

STATE OF VERMONT

SUPERIOR COURT

ENVIRONMENTAL DIVISION  
Docket No. 32-2-19 Vtec

BlackRock Construction, LLC Act 250

**ENTRY REGARDING MOTION**

Count 1, Act 250 District Commission Decision (32-2-19 Vtec)

Title: Motion for Corrected Decision (Motion 3)

Filer: BlackRock Construction LLC

Attorney: Christopher D. Roy

Filed Date: April 2, 2019

No response filed

**The motion is GRANTED IN PART and DENIED IN PART.**

BlackRock Construction, LLC and John Evans (together, BlackRock) move to alter the Court's April 2, 2019 Entry Order remanding the above docketed matter back to the District #4 Environmental Commission (District Commission) to rule on pending motions to alter.<sup>1</sup>

Pursuant to V.R.C.P. Rule 59(e), the Court has broad power to alter or amend a previous judgment. In re SP Land Co., LLC, 2001 VT 104, ¶ 16, 190 Vt. 418 (citation omitted). The Court can respond to a Rule 59(e) motion by "revis[ing] its initial judgment if necessary to relieve a party against the unjust operation of the record resulting from the mistake or inadvertence of the court and not the fault or neglect of a party." Rubin v. Sterling Enters., Inc., 164 Vt. 582, 588 (1996) (citing In re Kostenblatt, 161 Vt. 292, 302 (1994)).

BlackRock states in its motion that, while the District Commission's corrected decision was dated January 24, 2019, it was distributed electronically on January 23, 2019. It therefore asserts that the pertinent date for filing a motion to alter with the District Commission was February 7, 2019. The motions to alter were filed on February 8, 2019.

For completeness of the record, we **GRANT** BlackRock's motion for the limited purpose of including the fact that distribution of the corrected decision occurred on January 23, 2019.

To the extent BlackRock moves for this Court to conclude that the pertinent filing deadline was February 7, 2019, however, we decline to do so. Act 250 Rule 31(A) states that motions to alter may be filed "within 15 days from the date of decision." Act 250 Rules, Rule 31(A) (emphasis added). While the corrected decision was distributed on January 23, 2019, it is dated January 24, 2019. We do not opine with respect to the pertinent date for filing a motion to alter.

The Court hereby adds the following language to our Entry Order:

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<sup>1</sup> BlackRock's motion is entitled a motion for corrected decision; however, we interpret it to seek an alteration of our April 2, 2019 Entry Order.

1. On page 2, we include Footnote 2 at the end of the sentence beginning with “On January 24, 2019” and ending with “transportation impact fee.” The footnote reads: “We note that the corrected decision was distributed electronically on January 23, 2019. However, the decision is dated January 24, 2019.”

All other aspects of our Entry Order remain unchanged. A Amended Entry Order accompanies this Entry Order.

So ordered.

Electronically signed on April 03, 2019 at 10:59 AM pursuant to V.R.E.F. 7(d).



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Thomas G. Walsh, Judge  
Superior Court, Environmental Division

Notifications:

Appellant Lori Marino

Appellant Sara Campbell

Appellant Brian Biunno

Appellant Catherine Biunno

Appellant Mary Beth Hill

Appellant Gregg Bates

Appellant Alexander Lodge

Appellant Natalie Lodge

Appellant Danielle Doucette

Appellant Peter Watson

Evan P. Meenan (ERN 1632), Attorney for Interested Person Natural Resources Board

Christopher D. Roy (ERN 1352), Attorney for Appellee BlackRock Construction LLC