

STATE OF VERMONT

SUPERIOR COURT
Vermont Unit

ENVIRONMENTAL DIVISION
Docket No. 134-10-13 Vtec

All Metals Recycling Location Cert.

ENTRY REGARDING MOTION

Title: Motion to Stay (Motion 4)
Filer: All Metals Recycling, Inc.
Attorney: Robert F. O'Neill
Filed Date: September 4, 2014

Response in opposition filed on 09/15/2014 by Attorney Hobart F. Popick for Appellant Burnett Scrap Metals, LLC
Memo in Opposition

The motion is GRANTED.

Before the Court is All Metals Recycling, Inc. (All Metals) motion for stay. We consider the motion as a request to place this matter on inactive status in the nature of a continuance. All Metals is seeking necessary approvals to relocate its operations to a different location. If All Metals' relocation efforts are successful, the pending matter will become moot. All Metals predicts that its permitting efforts will be complete in late 2014 and its relocation will be complete in early 2015.

Appellants are opposed to placing this matter on inactive status. A "party seeking a stay must make out a clear case of hardship or inequity in being required to go forward if there is a possibility that a stay will damage someone else." In re Woodstock Community Trust and Housing Vermont PRD, 2012 VT 87, ¶ 36, 192 Vt. 474 (quotations omitted). Here, however, Appellants do not provide any compelling claim that placing this matter on inactive status will cause them damage or hardship. While it is undisputed that a successful relocation by All Metals would moot the entire appeal now before the Court, Appellants argue that a legal issue in this appeal may also arise in relation to the relocated All Metals activity. If this is true, there is no harm in raising that legal issue at the appropriate time on facts properly before the Court. Judicial efficiency weighs heavily in favor of only deciding actual cases or controversies and preserving judicial resources when it is undisputed that a matter before the Court may be quickly resolved through other means.

This matter is therefore placed on inactive status. All Metals shall file a status report regarding its relocation progress in writing with the Court at the first of each month.

So ordered.

Electronically signed on September 30, 2014 at 12:28 PM pursuant to V.R.E.F. 7(d).



Thomas G. Walsh, Judge
Superior Court, Environmental Division

Notifications:

Hobart F. Popick (ERN 1829), Attorney for Appellant Darlene Ashley
Hobart F. Popick (ERN 1829), Attorney for Appellant John Chandler
Hobart F. Popick (ERN 1829), Attorney for Appellant James Babcock
Hobart F. Popick (ERN 1829), Attorney for Appellant Jennifer Ashley
Hobart F. Popick (ERN 1829), Attorney for Appellant William Babcock
Hobart F. Popick (ERN 1829), Attorney for Appellant Shawn Chapman
Hobart F. Popick (ERN 1829), Attorney for Appellant Wayne Burnett
Hobart F. Popick (ERN 1829), Attorney for Appellant Jeannine Burnett
Hobart F. Popick (ERN 1829), Attorney for Appellant Patty Shortsleeves
Hobart F. Popick (ERN 1829), Attorney for Appellant George Shortsleeves
Hobart F. Popick (ERN 1829), Attorney for Appellant Gary Boutin
Hobart F. Popick (ERN 1829), Attorney for Appellant Michael Burnett
Hobart F. Popick (ERN 1829), Attorney for Appellant Mark Burnett
Hobart F. Popick (ERN 1829), Attorney for Appellant James Burnett
Hobart F. Popick (ERN 1829), Attorney for Appellant Burnett Scrap Metals, LLC
Paul S. Gillies (ERN 3786), Attorney for Interested Person Town of Williston
Robert F. O'Neill (ERN 2991), Attorney for Appellee All Metals Recycling, Inc.
Robert F. O'Neill (ERN 2991), Attorney for Appellee Riggs Properties
David A. Boyd (ERN 4578), Attorney for party 18 Co-counsel
David A. Boyd (ERN 4578), Attorney for party 19 Co-counsel