

ACT 250 NOTICE
APPLICATION 8B0503-3 AND PREHEARING CONFERENCE
10 V.S.A. §§ 6001 - 6111

On July 1, 2020, Poulin Grain, Inc., 24 Railroad Square, Newport, VT 05855 filed an Act 250 application seeking authorization to expand the operating hours of the processing plant/conveyors and deliveries from the currently approved hours of 7:00AM to 7:00PM Monday through Saturday to 4:00AM to 11:00 PM Monday through Saturday. The project is located at 1873 VT Route 67E in North Bennington and Shaftsbury, Vermont.

Pursuant to Act 250 Rules 16 and 20, the Commission is convening a prehearing conference (“PHC”) in this matter. A PHC, in summary, has narrow goals and is designed to identify the parties and the issues prior to convening a hearing to evaluate the merits of the case. This project must first be evaluated by the District 8 Environmental Commission (“Commission”) in accordance with Act 250 Rule 34(E) – Stowe Club Highlands Analysis, and second in accordance with the implicated criteria of the 10 environmental criteria of 10 V.S.A., § 6086(a). Should the legal thresholds under Act 250 Rule 34(E) be met, the Commission will be afforded the flexibility to evaluate the application on its merits under the criteria. In that event, the Commission intends to narrow the scope of the merits hearing to criteria 8 - Aesthetics (noise) and 10 - Local and Regional Plans, unless that scope is expanded by the Commission at the hearing, to occur at a later date. At the PHC, the Commission intends to pursue limited questioning regarding Rule 34(E), and will be inviting prospective parties, if they desire, to submit relevant filings or rebuttals to Application Exhibit 003 [the Applicant’s Rule 34(E) argument]; that invitation will appear in the Prehearing Conference Report and Order (“PHCRO”).

The PHC will be followed by the issuance of the PHCRO which will prescribe the preliminary party status rulings, any informational filing requirements, and the scheduling of the site visit and/or hearing. Due to the coronavirus (COVID-19) State of Emergency, and the complications associated with live hearings, parties may waive their right to a live hearing, and instead agree to a process that allows for pre-filing written cross examination and rebuttal documents.

A copy of the application and plans for this project are available for review online at the Natural Resources Board database (<https://anrweb.vt.gov/anr/vtanr/Act250.aspx>) by entering project number “8B0503-3”.

NOTE TO PROSPECTIVE PARTIES: Pursuant to Vermont statute and Act 250 Rules, any person seeking to participate as a party to this proceeding **MUST** make such a party status request “on or before the first prehearing conference.” Accordingly, all prospective parties are obligated to participate, via phone or video, in the PHC scheduled below, or to file in advance a written party status petition to the Commission at the address below. Failure to timely appear on the PHC call or video conference call, or to timely file a written request by date of the PHC, thereafter bars a person from participating as a party in the proceeding, and any such person will thereafter lack legal standing to appeal any decision on this matter made by the District Commission. Due to the coronavirus (COVID-19) State of Emergency, all prospective parties are strongly encouraged to supply an electronic means of communication, such as email, for receiving service of notices on the proceedings.

A prehearing conference is hereby scheduled to convene:

Date: August 7, 2020

Time: 9:00 AM

Conference: Due to the coronavirus (COVID-19), this PHC will necessarily be conducted **remotely** via **Microsoft Teams conferencing software** (both call-in and video options are available; see instructional information and **dial-in number below**). There will be no site visit prior to the PHC.

If you are unable to participate using the Microsoft Teams platform or are unable to notify the Natural Resources Board/Act 250 office ahead of time that you intend to participate, you may still call in to the conference using only the dial-in information, provided below.

The following persons or organizations may participate in the PHC and hearing for this project:

1. **Statutory parties:** The municipality, the municipal planning commission, the regional planning commission, any adjacent municipality, municipal planning commission or regional planning commission if the project lands are located on a town boundary, and affected state agencies are entitled to party status.
2. **Adjoining property owners and others:** May participate as parties to the extent that they have a particularized interest that may be affected by the proposed project under the Act 250 Criteria.
3. **Non-party participants:** The District Commission, on its own motion or by petition, may allow others to participate in the hearing without being accorded party status.

If you plan on participating in the PHC on behalf of a group or organization, please submit the following to NRB.Act250Rutland@vermont.gov:

1. A written description of the organization, its purposes, and the nature of its membership (T.10, § 6085(c)(2)(B));
2. Documentation that prior to the date of the PHC, you were duly authorized to speak for the organization; and
3. Documentation that the organization has articulated a position with respect to the Project's impacts under specific Act 250 Criteria.

