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

Re: Talon Hill Gun Club, Inc. and John Swinington
Land Use Permit #9A0192-EB(Revocation)

MEMORANDUM OF DECISION

This decision, dated February 8, 1993, pertains to a motion to dismiss and requests for party status filed in this revocation proceeding.

On September 13, 1990, the District #9 Environmental Commission issued Land Use Permit #9A0192 (the permit) to Talon Hill, Inc. (Talon Hill Gun Club, Inc.) and John Swinington. The permit authorizes the construction of a skeet and trap shooting facility, with a 40-foot by 80-foot club house, associated parking, and a 3,600-foot access road. The project is located off Arnold District Road in Leicester on property owned by John Swinington and leased to Talon Hill Gun Club, Inc.

On October 15, 1992, a petition to revoke the permit was filed with the Board by James and Kim Miner (the Petitioners). The Petitioners allege that, pursuant to Board Rule 38(A), the permit should be revoked both because Talon Hill Gun Club, Inc. willfully or with gross negligence submitted inaccurate, erroneous, or materially incomplete information in connection with its permit application, and because Talon Hill Gun Club, Inc. has failed to comply with several conditions of its permit.

A prehearing conference was convened by Board Chair Elizabeth Courtney on November 9, 1992. Several preliminary issues were raised and identified in the prehearing conference report issued on November 23.

Requests for party status were made by a number of people. Talon Hill Gun Club, Inc. filed objections to the party status requests, a motion to dismiss the revocation petition, and a request for a hearing on party status and the motion to dismiss.

The Board deliberated on December 16 in Brandon.

DECISION

A. Party Status

The Board grants party status to the following:

1. James and Kim Miner on Criteria 1 (noise), 1(B) (waste disposal), 1(G) (wetlands), 5 (traffic), and 8 (noise), pursuant to Board Rules 14(A) and 14(B)(1)(a) and (b).

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2. Kenneth and Jane DeAngelis, Bruce and Carmelita Brown, William and Gloria Currie, Donald and Vicki Eddy, Catlin Fox, Robert and Mary Lord, Terry and John Parker, and Robert and Susan Walsh (collectively referred to as the Neighbors) on Criteria 1 (noise) and 8 (noise), pursuant to Board Rule 14(B)(1)(a).

All of the Neighbors except Bruce and Carmelita Brown are represented by Attorney Jon Readnour. Party status is granted to the Neighbors predicated upon their representation by one attorney for purposes of cross-examination. Bruce and Carmelita Brown, who are not represented by Attorney Readnour, may conduct their own cross-examinations as necessary.

The Board denies party status to Ann Claghorn, Scott and Diane Benware, Arlene and E.G. Owen, and Andrea Manter. Ann Claghorn is denied party status because her request for party status was not filed on or before the date of the prehearing conference. Arlene and E.G. Owen and Andrea Manter are denied party status because they provided insufficient information for the Board to determine either that they have interests that would be affected or that they could materially assist the Board, as required by Board Rule 14(B).

B. Motion to Dismiss

Talon Hill Gun Club, Inc. filed a motion to dismiss the revocation petition, and a request for a hearing on the motion. Board Rule 18(D), which governs motions to dismiss filed with the Environmental Board, states that the Board will entertain oral argument prior to considering any dismissal, if a request for oral argument is made by a party. Therefore, the Board will schedule oral argument on this motion.

ORDER

1. Party status is granted and denied as enumerated in the above decision.
2. Talon Hill Gun Club, Inc.'s request for a hearing on party status is denied.
3. Oral argument on the motion to dismiss will be held on Wednesday, March 17, 1993, at a time and location to be announced at a later date.

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4. The evidentiary hearing previously scheduled for March 17 is cancelled. If the Board does not dismiss the revocation petition, a new date for a hearing will be established along with revised dates for filing documents.

Dated at Montpelier, Vermont this 8th day of February, 1993.

ENVIRONMENTAL BOARD

Elizabeth Courtney

Elizabeth Courtney, Chair
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Terry Ehrich
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