

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

RE: Jeffrey and Anna Hutchins
Declaratory Ruling [REDACTED]

DISMISSAL ORDER

This proceeding concerns a request for a Declaratory Ruling for construction of improvements at a landscape business on 21.93 acres of land located at 5692 Ethan Allen Highway in the Town of Charlotte, Vermont ("Project"). Jeffrey and Anna Hutchins ("Petitioners") have subsequently filed a Motion to Withdraw the Appeal. As explained in more detail below, at the request of Petitioners, the Vermont Environmental Board ("Board") hereby dismisses the Petitioners' February 17, 2000 Petition for a Declaratory Ruling.

I. PROCEDURAL SUMMARY

On January 20, the District #4 Environmental Commission Coordinator issued Jurisdictional Opinion #4-1 59 ("JO") which determined that construction of improvements for a commercial purpose undertaken on the Charlotte site in connection with a landscape business requires a permit pursuant to 10 V.S.A. §§ 6001-6092 ("Act 250").

On February 17, 2000, Petitioners filed a Petition for Declaratory Ruling with the Board, appealing the JO and contending that the Project does not require an Act 250 permit. The Petition for Declaratory Ruling was filed pursuant to 10 V.S.A. § 6007(c) and Environmental Board Rule ("EBR") 3.

On March 28, 2000, Board Chair Marcy Harding convened a prehearing conference and issued a Prehearing Conference Report and Order ("PCRO").

On April 28, 2000, Petitioners submitted a status report and requested that the deadlines set in the PCRO be continued for fifteen days.

On June 2, 2000, Petitioners filed a Motion to Withdraw the Appeal.

On June 28, 2000 the Board deliberated.

II. DISCUSSION

Before the Board can grant Petitioners' Motion to Withdraw, the Board must conclude that dismissing the appeal will not harm the public interest. The Board and district commissions are charged to protect and conserve the lands and environment of the state. 10 V.S.A. Ch 151. An administrative agency has

Re: Jeffrey and Anna Hutchins
Declaratory Ruling Request #384
Dismissal Order
Page 2

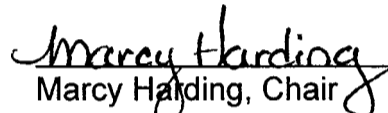
discretion to reject a stipulation to dismiss or a request to withdraw an appeal if dismissal would prejudice the public interest the agency is charged to protect. Cf., Rockwell Park Associates and Bruce J. Levinsky, #5W0772-5-EB, Dismissal Order (Feb. 17, 1994); H.A. Manosh Corp., Declaratory Ruling #247 (Dec. 13, 1991). As the withdrawal of the Petition will result in the JO becoming final, the Board concludes that allowing withdrawal of Petitioners' appeal will not prejudice the public interest that the Board is charged to protect. Therefore, Petitioners' Motion to Withdraw is granted.

III. ORDER

The Petitioners' February 17, 2000, Petition for a Declaratory Ruling is dismissed.

Dated at Montpelier, Vermont this 29th day of June, 2000.

ENVIRONMENTAL BOARD



Marcy Harding, Chair

George Holland

Samuel Lloyd

W. William Martinez

Rebecca M. Nawrath

Alice Olenick

Donald Sargent

Nancy Waples