

State of Vermont
WATER RESOURCES BOARD

RE: Unified Buddhist Church
Docket No. SAP-00-05

PREHEARING CONFERENCE REPORT AND ORDER

On June 13, 2000, at 1:00 p.m., Water Resources Board ("Board") Vice-Chair David Blythe, Esq., convened a prehearing conference at the Board's Conference Room in Montpelier, Vermont, in the above-captioned matter. The Vice-Chair was assisted in the conduct of the prehearing conference by the Board's Associate General Counsel, Kristina L. Bielenberg, Esq. The following persons entered timely appearances and participated:

Mark McElroy, pro se, for himself and Lull's Brook Watershed Association ("LBWA"), Appellants;
Unified Buddhist Church, Applicant, by James P.W. Goss, Esq., Reiber, Kenlan, Schwiebert, Hall & Facey, P.C.;
Agency of Natural Resources ("ANR"), by Jon Groveman, Esq.;
Paul Rafferty, pro se, owner of property adjoining the Applicant's property, but not a member of LBWA;
Francis Gilman, pro se, owner of property adjoining the Applicant's property and a member of LBWA;
Tom Kennedy, pro se, Hartland resident and member of LBWA, but not an owner of property adjoining the Applicant's property; and
Representative Derek Levin, pro se, Hartland resident, not an adjoining property owner nor a member of LBWA.

The Hartford Planning Commission ("HPC"), which filed a request for party status on June 9, 2000, was not present and did not participate in the prehearing conference through its representative.

I. PROCEDURAL BACKGROUND

On May 8, 2000, the Agency of Natural Resources ("ANR") issued Stream Alteration Permit ("SAP") #SA- I-0503 ("Permit") to the Unified Buddhist Church ("Applicant") for the installation of a sewer line in Lulls Brook in the Town of Hartland, Vermont ("Project").

On May 23, 2000, Mark McElroy of Hartland Four Corners, VT, on behalf of himself and LBWA ("Appellants") appealed the Permit to the Water Resources Board ("Board"). The filing of this appeal stays the effectiveness of the Permit pursuant to 10 V.S.A. §1024(a).

A Notice of Appeal and Prehearing Conference was issued on May 26, 2000, and

published in the Valley News on May 27, 2000, in accordance with Water Resources Board Procedural Rule (“Procedural Rule”) 22. On May 31, 2000, this notice was also sent to a list of persons owning property adjacent to the Project tract

On June 1, 2000, the Applicant, represented by Sister Annabel Laity, filed a letter indicating that attorney Goss would be representing the Applicant in this proceeding.

On June 2, 2000, Appellant McElroy filed a letter with the Board indicating that he had served his notice of appeal upon persons owning property abutting the Project tract or opposite the land where the alteration is to take place on Lull’s Brook. On June 7, 2000, LBWA Directors sent a letter authorizing Mark McElroy to serve as its representative in the above-captioned proceeding.

On June 9, 2000, the HPC, through its Chairman Jay Boeri, filed a party status request with the Board.

On June 13, 2000, Vice-Chair Blythe convened a prehearing conference in this matter pursuant to Procedural Rule 28.

II. INTRODUCTIONS AND APPEARANCES

The Vice-Chair introduced himself and the Board’s counsel, Kristina L. Bielenberg. He then asked for appearances from the prehearing conference participants. See Prehearing Order at 1 for a list of participants.

The Vice-Chair reviewed the procedural history of this matter. He also identified the filings and notices in the Board’s file as of June 13, 2000, including the notice of appearance by the HPC.

III. PURPOSE OF PREHEARING CONFERENCE

The Vice-Chair explained that the Water Resources Board is a five-member citizen Board appointed by the Governor. He noted that one of the Board’s duties is to hear appeals from SAP decisions of the ANR, pursuant to 10 V.S.A. §§1024(a). He explained that as a part of its duties in contested case proceedings, the Chair is authorized to convene prehearing conferences to expedite the hearing process. Procedural Rule 28. He further noted that the current Chair, Gerry Gossens, was unavailable and would be leaving the Board at the end of June. As a consequence, the Vice-Chair had been authorized to serve as Acting Chair of this proceeding. See Procedural Rule 3(A).

