

**State of Vermont
WATER RESOURCES BOARD**

RE: David Santamore - Docket No. MLP-03-12

DISMISSAL ORDER

I DISCUSSION

On July 15, 2003, David Santamore filed an appeal of the denial of his application for a Management of Lakes and Ponds (MLP) Permit #2002-032 by the Agency of Natural Resources (ANR). ANR denied the application for a permit on July 3, 2003.

On July 23, 2003, the Water Resources Board's Executive Officer Jon Groveman issued a letter to Mr. Santamore indicating that his appeal was not timely filed and as a result the appeal may not proceed before the Board. Mr. Groveman's letter noted the following in support of his decision:

29 V.S.A. § 406 provides that "any person aggrieved by the decision of the department under section 405(c) of this title may appeal to the Board within **10 days** from the date of notice of action." Board Rule of Procedure 9(C) provides that "all filings shall be filed at the office of the Board during normal office hours. The date of the filing shall be the first day during normal hours on which the filing *is received* at the Board's office (emphasis added)."

While your appeal was postmarked on July 11, 2003 and received at the Department of Building and General Services on July 14, 2003, the last day for filing the appeal with the Board, it was not received in the Board's office until July 15, 2003. Because Board Rule of Procedure 9(C) provides that "all filings shall be filed at the office of the Board during normal office hours," and the appeal was filed at the Board's office a day late, the appeal is not timely filed.

Mr. Groveman's letter indicated that according to Board Rules of Procedure 16(B), Mr. Santamore had the right to appeal Mr. Groveman's decision to the Board within 30 days. The letter further noted that the deadline for appealing Mr. Groveman's decision was August 22, 2003.

Mr. Santamore did not file an appeal of Mr. Groveman's letter by August 22, 2003. Accordingly this matter is dismissed.

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II ORDER

It is hereby Ordered that the appeal docketed as **MLP-03-12** is dismissed.

Dated at Montpelier, Vermont, this 26th day of September, 2003.

Water Resources Board
By its Chair

/s/ David J. Blythe

David J. Blythe

Concurring:

Michael J. Hebert, Member
Jane Potvin, Member
John D.E. Roberts, Vice Chair
Lawrence Bruce Member

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