

State of Vermont
WATER RESOURCES BOARD

RE: **Larry Westall**
Docket No. CUD-99-02 (DEC #95-241)

RE: **James & Catherine Gregory**
Docket No. CUD-99-03 (DEC #95-241)

ORDER MODIFYING PREFILED SCHEDULE

I. BACKGROUND

On July 29, 1999, Water Resources Board ("Board") Chair Gerry Gossens convened a prehearing conference in Montpelier, Vermont, in the above-captioned matter. On August 4, 1999, Chair Gossens issued a Prehearing Conference Report and Order which, among other provisions, contained the following scheduling order concerning prefiled testimony:

8. On or before **4:30 p.m., Thursday, September 23, 1999**, Larry Westall or his representative, the Gregorys, and any other party supporting the issuance of a CUD for the Project, or any part thereof, shall file final lists of direct witnesses and exhibits. They also shall file all direct prefiled testimony and exhibits they intend to present. For each expert witness, they shall file a resume or other statement of qualification. All reports and other documents upon which an expert witness relies in making his or her professional opinion concerning the impacts of the Project shall be filed as prefiled exhibits.
9. On or before **4:30 p.m., Thursday, October 7, 1999**, all parties supporting denial of a CUD for the Project, or any part thereof, shall file final lists of direct witnesses and exhibits and all direct prefiled testimony and exhibits they intends to present. For each expert witness, they shall file a resume or other statement of qualification. All reports and other documents upon which an expert witness relies in making his or her professional opinion concerning the impacts of the Project shall be filed as prefiled exhibits.

Re: Larry Westall; Re: James & Catherine Gregory, Docket Nos. CUD-99-02 and CUD-99-03, Prehearing Conference Report and Order at page 14, Section XI.8 and 9, (August 4, 1999).

On September 20, 1999, Attorney William Ellis on behalf of appellants James and Catherine Gregory, filed a letter requesting that each of the above-cited filing deadlines be extending by one week. The reasons cited for such a modification of the procedural schedule set forth in the August 4, 1999 Order were to facilitate ongoing settlement discussions



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immediately prior to the September 23, 1999 filing deadline. Attorney Ellis represented that he had contacted the following parties, none of whom had an objection to the proposed one week extension:

Agency of Natural Resources, by Jon Groveman, Esq.
Larry Westall, by David Sunshine, Esq.
Hobart Heath
Jericho Conservation Commission, by Tom Baribault
Jericho Center Preservation Association, by Chuck Lacy

On September 20, 1999, Hobart Heath filed a letter in which he also sought a one week extension of filing deadlines. The reasons provided by Mr. Heath included the facilitation of a discussion between ANR counsel, Jon Groveman and witness Jeff Severson which discussion appears to be germane to the preparation of Mr. Severson's prefiled testimony.

At its Board meeting on August 3, 1999, a quorum of the Board voted unanimously to elect David Blythe as Board Vice-Chair. Pursuant to Board Rule of Procedure 3(A), "In the absence . . . of the Chair, the Vice-Chair shall serve as the Acting Chair and perform all duties of the Chair." Board Chair Gossens is unavailable until October 24, 1999. Accordingly, Vice-Chair Blythe is performing the duties of the Board Chairman with respect to this matter until October 24, 1999.

II. ORDER

A. The request of William Ellis on behalf of the appellants James and Catherine Gregory and the request of Hobart Heath to extend the filing deadlines discussed above by one week are hereby granted.

B. The following two filing deadlines set forth in the August 4, 1999 Prehearing Conference Report and Order are hereby modified as follows:

XI. 8. On or before **4:30 p.m., Thursday, September 30, 1999**, Larry Westall or his representative, the Gregorys, and any other party supporting the issuance of a CUD for the Project, or any part thereof, shall file final lists of direct witnesses and exhibits. They also shall file all direct prefiled testimony and exhibits they intend to present. For each expert witness, they shall file a resume or other statement of qualification. All reports and other documents upon which an expert witness relies in making his or her professional opinion concerning the impacts of the Project shall be filed as prefiled exhibits.

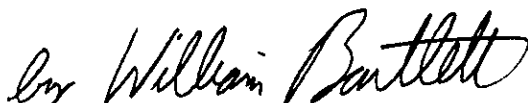
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9. On or before **4:30 p.m., Thursday, October 14, 1999**, all parties supporting denial of a CUD for the Project, or any part thereof, shall file final lists of direct witnesses and exhibits and all direct prefiled testimony and exhibits they intends to present. For each expert witness, they shall file a resume or other statement of qualification. All reports and other documents upon which an expert witness relies in making his or her professional opinion concerning the impacts of the Project shall be filed as prefiled exhibits.

C. All other deadlines set forth in the August 4, 1999 Prehearing Conference Report and Order remain valid and binding upon all parties.

Dated at Montpelier, Vermont on this 23rd day of September, 1999.

WATER RESOURCES BOARD



David Blythe, Vice-Chair