

**State of Vermont
NATURAL RESOURCES BOARD
DISTRICT #2 ENVIRONMENTAL COMMISSION
100 Mineral Street, Suite 305
Springfield, VT 05156-3168**

RE: C.A. Denison Lumber Co., Inc.
5706 Jacksonville Stage Road
Halifax, VT 05358

Application #2W1318
**Findings of Fact
Conclusions of Law, and Order and
Order of Denial of Permit**
10 V.S.A. §§ 6001-6093 (Act 250)

And

Ashfield Stone, LLC
246 Main Street
Shelburne Falls, MA 01370

I. INTRODUCTION

On April 7, 2014, C.A. Denison Lumber Co., Inc. and Ashfield Stone, LLC filed an application for an Act 250 permit for a project generally described as extraction of dimension stone from a portion of a parcel of forested land and construction of an access road leading to the extraction site from an existing logging road. The tract of land consists of 1,210 acres. C.A. Denison Lumber Co., Inc.'s legal interest is ownership in fee simple described in a deed recorded on August 6, 2000, Book 45, Pages 87-88 in the land records of Halifax, Vermont.

The Commission held hearings on this application on September 9, 2014, January 23, 2015, and March 6, 2015, and March 11, 2015. The Commission also conducted a site visit on September 9, 2014. At the end of the hearing, the Commission recessed the proceeding pending the submittal of additional information. The Commission allowed a very generous amount of time to the Applicants to resolve issues and supply the Commission with all requested evidence. The Commission issued six hearing recess orders and adjourned the hearing on February 7, 2018 after the completion of Commission deliberations.

The Applicants requested a determination that jurisdiction only attach to the 67-acre portion of the 1,210-acre tract where the project will be located. The 67-acre project site is located in the middle of the 1,210-acre tract. The Applicants are relying on the site characteristics of the 1,210-acre tract (foliage, for example) to buffer and help mitigate the noise emanating from the project site. Were the Commission to issue a permit for this project, this request would be **denied**, pursuant to *Re: Stonybrook Condominium Owners Association*, Declaration Ruling #385, Findings of Fact, Conclusions of Law, and Order (May 18, 2001).

As set forth below, the Commission finds that the Project does not comply with 10 V.S.A. § 6086(a) (Act 250) and is **denied**.

II. JURISDICTION

Jurisdiction attaches because the Project constitutes a development pursuant to 10 V.S.A. §6001(3(A)(ii).

III. PARTY STATUS AND FRIENDS OF THE COMMISSION

A. Parties by Right

Parties by right to this application pursuant to 10 V.S.A. § 6085(c)(1)(A)-(D) are:

- The Applicants
- The landowner
- The municipality of Halifax
- The Halifax Planning Commission
- The Windham Regional Planning Commission
- The State of Vermont Agency of Natural Resources (ANR)

B. Interested Parties

Any person who has a particularized interest protected by Act 250 that may be affected by an act or decision of the Commission is also entitled to party status. 10 V.S.A. § 6085(c)(1)(E).

i. Preliminary Party Status Determinations

Pursuant to Act 250 Rule 14(E), the District Commission made preliminary determinations concerning party status at the commencement of the hearing on this application. The following persons requested party status pursuant to 10 V.S.A. § 6085(c)(1)(E), and were either admitted as parties or denied party status, as indicated below:

1. Elizabeth Adams is an abutter to the tract and she is requesting party status under Criteria 1 Air Pollution, 1(E) Streams, 5 Traffic, and 9(K) Public Investments. We grant preliminary party status under Criteria 1 Air, 5 Traffic, and 9(K) Impact on Public Investments. We deny party status under Criterion 1(E) Streams as she has not demonstrated a particularized interest.

2. Marilyn Allen lives somewhat less than three miles project and is concerned that dust will make it to the river she walks to. She has requested party status under 1 Air Pollution (dust), 1(E) Streams, 5 Traffic (she travels Stark Mountain Road), 8 Aesthetics, 8(A) Wildlife, 9(E) Extraction of Earth Resources, 9(K) Public Investments, and 10 Local and Regional Plan. Ms. Allen makes an adequate case that she has particularized interests under 8 Aesthetics, 5 Traffic, 9(K) Public Investments, and 10 Conformance with Local and Regional Plans. She has not adequately made a case as to how dust from operations would create undue air pollution or affect the river she enjoys. Preliminary party status is denied under Criteria 1 Air Pollution and 1(E) Streams.

3. Lisa Rose-Andrews lives three miles from the site and is requesting party status under Criteria 5 Traffic, and 9(K) Impact on Public Investments. We grant preliminary party status under the requested criteria.

4. Carl Barmen lives on Jacksonville Stage Road has requested party status for criteria 1 Air Pollution (has existing respiratory condition), 1(B) Waste Disposal (concern about damage to stream on his property and his well), 5 Traffic, 8 Aesthetics, 8(A) Wildlife 9(K) Pubic Investments and 10 Conformance with Local and Regional Plans. We grant these requests under Criteria 1 Air Pollution, 5 Traffic, 8 Aesthetics 9(K) Public Investments and 10 Conformance with Local and Regional Plans. The other requests are denied as insufficient information has been provided.

5. Margaret and Nicholas Bartenhagen live .8 mile from the quarry site and are requesting party status under Criteria 1 Air Pollution, 1(B) Waste Disposal, 5 Traffic, 8 Aesthetics, 8(A) Necessary Wildlife, 9(E) Extraction of Earth Resources, 9(K) Impact on Public Investments, and 10 Conformance with Local and Regional Plans. We granted preliminary party status under 1(B) Waste Disposal, Criteria 5 Traffic, 8 Aesthetics, 9(E) Extraction of Earth resources, 9(K) Impact on Public

Investments, and 10 Conformance with Local and Regional Plans. We deny party status under 1 Air Pollution, and 8(A) Necessary Wildlife as they have not demonstrated a particularized interest.

6. Tony Blackett lives two miles from the project to the south and travels the proposed truck route. He is requesting party status under Criteria 5 Traffic, 7 Municipal Services, 9(E) Extraction of Earth Resources, 9(K) Impact on Public Investments, and 10 Conformance with Local and Regional Plans. We grant the requests under 5 Traffic, 9(E) Extraction of Earth Resources, 9(K) Impact on Public Investments, and 10 Conformance with Local and Regional Plans, and deny the request under 7 Municipal Services, as he has not demonstrated how his interests are different from the general public.

