

**STATE OF VERMONT
AGENCY OF NATURAL RESOURCES**

**ENVIRONMENTAL COURT
DOCKET NO.**

**SECRETARY, VERMONT AGENCY
OF NATURAL RESOURCES,
Plaintiff**

v.

**NORTH COUNTRY REAL ESTATE
DEVELOPMENT, LLC AND
DINO ZAMPINI,
Respondents**

ADMINISTRATIVE ORDER

Having found that North Country Real Estate Development, LLC and Dino Zampini (Respondents) have committed a violation as defined in 10 V.S.A. §8002(9), the Secretary (Secretary) of the Agency of Natural Resources (Agency), pursuant to the authority set forth in 10 V.S.A. §8008, hereby issues the following Administrative Order:

VIOLATION

1. 10 V.S.A. §1259(a): Discharge to waters of the State without a permit.

STATEMENT OF FACTS

1. North Country Real Estate Development, LLC is a New Hampshire-registered limited liability company. Dino Zampini is a principal in North Country Real Estate Development, LLC. Respondents own property located on Upper Falls Road in Weathersfield, Vermont (the property).
2. On August 1, 2003, Environmental Enforcement Officer (EEO) Tim McNamara and Rick White, Forest, Parks and Recreation Forester, responded to a discharge complaint in connection with a logging operation on the property.
3. During the visit EEO McNamara and Forester White observed turbid water running across a log landing with no erosion controls in place.

4. Forester White subsequently issued written recommendations to Respondents to bring the site into compliance with Acceptable Management Practices (AMPs).
5. Later that same day, EEO McNamara returned to the property and observed turbid water flowing through the log landing and discharging into the Black River. The Black River is a water of the State.
6. On August 19, 2003, EEO McNamara and Forester White revisited the property and observed that very few recommendations from the AMP report were followed. Forester White issued additional written recommendations to Respondents for temporary and permanent erosion control measures based on the AMPs.
7. On August 20, 2003, EEO McNamara issued Notices of Alleged Violation (NOAV) to Respondents requiring cessation of discharge and compliance with AMPs.
8. On August 29 and September 14, 2003, EEO McNamara revisited the property and observed no additional erosion controls, other than those observed at the August 19, visit in place.
9. On September 23, 2003, EEO McNamara visited the property and observed no additional erosion controls in place. Upon further investigation he observed turbid water leaving the log landing and discharging into the Black River.
10. To date, no additional erosion control measures have been installed in accordance with Agency directives.
11. By discharging silt to the Black River, Respondents violated 10 V.S.A. §1259(a).

ORDER

Upon receipt of this Administrative Order, the Respondent shall:

- A. Pay a penalty of \$12,250.00 within thirty (30) consecutive calendar days. Payment shall be by check made payable to the "Treasurer, State of Vermont" and forwarded to:

Becky Buchanan, Administrative Assistant
Environmental Enforcement Division
Agency of Natural Resources
103 South Main Street, 2 South
Waterbury, VT 05671-0410

The above penalty amount may not necessarily include all the costs incurred by the Secretary for the enforcement of the above described violation(s) or the full amount of economic benefit gained by the Respondent from the violation(s). The Secretary reserves the right to augment the above stated penalty through evidence presented at hearing. In accordance with 10 V.S.A. §8010, the penalty may be increased by the total costs incurred by the Secretary for the enforcement of this matter and by the total amount of economic benefit gained by the Respondent from the violation(s), each according to proof at the hearing.

- B. No later than fifteen (15) consecutive calendar days from the effective date of this Order, Respondent shall hire an independent professional forester to develop a remediation plan to properly close out the logging job (the Plan). The Forester shall be a New Hampshire state-certified forester, a member of the Consulting Foresters Association of Vermont, or a member of the Society of American Foresters.
- C. The Plan shall include a site map and survey showing the access road, log landing, skid road(s), and the proposed location of waterbars, hay bales, silt fencing, and seeding and mulching.
- D. No later than thirty (30) consecutive calendar days following the effective date of this Order, Respondent shall submit the Plan to the Agency for approval.
- E. No later than sixty (60) consecutive calendar days following the effective date of this Order, Respondent shall complete closure work in accordance with the approved Plan. The Professional Forester shall supervise the Plan's implementation.

