

STATE OF VERMONT  
ENVIRONMENTAL BOARD  
10V.S.A. CHAPTER 151

RE: University of Vermont and  
State Agricultural College  
Burlington, Vermont

DECLARATORY RULING #116

In a decision in the case of Karlen Communications, Inc., Land Use Permit #5L0437-EB, dated August 28, 1978, the Environmental Board ruled that any additional permits for development of communication facilities on the summit of Mt. Mansfield would be contingent upon the creation of a management plan for facilities colocation on the mountaintop. On April 3, 1980, the University of Vermont and State Agricultural College submitted a request for a declaratory ruling that its management plan for the mountaintop complied with the Board's request and would be a satisfactory guide to future development and use of the mountaintop. The Environmental Board held a public hearing on this matter on June 10, 1980. The following parties were present:

Petitioner, University of Vermont, by Robert G. Arns,  
Vice President for Academic Affairs  
Vermont Public Radio by Raymond Dilley  
Radio station WDEV by Tim Lewis  
Radio and television stations WEZF by John Hughes  
Television station WCAX by Peter Martin  
Town of Stowe by Charles J. Adams, Esq.  
Town of Stowe Planning Commission by Dorothy Rogers.

FINDINGS OF FACT

1. The Petitioner and other parties who have substantial interests in the development and use of communication facilities on the summit of Mt. Mansfield have prepared a document entitled "The Summit of Mount Mansfield: A Colocation and Communications- Management Plan", dated May 23, 1980. This plan establishes underlying principles for the preservation and use of the Mt. Mansfield summit, defines a 28-acre "Colocation Area" on the mountaintop, and outlines a program to facilitate the colocation of communication facilities. This plan enjoys the support of all of the major communications users and owners of land on the summit as well as the Town of Stowe, which exercises land use control over the mountaintop. We find that, in general, with the exceptions noted herein, this plan satisfies the Board's requirement for a satisfactory colocation plan as set forth in our decision of August 28, 1978.
2. The Colocation Plan calls for the establishment of a management entity, to be called the Mount Mansfield Association, with authority "to act cooperatively within the Colocation Area to preserve and enhance the natural and

6/25/80


aesthetic environment and to reduce the impact of communications activities" in accordance with the principles set out in the plan. The legal and administrative structure of this entity is not yet defined. We cannot find, therefore, that an entity exists which is capable of carrying out the policies of the plan. We find, in addition, that as currently proposed, the Association will not be able to ensure that users of the mountaintop will employ high standards of environmental and aesthetic "housekeeping" in their operations. We find that a regular, ongoing program of maintenance is necessary to protect the mountaintop and we would require, the addition of a maintenance program to this Colocation Plan as a condition to any application for a Land Use Permit for development of additional facilities on the summit.

CONCLUSIONS OF LAW

1. This Board has expressed continuing concern over the proliferation of uses on the summit of Mt. Mansfield in accordance with the environmental criteria of Act 250 and the special consideration given by the Act to fragile lands over 2500 feet in. elevation. We conclude if it is amended as required herein, the petitioner's Colocation and Communications Management Plan, dated May 23, 1980, satisfies the Board's requirement for creation of a colocation plan as a condition of applications for future developments on the summit of Mt. Mansfield.
2. Any future applicant for a land use permit to develop communication facilities pursuant to this Colocation Plan must submit, as part of its permit application, a copy of the Colocation Plan, indicating an intent to comply with its principles and requirements. The District Commission will review any such application for conformance with the Colocation Plan.
3. Within a reasonable time period, the petitioners herein must submit a detailed description of the structure and operations of the Association to be formed to implement this Plan, together with the covenants, articles and/or \*bylaws governing that Association. Following review and approval of those materials, later applicants must satisfy the District Commission that the Association is capable of assuring compliance with the principles of this Board's decisions and the principles of the Colocation Plan approved herein.

Dated at Montpelier, Vermont this 25th day of June,  
1980.

ENVIRONMENTAL BOARD

By   
Margaret P. Garland  
Chairman

Members voting to  
issue this decision:  
Margaret P. Garland  
Ferdinand Bongartz  
Dwight E. Burnham, Sr.  
Melvin H. Carter  
Donald B. Sargent