

State of Vermont
WATER RESOURCES BOARD

RE: **Lost Cove Homeowners Assoc. Inc.**
Docket No. CUD-98-04 (DEC #97-185)
(Gale Driveway, near Brickyard and Red Rocks Road, Colchester, Vermont)

RE: **Barden Gale and Melanie Gale Amhowitz**
Docket No. CUD-99-01 (DEC #98-340)
(Application of Gary and Paula Warner, Colchester, Vermont)

ORDER

On June 16, 1999, a memorandum was sent to the parties in the above-captioned proceedings advising them that the Water Resources Board ("Board") would like to take official notice of certain Act 250 land use permits for the Lost Cove subdivision. The parties were given until June 25, 1999, to file any objections to the Board taking such notice, consistent with 3 V.S.A. § 810(4).

On June 21, 1999, counsel for the Lost Cove Homeowners Association ("LCHA"), the Sobels, the Terriens, and the Warners filed a letter indicating that they have no objection to the Board taking official notice of the Act 250 land use permits. On June 25, 1999, counsel for Barden Gale and Melanie Gale Amhowitz ("Gales") likewise filed a letter indicating that his clients have no objection to the Board taking official notice of these permits. In this same letter, however, counsel for the Gales raised objections to certain proposed findings of fact filed on June 15, 1999, by counsel for LCHA and other appellants in the matter, In re: Lost Cove Homeowners Assoc., Inc., Docket No. CUD-98-04. On July 16, 1999, counsel for LCHA and the other appellants tiled a letter requesting that the Gales objections be struck as no provision was made in any prehearing order of the Board for such a responsive tiling. Alternatively, if the Board should consider this tiling, LCHA requested an opportunity to respond.

The Second Prehearing Conference Report and Order, issued June 1, 1999, contained no provision for the tiling of responsive memoranda to proposed findings of fact, conclusions or law, and orders. No party filed an objection to this order or asked the Board on June 8, 1999, for an opportunity to file responsive memoranda. Accordingly, the Board did not consider the June 15, 1999, objections tiled by the Gales in reaching its decision on Docket No. CUD-98-04 appeal. LCHA's request to strike the Gales objections is hereby denied on the grounds that such request is moot.

Dated at Montpelier, Vermont, this 16th day of July, 1999.

WATER RESOURCES BOARD

By its Chair



William Boyd Davies
