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

May 3

RE: Pilgrim Partnership by
Peter S. Sidel, Esq.
Sidel and Associates
P.O. Box 115
Waitsfield, VT 05673-0115

Memorandum of Decision
Land Use Permit #5W0894-1-EB

On December 29, 1987, A.G. Anderson filed a request for a stay of that portion of the Commission's decision that allows the Permittee to use its right-of-way over lands of A.G. Anderson. The grounds for the request are that the inadequacy of the right-of-way to handle the project's traffic creates unsafe conditions and that persons using the right-of-way should not be exposed to these conditions where the appeal is pending. On January 26, 1988, the Permittee filed a rebuttal to the request for a stay. The Permittee claims that the request should not be granted because the Appellant has not shown that it meets the four criteria for granting a stay enumerated in In re Insurance Services Office, Inc. and Travelers Indemnity Co., No. 87-301 (Oct. 7, 1987).

The Board hereby denies the request for a stay of the Commission's decision. The four criteria that the moving party must satisfy in order to prevail on a motion to stay, as enumerated in the Insurance Services case, are 1) that the party seeking the stay is likely to succeed on the merits; 2) that such party will suffer irreparable injury if the stay is not granted; 3) that the issuance of a stay will not substantially harm other parties; and 4) that the best interests of the public will be served by the issuance of the stay. The Appellant has not demonstrated that it meets these standards. The Appellant has not even offered an argument that it is likely to succeed on the merits or that the best interests of the public will be served by the stay. Furthermore, the Board is not persuaded that the Appellant will suffer irreparable injury if the stay is not granted, but is concerned that the issuance of the stay could harm the Permittee by preventing use of the building by the Permittee's tenant.

(12)
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ORDER

The Request for Stay is hereby denied.

Dated at Montpelier, Vermont this 17th day of February,
1988.

ENVIRONMENTAL BOARD



Leonard U. Wilson, Chair
Lawrence H. Bruce, Jr.

Jan S. Eastman

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