

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

Re: Camara Slate Quarry
c/o Shawn and David Camara, Jr.
RFD 1, P.O. Box 210
Poultney, VT 05764

Declaratory Ruling
Request #345

DISMISSAL ORDER

On May 23, 1997, a petition was filed by Elmer and Frances Wheeler of Fair Haven, Vermont ("Petitioners"), requesting a declaratory ruling concerning whether 10 V.S.A. §§ 6001-6092 (Act 250) applies to one slate quarry hole on a +/- 20 acre tract located east of Bolger Road and near the Poultney/Fair Haven town line in the Town of Fair Haven, Vermont ("Project"). The Petitioners sought review by the Environmental Board ("Board") of Jurisdictional Opinion #1-S-103, which concludes that the quarry hole pre-exists Act 250, is not abandoned, and is therefore exempt from Act 250 review. On June 2, 1997, a second petition was filed by Richard Steves of Fair Haven, Vermont, relative to the same quarry.

Both petitions were deemed ministerially incomplete, and the Board's staff wrote to the Wheelers and Mr. Steves to so notify them. On June 6, 1997, the Petitioners supplemented their filing to address the deficiencies. On June 20, 1997, Mr. Steves did the same.

On June 16, 1997, an Act 250 Notice of Appeal and Prehearing Conference was issued and sent to all parties required to receive notice. This notice also was sent to the Rutland Herald for publication. A prehearing conference with respect to this matter was convened by the Chair Ewing on July 8, 1997, at 11:00 a.m., in Montpelier, Vermont, at the National Life Records Center Building, Environmental Board Conference Room. Those participating in the prehearing conference were: Petitioner Richard Steves, pro se, by teleconference; and Shawn and David Camara, owners of Camara Slate Quarry. No other persons entered timely appearances or participated in the prehearing conference in this matter. Moreover, Petitioners Elmer and Frances Wheeler did not attend the prehearing conference or otherwise file written notice in conformance with and by the deadline set forth in the Act 250 Notice of Appeal and Prehearing Conference.

At the prehearing conference, the Chair preliminarily ruled that Mr. Steves did not present any justiciable issues within the Board's authority and that he lacked the requisite standing. Petitioner Steves failed to indicate both in his notice of appeal and at the prehearing conference how Jurisdictional Opinion #3-S-103 was in error and he stipulated at the prehearing conference that the quarry at issue was in existence prior to 1970.

Following the prehearing conference, the Chair learned that the Rutland Herald had not published the Act 250 Notice of Appeal and Prehearing Conference. To correct this deficiency, he directed that a supplemental notice should be published in the paper and that any party or

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persons seeking to participate in this matter, who did not previously receive personal notice of the prehearing conference, should be provided with an opportunity to request a second prehearing conference by filing a written request on or before July 31, 1997. The Rutland Herald published this second notice on July 17, 1997.

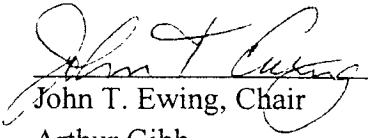
No requests for a second prehearing conference were received. By the express terms of the supplemental notice, the parties and interested persons were informed that this matter would be dismissed if no further requests to participate were received.

The Board considered this matter in teleconference deliberations on August 13, 1997. The Board determined that since the Wheelers did not comply with the terms of the Board's Act 250 Notice of Appeal and Prehearing Conference by either appearing at the prehearing conference on July 8, 1997, or making required written submissions, that their petition should be dismissed with prejudice. Furthermore, having reviewed the record in this matter, the Board concurred with the Chair that Petitioner Steves failed to make the requisite showing of standing and justiciable issues.

Accordingly, the Board hereby orders that Declaratory Ruling Request #345 be dismissed with prejudice.

Dated at Montpelier, Vermont, this 23rd day of August, 1997.

VERMONT ENVIRONMENTAL BOARD



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