and, on September 15, 1999, it issued Land Use Permit #4C0986-EB.

II. ORDER

1. The Board takes official notice of the Commission's record in Application #4C0986.
2. Application #4C0986 complies with **10** V.S.A. §§ 6086(a)(1)-(10).
3. Land Use Permit #4C0986-EB is hereby issued.
4. Jurisdiction is returned to the District #4 Environmental Commission.

Dated at Montpelier, Vermont, this 15th day of September, 1999.

ENVIRONMENTAL BOARD

  
Marcy Harding, Chair

John T. Ewing\*

Arthur Gibb

Samuel Lloyd

W. William Martinez

Rebecca M. Nawrath

\* Member Ewing has participated in this decision pursuant to 3 V.S.A. § 849.