

State of Vermont
Superior Court—Environmental Division

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ENTRY REGARDING MOTION

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In re Hale Mountain Fish & Game Club, Inc.

Docket No. 190-11-10 Vtec

(Appeal from Shaftsbury DRB determination on application for thirteen zoning permits)

Title: Motion for Contempt (Filing No. 12)

Filed: April 25, 2011

Filed By: Jon S. Readnour, Attorney for Interested Persons Owen and Katherine Beauchesne

Response in Opposition filed on 5/9/11 by James P.W. Goss, Attorney for Appellant/Applicant Hale Mountain Fish & Game Club, Inc.

☐ Granted

☒ Denied

☐ Other

This appeal follows the denial by the Town of Shaftsbury (“Town”) Development Review Board (“DRB”) of an application for approval of thirteen permits submitted by Hale Mountain Fish & Game Club, Inc. (“Hale Mountain”) concerning improvements on its property at 684 Rod and Gun Club Road. Hale Mountain appealed the DRB’s decision; neighbors Owen and Katherine Beauchesne and the Town appear as interested persons.

The Beauchesnes ask that we find Hale Mountain in contempt of a decision we issued on December 15, 2009 responding to cross-motions for summary judgment filed in a prior proceeding, In re Hale Mountain Fish & Game Club (Appeal of Beauchesne). Nos. 149-8-04 Vtec and 259-12-05 Vtec (Vt. Env’tl. Ct. Dec. 15, 2009) (Durkin, J). The Beauchesnes argue that Hale Mountain violated the Court’s Decision and associated Judgment Order by removing, in March of this year, a fence on and next to the Beauchesnes’ property line prior to seeking a municipal permit authorizing the removal. As a remedy, the Beauchesnes seek a Court order requiring Hale Mountain to file an application with the Town for such a permit.

First and foremost, we note that this motion for contempt has been filed in the current appeal and not in the dockets associated with the prior Order that the Beauchesnes assert Hale Mountain has violated. While the current appeal involves the same parties and project as the prior proceeding, the Beauchesnes are essentially seeking to enforce an Order the Court issued in the prior proceeding.¹

Additionally, the specific violation the Beauchesnes allege—that Hale Mountain has failed to seek a permit for fence removal—is not within the scope of the current appeal, which concerns an appeal from the application for the zoning permits that Hale Mountain did submit to the Town. As such, we have no jurisdiction in this proceeding to consider the pending motion.

For these reasons, we **DENY** the Beauchesnes’ motion for contempt.

Thomas S. Durkin, Judge

August 23, 2011

Date

¹ The record before us also does not reveal that the complained-of fence removal has been the subject of either an enforcement action by the Town or private enforcement action by the Beauchesnes.

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Date copies sent to: _____

Clerk's Initials _____

Copies sent to:

James P.W. Goss, Attorney for Appellant/Applicant Hale Mountain Fish & Game Club, Inc.

Jon S. Readnour, Attorney for Interested Persons Owen and Katherine Beauchesne

Robert E. Woolmington, Attorney for the Town of Shaftsbury