

**State of Vermont
WATER RESOURCES BOARD**

**Re: Stratton Corporation, Village Commons II
Docket No. WQ-01-02 (DEC Discharge Permit #1-1362)**

**Authority:
10 V.S.A. §1269**

DISMISSAL ORDER

I. PROCEDURAL HISTORY

On April 23, 2001, Vermont Natural Resources Council (“VNRC”) appealed to the Water Resources Board (“Board”) a discharge permit (“Permit #1-1362”) issued by the Discharge Permit Section, Department of Environmental Conservation, Agency of Natural Resources (“ANR”) on March 23, 2001, to Stratton Corporation (“Applicant”), pursuant to 10 V.S.A. §§1263 and 1264. Permit #1-1362 authorizes the discharge of stormwater runoff from the Village Commons II Project to a tributary of the North Branch of Ball Mountain Brook in the Towns of Stratton and Winhall, Vermont. The appeal was filed pursuant to 10 V.S.A. §1269.

On April 25, 2001, the Board’s Executive Officer sent a letter to counsel for VNRC, acknowledging receipt of the appeal.

On April 26, 2001, the Applicant entered its appearance.

On April 26, 2001, VNRC filed a letter withdrawing its appeal and requesting that the Board’s Chair dispose of this matter with no further proceedings.

On May 1, 2001, the Chair issued a Preliminary Dismissal Order advising the parties that this matter would be summarily dismissed if by May 11, 2001, no party objected to the proposed dismissal and if VNRC, the Applicant and ANR each waived oral argument and consented to dismissal without a decision conforming to Board Rule of Procedure 34.

On May 3, 2001, VNRC filed a waiver of oral argument and consent to summary dismissal. ANR and the Applicant each filed waivers of oral argument and consents to summary dismissal on May 9 and May 11, 2001, respectively. No other person filed an objection to the proposed dismissal of the above-captioned appeal.

II. DISCUSSION

The Board’s Chair is authorized to issue preliminary rulings, including dismissal orders.

Board Procedural Rules 23. Any such ruling may be objected to by any party within 15 days of the issuance of such ruling unless some other deadline is ordered. If such objection is timely filed, the Board is required to review the Chair's Preliminary Dismissal Order and render a final decision. Board Procedural Rule 23. If no objection to the Chair's Preliminary Dismissal Order is timely filed, dismissal of the matter becomes final and binding.

Prior to dismissal of any appeal, the Board is required to provide an opportunity for oral argument. Board Procedural Rule 24. Furthermore, unless waived in writing by all parties or dismissal is jointly requested in writing by all parties, a decision to dismiss must conform with the requirements of Board Rule of Procedure 34, requiring written decisions with findings of fact and conclusions of law. Board Procedural Rule 24.

Dismissal of this matter is not contrary to law and is consistent with the Board's power to allow informal disposition of contested case matters. 3 V.S.A. § 809(d). Since no objections were timely filed with respect to the Chair's Preliminary Dismissal Order and the Appellant, Applicant and ANR have each expressly waived oral argument and agreed to dismissal of this matter, without findings of fact and conclusions of law as provided in Board Procedural Rule 34, this matter is hereby summarily dismissed.

III. ORDER

1. VNRC's withdrawal request is granted and its appeal is dismissed.
2. Permit #1-1362 is valid and in full force and effect.
3. Jurisdiction is returned to the ANR.

Dated at Montpelier, Vermont this 15th day of May, 2001.

WATER RESOURCES BOARD

/s/ David J. Blythe
David J. Blythe, Chair

Re: Stratton Corporation, Stratton Commons II
Docket No. WQ-01-02
Dismissal Order
Page 3

f:\users\tinab\stratcom\orders\dismiss