



STATE OF VERMONT
SUPERIOR COURT – ENVIRONMENTAL DIVISION

FILED

APR 24 2013

LAND USE PANEL OF THE
NATURAL RESOURCES BOARD,

Petitioner

v.

DONALD DORR, MGC, Inc.,
and DORR OIL CO.,

Respondents

Docket No. 49-4-13
VERMONT
SUPERIOR COURT
ENVIRONMENTAL DIVISION

EMERGENCY ORDER

Having found that Donald Dorr, MGC, Inc., and Dorr Oil Co., Inc. (Respondents) have committed a violation as defined in 10 V.S.A. § 8002(9), the Land Use Panel of the Vermont Natural Resources Board issues this Administrative Order as an Emergency Order pursuant to 10 V.S.A. §§ 8008 and 8009.

VIOLATIONS

Commencement and continuation of earth extraction activities without a Land Use Permit amendment, in violation of a 2008 Administrative Order and Judicial Order.

STATEMENT OF FACTS AND DESCRIPTION OF VIOLATIONS

1. On October 8, 2008, the Board issued an Administrative Order to address Respondent Donald Dorr's violation of Land Use Permit #8B0118-2, Docket No. 256-11-08 Vtec (2008 Administrative Order).
2. Respondent Dorr did not request a hearing on the 2008 Administrative Order, and it was entered as a Judicial Order in Docket No. 256-11-08 Vtec on November 6, 2008.
3. On January 23, 2013, the Board issued an Administrative Order to address Respondent Dorr's failure to pay the penalty and file the permit amendment application required by the 2008 Administrative Order (2013 Administrative Order). Respondent Dorr accepted service of the 2013 Administrative Order on February 1, 2013, and filed a timely request for hearing.
4. In Respondent Dorr's pretrial memorandum on the 2013 Administrative Order, he asserted that he no longer owns the property that is the subject of the 2013 Administrative Order.
5. Upon information and belief, that property is currently owned by Respondents MGC, Inc. and Dorr Oil Co.

6. MGC, Inc. is a Vermont corporation with a principal address of 209 Riverside Heights, Manchester Center, Vermont. Its president and registered agent is Donald D. Dorr, Respondent in this matter. Respondent Dorr is also a director of the corporation.
7. Paragraph C of the 2008 Administrative Order provides that:
 - C. The Respondent shall cease and desist all operation of the gravel pit on the project tract until all necessary permits from Act 250 and the Department of Environmental Conservation (DEC) are obtained.
8. To date, Respondents have not obtained an Act 250 permit for the gravel pit.
9. Since as early as April 1, 2013, Respondents have been operating the gravel pit on the project tract, using heavy equipment and trucks, and using chainsaws to clear more land to expand the pit. This work has been ongoing throughout the month to date, and is generating significant noise and visual aesthetic impacts.
10. The entrance drive to the pit is posted with no trespassing signs, but a neighboring landowner residing at the opposite end of the pit has seen and heard the activities this year.
11. Grounds for the issuance of an Emergency Administrative Order pursuant to 10 V.S.A. § 8009 exist because Respondents' earth extraction activities require a permit and are continuing without a permit.

ORDER

Having found that Respondent has committed a violation as defined in 10 V.S.A. § 8002(9), it is hereby **ORDERED**:

A. Respondents shall immediately cease all earth extraction, clearing, and related activity on the project tract.

B. Respondents shall comply with the 2008 Administrative Order, including Paragraph C, which requires that gravel pit operations cease and desist until all necessary permits from Act 250 and the Department of Environmental Conservation are obtained.

**RESPONDENT'S RIGHT TO A HEARING BEFORE THE SUPERIOR COURT,
ENVIRONMENTAL DIVISION**

Pursuant to 10 V.S.A. § 8009(d), the Respondent may request a hearing on the merits of this Order before the Superior Court, Environmental Division by filing, within five

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(5) days of the date the Respondent receives this Order, a Notice of Request for Hearing with the Court and the Land Use Panel at the following addresses:

Melanie Kehne, General Counsel
Natural Resources Board
Dewey Building
National Life Drive
Montpelier, VT 05620-3201

Ms. Jacalyn M. Fletcher, Court Manager
Superior Court, Environmental Division
2418 Airport Road
Barre, VT 05641

EFFECTIVE DATE OF THIS ADMINISTRATIVE ORDER

The filing of a Notice of Request for Hearing by the Respondents or any of them shall not automatically stay the provisions of this Emergency Order, but shall stay the implementation of a penalty in this Order, if any. The Emergency Order shall become effective immediately upon actual notice hereof to the Respondents and shall remain in effect until further order of the Court.

COMPLIANCE WITH THIS ADMINISTRATIVE ORDER

If the Respondents or any of them fail or refuse to comply with the conditions of a final Administrative Order, the Land Use Panel shall have cause to initiate an enforcement action against the Respondents pursuant to the provisions of 10 V.S.A. Chapters 201 and 211. The Natural Resources Board reserves the right to bring further enforcement against the Respondents or any of them to impose penalties for violations and seek further injunctive relief.

DATED at Montpelier, Vermont, this 23rd day of April, 2013.

LAND USE PANEL
NATURAL RESOURCES BOARD



Ronald A. Shems, Chair

ORDER

Having found, based upon the Application of the Land Use Panel presented to the Court this 22nd day of April, 2013, the Affidavit of Mary Ann Moriarty, and the Affidavit of Melanie Kehne, that the prerequisites to the issuance of an Emergency Administrative Order pursuant to 10 V.S.A. § 8009(b) exist because:

- (1) the Emergency Administrative Order has been presented to the Environmental Division;
- (2) all reasonable efforts have been made to notify the Respondents of the presentation of the Emergency Administrative Order to the Environmental Division; and
- (3) the Land Use Panel of the Natural Resources Board has made a sufficient showing that grounds under 10 V.S.A. § 8009(a) exist for the issuance of an Emergency Administrative Order.

It is hereby *ORDERED* that:

The Natural Resources Board Land Use Panel may issue the Emergency Administrative Order dated April 23, 2013 in this matter.

Issued at 12:04p.m., this 24th day of April, at Newfane, Vermont.

By: 

Presiding Judge
Superior Court, Environmental Division