

VERMONT ENVIRONMENTAL BOARD
10 V.S.A. §§ 6001-6092

Re: Ernest and Gudrun Paquette
Declaratory Ruling Request # 316

MEMORANDUM OF DECISION AND DISMISSAL ORDER

I. BACKGROUND

On January 10, 1996, Ernest and Gudrun Paquette (the Petitioners) filed a petition for declaratory ruling (Petition) appealing the Jurisdictional Opinion #4-114. The Petitioners objected to the District #4 Coordinator's determination that an Act 250 permit amendment is required for-certain proposed changes to a project authorized by Land Use Permit #4C0557 on the basis that those changes constitute substantial changes. The Petitioners asked the Environmental Board (Board) to hold this appeal in abeyance pending the filing of a revised permit application and further proceedings before the District #4 Commission (Commission) with respect to Land Use Permit Amendment 4C0557-8.

On February 21, 1996, Board Chair John T. Ewing wrote to the Petitioners indicating that this matter would be held in abeyance to allow for the filing of the revised application and Commission review. However, the Chair directed the Petitioners to write to the Board indicating their intention to either pursue or seek voluntary dismissal of the Petition within thirty days of the date of any final decision issued by the District Commission with respect to their revised application. The Petitioners were informed that failure to timely file such a notice of intent might result in dismissal of the Petition on the Board's own motion.

On July 31, 1996, in response to the Petitioners' revised amendment application, the Commission issued Land Use Permit Amendment #4C0557-8 and accompanying Findings of Fact, Conclusions of Law and Order. No appeal was taken from this permit amendment or decision. The Petitioners did not file with the Board a notice of intent within thirty days of the date of the permit amendment and decision.

Accordingly, the Environmental Board reviewed the record in this matter on September 25, 1996. The Board determined that this matter should be dismissed with prejudice on the bases that the Petitioners had failed to comply with the Chair's preliminary order and further that the issue raised by the Petition was moot as a consequence of the issuance of Land Use Permit Amendment #4C0557-8. However, in accordance with Environmental Board Rule 18(D), the Board determined that the Petitioners should be provided with an opportunity to request oral argument or otherwise indicate their objection to this disposition prior to this order becoming

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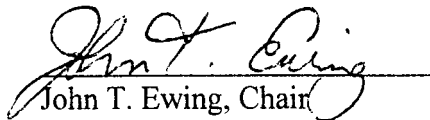
final.

II. ORDER

1. The Petitioners may file written objections to dismissal and/or a request for oral argument within fifteen (15) days of the date of this decision. If objections or a request for oral argument are timely filed, the Board shall consider these at a date, time and place to be identified in a subsequent notice.
2. If no objections or request for oral argument are filed by the deadline specified in Item 1 above, the Petition shall be dismissed with prejudice, without further action by the Board.

Dated at Montpelier, Vermont, this 25th day of September, 1996.

ENVIRONMENTAL BOARD


John T. Ewing, Chair

John M. Farmer

Arthur Gibb

Marcy Harding

Samuel Lloyd

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Rebecca M. Nawrath

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