



State of Vermont

LAND USE PERMIT

CASE NO: 2S0775
APPLICANT: MILLIGAN MOUNTAIN
QUARRY, INC.
P.O. BOX 68
CHESTER DEPOT, VT 05144

LAWS/REGULATIONS INVOLVED:
10 VSA, CHAPTER 151
(ACT 250)

District Environmental Commission II hereby issues Land Use Permit #2S0775 pursuant to the authority vested in it in 10 V.S.A., Chapter 151. This permit applies to the lands identified in Book 58, Pages, 124-127 of the Land Records of Chester, Vermont, as the subject of a deed to Milligan Mountain Quarry, Inc., the "permittee" as grantee. This permit specifically authorizes the permittee to extract rock from an existing quarry at an average rate of between 100 and 500 tons per week.

The permittee, its assigns, and successors in interest, are obligated by this permit to complete, operate, and maintain the project only as approved by the District Commission in accordance with the following conditions:

1. The project shall be completed, operated and maintained as set forth in Findings of Fact and Conclusions of Law #2S0775 in accordance with the plans and exhibits stamped "Approved" and on file with the District Environmental Commission, and in accordance with the conditions of this permit. No changes shall be made in the project without the written approval of the District Environmental Commission.
2. By acceptance of the conditions of this permit without appeal, the permittee confirms and agrees for itself and all assigns and successors in interest that the conditions of this permit shall run with the land and the land uses herein permitted, and will be binding upon and enforceable against the permittee and all assigns and successors in interest.
3. The District Environmental Commission maintains continuing jurisdiction during the lifetime of the permit and may periodically require that the permit holder file an affidavit certifying that the project is being completed in accordance with the terms of the permit.
4. A copy of the approved erosion control plan shall be on the site at all times during the quarrying process.

5. The siltation basin and related erosion control shall be properly emplaced prior to quarrying operations.

6. In addition to conformance with all erosion control conditions, the permittee shall not cause, permit or allow the discharge of waste material into any surface waters. Compliance with the requirements of the Condition does not absolve the permittee from compliance with 10 V.S.A., Chapter 47, Vermont's Water Pollution Control Law.

7. The permittee shall maintain a 50 foot undisturbed, naturally vegetated buffer strip between the Williams River and any disturbed areas.

8. The permittee and all assigns and successors in interest shall continually maintain the planting and site improvements as approved in Exhibit #24 by replacing any dead, diseased plantings or damaged site improvements as soon as possible.

9. No subdivision or further development of any parcels of land approved herein shall be permitted without the written approval of the District Environmental Commission.

10. A copy of this permit and approved plans shall be on the site at all times throughout the extraction process.

11. This permit shall expire on July 15, 2008, unless extended by the District Environmental Commission.

12. Notwithstanding, the permit shall expire on a year from the date of issuance if the permittee has not demonstrated an intention to proceed with the project.

Failure to comply with any of the above conditions may be grounds for permit revocation pursuant to 10 V.S.A. Section 6090(b).

Dated at North Springfield, Vermont, this *2nd* day of July, 1988.

By: *Rebecca Day*
Rebecca Day, Chairperson
District III Environmental Commission
Environmental Board

Others participating in this decision:
Walter Henry

Robert Sanford
Robert Sanford
District Coordinator
Environmental Board

STATE OF VERMONT
DISTRICT ENVIRONMENTAL COMMISSION II

RE: MILLIGAN MOUNTAIN QUARRY, INC.) APPLICATION #2S0775
P.O. BOX 68) FINDINGS OF FACT AND
CHESTER DEPOT, VT 05144) CONCLUSIONS OF LAW
) 10 V.S.A., CHAPTER 151
) (ACT 250)

INTRODUCTION TO THE FINDINGS OF FACT:

On May 5, 1988, an application for an Act 250 Permit was filed by Milligan Mountain Quarry, Inc., P.O. Box 68, Chester Depot, Vermont 05144, for a project generally described as the extraction of rock from a quarry located off Route 103 in Chester, Vermont. The applicant expects to extract an average of 100 tons per week although this average may increase up to 500 tons per week, depending on demand. The tract of land consists of 208 acres with 1+ acres involved in the project area. The applicant's legal interests are ownership in fee simple.

