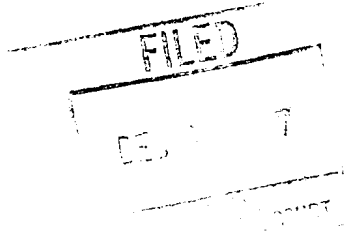


STATE OF VERMONT
ENVIRONMENTAL COURT

Secretary, Vermont
Agency of Natural Resources,
Plaintiff,

v.

Paul Ruetzler,
Respondent.

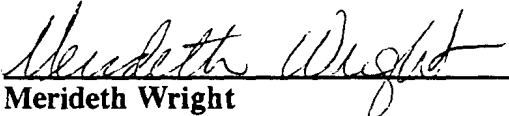


Docket No. 180-11-97 Vtec

ORDER

The Assurance of Discontinuance signed by the Respondent on November 13, 1997, and filed with the Environmental Court on November 18, 1997, is hereby entered as an order of this Court, pursuant to 10 V.S.A. 8007(c) and V.R.C.P. 76(b).

Dated at Barre, Vermont, this 3rd day of December 1997.



Merideth Wright
Environmental Judge

STATE OF VERMONT
JUDICIARY DEPARTMENT

ENVIRONMENTAL COURT
Docket No. _____

SECRETARY, VERMONT
AGENCY OF NATURAL RESOURCES,
Plaintiff

v.

PAUL RUETZLER,
Respondent

VIOLATIONS:

(i) §6.3 of the Vermont Wetland Rules

ASSURANCE OF DISCONTINUANCE

Pursuant to provisions of 10 V.S.A. § 8007, the Secretary (Secretary) of the Agency of Natural Resources (Agency) and Paul Ruetzler hereby enter into this Assurance of Discontinuance (Assurance) and stipulate and agree as follows:

STATEMENT OF FACTS AND DESCRIPTION OF VIOLATION

1. The Vermont Water Resources Board designated the wetlands mapped on the National Wetlands Inventory map or contiguous to a mapped wetland as Class Two wetlands in §4.2 of the Vermont Wetland Rules, adopted February 7, 1990. The wetland on lots 3-A-1 and 3-A-2 owned by Paul Ruetzler on Plunkton Road in Warren, Vermont is contiguous to a wetland mapped on the National Wetlands Inventory map and is therefore a Class Two wetland.

2. Unless specifically allowed in Section 6.2 of the Vermont Wetland Rules, draining, dredging, excavating, placing fill or similar activities within a Class Two wetland and the adjacent 50 foot buffer zone requires a Conditional Use Determination from the Secretary pursuant to §8.0 of the Vermont Wetland Rules.
4. On March 3, 1997, Paul Ruetzler met with Karen Bates, Assistant Wetlands Coordinator with the Division of Water Quality, after being advised by a contractor that he would need a permit to place a pond in a wetland.
5. On March 3, 1997, Karen Bates conducted a site investigation with Paul Ruetzler and found a house built within the Class Two wetland buffer and stumps of recently cut alders within the wetland. In addition, building debris was located in the wetland. Approximately, 8,000 square feet of wetland and 10,000 square feet of buffer was cut.
6. Respondent has never obtained a Conditional Use Determination from the Secretary for these activities in the Class Two wetland and buffer zone. Respondents have violated §6.3 of the Vermont Wetland Rules.
7. On March 26, 1997, a Notice of Alleged Violation (NOAV) was sent to the Respondent.

AGREEMENT

Based on the foregoing Statements of Facts and Description of the Violations, the parties agree as follows:

- A. For the violations described above, Respondent shall pay a penalty of \$3,650.00. Payments shall be by check made payable to the "Treasurer, State of Vermont" and forwarded to:

Becky Buchanan
Enforcement Division/ANR
103 South Main St., 2 South
Waterbury VT 05671-0410

A \$1,000 payment shall be received no later than January 1, 1998. The remaining \$2,650 of penalty shall be paid in installments each in the amount of \$662.50 and received no later than: April 1, 1998, July 1, 1998, October 1, 1998 and January 1, 1999. Failure to make a timely payment shall accelerate the remaining balance owed and render that entire amount immediately due and payable.

- B. Before lots 3-A-1 and 3-A-2 are sold, the respondent shall include language in the property deeds to both lots that the wetland and buffer zone on both lots shall be deeded as common land, excluding any area of buffer on lot 3-A-2 which is located within a 50-foot radius from the existing house on lot 3-A-2.
- C. The respondent shall plant red maple trees no shorter than four feet tall every fifteen feet at the boundary of the common land on lot 3-A-2, excluding the boundary to the north of the house on lot 3-A-2 before June 30, 1998.
- D. The respondent shall place ash stakes at fifteen foot intervals at the boundary of the common land on lots 3-A-2 and 3-A-1 before either lot is sold.

- E. All portions of the common land for lots 3-A-1 and 3-A-2 will be allowed to revegetate naturally. There shall be no mowing or other removal of vegetation from these areas.
- F. The State of Vermont and the Agency reserve continuing jurisdiction to ensure future compliance with all statutes, rules, and regulations applicable to the facts and violations set forth herein above.
- G. Nothing in this Assurance shall be construed as having relieved, modified, or in any manner affected the Respondent's on-going obligation to comply with all other federal, state or local statutes, regulations or directives applicable to the Respondent in the operation of its business.
- H. This Assurance shall become effective only after it is signed by all parties and entered as an order of the Environmental Court. When so entered by the Environmental Court, this Assurance shall become a judicial order. In the event that such order is vacated, this Assurance shall be null and void.
- I. Respondent shall not be liable for additional civil or criminal penalties with respect to the specific facts described herein occurring before the effective date of the Assurance, provided that Respondent fully comply with the agreements set forth above.
- J. This Assurance sets forth the complete agreement of the parties, and it may be altered, amended, or otherwise modified only by subsequent written agreements signed by the parties hereto or their legal representatives and incorporated in an order issued by the Environmental Court. Alleged representations not set forth in this Assurance, whether written or oral, shall not be binding upon any party hereto, and such alleged representations shall be of no legal force or effect.

K. Any violation of any agreement set forth herein will be deemed to be a violation of a judicial order, and may result in the imposition of injunctive relief and/or penalties, including penalties set forth in 10 V.S.A. Chapters 201 and/or 211.

L. This Assurance is subject to the provisions of 10 V.S.A. § 8007.

RESPONDENT'S SIGNATURE AND NOTARY PAGE

The provisions set forth in this Assurance of Discontinuance are hereby agreed to and accepted.

Dated at Waterbury, Vermont, this 13th day of November, 1997.

Paul Ruetzler
Signature

Printed Name: PAUL Ruetzler

Address: P.O. Box # 382
Warren 05674 VT

STATE OF VERMONT
COUNTY OF Washington, SS.

At Waterbury, Vermont this 13 day of November 1997
the above signatory personally appeared and swore to the truth of the foregoing. Before me,

Lucia St. Wilson
Notary Public

Term Expires: Feb 1999

The provisions set forth in this Assurance of Discontinuance are hereby agreed to and accepted.

Dated at Waterbury, Vermont, this 14th day of November 1997.

SECRETARY, AGENCY OF NATURAL RESOURCES

BY: Canute E. Dalmasse
Canute E. Dalmasse, Commissioner
Department of Environmental Conservation