

STATE OF VERMONT  
ENVIRONMENTAL COURT

Agency of Natural Resources, )  
Petitioner, )  
v. )  
Steve Davis, )  
Respondent. )

Docket # 40-3-01 Vtec

ORDER

The Assurance of Discontinuance signed by the Respondent on March 13, 2001, and filed with the Environmental Court on March 19, 2001, is hereby entered as an order of this Court, pursuant to 10 V.S.A. 8007 (c).

Dated this 21<sup>st</sup> day of March, 2001.



Merideth Wright,  
Environmental Judge

STATE OF VERMONT

ENVIRONMENTAL COURT

Docket No. \_\_\_\_\_

SECRETARY, VERMONT  
AGENCY OF NATURAL RESOURCES,  
Plaintiff

v.

STEVE DAVIS  
Respondent

**VIOLATIONS:**

- I. 10 V.S.A. §1259(a): Discharges to State Waters without a Permit
- II. 10 V.S.A. Chapter 51: Failure to follow the terms of Land Use Permit No. 3W0762.

**ASSURANCE OF DISCONTINUANCE**

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

**STATEMENT OF FACTS AND DESCRIPTION OF VIOLATIONS**

1. The Respondent owns a housing development referred to as Truell Acres located on Ozzy Lane in Hartford, Vermont.
2. On March 6, 2000, Environmental Enforcement Officer (EEO) Tim Blake responded to a complaint regarding silt and erosion discharges to a tributary of the White River in Hartford, Vermont. EEO Blake observed discharges of mud and silt originating from an excavated slope at Truell Acres and flowing into a stream nearby. Respondent did not

have a permit to discharge to state waters. Therefore, Respondent violated 10 V.S.A. §1259(a).

3. On October 23, 1995, the District Environmental Commission issued Land Use Permit No. 3W0762 to the Respondent authorizing the creation of a 14 lot subdivision. The permit contained the following relevant conditions:
  1. Condition 1 provided that the project must be completed in accordance with the approved engineering plans and exhibits.
  2. Condition 8 of the permit provided that erosion control methods "shall be installed immediately upon grading and shall be maintained until all permanent vegetation is established. . . Hay bales shall be incorporated four inches into the soil . . ."
  3. Condition 9 specifically provided that Respondent was required to seed and mulch from October to April 15.
  4. Condition 10 provided for construction limits, diversion, ditches and temporary siltation controls.
4. Construction and excavation had occurred at Truell Acres in the fall of 1999. Although some erosion control methods were installed, they were insufficient and did not comply with Conditions 1, 8, 9, and 10 of Land Use Permit No. 3W0762. Siltation fences were improperly installed, the development site had not been seeded and mulched, hay bale checks were insufficient in number and had not been installed properly, and the excavation in the Fall had lowered the grade of the road in violation of the approved plans for the project. Therefore, Respondent violated 10 V.S.A. Chapter 51, by failing to comply with conditions of the Land Use Permit No. 3W0762otthe ab.
5. Respondent has since installed the required erosion control measures and have obtained an amendment to their Land Use Permit.

## AGREEMENT

For the violations described above,

- A. For the violations described above, Respondent shall pay a penalty of \$1000.00. Payment 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

Payment in the amount of \$250.00 each shall be received no later than 15 May 2001, 15 July 2001, 15 October 2001, and 15 January 2002. Failure to meet any of the aforementioned payment deadlines shall render the entire (remaining) balance due immediately upon written demand.

- B. Respondent shall not discharge any waste, substance, or material into state waters or onto state lands without a permit from the Agency of Natural Resources, pursuant to 10 V.S.A. §1259.
- C. 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.
- D. 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 his business.

- E. 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.
- F. 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 complies with the agreements set forth above.
- G. 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.
- H. 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.
- K. This Assurance is subject to the provisions of 10 V.S.A. § 8007.

**RESPONDENT SIGNATURE AND NOTARY PAGE**

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

Dated at HARTFORD, Vermont, this 13<sup>TH</sup> day of MARCH 2001.

Steven A. Davis  
Signature

Printed Name: Steven A. Davis

Address: P.O. Box 445  
HARTFORD, VT 05047

STATE OF VERMONT  
COUNTY OF WINDSOR, SS.

At HARTFORD, Vermont this 13<sup>TH</sup> day of MARCH 2001  
the above signatory personally appeared and swore to the truth of the foregoing. Before me,

John J. Clerkin  
Notary Public John J. Clerkin

Term Expires: 2-10-03

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

Dated at Waterbury, Vermont, this 16<sup>th</sup> day of March, 2001.

SECRETARY, AGENCY OF NATURAL RESOURCES

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