VERMONTENVIRONMENTALBOARD
10 V.S.A. §§ 6001-6092

Re: Michael and Norman Auger
Declaratory Ruling Request #[redacted]

DISMISSAL ORDER

In this decision, the Environmental Board ("Board") dismisses a petition for declaratory ruling filed by Michael and Norman Auger.

I. FINDINGS OF FACT

On October 15, 1996, the District Coordinator for the District #7 Environmental Commission ("District Commission") issued Jurisdictional Opinion #7-185 ("Jurisdictional Opinion") in which he determined that the construction of gas pumps on a .95 acre parcel in Barton, Vermont, and the improvements to an associated building on an adjacent parcel requires a land use permit pursuant to the provisions of 10 V.S.A. §§ 6001-6092 ("Act 250").

On October 18, 1996, Michael and Norman Auger ("Petitioners") filed Act 250 permit application #7R1023 with the District Commission.

On November 11, 1996, the Petitioner filed a petition for a declaratory ruling ("Petition") with the Board. The Petition appeals the Jurisdictional Opinion and contends that the Project does not require an Act 250 amendment application.

A hearing on the permit application was held on November 20, 1996. Shortly thereafter, the District Commission issued Findings of Fact, Conclusions of Law, and Land Use Permit #7R1023 ("Permit") in which it granted the Petitioners a Permit authorizing the proposed development.

On November 26, 1996, Petitioners filed a letter with the Board stating that they had decided not to appeal Jurisdictional Opinion #7-185. No official Board action relative to that request was taken at the time the withdrawal request was received. There has been no activity on this matter since the date that letter was filed. In order to officially close the file and remove the case from the Board's docket, the Board determined that dismissal of this matter was appropriate.

On September 24, 1997, the Board deliberated in this matter.

II. CONCLUSIONS OF LAW

Environmental Board Rule ("EBR") 18(D) allows the Board to dismiss any matter before the Board for reasons provided by the EBRs, by statute, or by law. In this case, a land use permit has been issued and the Petitioners have withdrawn their petition.

Based on the foregoing, the Petition is dismissed pursuant to EBR 18(D).

III. ORDER

The Petition is hereby dismissed.

Dated at Montpelier, Vermont this 24th day of September, 1997.

ENVIRONMENTAL BOARD

John T. Ewing, Chair
Arthur Gibb
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William Martinez
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