7. David Brewster lives about three miles from site and is requesting party status under Criteria 5 Traffic, 8 Aesthetics, 8(A) Wildlife, and 9(K) Impact on Public Investments. Mr. Brewster uses the proposed travel route. He has students live with him as artists in residence. The Commission has insufficient evidence to grant party status under Criterion 8(A) Wildlife as Mr. Brewster has not provided evidence that his particularized interests under this criterion are different than that of the general public. We grant him preliminary party status under the remaining requested criteria.

8. Bonnie Brown lives three miles from the quarry site and is requesting party status under Criteria 1 Air pollution, 1(B) Waste Disposal, 3 Water Supplies, 5 Traffic, 7 Municipal Services, 8 Aesthetics, 8(A) Wildlife, 9(E) Extraction of Earth Resources, 9(K) Impact on Public Investments, and 10 Conformance with Local and Regional Plans. We grant preliminary party status under Criteria 5 Traffic, 8 Aesthetics, 9(E) Extraction of Earth Resources, 9(K) Impact on Public Investments, and 10 Conformance with Local and Regional Plans. We deny the request under Criteria 1 Air pollution, 1(B) Waste Disposal, 3 Water Supplies, 7 Municipal Services, and 8(A) Wildlife because a particularized interest has not been identified.

9. David Brown lives one mile from site he is requesting party status under Criteria 5 Traffic, 8 Aesthetics (noise and dust), 9(K) Impact on Public Investments and 10 Conformance with Local and Regional Plans. We grant preliminary party status under the requested criteria.

10. Sascha, Granville and Joyce Burland live 2,320 feet from the proposed quarry. They have requested party status under Criteria 1 Air Pollution (concerning noise pollution), 8 Aesthetics, and 10 Conformance with Local and Regional Plans. We grant the requests under Criteria 1 Air Pollution, 8 Aesthetics and 10 Conformance with Local and Regional Plans.

11. Penfield Chester lives about three miles from the quarry site and is requesting party status under Criteria 5 Traffic, 9(E) Extraction of Earth Resources, 9(K) Impact on Public Investments, and 10 Conformance with Local and Regional Plans. We grant preliminary party status under the requested criteria.

12. Cara Cheyette lives seven miles from the proposed site and is requesting party status for Criteria 5 Traffic, 8(A) Wildlife, 9(E) Extraction of Earth Resources, 9(K) Impact on Public Investments and 10 Conformance with Local and Regional Plans. We grant preliminary party status under the requested criteria with the exception of criterion 8(A) Wildlife because a particularized interest has not been identified.

13. William Cooper lives one mile due north and is requesting party status under Criteria 1 Air Pollution (Noise, works at home), 8(A) Wildlife, and 10 Conformance with Local and Regional Plans. We grant preliminary party status under Criterion 8 Aesthetics to address noise concerns, and Criterion 10 Conformance with Local and Regional Plans. We deny party status under Criterion

1 Air Pollution as we will address noise concerns under Criterion 8 and Criterion 8(A) Wildlife as a particularized interest has not been identified.

14. Arthur and Lynda Copeland live about four miles away from the quarry site and are requesting party status under Criteria 7 Municipal services (concern about road damage), and 10 Town and Regional Plans. We grant the requests for 10 Conformance with Local and Regional Plans and deny the request under 7 Municipal Services as they have not demonstrated how their interests are different from the general public.

15. James Coughlen resides 1,500 feet from the quarry access road and is requesting preliminary party status under Criteria 1 Air Pollution, 1(E) Steams, 5 Traffic, 8 Aesthetics, 8(A) Wildlife, 9(E) Extraction of Earth Resources, and 10 Conformance with Local and Regional Plans. We grant these requests.

16. Norman and Deborah Fajans live .6 mile from the quarry site and are requesting party status under Criteria 1 Air Pollution, 1(B) Waste Disposal, 3 Water Supplies, (possible damage to the aquifer), 8 Aesthetics, 9(E) Extraction of Earth Resources, 9(K) Impact on Public Investments, and 10 Conformance with Local and Regional Plans. We grant preliminary party status under the requested criteria.

17. Arthur Ferland has requested party status for Criteria 8 Aesthetics, 8(A) Wildlife, 9(E) Extraction of Earth Resources, and 10 Town and Regional Plans. Mr. Ferland is concerned with impact on deer and bear, and wetlands. His property is three and a half miles from the quarry site. He has walked the project many times and is fond of wild areas and concerned about lack of reclamation. He also contends the project is not in compliance with the town plan. We need more information as to the status of town trails that may or may not go through the property in order to determine whether to grant Mr. Ferland party status under Criteria 8 Aesthetics, 8(A) Wildlife, and 9(E) Extraction of Earth Resources. We grant him party status under Criterion 10 Conformance with Local and Regional Plans.

18. Debra Foster lives on Deer Park Road and her property abuts the project. She has requested party status under Criteria 1 Air Pollution, 1(B) Waste Disposal, 1(E) Streams, 1(G) Wetlands, 3 Existing Water Supplies, 5 Traffic, 8 Aesthetics, 8(A) Necessary Wildlife, 9(E) Extraction of Earth Resources, 9(K) Impact on Public Investments, and 10 Conformance with Local and Regional Plans. We grant preliminary party status under the requested criteria.

19. Rick Gay lives three miles from the quarry is requesting party status under Criteria 5 Traffic, and 10 Conformance with Local and Regional Plans. We grant preliminary party status under the requested criteria.

20. Stephen Greenblatt and Ramie Targoff live on Stark Mountain Road. They have requested party status under Criteria 1 Air Pollution (concern about diesel fumes), 5 Traffic, 8 Aesthetics, 8(A) Wildlife, 9(E) Extraction of Earth Resources, 9(K) Impact on Public Investments, and 10 Conformance with Local and Regional Plans. We grant party status under Criteria 1 Air Pollution (concern about diesel fumes), 5 Traffic, 8 Aesthetics, 9(E) Extraction of Earth Resources, 9(K) Impact on Public Investments, and 10 Conformance with Local and Regional Plans. We deny party status under Criterion 8(A) Wildlife as they have not demonstrated a particularized interest different from the general public.

21. Justina and Patrick Gregory live about a half mile from Stark Mountain Road. They are requesting party status under Criteria 5 Traffic, 8 Aesthetics – walking is an important recreational

activity, 9(E) Extraction of Earth Resources, 9(K) Impact on Public Investments, and 10 Conformance with Local and Regional Plans. We grant preliminary party status under the requested criteria.

