

STATE OF VERMONT

Water Resources Board

Rollin Bolio  
Excavation of gravel and riprap  
streambank  
Browns River, Underhill, Vermont

10 V.S.A.. §1024  
Findings of Fact, Conclusions  
of Law and an Order

Introduction

On August 24, 1982 the Department of Water Resources issued a permit under the provisions of 10 V.S.A., Chapter 41, Subchapter 2 (Alteration of Streams) to Rollin Bolio for the excavation of gravel to reshape, a portion of the riverbank and the placement of riprap in and adjacent to the Brown's River in the Town of Underhill, Vermont. On August 19, 1982 this permit was appealed under the provisions of 10 V.S.A., §1024(a) by Joseph Wargo a riparian property owner. William A. Bartlett, Executive Secretary of the Vermont Water Resources Board conducted a public hearing on this appeal on August 31, 1982 as a referee on behalf of the Board and issued preliminary findings of fact regarding this matter on September 1, 1982. An opportunity was provided for the receipt of additional comments in response to the preliminary findings of fact. No comments were filed within the comment period which expired on September 24, 1982.

Findings of Fact

1. The Vermont Water Resources Board adopts in their entirety the preliminary findings of fact, issued pursuant to this case by the hearing referee on September 1, 1982.

Conclusions of Law

1. The proposed excavation will not adversely affect the public safety by increasing flood hazards.,
2. The proposed excavation will not significantly damage fish or wildlife.
3. The proposed excavation will not significantly damage the rights of riparian property owners.

Order


On the basis of the above findings of fact, and conclusions. of law the Vermont Water Resources Board hereby orders that Stream Alteration Permit SA-04-0066 issued to Rollin Bolio by the Protection Division of the Department of Water Resources on August 4, 1982, be affirmed and reinstated with the following amendments:

Condition 5 is amended to read as follows: "The work authorized by this permit shall be accomplished during the period between either October 12th and October 16th, 1982, or June 1st or October 1st, 1983.


Condition 7 is amended to read as follows: "This permit expires on October 1, 1983 and can be revoked, by the Protection Division 'at any time an inspection shows that compliance is not being-made wth the conditions of this permit."

Done on this 12th day of October 1982, at Montpelier, Vermont.

The Vermont Water Resources Board

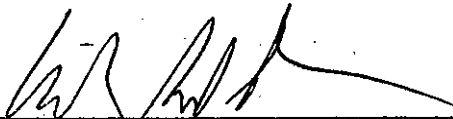


Duncan F. Brown, Chairman



Roderic J. Maynes, Member

Deborah J. Sisco, Member



William Boyd Davess, Member



Catharine B. Rachlin, Member

STATE OF VERMONT

Water Resources Board

**Rollin Bolio**  
Excavation and Rip Rap in  
Browns River, Town of Underhill, Vermont

10 V.S.A., 51024  
Preliminary Findings  
of Fact

Introduction

On August 24, 1982 the Department of Water Resources issued a permit under the provisions of 10 V.S.A., Chapter 41, Subchapter 2 "Alteration of Streams!" to **Rollin Bolio** for the excavation of gravel to reshape a portion of river bank and to place rock rip rap in and adjacent to Browns River in the Town of Underhill, Vermont. On August 19, 1982 this permit was appealed under the provisions of 10 V.S.A., §1024(a) by **Joseph Wargo**, a riparian property owner. On August 31, 1982 William A. Bartlett, Executive Secretary of the Vermont Water Resources Board conducted a public hearing on this appeal as a referee on behalf of the Vermont Water Resources Board. Appearances at this hearing were entered by:

- a. **Rollin Bolio**
- b. **Joseph Wargo**
- c. Department of Water Resources

During the course of this proceeding the following documents were entered into the record:

- a. Exhibit 1: An application form entitled "Application for Permission to Alter a Natural Stream" signed by **Rollin P. Bolio**.
- b. Exhibit 2: An one page document entitled "State of Vermont, Agency of Environmental Conservation, Stream Alteration Investigation Report."
- c. Exhibit 3: A Stream Alteration Permit issued to **Rollin Bolio** by **Barry Cahoon**, Protection Division, Department of Water Resources dated August. 4.~1982.
- d. Exhibit 4: A undated letter received at the office of the Vermont Water Resources Board on August 9, 1982 from **Joseph Wargo**.

Preliminary Findings of Fact

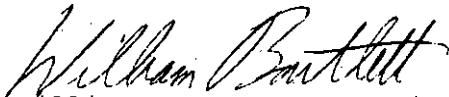
1. **Rollin Bolio** (hereinafter "the applicant") proposes to excavate a quantity of rocks and gravel from the streambed of the Browns River to reshape approximately 150 feet of riverbank adjacent to his property just downstream from the Range Road Bridge in Underhill Center: The quantity of gravel and rocks to be excavated from the river will not exceed 150 cubic yards. Excavation will be by either a backhoe or drott.
- 2: The applicant proposes to protect the reshaped river bank from further erosion by the placement of approximately 80 cubic yards of angular rock rip rap.
3. The reshaping of the riverbank and the placement of rip rap can be completed in a single day;

4. The streambed at the site of the proposed alternation is approximately 25 feet wide.
5. **The riverbank** in question **has been** subject to **undermining** and erosion by the Brown's River for **a period** of several years. Erosion as a result **of high** water this past spring prompted the applicant to seek permission to **stabilize** the river bank at its present location.
6. The proposed alteration will be completed in such a manner as to not appreciably raise the elevation of the streambank in question so as not to increase the possible flood hazard to adjacent lands on the opposite streambank.
7. There is not evidence to show that the proposed alteration will adversely affect the public safety by increasing **flood hazards**.
8. **The riverbank in** question is currently in a unstable condition and is an active source of **erosion and sedimentation** to the Brown's River.
9. **The use** of gravel and rocks from the streambed to **reshape** the riverbank represents a substantial savings with respect to the total cost of the project.
3. It was the testimony **of the Vermont** Department of Water Resources and any damage to fish **life as** a result of the proposed alternation will be short lived and will be more than compensated for in **the long term by the stabilization of** the stream bank in question.
1. The permit issued by the Department of Water Resources specifies that work be accomplished during the period between June 1 and October 1 when the impact on fish life is least likely to be detrimental,
2. The Brown's **River is** used by **Joseph Wargo** and others for recreation in the form of fishing, wading **and aesthetic** feature enhancing the value of his property.
3. Mr. **Wargo** expressed his concern that the proposed excavation would be detrimental to fish life and to the aesthetic value of this property which is enhanced by the **existence** of a trout fishery in the Brown's River.

The above preliminary findings of fact are issued in accordance with 1 V.S.A., §905(c)(3) by the referee appointed by the Vermont Water Resources Board. All parties in interest to this proceeding have the opportunity to file exceptions to these findings, to question additional findings or request further hearing be held by the Water Resources Board. Any such exceptions or requests must be received at this office on or before September 24, 1982. All correspondence regarding **this matter** should be addressed to the Vermont Water Resources Board, State Office Building, Montpelier, Vermont 05602 (telephone 828-2871).

Done this 1st day of September, 1982. at Montpelier, Vermont,

By authority of the Vermont Water Resources Board,



William A. Bartlett, Hearing Referee