

VERMONT SUPERIOR COURT  
Environmental Division  
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Docket No. 24-ENV-00072

Lot 20, 295 Applewood Road Wetland Determination

### ENTRY REGARDING MOTIONS

Title: Motion for Relief from Judgment (Motions: 6-8)  
Filer: Hilary Burditt, Barbara Platt, Joshua Vogel  
Filed Date: June 24, 2025, June 26, 2025

No response filed.

**The motions are GRANTED. Ms. Burditt, Ms. Platt, and Mr. Vogel are directed to submit filings as set forth herein.**

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Title: Motion to Amend (Motions: 9)  
Filer: Hilary Burditt, Steven and Barbara Platt, Joshua Vogel  
Filed Date: June 16, 2025

No response filed.

**The motion is MOOT as to Ms. Burditt, Ms. Platt and Mr. Vogel and DENIED as to Mr. Platt.**

This is an appeal of a July 17, 2024 decision of the Agency of Natural Resources (ANR) denying Steven and Barbara Platt, Hilary Burditt, and Joshua Vogel's (together, Appellants) request for reconsideration of a wetland determination, dated September 11, 2023, concluding that there was a Class II wetland located on property owned by Alta Assets, LLC (Alta Assets) located at 295 Applewood Road, Warren, Vermont (the Property). On April 17, 2025, ANR filed a motion to dismiss Appellants for lack of standing. Receiving no response, this Court granted the motion by an Entry Order dated June 18, 2025 and dismissed this appeal. See In re Lot 20, 295 Applewood Road Wetland Determination, No. 24-ENV-00072 (Vt. Super. Ct. Env'tl. Div. June 18, 2025) (Walsh, J.).

On June 24, 2025, Ms. Burditt and Mr. Vogel filed respective motions for relief from judgment pursuant to V.R.C.P. 60(b). On June 26, 2025, Ms. Platt file a similar Rule 60(b) motion. All motions are requesting the Court vacate the June 18, 2025 dismissal of this matter because the movants were

not served with ANR's motion as self-represented litigants.<sup>1</sup> ANR has not responded to these motions.

V.R.C.P. 60(b) governs grants of relief from judgment. While the Rule is to be liberally applied to prevent injustice and hardship, it also “balances the needs for both fairness and finality.” Tudhope v. Riehle, 167 Vt. 174, 178 (1997) (citing Cliche v. Cliche, 143 Vt. 301, 306 (1983)).

The Court concludes that the lack of proper service upon the movants constitutes a form of excusable neglect that warrants vacating the judgment to allow for sufficient response to the motion.<sup>2</sup> See V.R.C.P. 60(b)(1). The Court therefore **GRANTS** the motions for relief from judgment. In so doing, the Court directs the movants to respond in full to ANR's motion to dismiss within 30 days of the date of this Entry Order, or **Monday, September 2, 2025**.<sup>3</sup> ANR will then have the opportunity to reply to movants' opposition to the motion pursuant to the Vermont Rules of Civil Procedure.

On July 16, 2025, Appellants, inclusive of Mr. Platt, filed a motion to amend judgment pursuant to V.R.C.P. 56(e) alleging that they have standing to appeal. Because the Court grants Ms. Burditt, Ms. Platt and Mr. Vogel's motions for relief from judgment, the motion to amend, as it relates to them is **MOOT**. They will have to opportunity to present the Court will a full response to ANR's motion to dismiss and any assertion they believe gives them standing in this matter through that response.<sup>4</sup> With respect to Mr. Platt, the motion must be **DENIED**.

The Court has identified four basic grounds for granting Rule 59(e) motion: (1) to “correct manifest errors of law or fact upon which the judgment is based”; (2) to allow a moving party to “present newly discovered or previously unavailable evidence”; (3) to “prevent manifest injustice”; and (4) to respond to an “intervening change in controlling law.” In re Lathrop Ltd. P'ship I, Nos. 122-7-04 Vtec, 210-9-08 Vtec, 136-8-10 Vtec, slip op. at 10—11 (Vt. Super. Ct. Envtl. Div. Apr. 12, 2011) (Durkin, J.) (quoting 11 Wright, Miller, & Kane, Federal Practice and Procedure: Civil 2d § 2810.1). Motions to reconsider should not be used to “relitigate old matters” or to “raise arguments or present evidence that could have been raised prior to entry of the judgment.” Appeal of Van

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<sup>1</sup> Mr. Platt has not filed a similar motion because it is alleged that he was served via e-filing, which he had previously used in connection with this case.

<sup>2</sup> To the extent that movants request that we somehow vacate the ANR's motion, the Court declines to do so.

<sup>3</sup> In their motions, movants request that the Court order that ANR mail movants the motion then require movants to file a response to that motion within 30 days of receipt. In the interest of efficient resolution of the matter before the Court, the Court has included with this decision a copy of ANR's motion. The Court reminds ANR and Applicant, as a represented party, to ensure compliance with applicable service rules of any future filings on all parties.

<sup>4</sup> To the extent that movants seek to make similar arguments to that made in their motion to amend, movants must reassert them and any supporting documents, to the extent necessary and relied upon, in any opposition filed pursuant to this Entry Order.

Nostrand, Nos. 209-11-04 Vtec, 101-5-05 Vtec, slip op. at 4 (Vt. Env'tl. Ct. Dec. 11, 2006) (Durkin, J.) (quoting Wright, Miller, & Kane, § 2810.1) (internal footnotes omitted).

The motion does not appear to dispute the allegation that Mr. Platt was served with ANR's motion. He did not respond to that motion. The pending motion to amend is functionally a response to ANR's motion. This amounts to relitigating the ruled-upon motion and bringing in evidence and argument that could have been resolved previously. Thus, the motion with respect to Mr. Platt is **DENIED**.<sup>5</sup>

The Entry Order and corresponding Judgment Order dated June 18, 2025 dismissing this appeal are **VACATED**.

Electronically signed July 31, 2025 pursuant to V.R.E.F. 9(D).

A handwritten signature in black ink that reads "Tom Walsh". The signature is written in a cursive, slightly slanted style.

Thomas G. Walsh, Judge  
Superior Court, Environmental Division

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<sup>5</sup> Finally, in reviewing and ruling upon the pending motions, the Court notes that Appellants have filed a series of duplicates of motions and filings, and addendums to various filings and motions. The Court recognizes that Appellants are self-represented in this matter but reminds them, particularly those Appellants who will continue in this case, that they are subject to the Vermont Rules of Civil procedure and such filings are generally disallowed and/or disfavored. The Court requests that filings are limited to those allowed under the civil rules unless leave for supplemental filings is both warranted and sought.