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February 4, 2020

House Committee on Natural Resources, Fish & Wildlife
Vermont General Assembly
Vermont State House
115 State Street
Montpelier, VT 05633-5301

Re: Mountain Top Inn & Resort/Response to Letter from Katherine Hall Regarding Act 250

Dear Committee Members:

I am writing to you as General Manager, of the Mountain Top Inn & Resort in Chittenden. You were recently presented with a letter from our neighbor, Katherine Hall. Mrs. Hall's letter, cloaked as general feedback on Act250, was in essence simply another attack on our business, and presumably an effort to sully your opinion of our operation and employees. Although a factual record is outlined in the state's paperwork regarding our case, we felt it was important to immediately correct some of the more misleading claims in Ms. Hall's letter.

Foremost, Mountain Top (a 36-room inn and resort, not a "developer" as noted in the letter), established in 1945, wholeheartedly embraces the values that are protected under Act 250 and Vermont's various environmental permitting requirements. Our viability wholly depends upon natural beauty and a clean environment – not only on our property, but on the land surrounding us.

In 2015, we filed an Act 250 application to construct a new building. As a standard part of that process, the resort hosted a public comment meeting. As a result, to confirm or dismiss any concerns which were raised by interested parties, we were asked to conduct or prepare a variety of testing, modeling and consultant reports addressing matters such as traffic volume, aesthetics, visibility, noise, etc.). Without hesitation (and with an investment of over $50,000), we conducted all of the requested tests – and subsequently passed with flying colors. Ms. Hall, an opponent of our new building, was dissatisfied with the results and proceeded to raise new concerns regarding previous projects on our property. Indeed, some permitting irregularities were discovered (not "dozens of major violations," as Ms. Hall's letter states). None of these discrete projects had been executed with an intentional disregard for state policies as claimed by Ms. Hall. In fact, several pre-dated the resort's current ownership/management.

None of these permitting issues resulted in environmental harm or public health issues – at any time. Instead, the majority of the issues involved ensuring that all permits (the paperwork) relating to stormwater, waste water, drinking water and the like were up-to-date and synchronized with the existing operations – both new, and those enacted by prior ownership and management. Upon identification of the needed permit amendments, without hesitation, we worked diligently with all relevant state and local agencies (including ANR and the Attorney

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General's Office) to bring all of our permits and functions into compliance and discuss appropriate fines and further enforcement for the violations. In January 2018, final resolution was negotiated (see attached Consent Agreement and Final Order). Our stipulated fine of $90,000 constituted one of the larger penalties imposed in a matter such as this which involved permit paperwork needs, as opposed to environmental harm or public health threats. Ms. Hall objected to the amount of this fine, which she dismissively characterizes in her letter as a "pitifully small penalty," and a mere "slap on the wrist."

In order to alleviate any concerns moving forward, at the state's request and at our own expense (and apparently to the dismay of Ms. Hall), we have contracted with a professional engineer to serve as our Environmental Compliance Officer.

As required by statute, the Attorney General filed a lawsuit seeking judicial approval of the Consent Agreement with the resort. Ms. Hall then sought to intervene in those court proceedings. After being given a full opportunity to explain why she should be able to step in and undo a settlement reached by the resort and the office responsible for handling such enforcement matters on behalf of the State of Vermont and all its residents, the judge rejected her efforts. A copy of the court's July 23, 2018 decision is attached. Thereafter, the judge approved the Consent Agreement on September 11, 2018.

A number of specific items that were mentioned in Mrs. Hall's letter deserve attention:

- Construction of our wedding barn was done with full Act 250 permitting, including a proposed future use (spa and salon). Construction of the wedding barn eliminated the need for, and thus led to the removal of, our marquee event tent.

- Restoration of our beach pavilion, which was in disrepair, was also done with full permitting.

- Ms. Hall's letter mentions the private homes which our property utilizes for guests. The responsibility of these homes in regard to Act 250 was determined by the Environmental Division not to be that of Mountain Top Inn & Resort. Ms. Hall appealed this decision to the Vermont Supreme Court. We await final determination on this matter.

- Minor expansion of our un-paved parking lot. We did not pursue Act250 permitting for this project as we were not aware it was necessary. Permitting has since been secured.

- Rope tow. This was an amenity the property previously offered for a single winter season (2015). We obtained state operational licenses and approvals for this amenity, but were not aware it also required Act 250 approval. This amenity was voluntarily abandoned after one season, with everything being removed.

- Indirect discharge permitting and our alleged "sense of entitlement" – The State was fully aware of the status of our indirect discharge system when the renewal application was submitted. The issuance of the renewal indicates that ANR agreed that the wastewater

system was not out of compliance within the last five years based on the current situation and settlement discussions. Otherwise, the permit would not have been renewed. It should also be noted that the wastewater system averages approximately only 33% (3,000 gpd) of the permitted design flows (9,000 gpd) for the system, with the maximum daily flow to the system over the preceding ten years being approximately 77% (7,000 gpd) of the total design flow. We are, in our opinion, going above and beyond by pursuing a permit to eventually construct an additional 6,400 gpd of waste water capacity. The only reason we have not done so already is due to the moratorium on development/improvements placed on our parcel by the Act 250 district coordinator until an amended Act 250 permit is issued to incorporate the amended Agency permits – permits which are currently being held up by Ms. Hall's appeal of the jurisdictional issue.

For over three years, Ms. Hall has slandered our business on a local and state level. She does so while making full use of the procedures offered Vermont residents through the state to comment, oppose and appeal each step in the process. Ms. Hall claims that the state process is somehow failing her. We would contend that – after investing over $500,000 in system changes, revised designs, permit amendments, testing, associated legal fees and ongoing compliance monitoring to ensure we are and remain completely up-to-date, plus a $90,000 fine – the State has done its due diligence in rectifying this matter on behalf of the State of Vermont and its residents. Luckily, Ms. Hall is in the extreme minority in terms of her opinion of Mountain Top. We are supported by the vast majority of our community, and likewise we generously give back to our community and town.

It is interesting to us that, throughout these nearly four years while Ms. Hall has vehemently attempted to impair Mountain Top operations and tarnish our reputation, she – even in recent months – has continued to attend community events at Mountain Top.

Contrary to allegations in her letter, the resort has, at no time, had direct communications with the District Commission beyond its formal Act 250 filings. Ms. Hall seems to believe that legislators have no right to look into matters involving employers and constituents in their district.

And at no time did we intentionally circumvent the permitting process. To the contrary, when we knew permitting was required, the necessary applications were filed. When we learned that certain existing permits required amendments, we prepared those amendments. When faced with enforcement, we stepped up and agreed to pay a substantial $90,000 penalty (for paperwork violations) plus the ongoing expense of appointing a licensed environmental compliance officer. When alterations were requested, design changes were made. Simply put, we at the resort consider ourselves environmental stewards and genuinely believe that we have been very responsible in that regard.

Ms. Hall is entitled to her viewpoint regarding the resort, its past and current operations, and plans for the future – and is likewise entitled to pursue the variety of means the state offers its residents and businesses to raise issues and seek resolution to them. We have faith that the law will be administered and enforced fairly, in a timely fashion, and consistent with statute. As

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already stated, we are heavily invested in our role as environmental stewards, and remain committed to compliance with all laws – especially those intended to preserve and protect the natural environment shared by us all.

Very truly yours,

Khele Sparks
General Manager, Mountain Top Inn & Resort