The Vice-Chair described the purpose of a prehearing conference. He specifically noted that the purpose of a first prehearing conference, such as this one, is to: (1) identify

parties or persons seeking party status; (2) clarify the issues in controversy; including any preliminary issues; (3) see if there is any interest amongst the participants in entering negotiations to narrow or eliminate any issues in controversy; and (4) attempt to establish a schedule and hearing day agenda to reflect both the participants' and Board members' schedules. See Procedural Rule 28.

The Board's counsel noted that the proceedings of the prehearing conference and any preliminary rulings made by the Vice-Chair would be memorialized in a prehearing conference report and order ("Prehearing Order") that would be issued a few days after the prehearing conference. See Procedural Rule 28(B).

IV. CORRECTION OF DOCKET NUMBER

The Board's counsel advised the parties that this matter should be referred to in all filings as Docket No. SAP-00-05. She noted that in the Notice of Appeal and Prehearing Conference issued by the Board this matter had been inadvertently referred to as Board Docket No. SAP-99-06, even though the citation to the ANR SAP number was correct. She asked all prehearing conference participants to note the correct Board docket number.

V. DISCLOSURES

The Vice-Chair identified the current members of the Board: members Gossens, Blythe, Farr, Roberts, and Potvin. Copies of biographical notes for each of these persons were distributed to those participating in the prehearing conference. See Attachment. He noted that on or about July 1, 2000, the Governor would appoint a new member to fill the vacancy being created by the resignation of member Gossens.

The Vice-Chair asked the participants whether they were aware of any conflicts of interest or other disqualifying interests which might prevent one or more of the current Board members from service as decision makers in this proceeding.

Those persons present indicated that they were not aware of any apparent conflicts of interest or other circumstances requiring disqualification of Blythe, Roberts, or Potvin. Tom Kennedy, however, disclosed that he was a professional colleague and close social acquaintance of Ms. Farr. Mr. Kennedy is Executive Director of the area regional planning commission and Ms. Farr is former Executive Director of the Lamoille Regional Planning Commission. Moreover, Mr. Kennedy asserted that he and Ms. Farr had worked closely on emergency management issues. As a result of these disclosures, counsel for the

Applicant indicated that it would not be appropriate for Ms. Farr to sit as a decision maker in this proceeding.

The Vice-Chair disclosed that he and attorney Goss had represented opposing clients in the same transaction about a year and a half ago. Attorney Goss disclosed that his client in that transaction no longer was the owner of the subject property and that therefore the Vice-Chair and attorney Goss were no longer involved as counsel in the same cause.

The Board's counsel advised the prehearing conference participants that their concerns would be taken under advisement. She noted that if new appointments are made to the Board during the pendency of this appeal, or should the Vice-Chair need to appoint a former Board member to hear this case pursuant to 10 V.S.A. § 905(1)(F), additional disclosures will be made to the parties so that they may have an opportunity to file any requests for Board member disqualification.

VI. EX PARTE CONTACTS

The Board's counsel cautioned would-be parties to this proceeding against communicating directly with Board members concerning the appeal during its pendency. 3 V.S.A. §813. All persons having procedural questions were directed to bring them to the attention of the Board's staff handling this case, Kristina L. Bielenberg, Esq. (Phone: 828-5443).

VII. STANDARD OF REVIEW

The Board's counsel explained that any hearing on the merits in this appeal shall be conducted as a de novo proceeding pursuant to 10 V.S.A. § 1024(a). As a consequence of the de novo standard, the prehearing conference participants were forewarned that any evidence that might have been submitted to the ANR in support of or in opposition to the application for the Permit, including the application itself, must be resubmitted to the Board in the form of prefiled exhibits.

Should this appeal be decided on the merits after a hearing, the Board will issue findings of fact, conclusions of law, and an order which will either affirm, reverse or modify the Permit. 10 V.S.A. § 1024(a). The Applicant has the burden of proof, by a preponderance of the evidence, to show that a SAP should issue for the Project and, if so, with what conditions.

VIII. PARTY STATUS

Those persons seeking party status were: the Applicant, HPC, ANR, Mark McElroy, LBWA, Paul Rafferty, Francis Gilman, Tom Kennedy, and Derek Gilman.

The Vice-Chair noted that the following persons who are deemed parties of right under Procedural Rule 25(B): the Applicant, pursuant to Procedural Rule 25(B)(1); HPC pursuant to Procedural Rule 25(B)(3); and ANR, pursuant to Procedural Rule 25(B)(6). He observed that the other persons present might qualify for party status pursuant to Procedural Rule 25(B)(7) or (8), or as permissive parties pursuant to Procedural Rule 25(C). See Attachment.