Decisions must be stated in the form of Findings of Fact and Conclusions of Law. The facts we have relied upon are contained in the documents on file identified as Exhibits 1 through and the evidence received at a site visit and hearing held on May 31, 1988. The final piece of evidence was received July 20, 1988, and the hearing was adjourned on July 21, 1988, upon determination that the record was complete.

Parties to this application represented at the hearing are:

- (A) The Applicants by George Milligan, owner; William E. Dakin, Jr., Attorney; and Nicholas Nowlan, Engineer.
- (B) The Municipality of Chester by Prentice Hammond, Town Manager.
- (C) Agency of Natural Resources by pre-hearing entry by appearance from Mark Sinclair, Land Use Attorney; and Rodney Barber, Landscape Architect.

GENERAL DISCUSSION: Prior to taking evidence with regard to the ten Criteria of 10 V.S.A., Section 6086(a), all parties agreed that the applicant through submission of the application material has met the burden of proof with respect to the following Criteria: 2&3 Sufficient Water, 6 Educational Services, 7 Municipal Services, 9A Impact of Growth, 9B&C Primary Agriculture Soils, Forest & Secondary Agriculture Soils, 9F Energy Conservation, and 10 Conformance with local or regional plans. Parties, therefore, waived the issuance of written Findings concerning these criteria as the application shall serve as Findings of Fact.

The following written Findings of Fact are limited to Criteria: 1 Water and Air Pollution, 4 Soil Erosion, 5 Traffic Congestion & Safety, 8 Aesthetics, 9D&E Earth Resources and Extraction, 9G Private Utilities, 9H Costs of Scattered Development, 9J Public Utility Services, 9K Public or Quasi-Public Investments, and 9L rural Growth Areas.

FINDINGS OF FACT:

In making the following findings, we have summarized the statutory language of the 10 Criteria of 10 V.S.A., Section 6086(a):

1. There will be no undue water or air pollution.

AIR POLLUTION:

Blasting will be done by licensed contractors in accordance with the Mine Safety and Health Act. Blasting will only be between the weekday hours of 7 a.m. and 5 p.m. A crusher will not be used on the site. The project will use a collared and wet system to control dust. The project is not contiguous to an existing settlement and therefore, the sound of blasting will not disturb residents.

WATER POLLUTION:

Undue water pollution will not occur from this project.

(A) Headwaters:

1. This project is in a headwaters area as defined by this section, because it is in a drainage area of 20 square miles or less.
2. No health or water resources permits are required for this project. Exhibits 3, 12, and 26.

3. The State Geologist has approved the quarry design, reclamation and erosion control measures. Exhibit 23.

4. The Commission accepts the above as evidence that there will be no undue adverse impact under this sub-criterion.

(B) Waste Disposal:

The only waste disposal requirements of this project are portable chemical toilets which will be maintained by contract between the applicant and Springfield Plumbing and Heating. These portable facilities will only be on-site during periods of continual excavating activity. Exhibit 3 and Testimony.

(C) Water Conservation: This project will not use water, therefore, water conservation does not apply to this project.

(D) Floodways: The project is above the 100 year floodway.

(E) Streams: There are no streams in the project.

(F) Shorelines:

The shoreline will be maintained in its natural condition. The project is 80 feet away from the Williams River. The plans for excavation, reclamation and erosion control have been reviewed and approved by the State Geologist. The project has been designed to avoid any increase in surface water run-off into the river by stepping the quarry face and using a sediment entrapment system and siltation basin. Exhibits 3, 17, 18 & 20.

(G) Wetlands: The project is not in a wetlands area.

4. There will be no unreasonable soil erosion or effects on the capacity of the land to hold water:

a. Permanent erosion controls consist of a drainage ditch, a reclamation plan, a siltation basin and a berm along the edge of the embankment above the railroad tracks. Exhibits 18, 20, 24, & 25.

b. The applicant will conduct monthly inspections to maintain the siltation catch basin. Exhibit 23.