22. Jan Ham abuts the tract, lives two miles from the quarry site, and is requesting party status under Criteria 1 Air Pollution (fumes), 5 Traffic, 8 Aesthetics, 9(E) Extraction of Earth Resources, 9(K) Impact on Public Investments, and 10 Conformance with Local and Regional Plans. We grant preliminary party status under Criteria 1 Air Pollution, 5 Traffic, 8 Aesthetics, 9(E) Extraction of Earth Resources, 9(K) Impact on Public Investments, and 10 Conformance with Local and Regional Plans.

23. Michaela Harlow lives less than a half mile from the excavation site. She is requesting party status under Criteria 1 Air Pollution, 1(B) Waste Disposal (stormwater impacting the area where she swims), 3 Water Supplies, 5 Traffic, 8 Aesthetics, 8(A) Necessary Wildlife, 9(K) Impact on Public Investments, and 10 Conformance with Local and Regional Plans. We grant Ms. Harlow preliminary party status under the requested criteria.

24. Mary Horne is an abutter to the tract and lives about a mile from the quarry and is requesting party status under Criteria 1 Air Pollution, 5 Traffic, 8 Aesthetics, 8(A) Wildlife, 9(K) Impact on Public Investments, and 10 Conformance with Local and Regional Plans. We grant preliminary status under Criteria 5 Traffic, 8 Aesthetics, 9(K) Impact on Public Investments, and 10 Conformance with Local and Regional Plans. We would need more information as to how her interests might be affected under Criteria 1 Air Pollution and 8(A) Wildlife to consider these requests. They are denied presently.

25. Susan Kelly, represented by David Grayck, has requested party status under Criteria 5 Traffic, 8 Aesthetics, 8(A) Necessary Wildlife, 9(E) Extraction of Earth Resources, 9(K) Impact on Public Investments, and 10 Conformance with Local and Regional Plans. Ms. Kelley uses the proposed truck route, is concerned with wildlife and is a veterinarian. She believes the project is not in conformance with the town plan. The Commission grants preliminary party status under Criteria 5 Traffic, 8 Aesthetics, 9(E) Extraction of Earth Resources, and 10 Conformance with Local and Regional Plans. The Commission has insufficient evidence to grant party status under Criterion 8(A) Wildlife as Ms. Kelly has not provided evidence that her particularized interests under this criterion are different than that of the general public. If there is additional evidence as to how Ms. Kelley's interests are particularized under this criterion and different than the general public, we will consider the additional evidence.

26. Judy Kotanchik lives in the house along the travel route and is requesting party status under Criteria 1 Air Pollution, 3 Water Supplies, 4 Soil Erosion, 5 Traffic, 8 Aesthetics, 8(A) Wildlife, 9(E) Extraction of Earth Resources, 9(K) Impact on Public Investments, and 10 Conformance with Local and Regional Plans. We grant preliminary party status under Criteria 5 Traffic, 8 Aesthetics, 9(E) Extraction of Earth Resources, and 9(K) Impact on Public Investments. We deny party status under Criteria 3 Water Supplies, 4 Soil Erosion, and 8(A) Necessary Wildlife as she has not demonstrated a particularized interest.

27. Elizabeth Laona lives a half a mile from the quarry site and is requesting party status under Criteria 1 Air Pollution, 1(B) Waste Disposal, 3 Water Supplies, 8 Aesthetics, 8(A) Necessary Wildlife, and 10 Conformance with Local and Regional Plans. We grant these requests.

28. Matt Maranian and Loretta Palazzo live 4,000 feet from the quarry site and are requesting party status under Criteria 1 Air Pollution, 1(B) Waste Disposal, 3 Water Supplies, 4 Soil Erosion, 5

Traffic, 8 Aesthetics, 8(A) Wildlife, 9(E) Extraction of Earth Resources, and 9(K) Impact on Public Investments. We grant preliminary party status under Criteria 5 Traffic, 8 Aesthetics, 9(E) Extraction of Earth Resources, and 9(K) Impact on Public Investments. We deny party status under Criteria 1 Air Pollution, 1(B) Waste Disposal, 3 Water Supplies, 4 Soil Erosion and 8(A) Necessary Wildlife as they have not demonstrated a particularized interest.

29. Elizabeth Martin has a vacation home on Jacksonville Stage Road and requested party status under Criteria 1 Air Pollution (son has respiratory illness), 1(B) (Waste Disposal concern about well water), 1(E) Streams, 8 Aesthetics, and 8(A) Wildlife (fewer opportunities to view wildlife being in Conservation area), 9(K) Pubic Investments, and 10 Conformance with Local and Regional Plans. We grant the requests under Criteria 1 Air Pollution, 8 Aesthetics, 8(A) Wildlife, 9(K) Pubic Investments, and 10 Conformance with Local and Regional Plans. We deny the request under Criteria 1(E) Streams and 1(B) Waste Disposal as there was insufficient information to support the request.

30. Kathy McLean lives on Stark Mountain Road. She has requested party status under Criteria 1, 8 Aesthetics, 8(A) Wildlife and, 9(E) Extraction of Earth Resources, 9(K) Impact on Public Investments, and 10 Conformance with Local and Regional Plans. We grant the party status request under Criteria 8 Aesthetics, 9E, and 10. We deny the requests under Criteria 1, 8(A) Wildlife as there was insufficient information to support the request.

31. Kevin O'Donnell lives less than a mile away from the proposed quarry and has requested party status under Criteria 1 Air Pollution, 1(E) Streams, 5 Traffic, 8 Aesthetics, 8(A) Wildlife, 9 (E) Extraction of Earth Resources, and 9(K) Public Investments and 10 Conformance with Local and Regional Plans. We grant preliminary under Criteria 1 Air Pollution (dust), 5 Traffic, 8 Aesthetics, 8(A) Wildlife, 9(E) Extraction of Earth Resources, 9(K) Public Investments and 10 Conformance with Local and Regional Plans. We deny party status under Criterion 1(E) Streams as there was insufficient information to support the request.

32. Matt Ollis and Gemma Ollis have a home about 4,000 feet from the proposed quarry and have requested party status under Criteria 1 Undue Water Pollution, 1(B) Waste Disposal, 8 Aesthetics, 8(A) Wildlife, 9(E) Extraction of Earth Resources, 9(K) Public Investments, and 10 Town Plan. They make an adequate case for particularized interests under Criteria 1Undue Water Pollution, 1(B) Waste Disposal, 8 Aesthetics, 8(A) Wildlife, 9(E) Extraction of Earth Resources, and 10 Conformance with Local and Regional Plans. We deny party status under Criterion 9(K) Public Investments as there was insufficient information to support the request.