The Vice-Chair asked the prehearing conference participants whether they had any objections to the grant of party status to the above-named persons. Counsel for the Applicant stated that he wanted the two Appellants and other persons not qualifying as parties under Procedural Rule 25(B)(1)-(S) to each file a petition for party status. These petitions should identify how the petitioner is aggrieved by the ANR's decision taking into consideration the elements for party status under Procedural Rule 25(B)(S). He noted that the Appellants have identified alleged procedural errors in the way that the ANR made and noticed its decision, but he wanted to know specifically how the Appellants were aggrieved or harmed by the ANR's decision (10 V. S. A. § 1024(a)) with respect to which of the four elements of 10 V.S.A. § 1023. He emphasized that the Applicant would object to any argument or evidence that addressed the merits of the proposed waste disposal system since that is the subject of the indirect discharge permit application pending before the ANR and not the Permit under appeal.

Counsel for the ANR also expressed concern that it was not clear from the Appellants' Notice of Appeal what interests the Appellants had that were affected by the Permit and what elements of 10 V.S.A. § 1023 are at issue.

The Vice-Chair agreed that it was reasonable for all persons not qualifying for party status as of right under Procedural Rule 15(B)(1)-(5), including the Appellants, to be required to file written petitions for party status. He stated that he would establish deadlines in the Prehearing Order for the filing of such petitions and for objections to those requests. He asked the prehearing conference participants to meet after the prehearing conference so that the Applicants' attorney could present the Appellants with a list of the items he would like to see addressed in the party status petition including, but not limited to, information about the LBWA (i.e.: who are the members of LBWA, where do they reside, and what are the purposes of the organization).

Tom Kennedy and Derek Levin each indicated that if they were allowed to testify

as witnesses for LBWA, they would not seek party status for themselves, as individuals,

Appellant McElroy questioned whether the Unified Buddhist Church was the actual owner of one of the parcels of land involved in the development of the Project, based on his review of Town of Hartland records. In response, the Vice-Chair requested counsel for the Applicant to verify who owns the two parcels of land involved in the Project so that a determination can be made whether there are additional persons who need to receive notice and/or be joined as co-applicants. Counsel for the Applicant assured the Vice-Chair that the two parcels are owned by his client, but he said he would confirm this fact with the Town of Hartland Land Records and prepare, if necessary, a corrective deed.

IX. PRELIMINARY ISSUES

A. SCOPE OF PROJECT

The Applicant's counsel was asked to clarify the scope of the Project authorized by the Permit and the reach of Lulls Brook allegedly affected by the Project. He indicated that the Project is limited to the installation of a sewer line under Lull's Brook and the various measures that will be used during and following the excavation of the streambed for this Project to minimize adverse impacts to the stream. He noted that the sewer line will be installed in a stainless sleeve and that the work will be performed within a narrow window of time so as to not adversely affect fish and other aquatic species.

B. DEFICIENCIES IN NOTICE

The Vice-Chair observed that the Notice of Appeal raises several preliminary issues. The first allegation of error is that there was a failure of notice.

Title 10 V.S.A. § 1022 requires the Applicant to file a copy of his SAP application with the town clerk in which the proposed alteration is located and to mail it to "each owner of property that abuts or is opposite the land where the alteration is to take place." Title 10 V.S.A. § 1023 requires the ANR to provide notice of its action on a SAP application to the Selectmen of the town in which the proposed alteration is to be located and to the same list of property owners identified in Title 10 V.S.A. § 1022.

The Vice-Chair noted that, in their Notice of Appeal, the Appellants asked the Board to revoke the Permit. He advised the prehearing conference participants that the Board has no original jurisdiction to revoke the Permit, but if a deficiency in notice

amounts to a denial of due process, the Board may remand the matter, in response to a party's motion or on its own initiative, and direct the ANR to re-notice and initiate a new SAP proceeding. See Re: Appeal of George Carpenter, Jr., Docket No. SAP-99-06, Remand Order (Dec. 14, 1999). Therefore, he advised those persons present that the question of alleged deficiencies in notice is treated by the Board as a preliminary issue.

