

VERMONT SUPERIOR COURT
Environmental Division
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Burlington, VT 05401
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Docket No. 76-7-19 Vtec

Snowstone LLC SW Discharge

ENTRY REGARDING MOTION

Title: Motion for Evidentiary Hearing (Motion #9) on the Neighbors' Renewed Motion for a Limited Site Visit (Motion #8).

Filer: Lawrence G. Slason

Filed Date: August 03, 2021

Response, if any, shall be filed by **Thursday, August 12, 2021**, at 4:00 pm.

The motion is GRANTED.

The Court has completed its initial review of the parties' filings addressing the Appellant/ Neighbors' Renewed Motion for a Limited Site Visit. Due to the complexity of the legal requirements and standards from the Multi-Sector General Permit ("MSGP") that is the subject of this appeal, the Court anticipates that it will need to again review these filings and had previously come to the conclusion that a hearing on Neighbors' motion would be beneficial, just prior to the filing of a request on behalf of Snowstone, LLC ("Snowstone") and Justin and Maureen Savage ("Landowners") for an evidentiary hearing.

Having reviewed these filing, it remains unclear to the Court where exactly the Neighbors' engineer is proposing to visit. The Exhibit A filed with Neighbors' motion on June 9, 2021, does not contain a site map, although such a map was referenced in Neighbors' legal memorandum. Exhibit A, which consists of a September 25, 2019, memorandum from Neighbors' engineer, Jeffrey A. Nelson, does provide helpful specifics on the two initial locations he wishes to visit, as well as references to surrounding areas and also an identification of the state waters that may ultimately receive any discharges from the proposed dimensional stone quarry. Mr. Nelson also represents that he does not intend to access "areas in the vicinity of the recently constructed Savage home or driveway" and that "[n]o earth disturbance, markings or other materials would be left behind." This latter representation is somewhat unclear to the Court, in that while none would be "left behind," the Court appears left to wonder whether such "earth disturbance, markings or other materials" would be made, and then just replaced or removed.

The Court has also reviewed two other affidavits from Mr. Nelson, the first dated July 6, 2021, and filed on July 7, 2021, and the second dated and filed on July 28, 2021. The Court has also

Entry Regarding Motion

Page 1 of 2.

In re: Snowstone LLC SW Discharge Appeal, No. 76-7-19 Vtec (EO on Motion for Evidentiary Hearing (08-05-2021)).

reviewed the affidavits from the engineer hired by Snowstone and the Landowners, a Mr. Craig Jewett.

Landowner and Snowstone do not appear to specifically object to Neighbors' engineer conducting a site visit to the specific project areas: the 0.64± acre project site and the 0.29± acre easement over an existing woods road, but do object to Neighbors' engineer visiting areas beyond these areas. So that the Court is clear, we direct Snowstone and the Landowners to specifically identify any other areas that they may consent to Neighbors' engineer visiting by detailing such areas on a clean copy of the site map contained in Engineer Jewett's first affidavit.

Similarly, on a clean copy of such site map, preferably with color markings, we ask that Neighbors and their engineer specify the areas they wish for their engineer to visit.

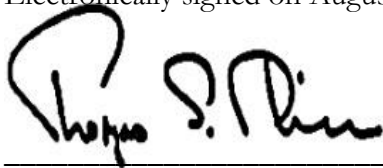
We further ask that Neighbors confirm that the proposed site visit would take no more than four hours' time. We also ask that Neighbors identify any other individuals that they wish to request permission to accompany their engineer.

The Court Operations Managers will schedule this evidentiary hearing and provide notice to the parties. That hearing will be conducted via WebEx, so as to conform to Supreme Court Administrative Order 49 and its amendments, all concerning the Court's response to the ongoing COVID pandemic.

The parties should be prepared at the scheduled hearing to also present any and all relevant legal arguments, including (but not limited to) the legal issues raised in their respective memoranda.

So Ordered.

Electronically signed on August 5, 2021, at Newfane, Vermont pursuant to V.R.E.F. 7(d).



Thomas S. Durkin, Superior Judge
Environmental Division