33. Gregg Orifici has a residence on Stark Mountain Road and has requested party status under Criteria 1 Air Pollution (noise), 5 Traffic, 8 Aesthetics, 8(A) Wildlife, 9(E) Extraction of Earth Resources, 9(K) Impact on Public Investments, and 10 Conformance with Local and Regional Plans. We grant party status under Criteria 1 Air Pollution, 5 Traffic, 8 Aesthetics (including noise), 9(E) Extraction of Earth Resources, 9(K) Impact on Public Investments, and 10 Conformance with Local and Regional Plans. We have insufficient information as to the status of town trails through the project lands to determine if Mr. Orifici has particularized interests under Criterion 8(A) Wildlife.

34. Melvin Osborne is an abutter to the tract and resides 3,000 feet due north and his property is 30 feet higher in elevation than the quarry site. He has requested party status under criteria 1 Air Pollution (dust and noise), 8 Aesthetics, and 10 Conformance with Local and Regional Plans. We grant preliminary party status under the requested criteria.

35. Chris Parkins lives one and one-half miles from the quarry site and is requesting party status under Criteria 1 Air Pollution, 1(B) Waste Disposal, 5 Traffic, 8 Aesthetics, 9(A) Impact of Growth, 9(K) Public Investments, and 10 Conformance with Local and Regional Plans. We grant preliminary party status under Criteria 1 Air Pollution, 5 Traffic, 8 Aesthetics, 9(E) Extraction of Earth Resources, 9(K) Impact on Public Investments, and 10 Conformance with Local and Regional Plans. We also deny party status under 1(B) Waste Disposal, and 9(A) Impact of Growth as a particularized interest has not been identified.

36. Lesley Pollitt lives on Amidon Road and has requested party status under Criteria 5 Traffic, 8 Aesthetics, 8(A) Wildlife, 9 (E) Extraction of Earth Resources, and 9(K) Public Investments, and 10 Conformance with Local and Regional Plans. We grant preliminary under Criteria 5 Traffic, 8 Aesthetics, 8(A) Wildlife, 9(E) Extraction of Earth Resources, and 9(K) Public Investments and 10 Conformance with Local and Regional Plans.

37. Donald Pyskacek and Barbara Shapiro have a home in Guilford on the Halifax and Guilford Town line. He uses this home from April through September. They use Stark Mountain Road and other roads in Halifax on regular basis. They are requesting party status under Criteria 5 Traffic, 8 Aesthetics, 9(E) Extraction of Earth Resources, and 9(K) Public Investments, and 10 Conformance with Local and Regional Plans. We grant preliminary under Criteria 5 Traffic, 8 Aesthetics, 9(E) Extraction of Earth Resources, and 9(K) Public Investments and 10 Conformance with Regional Plans. We deny party status under local plan as they are not Halifax residents

38. Tristan Roberts lives three miles from the site and is requesting party status for Criteria 1(B) Waste Disposal, 1(E) Streams 5 Traffic, 8 Aesthetics, 8(A) Necessary Wildlife, 9(K) Impact on Public Investments and 10 Conformance with Regional Plan We grant preliminary party status under the requested criteria with the exception of Criterion 8(A) Wildlife because a particularized interest has not been identified.

39. Stephen and Mariette Sanders own a home about three miles from the proposed quarry. They are requesting party status under Criteria 5 Traffic, 8(A) Wildlife 9—presumably 9(A) Impact of Growth, 9(E) Extraction of Earth Resources, and 9(K) Public Investments and 10 Conformance with Local and Regional Plans. We grant preliminary party status under Criteria 5 Traffic, 9(E) Extraction of Earth Resources, and 9(K) Public Investments and 10 Conformance with Local and Regional Plans. We deny party status under criterion 8(A) Wildlife and 9(A) Impact of Growth.

40. Peter and Donna Silverberg reside a mile and half away and are abutters to the property. They are requesting party status under Criteria 1 Air Pollution, 5 Traffic, 8 (Aesthetics), 8(A) Wildlife (concern that wildlife could be displaced from their property), and 9(E) Extraction of Earth Resources. We grant preliminary party status under Criteria 5 Traffic, 8 Aesthetics and 8(A) Wildlife due to the concern that the project could displace wildlife on their property which would be a particularized interest different than a generalized interest in the welfare of wildlife. We also grant preliminary party status under Criteria 9(E) Earth Extraction, general impacts of project, 9(K) Public investments – use of roads, and 10 Local and Regional Plans.

41. Jared Smith lives one and a half miles from the quarry site and has a barn close to the road. He is an abutter and requesting party status under Criteria 5 Traffic, 8 Aesthetics, and 9(K) Public Investments. We grant these requests.

42. Rebecca Stone lives in Jacksonville and has requested party status for Criterion 9(K) Public Investments. She is in support of the project. We grant this request

43. Janet Eldridge-Taylor lives 3,200 feet northeast and is an abutter. She is requesting party status under Criteria 1 Air Pollution, 1(B) Waste Disposal, 3 Water Supplies, 4 Soil Erosion, 8 Aesthetics, 5 Traffic, 9(E) Extraction of Earth Resources and 10 Conformance with Local and Regional Plans. We grant preliminary party status under Criteria 5 Traffic, 9(E) Extraction of Earth Resources, and 10 Conformance with Local and Regional Plans. We deny party status under 1 Air Pollution, 1(B) Waste Disposal, 3 Water Supplies, and 4 Soil Erosion, as she has not demonstrated a particularized interest.

44. Paul Taylor lives 1,300 feet from the site and is requesting party status under Criteria 1 Air Pollution, 1(B) Waste Disposal, 3 Water supplies, 4 Soil Erosion, 5 Traffic, 8 Aesthetics, 8(A) Wildlife, 9(K) Public Investments, and 10 Conformance with Local and Regional Plans. We grant these requests.

45. Liam Wheeler lives less than two miles from the proposed quarry site and abuts the tract of land. He has requested party status under Criteria 1 Air Pollution (diesel fumes), 5 Traffic, 8 Aesthetics, 8(A) Wildlife, 9(E) Extraction of Earth Resources, 9(K) Impact on Public Investments, and 10 Conformance with Local and Regional Plans. We grant preliminary party status for the requested criteria.