Counsel for the ANR admitted that Frederick Nicholson, the ANR's Stream Alteration Engineer who issued the Permit, did not send a notice of the decision to the abutting property owners identified by the Applicant in its SAP application. He noted that this application listed the following persons as abutting property owners: Andrew Bowen, Eunice Holmberg, and Avis Powers. He suggested that this matter could be remanded, as in the Carpenter case, or the Board could stay its appeal to allow the ANR to re-notice its SAP decision to the persons who should have received notice in the first instance.

Paul Rafferty indicated that he and his wife are the current owners of the Bowen property. The Board's counsel noted that attempts to provide notice to Ms. Holmberg at the address provided by the ANR and Appellants resulted in the mail being returned to the Board because of incorrect address information.

Appellant McElroy argued that the set of persons who should have received notice is larger than the three neighbors identified by the Applicant. He interpreted the language of 10 V.S.A. § 1022 to require notice to at least those persons who own land adjacent to the two Project parcels and any riparian owners upstream and downstream of the Project. The Applicants' counsel argued that the persons required to receive notice only include those persons who are likely to be affected by the Project, not riparian owners upstream of the Project or a mile downstream or neighbors living across the road from the larger of the two Project parcels who are not near the proposed alteration.

The Applicant's counsel suggested that rather than create a legal issue out of the interpretation of the language in 10 V.S.A. § 1022 and § 1023, his client was willing to provide notice of its application to a list of persons that all of the parties agreed should receive notice. Counsel for the ANR likewise agreed to provide notice of its decision to the same list of persons. The Vice-Chair advised the parties to consult with each other after the prehearing conference and jointly agree upon the list of persons who should receive notice.

Based upon the above discussion, the Vice-Chair asked the Applicant, Appellants, and the ANR to agree upon a list of persons who should have received notice of this application and send this to the Board within a week of the prehearing conference. He stated that the Prehearing Order would be accompanied by a certificate of service which should

be used by all parties of right and party status petitioners. He further noted that the Prehearing Order would specify deadlines for the filing of the application and Permit with the Board and persons on the service list. Finally, the Prehearing Order would establish a deadline for party status petitions from Mark McElroy, LBWA, and various other persons interested in this matter including persons who have not previously entered their appearances due to the failure of notice.

C. POLICY REGARDING SEQUENCING OF PERMIT REVIEW

The second issue raised by the Appellants arises from the text in Condition 1 of the Permit. That condition states that the Project shall be accomplished according to “the plans prepared by Bruno Associates dated 2/28/00 and which have been stamped “approved” by the Water Quality Division (“WQD”) of ANR.” Since the Appellants allege that the WQD of ANR has not yet “approved” the Project plans submitted as part of the application for an Indirect Discharge Permit, they question whether the ANR exceeded or abused its authority in granting a SAP prior to approval of the Project by the WQD. The Vice-Chair asked the prehearing conference participants to address this issue.

Counsel for ANR responded that the sequencing of permit review at ANR is a policy question. He did note that Condition 1 of the Permit is ambiguous, but the intent is that no construction can begin on the Project until an indirect discharge permit is issued.

Counsel for the Applicant added that numerous permits are often needed for a single project and it should be within the developer’s discretion to determine in which order it will file its permit applications. He noted, however, that even though a SAP has been issued for the Project, no construction can begin until all applicable permits are obtained for the Applicant’s development activities. He asserted that no construction can begin until both an indirect discharge permit and an Act 250 permit are obtained, and that if the Project authorized by the Permit is altered in any way during the course of the other permitting proceedings, it is the Applicant’s responsibility to obtain a new SAP from the ANR, which requires new notice and a new project review and decision.

Appellant McElroy said his principal concern was that the ANR should not approve “construction without a purpose” -- meaning, the ANR should not have approved the sewer line crossing if the wastewater system itself has not been approved. Given, however, the representation by the Applicant’s counsel that no construction could or would proceed prior to the issuance of other permits for the proposed wastewater system, Mr. McElroy indicated that he and LBWA would “withdraw” this issue for consideration on appeal.

Also, based on the Applicant's representation through counsel that no construction would begin until other permits are obtained and further based on counsel's description of the various safeguards imposed by the Permit during construction, Paul Rafferty stated that he was withdrawing his request for party status.

X. INFORMAL DISPUTE RESOLUTION

The Vice-Chair advised the prehearing conference participants that the Board encourages alternative dispute resolution. He noted that additional time could be built into the schedule of this proceeding to allow for such informal resolution if the parties believe that the issues in this proceeding can be resolved and narrowed through negotiation or mediation. A deadline for the parties to formally request a stay of proceedings to facilitate negotiations is contained in the Prehearing Order.

