

**STATE OF VERMONT  
AGENCY OF NATURAL RESOURCES**

**ENVIRONMENTAL COURT  
DOCKET NO.**

**SECRETARY, VERMONT AGENCY  
OF NATURAL RESOURCES,  
Plaintiff**

**v.**

**STRATTON GARDENS, LLC  
Respondent**

**ADMINISTRATIVE ORDER**

Having found that Stratton Gardens, LLC (Respondent) has committed a violation as defined in 10 V.S.A. §8002(9), the Secretary (Secretary) of the Agency of Natural Resources (Agency), pursuant to the authority set forth in 10 V.S.A. §8008, hereby issues the following Administrative Order:

**VIOLATIONS**

1. Failure to file a Notice of Intent – Construction General Permit 3-9001 Part II, A.
2. Failure to maintain control measures - Construction General Permit 3-9001 Part V, A.
3. Discharge to waters of the state – 10 V.S.A. §1259(a).
4. Construction without a Stormwater Permit – Environmental Protection Rules Chapter 18 §302.
5. Failure to obtain winter construction authorization - Construction General Permit 3-9001 Part V, G.

**STATEMENT OF FACTS**

1. Respondent is a foreign corporation registered in Vermont.
2. Respondent is the owner of a development known as Stratton Gardens located in Winhall, Vermont (the property).
3. Stratton Gardens is a single family home development containing approximately 25 lots.

4. Respondent purchased the property in 2002.
5. Since purchasing the property Respondent has completed construction on approximately nine single family homes, has partially constructed two single family homes, and has begun construction activities on 2 additional lots.
6. Construction General Permit 3-9001 (CGP) Part II, A requires that Respondent file a Notice of Intent (NOI) prior to the commencement of construction.
7. Respondent failed to file an NOI for the approximately thirteen lots on which construction was commenced.
8. Respondent violated Part II, A of the CGP by commencing construction prior to filing a NOI.
9. The CGP Part V, A requires that Respondent install and maintain effective erosion control measures on lands under construction.
10. On the thirteen lots Respondent either failed to install adequate erosion controls or failed to maintain the erosion controls that were in place.
11. Respondent violated Part V, A of the CGP by either failing to install adequate erosion controls and/or failing to maintain the erosion controls that were put in place.
12. 10 V.S.A. §1259(a) prohibits the discharge of materials into waters of the state.
13. Respondent's failure to install erosion controls and maintain the controls that were installed resulted in discharges of material to state waters, specifically, to a brook that runs through the property which is a water of the state.
14. Respondent violated 10 V.S.A. §1259(a) by discharging material to waters of the state.
15. Environmental Protection Rules (EPR) Chapter 18 §302 requires that Respondent obtain a Stormwater Permit for the construction of impervious surfaces undertaken at the property.
16. Respondent violated the EPR Chapter 18 §302 by failing to obtain a Stormwater Permit for the property prior to the creation of impervious surfaces.
17. The CGP Part V, G provides that any site work that takes place after October 15 and before May 1 needs specific winter authorization from the Secretary unless a plan approved by the Secretary is in place.

18. Site work on the property continued past the October 15 deadline without Respondent obtaining the necessary winter authorizations and without a plan in place.
19. Respondent violated the CGP Part V, G by conducting site work without the proper winter authorizations and without an approved plan in place.

**ORDER**

Upon receipt of this Administrative Order Respondent shall:

- A. Pay a penalty of \$87,500 within thirty (30) consecutive calendar days of the effective date of this Order (effective date). Payment shall be by check made payable to the "Treasurer, State of Vermont" and forwarded to:

Becky Buchanan, Administrative Assistant  
Environmental Enforcement Division  
Agency of Natural Resources  
103 South Main Street, 2 South  
Waterbury, VT 05671-0401

The above penalty amount does not include the costs incurred by the Secretary for the enforcement of the above described violations or the amount of economic benefit gained by the Respondent from the violations. The Secretary reserves the right to augment the above stated penalty through evidence presented at hearing. In accordance with 10 V.S.A. §8010, the penalty may be increased by the costs incurred by the Secretary for the enforcement of this matter by the amount of economic benefit gained by the Respondent from the violations, each according to proof at the hearing.

- B. Immediately stop all site and construction work on the property until such time as all necessary permits and notices have been issued and all approved stormwater treatment systems and erosion control measures are in place and functioning. This provision shall not preclude the installation and maintenance of erosion controls on the property or the installation of stormwater controls on lots in the development that were sold, and for which legal title had passed, prior to the issuance date of this Order.

