

VERMONT ENVIRONMENTAL BOARD
10 V.S.A. ch. 151

Re: The Stratton Corporation
RR 1, Box 145
Stratton Mountain, VT 05155

Land Use Permit
#2W0519-9R3-EB

CHAIR'S PRELIMINARY RULING


On October 23, 1997, counsel for The Stratton Corporation ("Permittee") asked the Board take official notice of the District #2 Commission's decisions in Re: The Stratton Corporation, Application #2W05 19-9, Findings of Fact, Conclusions of Law (July 16, 1996) and Re: The Stratton Corporation, Application #2 W05 19-9 (Reconsideration), Findings of Fact, Conclusions of Law (March 13, 1997) and accompanying Land Use Permit #2W05 19-9 (Reconsideration) ("Reconsideration Permit"). The Agency of Natural Resources ("ANR") concurred in this request, but that the Stratton Area Citizens Committee ("Appellant") did not.

At the site visit on November 5, 1997, the Permittee inquired whether the Board would take official notice of the above-referenced documents from the Commission's file. The Chair advised the parties' that he would take this request under advisement, noting the Appellant's objection.

Pursuant to 3 V.S.A. §810(4), the parties are hereby notified that the Board shall take official notice of Re: The Stratton Cornoration, Application #2W05 19-9, Findings of Fact, Conclusions of Law (July 16, 1996); Re: The Stratton Corporation, Application #2W05 19-9 (Reconsideration), Findings of Fact, Conclusions of Law (March 13, 1997); and the Reconsideration Permit.

I have considered The Stratton Corporation's request and believe that official notice of the above-referenced documents is in order. The appeal in this matter is limited to the issues raised by the Appellant with respect to the Commission's decision in Re: The Stratton Corporation, Land Use Permit Amendment #2W0519-9R3 and involves only that portion of the development concerning the construction of the bridge and its impacts under Criteria 1 (A) headwaters), 1 (E) (streams), S(A) (necessary wildlife habitat), and 10 (town and regional plans). Therefore, while it appears that the legal issues posed by the Appellant can be decided based on the facts set forth in the Commission's decision in Re: The Stratton Corporation, Land Use Permit #2W0519-9R3, the decision itself incorporates by reference the prior decisions and permit issued based upon the reconsideration application. Therefore, I conclude that the Board should take official notice of the Commission's prior two decisions and the Reconsideration Permit.


Any party wishing to contest the two decisions and permit so noticed may file its objections and supporting memorandum of law on or before **4:30 p.m.**, Tuesday, December 2, 1997. Such request shall indicate whether the objecting party requests an opportunity for oral


11/20/97

Re: The Stratton Corporation
RR 1, Box 145
Stratton Mountain, VT 05155
Chair's Preliminary Ruling
page 2 of 2

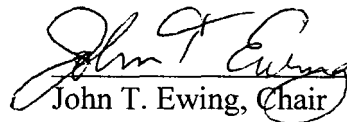
Land Use Permit
#2W0519-9R3-EB

argument on this issue on Wednesday, December 17, 1997.

On or before **4:30 p.m., Monday, December 8, 1997**, any party may file a memorandum of law in response to any filing objecting to the notice of the above-referenced documents. Such response shall indicate whether oral argument is requested on December 17, 1997. 

Dated at Montpelier, Vermont, this 20th day of November, 1997.

VERMONT ENVIRONMENTAL BOARD


John T. Ewing, Chair