

**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**

PRELIMINARY 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.

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 Dismiss 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, conclusions of law, and order. Board Procedural Rule 24.

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III. ORDER

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). Accordingly, VNRC's withdrawal request is granted and its appeal shall be dismissed, provided that the following conditions are met:

- (1) no party or person qualifying for party status files an objection to dismissal with the Board on or before **4:30 p.m., Friday, May 11, 2001**; and
- (2) on or before **4:30 p.m., Friday, May 11, 2001**, counsel for VNRC, the Applicant, and ANR each file in writing a waiver of oral argument and a consent to dismissal of this matter without Board findings of fact, conclusions of law, and order.

Should no objections be timely filed, and VNRC, the Applicants, and ANR file written waivers of oral argument and consents to dismissal of this order without Board findings of fact, conclusions of law, and order, this appeal shall be summarily dismissed by the Chair, Permit #1-1362 shall be declared to be in full force and effect, and jurisdiction shall be returned to the ANR.

Dated at Montpelier, Vermont this 1st day of May, 2001.

WATER RESOURCES BOARD

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

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