46. Everett Wilson and Linda Lyon live within three miles of the quarry site and are requesting party status under Criteria 1 Air Pollution, 4 Soil Erosion, 7 Municipal Services, 8 Aesthetics, 8(A) Wildlife, 9(A) Impact of Growth, 9(C) Forest Soils, and 10 Conformance with Local and Regional Plans. We grant preliminary party status under Criteria 8 Aesthetics and 10 Conformance with Local and Regional Plans. We deny the request under Criteria 1 Air Pollution, 4 Soil Erosion, 7 Municipal Services, 9(A) Impact of Growth and 9(C) Forest Soils and because a particular interest has not been identified.

ii. Final Party Status Determinations

Prior to the close of hearings, the District Commission re-examined the preliminary party status determinations in accordance with 10 V.S.A. § 6086(c)(6) and Act 250 Rule 14(E) and found no reason to change its preliminary determinations.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Applicants have met the burden of proving compliance with the following criteria through submittal of the application:

1 Water Pollution	9(B) - Agricultural Soils
1(A) - Headwaters	9(C) - Productive Forest Soils
1(C) - Water Conservation	9(D) - Earth Resources
1(D) - Floodways	9(F) - Energy Conservation
1(F) - Shorelines	9(G) - Private Utility Services
2 - Water Supply	9(H) - Costs of Scattered Development
6 - Educational Services	9(J) - Public Utility Services
7 - Municipal Services	9(L) - Settlement Patterns
9(A) - Impact of Growth	

Therefore, the application shall serve as the Findings of Fact on these criteria.

With respect to criteria 1 (air pollution – dust); 1(G) Wetlands; 3 (Impact on Water Supplies), the Commission concludes that the application will also serve as the Findings of Fact on these criteria because they were not significantly contested during the merits hearings. The Commission further concludes that the Applicants have, by a preponderance of the evidence, met the burden of proof and has established conformance with these criteria. Accordingly, the Commission will issue no additional detailed findings with respect to these criteria.

The following written Findings of Fact, therefore, pertain to Criteria 1(B) and 4 Stormwater and Soil Erosion; 1(E) Streams; 5 and 9(K) Transportation Safety and Impact upon Public Investments; 8 Aesthetics related to Noise; 9(E) Impacts from Quarry Operations and Sufficiency of Reclamation Plan; and 10 Conformance with Halifax Town Plan and Windham Regional Plan.

The findings of fact are based on the application, Exhibits # A - 108, and other evidence in the record. Findings made in this decision are not limited to the specific criterion in which they appear, and may apply to other sections of the decision. To the extent that any proposed findings of fact are included in this decision, they are granted; otherwise, they are denied.

Under Act 250, projects are reviewed for compliance with the ten criteria of Act 250, 10 V.S.A. § 6086(a)(1)-(10). Before granting a permit, the District Commission must find that the Project complies with these criteria and, therefore, is not detrimental to the public health, safety or general welfare. The burden of proof under Criteria 1 through 4 and 9 and 10 is on the applicants, and on the opponent under Criteria 5 through 8, and 9A if the municipality does not have a duly adopted capital improvement program.

General Findings:

1. The tract of land owned by C.A. Denison Lumber Co., Inc consists of 1,210 acres and is located approximately 2.5 miles northeast of Halifax village. The portion of the tract that will be leased to Ashfield Stone, LLC consists of 67 acres. This portion is approximately half a mile due east of Deer Park Pond.
2. The Applicants seek a permit to extract dimensional stone for a period of 50 years during an operating season that is proposed to run Monday through Friday, 7:30 AM to 4:30 PM from April 1 to November 30, exclusive of State and federal holidays. Periodic site maintenance work is proposed for Saturdays.
3. The proposed project involves the extraction of large sections of dimensional stone which will be loaded on flatbed trucks and hauled away from the site for processing at another facility. No blasting or processing of material will be conducted at the site.

Criterion 1(B) - Waste Disposal and Criterion 4 – Soil Erosion:

Findings of Fact

4. On January 11, 2017, the Vermont Superior Court Environmental Division issued a stipulated vacating permit and dismissal order regarding Permit Number 7130-9015. Exhibit 102.
5. State of Vermont Environmental Analyst for the Stormwater Program stated that the Applicants' INDS application remains technically incomplete. Exhibit 104.

6. ANR responded on June 19, 2017 that it had not received responses to its questions posed in the Commission's December 15, 2015 and February 17, 2016 hearing recess orders regarding impacts under Criteria 1(B) Stormwater and 1(E) Streams. Exhibit 107.

The Applicants fail to meet the burden of production under Criteria 1(B) and 4 because the Applicants have not obtained the required individual stormwater permit. Therefore, The Project does not comply with Criteria 1(B) and 4. In the event that the Applicants seeks reconsideration of this decision pursuant to Rule 31(B), the Commission would require the INDS permit from the Vermont Stormwater Program.

Criterion 1(E) - Streams:

Findings of Fact

7. On February 3, 2015, Vermont Fisheries Biologist Lael Will, expressed concerns and requested more information related to streams and stream buffers. Exhibit 73.
8. ANR responded on June 19, 2017 that it had not received responses to its questions posed in the Commission's December 15, 2015 and February 17, 2016 hearing recess orders regarding impacts under Criteria 1(B) Stormwater and 1(E) Streams. The aforementioned hearing recess orders requested, among other items, a response to Ms. Will's February 3, 2015 letter. Exhibit 107.

Conclusions of Law

The Applicants fail to meet the burden of production under Criterion 1(E) because the Applicants have not submitted the requested supplemental information and evidence. Therefore, The Project does not comply with Criterion 1(E). In the event that the Applicants seek reconsideration of this decision pursuant to Rule 31(B), the Commission would require the information requested above.

Criterion 5 – Transportation and Criterion 9(K) – Development Affecting Public Investments:

Findings of Fact

9. The proposed Project will utilize public roads.
10. Access to the site is off of a Class 4 section of Town Highway ("TH") 52 which is not maintained by the Town of Halifax ("Town"). Trucks will travel TH 52 for a distance of 1400 feet. The Town estimates the road to be in fair condition with four plastic culverts within the 1400 feet all in need of repairs or upgrading. The Town recommends culvert replacements, road widening to approximately 20 feet, and possibly bank stabilization. Exhibit 64.
11. Trucks will travel TH 2, a class 2 gravel road which is maintained by the Town, for a distance of 2.15 miles. The Town assesses TH 2 to be in fair to good condition.
12. The Town states that there is a turn with limited visibility on the TH 2 portion of the proposed truck route. There are 16 culverts on the proposed truck route of TH 2. Nine are rated "good," two are rated "fair," and three are rated "poor." Exhibit 64.
13. The Town requests that guardrails at the intersection of TH 52 and TH 2 be installed. Exhibit 64.

