

STATE OF VERMONT  
ENVIRONMENTAL BOARD

RE: GIBOU VALLEY COMPANY  
GREENSBORO, VERMONT

DECLARATORY RULING  
NO. 67

The Gibou Valley Company proposes to improve entirely at its own expense, with the approval of the Town of Montgomery, and subject to certain conditions specified by the Town, 1.5 miles of Town Road 11 from a Class IV road to a Class III road. Upon completion of the improvements, the Town has agreed to accept the improved section of the road as a Class III road and the responsibility for its maintenance. The purpose of the road improvements is to provide adequate year round access to the property of the Company abutting Town Road 11 which the Company intends to divide into parcels for sale.

The section of Road 11 to be improved is a continuation to the south of Town Road 11 presently maintained by the town as a Class III road. The section to be improved would terminate at the junction of Town Road 11 with Town Road 30. Town road 30 from the point of its junction is a Class IV road for 1.13 miles to the west and 1.1 miles to the east. The general highway map of the Town of Montgomery filed by the Company, which depicts the Class IV roads within the town including that portion of Road 11 now Class IV which the Company proposes to improve to Class III standards, is marked Exhibit B1 and made part of this ruling by reference.

The Board finds that there is a direct and immediate relationship between the road improvements and the proposed sale of land by the Company. Any public purpose for the improvements is secondary and incidental to the commercial activity of the Company and will not evolve until after the improvements are completed by the Company. Essentially, the town's written statement to the Board (Exhibit B2) clearly suggests that the town conceives of this as a project of the Company subject to its approval and conditions and not as part of its responsibility to construct and maintain roads for the benefit and use of its residents and the general public. There is no difference between the proposed arrangement between the Company and the town in this case and in a case where a developer constructs a road on private land with a commitment from the town that upon completion according to town standards the town will accept dedication of the road and responsibility thereafter for its maintenance; and the fact that the right-of-way is already in public ownership does not by itself make the improvements for a public purpose.

The Board concludes that the proposed improvements to the town road proposed by the Company is a development for a commercial purpose within the meaning of Act 250 and Rule 2(A)2 of the Rules of the Board and a permit is required.

Dated at Montpelier, Vermont this 16th day of September, 1975.

ENVIRONMENTAL BOARD

By Schuyler Jackson  
Schuyler Jackson  
Chairman

Members participating: Jackson,  
Marvin, Veller, Wheelock, Keenan,  
Garland, Burnham, Countryman,  
Broderick.