XI. WITNESSES, EXHIBITS, AND PREFILING SCHEDULE

The Board's counsel explained that if this appeal proceeds to a merits hearing, prefiled testimony and exhibits will be required and a schedule for such filings will be set in a subsequent order. She noted that a final determination concerning the hearing schedule would not be made until all lists of witnesses are prefiled.

Those persons granted party status are encouraged to work together to avoid duplication of witness testimony and exhibits and, if possible, to prepare stipulated facts, identify exhibits to which there are no objections, and develop a joint site visit itinerary. All prehearing conference participants and other persons who seek party status are urged to look at their calendars and alert the Board's counsel, Kristina L. Bielenberg, of any major scheduling conflicts between June 27, 2000 and the end of October, 2000. They should call her as soon as possible at 828-5443.

XII. ORAL ARGUMENT ON PRELIMINARY ISSUES AND HEARING DAY SCHEDULE

The Board's counsel indicated that since there are several preliminary issues, including party status determination, which need to be decided in this matter, a briefing schedule would be established and oral argument before the full Board would be scheduled for Tuesday, August 8, 2000. She noted that the Prehearing Order would provide deadlines for the filing of various documents in anticipation of this oral argument.

She also indicated that if a hearing on the merits is scheduled for this appeal, it will likely be held on **Tuesday, September 19 or Tuesday, October 10, 2000**, and that the parties and would-be parties should reserve these dates until further notice. The Board's counsel also noted that the hearing would be scheduled at a public facility in close proximity to the subject wetland, somewhere in or near the Town of Hartland, for the convenience of the parties and to enable the Board to conduct a site visit.

The Board's counsel distributed to the prehearing conference participants two sample hearing day schedules. See Attachment. She noted that the parties will be provided with a revised hearing day schedule once all witnesses have been identified by the parties. Again, the Board's counsel encouraged the prehearing conference participants to organize their **prefiled** testimony, exhibits, and argument so as to eliminate redundancy and achieve efficiency in the presentation of their respective cases.

XIII. SERVICE LIST

The Board's counsel advised the prehearing conference participants that they should use the certificate of service accompanying the Prehearing Order to determine who should receive copies of all filings. She noted that parties are not required to serve filings on persons listed under the "For Your Information" section of the certificate of service.

Parties or their representatives are responsible for advising the Board of any changes in addresses, including changes related to the assignment of new 911 street numbers or seasonal changes in residence.

Prior to the prehearing conference, the Town of **Hartland** advised Board staff that the Upper Valley/ Lake Sunapee Regional Planning Commission ("**UV/LSRPC**"), not the Two Rivers Regional Planning Commission, is the regional planning commission in the area of the Project. Accordingly, **UV/LSRPC** was sent notice of the prehearing conference, even though this fact was not disclosed at the prehearing conference. All parties and party status petitioners should note, however, that **UV/LSRPC** should be substituted for Two Rivers Regional Planning Commission for purposes of service of all subsequent filings.

XIV. OTHER

Those intending to participate in this proceeding are advised to obtain copies of the Procedural Rules, effective February 22, 1999, as well as the **VWR**, to prepare for the hearing in this matter. The Vice-Chair made copies of these rules available to the prehear-

ing conference participants. These rules are also available by downloading text from the Board's Web site: <http://www.state.vt.us/wtrboard>

XV. ORDER

1. Parties of right to this appeal are:
Unified Buddhist Church, Applicant, pursuant to Procedural Rule 25(B)(1);
Agency of Natural Resources, pursuant to Procedural Rule 25(B)(5); and
Hartland Planning Commission, pursuant to Procedural Rule 25 (B)(3).
2. On or before Tuesday, June **27, 2000**, the Applicant shall serve a copy of its SAP application upon each of the persons listed on the attached certificate of service unless specifically listed under the "For Your Information" section.

The Appellants and Applicant have agreed to the list of persons who should receive notice of this proceeding. The Applicant's counsel has clarified that Ayers Road Association, LLC, is the owner of a portion of the land involved in the Project and has indicated that he will serve as counsel for the Association. The Board's service list has been amended to so reflect this change.