- F. No later than fifteen (15) consecutive calendar days following work completion, the Professional Forester shall submit a written certification to the Agency certifying that the closure work was completed in accordance with the approved Plan.
- G. Respondent shall allow Agency personnel access to the site during closure work and for six months after closure work is completed to inspect the property for compliance.
- H. An extension to any of the deadlines within paragraphs D or E above may be granted at the discretion of the Agency to address any difficult or unforeseen construction issues, inclement weather, or any other reasonable cause to be addressed. Any request for an extension shall be made prior to the deadline in question.

RESPONDENT'S RIGHT TO A HEARING
BEFORE THE ENVIRONMENTAL COURT

The Respondent has the right to request a hearing on this Administrative Order before the Environmental Court under 10 V.S.A. §8012 by filing a Notice of Request for Hearing within fifteen (15) days of the date the Respondent receives this Administrative Order. The Respondent must timely file a Notice of Request for Hearing with both the Secretary and the Environmental Court at the following addresses:

1. Secretary, Agency of Natural Resources
c/o: Enforcement Division, 2 South
103 South Main Street
Waterbury, Vermont 05671-0411
2. Clerk, Environmental Court
225 North Main Street
Barre, Vermont 05641

EFFECTIVE DATE OF THIS ADMINISTRATIVE ORDER

This Administrative Order shall become effective on the date it is received by the Respondent unless the Respondent files a Notice of Request for Hearing within fifteen (15) days of receipt as provided for in the previous section hereof. The timely filing of a Notice of Request for Hearing by the Respondent shall stay the provisions (including any penalty provisions) of this Administrative Order pending a hearing by the Environmental Court. If the Respondent does not make a timely filing of a Notice of Request for Hearing, this Administrative Order shall become a final Administrative Order.

COMPLIANCE WITH THIS ADMINISTRATIVE ORDER

If the Respondent fails or refuses to comply with the conditions of a final Administrative Order, the Secretary shall have cause to initiate an enforcement action against the Respondent pursuant to the provisions of 10 V.S.A. Chapters 201 and 211.

Dated at Waterbury, Vermont this 13TH day of SEPTEMBER, 2004.

SECRETARY, VERMONT AGENCY OF NATURAL RESOURCES

By: _____

Jonathan Wood, Commissioner
Department of Forests, Parks & Recreation

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AGENCY OF NATURAL RESOURCES

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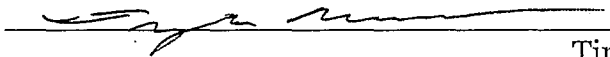
NORTH COUNTRY REAL ESTATE
DEVELOPMENT, LLC AND
DINO ZAMPINI,
Respondents

Affidavit of Tim McNamara

I, Tim McNamara, being duly sworn do attest:

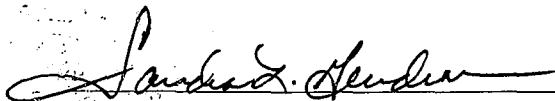
1. I am of legal age and a resident of the State of Vermont.
2. I am employed as an Environmental Enforcement Officer in the Enforcement Division of the Agency of Natural Resources.
3. Based upon information discovered during my investigation of this case for enforcement the violations described in the Statement of Facts section of the above-entitled Administrative Order occurred during the time periods set forth therein.

Dated at Wartford, Vermont this 15th day of
September, 2004.



Tim McNamara - Affiant

Subscribed and sworn before me on the 15th of September, 2004.



Notary Public

My Commission Expires: 2/10/07