

**STATE OF VERMONT  
AGENCY OF NATURAL RESOURCES**

**ENVIRONMENTAL COURT  
DOCKET NO.**

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

**v.**

**ROY GRANT d/b/a GRANT CONSTRUCTION  
Respondent**

**ADMINISTRATIVE ORDER**

Having found that Roy Grant d/b/a Grant Construction (Respondent) has 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. Respondent is the contractor for a project on property located on U.S. Route 5 in Barton, Vermont (property). The property is owned by Paul M. Rioux, John P. Rioux, Angela M. Rioux, David A. Wolfe and Richard K. Hopkins.
2. In May 2004, Richard Rioux hired Respondent to perform excavation work on the property.
3. On May 28, 2004, in response to a complaint received by the Agency, Environmental Enforcement Officer (EEO) Reginald Smith met with property owner John P. Rioux, and his father, Richard Rioux.
4. During the visit to the property EEO Smith observed over an acre of exposed soil and a lack of installed erosion control devices. Richard Rioux explained that during heavy rains a landslide of approximately 12 yards of soil had occurred on

the property. The soil slid down the slope of the property and into the Route 5 highway drainage ditch. The water and silt then flowed through the highway culvert into Crystal Lake, which is a water of the state, causing a discharge of silt.

5. By discharging silt to Crystal Lake Respondent violated 10 V.S.A. §1259(a).
6. The landowner and Respondent have seeded, mulched and installed a silt fence, which has resulted in the site being stabilized.

### **ORDER**

Upon receipt of this Administrative Order, the Respondent shall:

- A. Pay a penalty of \$6,000 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 05671-0401

The above penalty amount may not necessarily include all the costs incurred by the Secretary for the enforcement of the above described violation or the full amount of economic benefit gained by the Respondent from the violation. 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, each according to proof at the hearing.

### **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  
2418 Airport Road, Suite 1  
Barre, VT 05641-8701

**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.

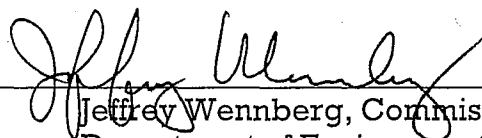
**COMPLIANCE WITH THIS ADMINISTRATIVE ORDER**

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 18<sup>th</sup> day of November, 2005.

SECRETARY, VERMONT AGENCY OF NATURAL RESOURCES

By: \_\_\_\_\_



Jeffrey Wennberg, Commissioner  
Department of Environmental Conservation

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Affidavit of Reginald Smith

I, Reginald Smith, being duly sworn do attest:

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

Dated at Watkins, Vermont this 28<sup>th</sup> day of Nov,  
2005.

Reginald Smith  
Reginald Smith - Affiant

Subscribed and sworn before me on the 28<sup>th</sup> of November, 2005.

Carolyn B. Buchanan  
Notary Public

My Commission Expires: 11-28-05