

Environmental Court of Vermont
State of Vermont

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E N T R Y R E G A R D I N G M O T I O N
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JLD Properties-Wal-Mart Stormwater Discharge Permit, Docket No. 129-5-06 Vtec
Project: Wal-Mart St. Albans and 221-10-07 Vtec
Applicant: JLD Properties
 (Appeal from ANR Storm Water Permit determination)

Title: Motion to Dismiss R.L Vallee as an Interested Party, No. 4

Filed: October 16, 2008

Filed By: Stewart H. McConaughy, Attorney for Appellee JLD Properties

Response: NONE

Granted Denied Other

Appellee-Applicant JLD Properties of St. Albans, LLC, has moved to dismiss R.L. Vallee, Inc., as an Interested Party in Docket Numbers 129-5-06 Vtec (stormwater discharge permit appeal) and 221-10-07 Vtec (construction discharge permit appeal). No party has filed a response opposing this motion.

In general, interested parties must enter an appearance "within 20 days" of the last notice of appeal being served. V.R.E.C.P. 5(c). R.L. Valley's October 6, 2008 Notice of Appearance missed this filing deadline by many months (or even years) for these docket numbers.

Even if we were to treat R.L. Valley's Notice of Appearance as a motion to intervene, such motions must be "timely." V.R.E.C.P. 5(c). We find that R.L. Vallee's attempted late entrance into these dockets, at a time when deadlines for pre-filed testimony were quickly approaching, was not timely. We also note that R.L. Vallee has chosen not to offer a substantive basis for its interested person status in these appeals, whether it be timely or not.

For these reasons, we GRANT JLD Properties' motion to dismiss R.L. Vallee as an Interested Party.

Thomas S. Durkin, Judge

February 10, 2009

Date

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Date copies sent to: _____

Clerk's Initials _____

Copies sent to:

Stewart H. McConaughy, Attorney for Appellee/Applicant JLD Properties,
joined by Co-Counsel for Appellee, Robert F. O'Neill, Esq.
Jon Groveman, Attorney for Appellant Vt. Natural Resources Council
Jon T. Anderson, Attorney for Interested Person R.L. Vallee, Inc.
Judith L. Dillon, Attorney for Agency of Natural Resources
Mark L. Lucas, Attorney for NRB/Water Resources Panel
David A. Barra, Attorney for Town of St. Albans
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