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September 20, 1971

Mr. Robert B. Williams, Secretary  
Agency of Environmental Conservation  
Montpelier, Vermont 05602

Dear Bob:

Pursuant to your request of September 15, 1971 asking the Environmental Board for a declaratory ruling on whether the governing factor in determining the applicability of a proposed development to 10 VSA Chapter 151 is the actual size of the proposed project on the land or the actual size of the tract or tracts of land upon which said development will occur, the Board voted unanimously at a meeting in Montpelier on September 17, 1971 to reaffirm their consistent opinion that the intent of 10 VSA Chapter 151 is to control the orderly development of the State of Vermont by requiring land use permits for developments that occur on a tract or tracts of land more than one acre in size in a community which does not have permanent zoning and subdivision regulations or for developments that occur on attract or tracts of land more than ten acres in size in communities which do not have those by-laws.

It was further declared by the Board that the Agency is correct in its opinion that there is a distinction between private and public developments, and, thus, in the case of municipal projects, such as sewer or water systems or highways, the governing factor is the actual land area utilized for said projects. The Board has upheld this distinction in a number of other declaratory rulings.

Therefore, the Board has unanimously agreed that the governing factor in determining applicability of a development to 10 VSA Chapter 151 is the size of the actual tract or tracts of land upon which the development will occur.

On behalf of the Board, I would like to thank you and your Agency for addressing this crucial interpretative problem.

Sincerely,

ROBERT S. BABCOCK, JR.  
Executive Officer  
Vermont Environmental Board

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