

VERMONT SUPERIOR COURT
Environmental Division
32 Cherry St, 2nd Floor, Suite 303,
Burlington, VT 05401
802-951-1740
www.vermontjudiciary.org



Docket No. 23-ENV-00007

15 Bull Moose Road WW Permit Appeal

ENTRY ORDER

Title: Motion to Dismiss (Motion #2)
Filer: Brice Simon, attorney for Applicant Alexia Maizel.
Filed Date: March 27, 2023
No response filed.

The motion is DENIED.

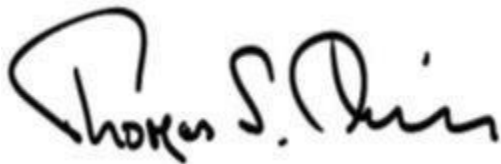
This matter is an appeal by Selina Rooney ("Appellant") of wastewater permit WW-5-9129 (the "Permit") issued to Alexia Maizel ("Applicant") for property located at 15 Bull Moose Road, Morristown, Vermont. Presently before the Court is Applicant's motion to dismiss the appeal for failure to file a timely Statement of Questions.

Applicant does not provide a citation as to what rule upon which her motion is based. We interpret Applicant's motion as one to dismiss this matter for lack of subject matter jurisdiction made under V.R.C.P. 12(b)(1).

This Court is required to apply the Vermont Rules for Environmental Court Proceedings to make a "full and fair determination" of the issues that come before us. V.R.E.C.P. 1. Our Rules prescribe that "[f]ailure of an appellant to take any step other than the timely filing of the notice of appeal does not affect the validity of the appeal but is ground only for such action as the court deems appropriate, which may include dismissal of the appeal." V.R.E.C.P. 5(b)(1). Thus, it is within our discretion to dismiss an appeal because of a late Statement of Questions, but we will only do so when the circumstances so require. In re Putney Park & Ride Project, No. 148-11-13 Vtec, slip op. at 1-2 (Vt. Super. Ct. Envtl. Div. Apr. 22, 2014) (Walsh, J.).

This Court held a status conference on this matter on March 27, 2023 via the WebEx platform. Applicant, through counsel, Appellant, and the Vermont Agency of Natural Resources (“ANR”), through counsel, appeared. At this status conference, the Court instructed Appellant to either (a) file a response to the motion to dismiss within 14 days of the status conference, or (b) file a notification that she did not intend to file a Statement of Questions within 14 days of the date of the status conference. On April 10, 2023, 14 days after the status conference, Appellant filed her Statement of Questions. Thus, we decline to dismiss the appeal in light of this procedural history. Applicant’s motion is, therefore, **DENIED**.

Electronically signed at Burlington, Vermont on Tuesday, May 23, 2023 pursuant to V.R.E.F. 9(D).

A handwritten signature in black ink, appearing to read "Thomas S. Durkin". The signature is stylized with a large, looped initial 'T' and a cursive 'D'.

Thomas S. Durkin, Superior Judge
Superior Court, Environmental Division