

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

RE: John Litwhiler and                   Memorandum of Decision  
H. A. Manosh by                       Application #5L1006-EB  
Robert P. Davison, Jr., Esq.  
P.O. Box 299  
Stowe, VT 05672  
  and  
Town of Hyde Park  
Board of Selectmen  
P.O. Box 98  
Hyde Park, VT 05655

On January 27, 1989, Vicki Emerson-Mason (the Appellant) filed with the Environmental Board a request for permission to take an interlocutory appeal from the District #5 Environmental Commission's Memorandum of Decision and Order dated January 18, 1989 pertaining to pending Application #5L1006. This application requests a land use permit for the proposed operation of a commercial gravel pit on 15 acres of a 68-acre tract of land located off Town Highway #7 in Hyde Park, Vermont. On February 1, 1989, John Litwhiler and H. A. Manosh (the Applicants) filed an opposition to the interlocutory appeal.

The Board accepted this interlocutory appeal by memorandum of decision issued on February 17. As set out in that decision, the issue in this appeal is whether, with respect to the proposed pit, an existing gravel pit is "involved land." The existing gravel pit is located in Hyde Park, owned by H. A. Manosh, and known as the "Ferland" pit. Subsequent to the Board's February 17 decision, several persons filed memoranda on this issue, including the Applicants, the Appellant, the Hyde Park Planning Commission, and Bill Kinzie and Murray Stevens. These memoranda were read and reviewed by the Board prior to deliberating on this matter, which it did on March 22.

The Board determines that the Ferland pit **is** not "involved land" with respect to Application #5L1006-EB. Act 250 jurisdiction already exists over the **Ferland pit**, for which an existing land use permit has been issued. It is true that the Ferland and proposed pits will be linked by truck traffic moving rock from the proposed pit to the **Ferland** pit for crushing. However, the District Commission may regulate this truck traffic by reason of the application for the proposed pit. Any person who may be affected by operations at the proposed pit including possible truck traffic at or near the Ferland pit may request to participate in that application proceeding pursuant to Board Rule 14(B).

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Further, no person participating in this appeal has shown any cumulative impacts of the two pits which cannot be addressed in the context of the application here at issue or an amendment application for the Ferland pit. If, during the course of the current application proceedings, impacts are identified from the proposed pit or from the linkage of the pits which necessitate inclusion of the Ferland pit, the District Commission has the power to include the Ferland pit in the process. Finally, any substantial or material change to the Ferland pit operation necessitated by the linkage with the proposed pit will require an amendment to the Ferland pit permit. Board Rule 34.

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ORDER

The interlocutory appeal is denied.

Dated at Montpelier, Vermont this 29th day of March,  
1989.

ENVIRONMENTAL BOARD

BY:

*Jan S. Eastman*

Jan S. Eastman, Acting Chair

Roger N. Miller

W. Philip Wagner

Lawrence H. Bruce, Jr.

Samuel Lloyd

Arthur Gibb

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