



Town of Shelburne, Vermont

CHARTERED 1763

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FOR IMMEDIATE RELEASE

Shelburne (VT) – The key portion of yesterday’s decision is the Court’s agreement with the Town that not only does Shelburne “retain certain police powers which protect public health and safety,” but that “the Court agrees that the Town cannot determine whether or how its municipal regulations may apply to the Railway’s proposed project without knowledge of the project’s final plans.” The Court reasoned that because the Railway’s plans have evolved so dramatically and still are not finalized, the Railway’s conduct has “prevent[ed] the Town from articulating how it intends to exercise its police powers.” Accordingly, the Court “reserves judgment on the question of whether the ICCTA preempts the Town’s regulation of the aforementioned activities.”

Due to the Town’s participation in this lawsuit, the Railway’s and Barrett Trucking’s plans for this site have changed dramatically. The scope, size and location of the project, trucking operation and salt sheds relative to the La Platte River have been limited and changed. In particular, the Town has been successful in altering the Railway’s and Barrett Trucking’s original plans to skirt regulations to enable Barrett Trucking to move its base of operations to this site. In particular, because of the Town’s assertions in this lawsuit, the Railway dropped its plans to include at the site an office and maintenance facility for Barrett Trucking. And of significant interest to the Town and its residents, the Court stated that should Barrett Trucking construct a building on the site or exercise its option to purchase the site that it will submit to the Town’s zoning regulations.

It was through litigation that the Town achieved an important goal, which was to reduce the scope, scale and impacts of the project. The case continues and the Town is encouraged that the Court specifically invited the Town to return to Court when the project has been finalized to address which regulations are applicable to the project.

Gary von Stange
Chair, Shelburne Selectboard