

STATE OF VERMONT

SUPERIOR COURT

ENVIRONMENTAL DIVISION
Docket No. 50-6-16 Vtec

Diverging Diamond Interchange SW Permit

ENTRY REGARDING MOTION

Count 1, ANR Storm Water Permit (50-6-16 Vtec)

Title: Motion to Amend Statement of Questions (Motion 5)
Filer: R.L. Vallee, Inc.
Attorney: Jon T. Anderson
Filed Date: May 25, 2017

No response filed

The motion is GRANTED.

This is an appeal by R.L. Vallee, Inc. (Vallee) from a permit issued by the Agency of Natural Resources (ANR) to the Vermont Agency of Transportation (VTrans) to discharge stormwater runoff from a proposed diverging diamond interchange at I-89 Exit 16 in Colchester.

Vallee explains that since filing its original Statement of Questions, further investigation has shed light on facts that resolve, moot, or clarify many of those original questions. Vallee therefore moves to withdraw its Questions 1–5, 7, 9–11, 13–14, and 18. Vallee also moves to clarify its Questions 12 and 19. Vallee has filed an Amended Statement of Questions reflecting these changes, with the remaining Questions numbered 1–18.

The other parties have not filed any pleadings in response to Vallee’s motion to amend.

We typically grant a motion to amend a statement of questions if doing so does not prejudice other parties, and if the motion is made in good faith, is not futile, and is not made to delay the proceedings. Buchwald Home Occupation CU Permit, No. 181-12-13 Vtec, slip op. at 2 (Vt. Super. Ct. Env’tl. Div. Apr. 1, 2014) (Walsh, J.) (citations omitted). We are also prone to grant a motion to clarify when doing so serves to “clarify and focus the issues to be litigated.” Morrisville Hydroelectric Project Water Quality, No. 103-9-16 Vtec, slip op. at 2 (Vt. Super. Ct. Env’tl. Div. Feb. 7, 2017) (Walsh, J.).

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The motion here appears to have been made in good faith, will not prejudice other parties, and will help focus on the issues to be litigated. We therefore **GRANT** the motion to amend.

So ordered:

Electronically signed on July 18, 2017 at 11:22 AM pursuant to V.R.E.F. 7(d).



Thomas G. Walsh, Judge
Superior Court, Environmental Division

Notifications:

Jon T. Anderson (ERN 1856), Alexander J. LaRosa (ERN 5814), Attorneys for Appellant R.L. Vallee, Inc.

Justin E. Kolber (ERN 4303), John K. Dunleavy (ERN 1949), Attorneys for Appellee Agency of Transportation

David L. Grayck (ERN 4510), Attorney for Interested Person Timberlake Associates, LLP

Leslie A. Welts (ERN N/A), Hannah W. Smith (ERN 6759), Attorneys for Interested Person Agency of Natural Resources

Elena M. Mihaly (ERN 8101), Attorney for Intervenor Conservation Law Foundation

Gregory J. Boulbol (ERN 1712), Attorney for For Informational Purposes Only Natural Resources Board

Mark G. Hall (ERN 2537), Attorney for Intervenor Costco Wholesale Corp.

Peter J. Gill (ERN 4158), Attorney for For Informational Purposes Only Natural Resources Board