- C. Within 20 days from the effective date of this Order, hire a consultant experienced in erosion and stormwater control. Within the 20 days setout above Respondent shall have the hired consultant inspect the property and determine the present effectiveness and adequacy of the erosion control measures that are presently in place.
- D. Within 40 days from the effective date of this Order, have the hired consultant submit a written report to the Secretary outlining the findings of the inspection. The submitted written report shall include recommendations for addressing any deficiencies that are found as well as a timetable for correcting the deficiencies.
- E. Within 10 days of receiving written comments on the report from the Secretary, have the hired consultant amend the report to conform to the Secretary's comments.
- F. Within 15 days from the date the report is amended by the consultant, correct the deficiencies related to the erosion control measures on the property consistent with the timetable and other provisions of the final report.

**PERMIT STAY**

Pursuant to the provisions contained in 10 V.S.A. §8008(c)(2) and 10 V.S.A. §8011 the Secretary hereby stays the processing and issuance of any permits (including, but not limited to, stormwater, wastewater and NOIs) for new or further development of the property for 837 days, which is an amount of time approximately equal to the number of days that Respondent commenced construction without the necessary permits in place. The only exception to this permit stay is for the processing and issuance of permits for individual lots which have been sold by Respondent and for which legal title passed prior to the issuance date of this Order.

**RESPONDENT'S RIGHT TO A HEARING  
BEFORE THE ENVIRONMENTAL COURT**

The Respondent has the right to request a hearing on this Administrative Order before the Environmental Court under 10 V.S.A. §8012 by filing a Notice of Request for Hearing within fifteen (15) days of the date the Respondent receives this

Administrative Order. The Respondent must timely file a Notice of Request for Hearing with both the Secretary and the Environmental Court at the following addresses:

1. Secretary, Agency of Natural Resources  
c/o: Enforcement Division, 2 South  
103 South Main Street  
Waterbury, Vermont 05671-0411
2. Clerk, Environmental Court  
2418 Airport Road, Suite 1  
Barre, VT 05641-8701

**EFFECTIVE DATE OF THIS ADMINISTRATIVE ORDER**

This Administrative Order shall become effective on the date it is received by the Respondent unless the Respondent files a Notice of Request for Hearing within fifteen (15) days of receipt as provided for in the previous section hereof. The timely filing of a Notice of Request for Hearing by the Respondent shall stay the provisions (including any penalty provisions) of this Administrative Order pending a hearing by the Environmental Court. If the Respondent does not make a timely filing of a Notice of Request for Hearing, this Administrative Order shall become a final Administrative Order.

**COMPLIANCE WITH THIS ADMINISTRATIVE ORDER**

If the Respondent fails or refuses to comply with the conditions of a final Administrative Order, the Secretary shall have cause to initiate an enforcement action against the Respondent pursuant to the provisions of 10 V.S.A. Chapters 201 and 211.

Dated at Waterbury, Vermont this 3<sup>rd</sup> day of February, 2006.

SECRETARY, VERMONT AGENCY OF NATURAL RESOURCES

By: 

Canute E. Dalmasse, Deputy Secretary  
Agency of Natural Resources

STATE OF VERMONT  
AGENCY OF NATURAL RESOURCES

ENVIRONMENTAL COURT  
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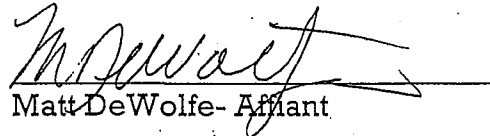
STRATTON GARDENS, LLC  
Respondent

Affidavit of Matt DeWolfe

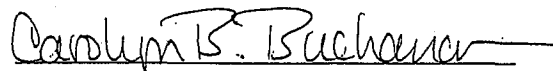
I, Matt DeWolfe, being duly sworn do attest:

1. I am of legal age and a resident of the State of Vermont.
2. I am an employed as at the Water Quality Division of the Department of Environmental Conservation.
3. Based upon information and belief the violations described in the Statement of Facts section of the above entitled Administrative Order occurred on the date set forth therein.

Dated at Waterbury, Vermont this 3<sup>rd</sup> day of February, 2006.

  
Matt DeWolfe- Affiant

Subscribed and sworn before me on the 3<sup>rd</sup> of Waterbury, 2006.

  
Notary Public

My Commission Expires: 2-10-07