If you would like further information regarding participation in this PHC, please contact the Natural Resources Board/Act 250 office (below) before the date of the PHC, and preferably by 4:30PM on Monday, August 3, 2020. If you have a disability for which you need accommodation in order to participate in this process, please notify us as soon as possible, in order to allow us as much time as possible to accommodate your needs.

The members sitting on the District Commission for this project are: Rick Kobik, Acting Chair, Michael McDonough, and Don Miller.

If you feel that any of the District Commission members listed above may have a conflict of interest, or if there is any other reason why a member should be disqualified from sitting on this case, please contact the Natural Resources Board/Act 250 office as soon as possible, and by no later than the date of the PHC.

Steps for Participating in the Prehearing Conference Remotely

1. The platform we will be using is Microsoft Teams.
1. Download the Microsoft Teams free application, which is available for Windows and Mac desktop devices and iOS and Android mobile devices. Create an account once downloaded.
 - **Download here:** <https://products.office.com/en-us/microsoft-teams/download-app>
 - **Microsoft Teams Training Resources:** <https://support.office.com/en-us/article/join-a-teams-meeting-078e9868-f1aa-4414-8bb9-ee88e9236ee4>

2. Each individual that plans to participate should email the Natural Resources Board/Act 250 office no later than **Monday, August 3, 2020 at 4:30PM** indicating that you plan to participate. You will then receive a Microsoft Teams calendar invitation with both a direct link for participating in the conference via video, or you may use the call-in information provided below.
3. If any person plans to introduce any new exhibits into the record or reference any documents during the PHC, please submit any such items to the Natural Resources Board/Act 250 office **and** the Certificate of Service no later than **Wednesday, August 5, 2020 at 4:30PM** so that all parties may have the opportunity to review prior to the PHC.
4. If you are unable to participate using the Microsoft Teams video platform or are unable to notify the Natural Resources Board/Act 250 office ahead of time that you intend to participate, you may still call in to the conference with the following information:
 - **Dial:** +1 802-828-7667
 - **Enter Conference ID:** 751 010 092#
5. If you experience any technical difficulties or need assistance troubleshooting with Microsoft Teams, the Natural Resources Board/Act 250 office will be available by phone or email beginning at 8:00AM on August 7, 2020 to assist you: Sabrina.urich@vermont.gov / 802-786-5920 or kim.lutchko@vermont.gov / 802-786-5099

PHC Agenda:

- 8:45 AM: Participants dial-in to the conference by phone or sign-in via Microsoft Teams 'Join Meeting' link for video option.
- 9:00 AM: Conference called to order by Convening Officer (Acting Chair Kobik).
- Introductions and confirmation of all persons in attendance.
- Brief overview of application by Applicant.
- Summary and clarification of issues in controversy by Convening Officer.
 - Rule 34(E) – Stowe Club Highlands Analysis
 - Criterion 8 – Aesthetics (noise)
 - Criterion 10 - Local and Regional Plans
- Preliminary Party Status & Friends of the Commission.
- Identify evidence, documents, witnesses, stipulations, and other offers of proof to be presented at a hearing by any party.
- Discuss schedule for future proceeding.
- 11:00 AM: Conference adjourned.

Dated at Rutland, Vermont this 17th day of July 2020.

By: 

Kim Lutchko, NRB Act 250 Specialist
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88 Merchants Row, 4th Floor
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802-786-5099 / Kim.lutchko@vermont.gov
NRB.Act250Rutland@vermont.gov

E-Notification CERTIFICATE OF SERVICE #8B0503-3

I hereby certify that I, the undersigned, sent a copy of the foregoing Notice of Application and Prehearing Conference on July 17, 2020 by U.S. Mail, postage prepaid, to the individuals without email addresses, and by electronic mail to the following with email addresses. All email replies should be sent to NRB.Act250Rutland@vermont.gov. **Note: Any recipient may change its preferred method of receiving notices and other documents by contacting the NRB District Office staff at the mailing address or email below. If you have elected to receive notices and other documents by email, it is your responsibility to notify the District Office of any email address changes.**

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District 8 Environmental Commission
Rick Kobick, Don Miller, and Michael
McDonough
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88 Merchants Row, 4th Floor
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FOR INFORMATION ONLY

VT Department of Libraries
Linda Bullard
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Public Utilities Commission
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ADJOINING LANDOWNERS

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