

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

RE: Fly-In Corporation                      Land Use Permit Application  
Box 17-A    #5W0147-3-EB  
Waitsfield, VT 05673

On December 21, 1984, an appeal was filed with the Environmental Board ("the Board") by the Central Vermont Regional Planning Commission ("CVRPC") from the September 28, 1984 decision of the District #5 Environmental Commission issuing Land Use Permit #5W0147-3(Revised) ("the Permit") to the Fly-In Corporation. The Permit authorized Fly-In to conduct a commercial gravel extraction operation and to create a 17 lot industrial subdivision adjacent to Vermont Route 100 and Town Road #2 in Waitsfield and Fayston, Vermont.

On December 27, the Board notified the parties of its intention to designate its Chairman to act as administrative hearing officer in this matter pursuant to Board Rule 41 and 3 V.S.A. § 811. The matter was set for hearing before the Chairman on January 15. However, by memorandum filed January 10 1985, the parties notified the Board that they had reached a stipulated agreement settling the issues in the pending appeal. The hearing was, therefore, cancelled.

In respect to the industrial park aspect of the Applicant's proposal, the Commission apparently employed the "Act 250 Permit Policy and Procedures for Industrial Parks" adopted by the Board on March 12, 1975. In performing this review, the Commission identified certain of the 10 Criteria of 10 V.S.A. § 6086(a) which would remain applicable to the review of individual park tenants through the process of amending the Permit. The CVRPC notice of appeal objected to the Commission's failure to include Criteria 6 (educational services) and 9(A) (impact of growth) in the list of issues applicable to park tenants as set forth in Condition #5.

The parties' stipulation requests that the Board amend condition #5 to read as follows:

The permittee shall appear as co-applicant with all prospective park tenants for review and approval by this Commission by means of amendment applications to this permit. All tenants shall be reviewed under the following criteria: 1 (Air), 1(B) as to process, toxic or other non-sanitary wastes from the specific proposals, 1(C), 4, 6, 9 (A), and (F), except that tenants with 20 or fewer total personnel, relocating to the Park from elsewhere within the Washington West Supervisory Union, shall be exempt from review under Criteria 6 and 9(A).

Each tenant shall also obtain all necessary Public Building approvals from the Department of Water Resources and Environmental Engineering./1/

3 V.S.A. § 809(d) authorizes the Board to informally dispose of permit appeals through stipulation. Having reviewed the Permit, the Commission's underlying findings and conclusions, the Commission's December 5, 1984 decision denying CVRPC's reconsideration request and the notice of appeal, we conclude that disposition of this in the manner requested by the parties is not inconsistent with the intent or purposes of Act 250 or the Board's Rules. We will therefore issue an amended land use permit substituting the above language for existing Condition #5.

Dated at Montpelier, Vermont this 27th day of February, 1985.

VERMONT ENVIRONMENTAL BOARD

By:



Margaret P. Garland, Acting  
Chairman

Ferdinand Bongartz  
Warren M. Cone  
Melvin H. Carter  
Lawrence H. Bruce, Jr.

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/1/ While this stipulated language omits Criterion 8 (found in the Commission's Condition #5), we believe this was an unintentional oversight.