14. Trucks will travel on TH 32 (Amidon Road), a class 3 gravel road, for .42 miles. The Town assesses TH 32 as being in fair to good condition.
15. Trucks will travel on TH 39 (Stark Mountain Road), a class 3 gravel road, for 1.17 miles. The Town assesses TH 39 as “[f]air, but steep, narrow and winding...with gradients of 7.5 to 10.9% in places.” TH 39 has sections as narrow as 16.5 feet bordered by steep hillside and ravine, making roadbed widening unfeasible. There are 18 culverts on TH 39, of which seven are rated “good,” two are rated “fair,” and five are rated “poor.” Exhibit 64.
16. The Town proposed that if a permit is granted, the Highway Department Supervisor inspect the entire truck route weekly, document road damage, and have such damage repaired by the Applicants on TH 52, and by the Town on the remainder of the route, at the Applicants’ expense. Exhibit 64.
17. An access permit from the Town of Halifax is required for this project.
18. The maximum one-way truck trips per day is four and the maximum one-way truck trips per week is ten.
19. Vermont State Design Standards and AASHTO provide standards for safe road design, including roadway width based on both speed and volume categories. Neither Jacksonville Stage Road nor Stark Mountain Road meet the minimum width requirement of 18 feet. Exhibit 86 and Testimony.
20. Roadway “wear and tear” is increased by heavy truck traffic such that equivalent single axle loadings for a tri-axle (with lift axle) truck will be 11,108 cars/day and equivalent single axle loadings for a tandem axle truck will be 36,076 cars/day. Exhibit 86 and Testimony.
21. Culverts with inadequate cover will be damaged by heavy truck traffic. Exhibit 86 and Testimony.

Conclusions of Law

Criterion 5(A) requires that the Project “will not cause unreasonable congestion or unsafe conditions with respect to use of the highways.” See 10 V.S.A. § 6086(a)(5)(A). Notwithstanding the requirement for a positive finding, the Commission may not deny a permit solely on the reasons set forth under Criterion 5. See 10 V.S.A. § 6087(b). The Commission may, however, attach reasonable conditions to alleviate traffic burdens. *Id*

Criterion 9(K) applies to projects that are adjacent to governmental and public utility facilities, services, or lands, including town roads. With regard to such projects, the Applicants bear the burden of proving that the project will not unnecessarily or unreasonably endanger the public or quasi-public investment in the facility, service, or lands, or materially jeopardize or interfere with the function, efficiency, or safety of, or the public’s use or enjoyment of or access to the facility, service or lands. 10 V.S.A. § 6086(a)(9)(K).

The Commission concludes that the proposed Project does not comply with Criterion 5 and does not comply with Criterion 9(K). The Commission observed first-hand during its site visit that Stark Mountain Road is very steep, narrow, and winding with dangerous drop-offs. Introducing

commercial trucks loaded with heavy stone on this road that does not and cannot meet Vermont State Design Standards and AASHTO safe road design standards will unreasonably endanger the public's safe use of the road. The other roads on the proposed truck route were also narrow and winding with inadequate sightlines that would make it difficult for residents and the public to safely use the roads. The Commission is also concerned that the public's investment in the roads and the culverts will be jeopardized by the heavy trucks. Some of the roads involved in the truck route are the only access that residents have to their homes. For the reasons stated above, the proposed Project will cause unsafe conditions on public roads and will unreasonably endanger and materially jeopardize the public's safe use, access to, or enjoyment of TH 2, TH 52, TH 32, and TH 39 -- the proposed truck route.

Criterion 8 - Aesthetics, Historic Sites and Rare and Irreplaceable Natural Areas:

Findings of Fact

Aesthetics, Scenic or Natural Beauty

22. The present site is a 1,210-acre forested tract where logging occurs.
23. The project equipment that has the potential to produce noise includes: a rock drill or saw; a hand drill powered by a generator; an excavator; a bucket loader; and transport trucks. Exhibits B and 28.
24. Proposed mitigation measures for noise include: maintaining vegetation to the extent practicable within the extraction area and within the 67-acre leased area (excluding tree removal consistent with a forestry plan), limiting hours of operation, and utilizing low-impact backup alarms if backup alarms are required. Exhibits B and 28.
25. Eddie Duncan from RSG is the noise expert for the Applicants. He testified that for the sound level at the property line to be at or below 70 dBA L_{fmax}, a portable noise barrier would be required at the southern end of the extraction area. Exhibit 28 and testimony.
26. Les Blomberg, expert noise witness for neighbors, testified that the modeling that RSG did to demonstrate predicted noise levels, including the 70 dBA L_{fmax} at the property line, did not reflect the accuracy range of + or - 3 decibels. Exhibit 81 and Testimony.
27. Mr. Blomberg testified that an optional setting for noise modeling is "reflections." This accounts for noise that reflects off quarry walls. This setting was turned off for the noise modeling that RSG presented. Exhibit 81 and Testimony.
28. Mr. Blomberg testified that RSG did not accurately present the worst case scenario. The actual worst case scenario must be the input data of the loudest equipment used at the worst location. Different neighboring properties have different worst case configurations. For example, a truck located on TH 52 by Ms. Kotanchik's home would be over 80 dBA. Exhibit 81 and Testimony.
29. Mr. Blomberg testified that using the foliage setting in the modeling is not justified because the quarry will operate beyond leaf seasons. Exhibit 81 and Testimony.
30. Mr. Blomberg testified that the use of movable barriers have limited effectiveness and are unlikely to be used properly. Exhibit 81 and Testimony.

31. Mr. Duncan testified that the noise study does not evaluate noise on the town road.
32. The noise study does not address Judi Kotanchik's residence on TH52 near the intersection with Highway 2.
33. Halifax Zoning Bylaws adopted March 6, 2012 state: "In all districts and for all uses, the following general performance standards must be met, together with any application state standards and specific standards as required under this Regulation. The following conditions must not exist at the individual property lines: 1. Noise in excess of seventy (70) decibels."

Conclusions of Law

Prior to granting a permit, the Commission must find that the subdivision or development under Criterion 8 "will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas." 10 V.S.A. § 6086(a)(8). This Project involves concerns under Criterion 8 related to noise.

AESTHETICS and NATURAL AND SCENIC BEAUTY

The Commission uses a two-part test to determine whether a Project meets the portion of Criterion 8 relating to aesthetics and natural and scenic beauty. First, it determines whether the Project will have an adverse effect. Second, it determines whether the adverse effect, if any, is undue. *In re Rinkers, Inc.*, No. 302-12-08 Vtec, Decision and Order at 12 (Vt. Env'tl. Ct. May 17, 2010)(citations omitted); see also, *Re: Quechee Lakes Corporation*, #3W0411-EB and #3W0439-EB, Findings of Fact, Conclusions of Law, and Order at 18-20 (Vt. Env'tl. Bd. Nov. 4, 1985); *In re Halnon*, 174 Vt. 514 (mem.)(applying Quechee test in Section 248 context).

