

STATE OF VERMONT

SUPERIOR COURT
Environmental Division Unit

ENVIRONMENTAL DIVISION
Docket No. 138-8-10 Vtec
Docket No. 1-1-11 Vtec

Wood NOV and Permit Applications, Docket No. 138-8-10 Vtec Town of Hartford v. Wood, Docket No. 1-1-11 Vtec
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ENTRY REGARDING MOTION

Count 1, Municipal ZBA Appeal from ZA (138-8-10 Vtec)

Title: Motion to Withdraw Appearance (Motion 19)
Filer: Attorney Kelli J. Rockandel
Filed Date: April 12, 2016

No response filed

The motion is GRANTED

Count 1, Municipal ZBA Appeal from ZA (138-8-10 Vtec)

Title: Motion to Continue Motion Hearing (Motion 18)
Filer: Marc Wood
Attorney: Kelli J. Rockandel
Filed Date: April 12, 2016

No response filed

The motion is GRANTED.

The pending motions relate to two matters that have been ongoing before the Court for nearly six years: Wood NOV and Permit Applications, Docket No. 138-8-10 Vtec and Town of Hartford v. Wood, Docket No. 1-1-11 Vtec. The Court issued its final, corrected judgment order in both matters on March 27, 2012. The Town of Hartford moved to enforce the order and for contempt in May of 2014. It also moved and for attorney's fees and expenses. Many conferences and other procedural back and forths on how best to enforce the Court's final judgment followed, during which the Respondents cross-moved for the Court to clarify the

Court's corrected judgment order. After several scheduling delays, the Court scheduled a hearing on all three motions for April 25, 2016.

On March 7, 2016, Attorney Kelli Rockandel of the firm Dinse, Knapp & McAndrew entered a limited appearance for the purposes of representing Marc and Susan Wood in the motions to enforce and compel and for attorney's fees. Attorney Rockandel replaced the Woods' former Attorney, Scott Fewell, also of the firm of Dinse, Knapp & McAndrew.

On April 11, Attorney Rockandel moved to withdraw as counsel. She also filed a motion on behalf of the Woods to continue the April 25, 2016 hearing on the motions.

The Court today held an expedited hearing by telephone on the motions to withdraw and continue. Attorney William F. Ellis (who represents the Town of Hartford), Attorney Kelli Rockandel, and Marc Wood participated. Attorney Katelyn Ellerman was also present and observing, as the Woods are contemplating retaining her firm as counsel in this matter; Attorney Ellerman advised that her firm had not yet decided whether it would agree to be retained by Marc Wood, Susan Wood, or both.

In her motion and in the hearing, Attorney Rockandel represented that Attorney Scott Fewell had left the firm of Dinse, Knapp, and McAndrew in January 2016, and that she had carried on as counsel for Respondents in order to represent them in settlement negotiations. On April 10, the parties' settlement attempts stalled. Attorney Rockandel represented that no other partner at her firm was prepared to participate in litigation, and that she has little experience in complex environmental matters. Anticipating that the hearing on the motion to enforce and compel will come down to "a battle of the experts," Attorney Rockandel determined that she could not represent Respondents in this litigation. Respondents agreed to the withdrawal motion.

The Town of Hartford objected to the motions to withdraw and to continue, though the Town agreed that, should withdrawal be granted, a continuance would be appropriate. The Town asked that, should the motion to withdraw be granted, the continuance be as short as the Court's calendar will allow.

Given that the hearing on the motion to enforce and compel may entail complex engineering testimony, the Court **GRANTS** Attorney Rockandel's motion to withdraw. For the same reason, the Court **GRANTS** Respondents' motion to continue, to allow Respondents additional time to secure counsel and to allow new counsel to prepare for the post-judgment motions hearing.

The Court will reschedule a hearing on the motions as quickly as the Court's schedule allows. In the telephone conference earlier today, Respondent Marc Wood consented to hold the upcoming hearing in Chittenden County, rather than Windsor County, where his property lies. Because the hearing may be scheduled more quickly in Chittenden County, the Court will hold the hearing in Costello Courthouse in Burlington, Vermont.

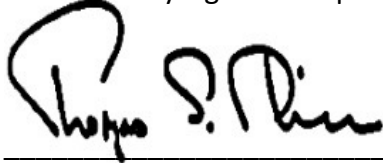
In light of the granted motions:

- Respondents must secure new counsel and ensure that new counsel enters his or her appearance in this matter on or before April 29, 2016. If Respondents choose to proceed without an attorney, they must notify the Court by the same date.
- In order to schedule a new hearing, all parties must file dates of unavailability for the month of July by April 29, 2016.

Given the considerable delays in bringing closure to these post-judgment matters thus far, all parties should be advised that the Court will be extremely reluctant to grant further continuances on the upcoming post-judgment motions hearing.

So ordered.

Electronically signed on April 13, 2016 at Newfane, Vermont, pursuant to V.R.E.F. 7(d).

A handwritten signature in black ink, appearing to read "Thomas S. Durkin", written over a horizontal line.

Thomas S. Durkin, Judge
Environmental Division

Notifications:

Kelli J. Rockandel (ERN 7154), Attorney for Appellant Marc Wood (Withdrawn)
William F. Ellis (ERN 3412), Attorney for Appellee Town of Hartford
Marc Wood, Respondent
Susan Wood, Respondent
Attorney Katelyn Ellerman, for FYI purposes only