

STATE OF VERMONT

SUPERIOR COURT

ENVIRONMENTAL DIVISION
Docket No. 106-7-14 Vtec

NATURAL RESOURCES BOARD,
Petitioner

v.

THE STRATTON CORPORATION,
Respondent.

JUDGMENT ORDER

The parties to this enforcement action are the Natural Resources Board (NRB), the Agency of Natural Resources (ANR), and The Stratton Corporation (Stratton or Respondents), Treetop's developer. Treetop at Stratton Condominium Association, Inc. (Association) intervened. The Association represents owners of 75 townhouse condominium units near Stratton Mountain in the Town of Stratton, Vermont. Stratton has admitted its permit violations including unapproved changes to the stormwater management system. To address the deficiencies, Stratton received an amended Act 250 permit in 2013 that alters the original Act 250 Permit and requires remedial work. In 2014, the NRB, in coordination with ANR, entered into an Assurance of Discontinuance (AOD) with Stratton. The AOD outlines the violations, assesses the penalties, and requires Stratton to comply with its permits. The Association has asked the Court to vacate the AOD. The Court issued two pre-trial decisions that narrow the scope of this appeal. The only remaining issue is sufficiency of the penalty against Stratton. Ultimately, the Association seeks a higher penalty against Stratton.

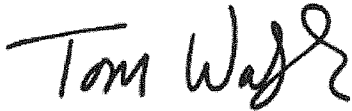
Under state law, the "sole purpose" of allowing a third party to intervene in an environmental enforcement action is to establish that the action is "insufficient to carry out the purposes" of the administrative environmental law enforcement statutes. 10 V.S.A. § 8020(h). Those purposes include enhancing the protection of environmental and human health, preventing unfair economic advantage by persons who violate environmental laws, and providing an even-handed enforcement of environmental laws. *Id.* The Association, as the intervenor, bears the burden of proving that the enforcement action is insufficient to meet the purposes by a preponderance of the evidence. *Id.*

For the reasons explained in full in the Decision on the Merits that accompanies this Judgment Order, we conclude that the Association failed to prove by a preponderance of the evidence that the penalties imposed on Stratton are insufficient to meet the purposes of the state's administrative law enforcement statutes. We therefore **AFFIRM** the legal conclusions rendered by the Natural Resources Board and the Agency of Natural Resources as detailed in AOD dated July 15, 2014. We also **AFFIRM** the penalty and fees imposed on The Stratton Corp. in the AOD, totaling \$43,548.40. We therefore **DENY** the Association's request to vacate the AOD.

The Assurance of Discontinuance signed by the Respondent on June 9, 2014, and filed with the Superior Court, Environmental Division, on July 17, 2014, is hereby entered as an order of this Court, pursuant to 10 V.S.A. 8007(c).

This concludes the matter before this Court.

Electronically signed on November 17, 2016 at 11:37 AM pursuant to V.R.E.F. 7(d).



Thomas G. Walsh, Judge
Superior Court, Environmental Division