The burden of proof under Criterion 8 is on any party opposing the Project, 10 V.S.A. § 6088(b), but the applicant must provide sufficient information for the Commission to make affirmative findings. *In re Rinkers*, No. 302-12-08 Vtec, Decision and Order at 10-11 (Vt. Env'tl. Ct. May 17, 2010)(citing *Re: Susan Dollenmaier*, #3W0125-5-EB, Findings, Conclusions and Order at 8 (Vt. Env'tl. Bd. Feb. 7, 2005); *In re Eastview at Middlebury, Inc.*, No. 256-11-06 Vtec, slip op. at 5 (Vt. Env'tl. Ct. Feb. 15, 2008), aff'd, 2009 VT 98. "Either party's burden, however, may be satisfied by evidence introduced by any of the parties or witnesses . . ." *In re McShinsky*, 153 Vt. 586, 589 (1990) (quoting *In re Quechee Lakes Corp.*, 154 Vt. 543, 553-54 (1990)).

1. Adverse Effect

To determine whether the Project will have an adverse aesthetic effect, the Commission looks to whether the Project will "fit" the context in which it will be located. In making this evaluation, the Commission examines a number of specific factors, including: the nature of the project's surroundings; the compatibility of the project's design with those surroundings; the suitability of the colors and materials selected for the project; the locations from which the project can be viewed; and the potential impact of the project on open space. *Quechee Lakes Corp et al.* #3W0411-EB and #3W0439-EB Findings of Fact, Conclusions of Law and Order at 18 (Vt. Env'tl. Bd., Nov. 4, 1985)(cited in *Rinkers*, No. 302-12-08 Vtec, Decision and Order at 12-13).

The Project is in a rural area that is heavily forested. While the tract is logged, the tract does not contain any other commercial or industrial noises and has very little traffic. While the background

sound levels were not measured, the area is an extremely quiet, remote location. Without question, the Project will have an adverse aesthetic impact. Accordingly, we must determine whether that impact is undue.

2. Undue Adverse Effect

An adverse aesthetic impact is undue if any of the following is true: (1) the Project violates a clear, written community standard intended to preserve the aesthetics or scenic beauty of the area; (2) the Project offends the sensibilities of the average person, or is offensive or shocking because it is out of character with its surroundings or significantly diminishes the scenic qualities of the area; or (3) the Applicants failed to take generally available mitigating steps which a reasonable person would take to improve the harmony of the Project with its surroundings. *In re Rinkers*, 302-12-08 Vtec, Decision and Order at 15 (May 22, 2010)(citing *In re: Times & Seasons, LLC*, 2008 VT 7, ¶ 8; *In re McShinsky*, 153 Vt. at 592).

(a) Clear, Written Community Standard

In evaluating whether a project violates a clear written community standard, the Commission looks to town plans, open land studies, and other municipal documents to discern whether a clear, written community standard exists to be applied in review of aesthetic impacts of a project. *Hannaford Brothers Co. and Southland Enterprises, Inc.*, #4C0238-5-EB, Findings of Fact, Conclusions of Law, and Order at 18 (Vt. Env'tl. Bd. 4/9/02). A clear, written community standard must be "intended to preserve the aesthetics or scenic beauty of the area" where the project is located. *Re: Green Meadows Center, LLC, The Community Alliance and Southeastern Vermont Community Action*, #2W0694-I-EB, Findings of Fact, Conclusions of Law, and Order at 36 (Vt. Env'tl. Bd. 12/21/00).

A plan which states "consideration should be made . . ." is not a clear, written community standard. *Barre Granite Quarries, LLC and William and Margaret Dyott*, #7C1079(Revised)-EB, Findings of Fact, Conclusions of Law, and Order at 81 (Vt. Env'tl. Bd. Dec. 8, 2000).

The Commission has reviewed relevant portions of the Halifax Zoning Bylaws and the 70 decibel limit at property lines is relevant to this Project's impact on aesthetics as they relate to noise and is a clear community standard, see Finding of Fact #33. As the Findings illustrate above, the 70 dBA Lfmax at the Project's property line was achieved using portable barriers and by manipulating the modeling software so that a number of relevant settings were used to favor a lower noise calculation. Additionally, the accuracy of the modeling was not reflected in the report, such that the + or - 3 decibels was not factored in. The Commission concludes that the Project will violate the 70 decibel limit at the property line and therefore, the proposed Project violates a clear community standard.

(b) Offensive or Shocking Character

Criterion 8 "was not intended to prevent all change to the landscape of Vermont or to guarantee that the view a person sees from their property will remain the same forever." *Re: Okemo Mountain, Inc.* #2S0351-S-EB Findings of Fact, Conclusions of Law, and Order (Dec. 18, 1986). Criterion 8 was intended to ensure that as development occurs, reasonable consideration will be given to visual impacts on neighboring landowners, the local community, and on the special scenic resources of Vermont. *Rinkers*, No. 302-12-08 Vtec, Decision and Order at 11-12; *Horizon Development Corp.*, #4C0841-EB, Findings of Fact, Conclusions of Law, and Order (Vt. Env'tl. Bd. Aug. 21, 1992).

The long-standing limit used by Commissions and upheld by the Environmental Board and Environmental Division is 55 dBA Lfmax at residences and area of frequent human use and 70 dBA Lfmax at the property line. The Commission concludes based on the analysis above that the Project will be offensive and shocking because the noise will exceed the 70 dBA Lfmax at the property line and also questions whether the 55 dBA Lfmax limit would be achieved at areas of frequent human use and at residences given the concerns with the accuracy of the noise study and how the noise study was conducted.

Additionally, decibel levels are not the only factor considered when the Commission analyzes whether a proposed project is shocking or offensive. The quality, type, pervasiveness, and cumulative nature of the noise must be considered. *Re: John and Marion Gross d/b/a John Gross Sand and Gravel, #5W1198-EB* Findings of Fact, Conclusions of Law, and Order at 16 (April 27, 1995). The Vermont Supreme Court has remanded a case to the Environmental Division for failure “to evaluate the neighbors’ complaint that the frequency of loud noise would increase and affect the use and enjoyment of nearby residences.” The quiet, remote, and rural nature of the setting would be so dramatically impacted by the proposed quarry operation that the Commission concludes that the project is shocking and offensive.

