

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)
(Consolidated)

FOURTH ORDER REGARDING PREFILED SCHEDULE

On January 6, 1999, the Agency of Natural Resources ("ANR") tiled evidentiary objections to the prefiled direct testimony and exhibits submitted by Hobart Heath in the above-captioned matter. Additionally, ANR alerted the parties and the Water Resources Board ("Board") that (1) it would likely file a Motion to Dismiss and therefore it requested that the Board postpone the tiling deadline for proposed findings of fact, conclusions of law and orders until after evidentiary rulings are made and (2) it further requested that the Board postpone a hearing on the merits and hear instead its Motion to Dismiss on January 25, 2000. These requests, if granted, would effectively modify the Third Order Modifying Prefiled Schedule at 3, Section II., Items 18, 20 and 22 (Dec. 7, 2000).


The evidentiary objections and Motion to Dismiss filed by ANR relate to prefiled evidence submitted by Hobart Heath in September 1999. The deadline for tiling objections to and seeking modifications of the current filing and hearing schedule was December 15, 1999. Third Order Modifying Prefiled Schedule at 4, Section II., Item 26. ANR's requests to amend the tiling and hearing schedule is untimely. ANR has not made a compelling demonstration of cause for waiver of the current filing schedule. To grant its request at this late date would be unfair to the other parties to this proceeding.

Accordingly, the ANR's requests are denied and the Third Order Modifying Prefiled Schedule remains in full force and effect. In light of ANR's suggestion, however, that it may file a Motion to Dismiss, I will reserve time at the prehearing conference on January 18, 2000, to discuss what modifications, if any, should be made in the hearing day schedule to allow limited argument before the full Board on any such motion, but the parties are hereby instructed to be prepared to offer all of their witnesses for examination on January 25, 2000, as planned. Upon the request of any party, I will consider amending the post-hearing tiling schedule to also allow the tiling of any written Motion to Dismiss and responsive tilings.

The parties currently have an opportunity to file supplemental proposed findings of fact, conclusions of law, and orders, and any proposed CUD conditions on February 3, 2000. Third Order Modifying Prefiled Schedule at 3, Section II., Item 22. The parties may use this opportunity to amend and/or supplement previously submitted proposed findings of fact, conclusions of law and orders to reflect the state of the evidence after the hearing on January 25, 2000.

Dated at Montpelier, Vermont, this 11th day of January, 2000.

WATER RESOURCES BOARD



Gerry Gossens, Chair