

State of Vermont
Superior Court – Environmental Division

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ENTRY REGARDING MOTION

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NRB v. Donald Dorr, Dorr Oil Co., and MGC, Inc.,
(Enforcement of Emergency Administrative Order)

Docket No. 49-4-13 Vtec

Title: Motion to Clarify or Alter the May 17, 2013 Em. Decision (Filing No. 3)

Filed: May 30, 2013.

Filed By: Attorney Melanie Kehne, for NRB Land Use Panel

Response: None

Granted (in part) Denied (in part) Other

At the emergency hearing on May 2, 2013, no evidence was presented in support of the civil penalties that the NRB-Land Use Panel now asks the Court to impose. For that reason, the Court **DENIES** the NRB’s request that the Court alter its May 17, 2013 Emergency Decision to include the penalties articulated in the NRB’s 2013 Administrative Order and the 2008 AO.

While 10 V.S.A. § 8009 is unclear on the issue of administrative penalties, it appears to authorize the NRB to issue administrative orders, and this Court to issue court orders, “on an emergency basis” when injunctive relief is sought on an emergency basis. Section 8009 does not mention administrative penalties. That is why this Court noted in its Decision on the NRB’s emergency order request that “[i]f Respondents shall fail to abide by this Decision, they shall be jointly and severally liable for any penalties and further injunctive relief requested by the NRB and ordered by this Court.” NRB v. Donald Dorr, Dorr Oil Co., and MGC, Inc., No. 49-4-13 Vtec, slip op. at 11 (Vt. Super. Ct. – Env’tl. Div. May 17, 2013).

We offer the above paragraph as a clarification of our May 17, 2013 Decision and Judgment Order. Nothing contained therein was intended to foreclose the NRB’s right to seek enforcement of the penalties directed by the NRB’s prior administrative orders. To that extent only, the NRB’s request for clarification is hereby **GRANTED**.

Thomas S. Durkin, Judge

June 6, 2013

Date

Date copies sent: _____

Clerk's Initials: _____

Copies sent to:

Attorney Melanie Kehne, for Petitioner NRB Land Use Panel

Attorney Michael W. Nawrath, for Respondents Donald Dorr, Dorr Oil Co., and MGC, Inc.,