(c) Generally Available Mitigating steps

The question under this factor of the aesthetics analysis is whether the Applicants have “failed to take generally available mitigating steps that a reasonable person would take to improve the harmony of the proposed project with its surroundings.” *In re Times & Seasons*, 2008 VT 7, ¶ 8. If a project does have an adverse aesthetic effect, the applicant must “take generally available mitigating steps to reduce the negative aesthetic impact of a particular project,” otherwise, “[f]ailure to take advantage of available alternatives may render an aesthetic impact unduly adverse.” *In re Stokes Communications Corp.*, 164 Vt. 30, 39 (1995)(quoted in *In re Rinkers*, 302-12-08 Vtec, Decision and Order at 19 (May 22, 2010). A generally available mitigating step “is one that is reasonably feasible and does not frustrate [either] the project’s purpose or Act 250’s goals.”

To mitigate the aesthetic impacts of the Project, the Applicants have proposed to: maintain vegetation to the extent practicable within the extraction area and within the 67-acre leased area, limit hours of operation, and utilize low-impact backup alarms if backup alarms are required. The Applicants’ noise expert noted that portable noise barriers would be required at the southern end of the extraction area. The Applicants do not propose to maintain all of the existing vegetation because they will continue tree removal consistent with a forestry plan on the entire 1,210-acre tract. At the very least, a reasonable person would not remove vegetation within the extraction area and the 67-acre leased area, because the noise modeling relied on the foliage “on” setting and also, because the noise from the logging could add to the noise of the proposed project such that any noise limits were exceeded. The same concerns apply to the entirety of the 1,210-acre tract. Additionally, the Applicants propose “periodic site maintenance work” on Saturdays. It is difficult to predict how that would impact the neighbors.

Given all of these considerations, we find that the Applicants have not taken the available mitigating steps to minimize the adverse impacts of the proposed Project on the scenic or natural beauty of the area.

(d) Conclusion

Based on the above, the Commission concludes that the proposed Project fails all three prongs of the undue adverse effect Quechee Test and thus that the proposed Project does not comply with Criterion 8.

Criterion 8(A) - Wildlife Habitat and Endangered Species:

Findings of Fact

34. ANR requested that the following conditions are included in any issued permit for this project:
- The quarry will be closed during the period of December 15 to April 15 each year.
 - Approximately 23.1 acres of contiguous Deer Wintering Habitat (DWH) will be conserved for the life of the project (see Application Exhibit 35).
 - The Applicants shall amend the Forest Management Plan for the property to reflect the leased area of the quarry as well as the area managed for Deer Wintering Habitat. Any forest management in the DWH will require approval from the Fish & Wildlife Department.
 - There shall be a gate located at the junction of the new access road and the old road (see Application Exhibit 35) to restrict access on the old road from April 15 to July 15 for the purpose of protecting bear habitat use.

Conclusions of Law

If the Commission were to issue the proposed Project a permit, the conditions set forth above would be included.

Criterion 9(E) – Extraction of Earth Resources:

35. The Project involves the extraction of dimensional stone. The Applicants did not state how much stone would be extracted in the project description of the application's cover pages. In the Schedule A, the Applicants paid the fee based on 246,000 cubic yards. Exhibit B.
36. Mr. Blomberg calculated 160,000 cubic yards based on the Applicants' response to Schedule B, Criterion 5, truck trips. Exhibit 81 and Testimony.
37. The neighbors' expert witness, Jason Dolmetsch, calculated that the total volume extracted would be 482,000 cubic yards of material (soil and rock).

Conclusions of Law

The Applicants fail to meet the burden of production under Criterion 9(E) because the reclamation plan inadequately demonstrates that upon completion of the proposed extraction operation the site will be left by the Applicants in a condition suited for an approved alternate use or development. Additionally, Applicants have provided widely differing numbers related to extraction that have a direct bearing on the reclamation plan. Therefore, The Project does not comply with Criterion 9(E). In the event that the Applicants seek reconsideration of this decision pursuant to Rule 31(B), the

Commission would require the Applicants to reconcile these numbers and provide an updated and improved reclamation plan.

Criterion 10 – Town and Regional Plans:

38. Because additional evidence or information required above may bear on the project's conformance or lack thereof with respect to Criterion 10, the Commission is obligated to reserve judgment on the project's conformance pending review of the additional information and evidence.

Conclusions of Law

In the event that the Applicants seek reconsideration of this decision pursuant to Rule 31(B), the Commission would require the inclusion of the Halifax Town Plan and the Windham Regional Plan in effect at the time that the Commission concludes that the Applicants have met their burden of production on all criteria.

V. SUMMARY CONCLUSION OF LAW

Based upon the foregoing Findings of Fact, the Commission concludes that the Project, as described in the application referred to above would cause and result in a detriment to public health, safety, or general welfare and does not comply with: Criteria 1(B) and 4 Stormwater and Soil Erosion; 1(E) Streams; 5 and 9(K) Transportation Safety and Impact upon Public Investments; 8 Aesthetics related to Noise; 9(E) Impacts from Quarry Operations and Sufficiency of Reclamation Plan; and 10 Conformance with Halifax Town Plan and Windham Regional Plan.
10 V.S.A. § 6086(a).

VI. ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, Land Use Permit #2W1318 is hereby **denied**.

DATED at Springfield, Vermont, this 8th day of February, 2018.

By  _____
Leslie Hanafin, Vice Chair
District 2 Environmental Commission

Commissioner participating in this decision: Julia H. Schmitz

Any party may file a motion to alter with the District Commission within 15 days from the date of this decision, pursuant to Act 250 Rule 31(A).

The applicant may file an application for reconsideration with the District Commission within six months of this decision, pursuant to Act 250 Rule 31(B).

Any appeal of this decision must be filed with the Superior Court, Environmental Division within 30 days of the date of this decision, pursuant to 10 V.S.A. Chapter 220. The Notice of Appeal must comply with the Vermont Rules for Environmental Court Proceedings (VRECP). The appellant must file with the Notice of Appeal the \$295.00 entry fee required by 32 V.S.A. § 1431.

The appellant must also serve a copy of the Notice of Appeal on the Natural Resources Board, 10 Baldwin St., Montpelier, VT 05633-3201, and on other parties in accordance with VRECP 5(b)(4)(B).

For additional information on filing appeals, see the Court's website at: <http://www.vermontjudiciary.org/GTC/environmental/default.aspx> or call (802) 828-1660. The Court's mailing address is: Vermont Superior Court, Environmental Division, 32 Cherry Street, 2nd Floor, Suite 303, Burlington, VT 05401.