4. Continued:

c. The quarry design provides a sequentially excavated series of benches and lifts that will be reclaimed with soil saved from the excavation of each bench. The applicant will reclaim each bench sequentially and will use native trees, seeding and mulching in accordance with the plans described and depicted in exhibits 3, 15, 16, 18, 20, 24 and 25.

d. The state geologist has reviewed the plans, visited the site and approves the project. Exhibit 23.

e. The project is an existing quarry. The Commission finds that the above measures will improve the control of erosion on the project and accepts the above as evidence that there will be no undue adverse impact for continual excavation under this criterion.

5. This project will not cause unreasonable safety or congestion conditions with respect to highways or other means of transportation.

a. The project will generate an average of less than five trucks per day and no more than 10 trucks per day.

b. Access to the project will be from Route 103 which has the capacity to accommodate the additional traffic that will result from the project. Level of Service is B at present and will not change as a result of this project. Testimony.

c. Sight distances at the access exceed 500 feet in either direction and are adequate. Exhibit 3.

d. The Municipality and Agency of Transportation has issued a Letter of Intent to approve the access to the project. Exhibits 6 and 19.

e. The Commission accepts the above as evidence that there will not be a significant increase in traffic and that there will be no undue adverse impact under this criteria.

8. There will be no undue adverse effects on aesthetics, scenic beauty, historic sites or natural areas:

a. The applicant has designed an excavation procedure and a reclamation plan in conjunction with the requirements and suggestions of the state geologist. Exhibits 16, 18, 20, 22, and 23. In conjunction with the Agency of Natural Resources Landscape Architect's recommendations, the applicant will replant the site with indigenous trees of about six feet in height as per the planting plan (Exhibit 16) but with a more irregular pattern than depicted on this exhibit. This change will give a more natural appearance. Trees will be used from other areas of the property to enable the reclaimed area to blend into the surroundings. Six inches or more of soil saved from the quarrying and additional topsoil will be used to help plants get started. Each lift and bench will be seeded, planted, mulched, and maintained as the sequential excavation proceeds. This will enable the project to begin reclamation after the first bench is excavated. The trees will be planted in pockets and other areas where they will survive most effectively. Testimony.

b. The applicant will clean the bank between the railroad tracks and the access road and will berm this area and maintain it. Exhibit 20 and Testimony. There is a small decrepit trailer on the site. This trailer is not readily visible from off-site. No other vehicles or equipment will be bought onto the site except what is needed to accomplish the project.

c. The Commission accepts the above as evidence that there will be no undue adverse impact under this criteria.

9 D&E. Earth Resources and the Extraction of Earth Resources.

This project is designed to provide for the orderly extraction of mica schist and gneiss rock material at an existing quarry.

9 G. Private Utilities: There are no private utilities proposed for the project.

9 H. Costs of Scattered Development: The project is not contiguous to an existing settlement, but this is a desirable attribute since the project is a quarry.

9 J. Public Utility Services: This project will not have a demand for utility services, some electricity may be brought to the site in the future, but the amount needed would be minimal.

9 K. Public or Quasi-Public Investments: Public or Quasi-Public Investments adjacent to this project are the Williams River and the railroad tracks.

The project will not, however, unnecessarily endanger the public investment or materially jeopardize it, based on the findings under criteria 1 and 4, hereby incorporated by reference.

9L. Rural Growth Areas: The project is not in a Rural Growth Areas as defined in this section and section 6001(16). No other natural resources have been identified.

CONCLUSION OF LAW:

Based upon the foregoing Findings of Fact, it is the conclusion of this District Environmental Commission that the project described in the application referred to above, if completed and maintained in conformance with all of the terms and conditions of that application, and of Land Use Permit #2S0775 will not cause or result in a detriment to public health, safety or general welfare under the criteria described in 10 V.S.A., Section 6086(a).

COMMISSION ORDER:

Based on the foregoing Findings of Fact and Conclusions of Law Land Use Permit #2S0775 is hereby issued.

Dated at North Springfield, Vermont, this 21st day of July, 1988.

By: Rebecca Day
Rebecca Day, Chairperson
District Environmental Commission
Environmental Board

Others participating in this decision:
Walter Henry

Robert Sanford
Robert Sanford
District Coordinator
Environmental Board