3. On or before Tuesday, June **27, 2000**, the ANR shall re-notice its SAP decision and send a copy of the Permit to all of the same persons required to receive notice on the attached service list
 4. On or before Wednesday, July **12, 2000**, any person whoe seeks party status and was not already granted party status in Item 1. above, including persons who appeared at the prehearing conference and those newly noticed of this proceeding, by service of this Prehearing Order, shall file a party status petition pursuant to Procedural Rules 25(B)(7), and/or 25(B)(S), and or 25(C). Said petitions shall conform to the requirements of Procedural Rule 25(A) and identify the interest of the petitioner that is affected by the Permit with reference to the applicable elements of 10 V.S.A. § 1023. The petitioner should clearly indicate the location of his/her property and if he or she is an abutting property owner or a riparian property owner, he or she should state clearly the location of his or her property in relationship to the Project tract and explain how his or her property interest is affected by the Permit. Any petition for party status should indicate whether oral argument before the Board is requested.
 5. On or before Wednesday, July 12, 2000, the Appellants McElroy and LBWA shall clearly identify the elements of 10 V.S.A. § 1023 that are at issue in this
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proceeding and the reasons why they believe the ANR was in error in issuing the Permit with the conditions contained therein. The Appellants shall indicate whether oral argument before the Board is requested with respect to these issues.

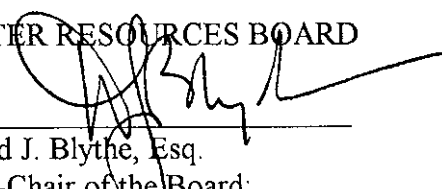
6. Board member Barbara S. Farr will not serve as a decision maker in this proceeding. Any requests for disqualification of any of the other current Board' members identified in Sections V. above, or any requests for further disclosures, shall be filed on or before **4:30 p.m., Wednesday, July 12, 2000**. Any such request for disqualification shall be supported with a statement of alleged facts and a memorandum of law in support of such disqualification. The failure to file a timely request for disqualification or request for further disclosure shall be deemed waiver of any objections to the participation of a current Board member in the above-captioned appeals.
7. On or before **4:30 p.m., Wednesday, July 26, 2000**, any person objecting to the standing of or grant of party status to persons filing petitions in accordance with Item 3. above or to the issues as framed by the Appellants in accordance with Item 5. above, shall file his or her written objection(s) supported by legal memorandum. Any such objection(s) shall indicate whether oral argument before the Board is requested.
8. In the event that all or some of the persons listed in Item 1. above or who file party status petitions in accordance with Item 3. above conclude that all or some of the issues in this appeal may be resolved through informal dispute resolution, they shall file a motion for stay of proceedings and indicate the scope of the issues to be subject to negotiation and the length of stay anticipated to be necessary to enable completion of negotiations. Such motion shall be filed on or before **4:30 p.m., Tuesday, August 1, 2000**.
9. The Board shall deliberate and, if requested, hold oral argument with respect to party status petitions on **August 8, 2000**, the time and place to be confirmed by separate notice.
10. Until preliminary issues in this proceeding are resolved by a Board memorandum of decision, no order setting forth the requirements or deadlines for the prefilng of evidence will issue. However, the parties are forewarned that should the Board decide to hear this matter on the merits, prefilng deadlines will be established for the months of July, August, and September. Therefore, those seeking to participate in this proceeding shall advise the Board's counsel of any scheduling conflicts during these months, as discussed in Section VI. above, on or before **4:30 p.m., Tuesday, August 1, 2000**.

11. Parties shall file an original and seven collated **copies** of motions, legal memoranda, and any other documents filed with the Board, and mail one copy to each of the persons listed on the Board's Certificate of Service who are entitled to such notice. The Certificate of Service may be further revised if party status objections are made and further determinations have been made. Legal memoranda shall be no more than twenty-five pages and proposed findings of fact and conclusions of law shall be no more than fifty pages. See Procedural Rule 10.

- 12 Pursuant to Procedural Rule 28(B), this Prehearing Order is binding on all parties who have received notice of the prehearing conference, unless a written objection to the order, in whole or in part, is filed on or before **4:30 p.m., Tuesday, June 27, 2000**, or a showing of cause for, or fairness requires, waiver of a requirement of this Prehearing Order. The filing of an objection shall not automatically toll that portion of the order to which an objection is made.

Dated at Montpelier, Vermont this 21st day of June, 2000

WATER RESOURCES BOARD



David J. Blythe, Esq.
Vice-Chair of the Board;
Acting Chair for this appeal