State of Vermont
water Resources Board

Re: Town of Newfane Appeal
Docket No: 90-07

Authority: 10 V.S.A. § 1024

## Decision

The Town of Newfane appealed a decision of the Department of Environmental conservation (DEC), which issued a stream alteration permit to Joseph and Dorothy Druke for the stabilization of approximately 170 linear feet of streambank with rip rap. This project is located on Baker Brook in the Town of Williamsville. The appeal was originally submitted by Walter Phelps who later; withdrew his request for party status, making the co-appellant, the Town of Newfane, the sole appellant. the only matter as issue in this appeal is whether the stream alteration will significantly damage the Town's prospective fire pond and existing dam.

A hearing on this matter was conducted on March 20, 1991. Based on the credible evidence presented at the hearing, and the Board's own research, the Board now finds and concludes the following:

## Findings of Fact

1. This project consists of the stabilization of approximately 170 linear feet of streambank with rock rip rap located on the Baker, Brook in the Town of Williamsville, Vermont. The Baker Brook drainage area is greater than ten square miles.

2. The permittees' application dated May 29, 1990, includes an attached schematic drawing on which the Department based its decision, was stipulated to and admitted into evidence.

3. The appellant, Town of Newfane, is a riparian owner whose property abuts the property of the Drukes.

4. It appears that the proposed change to the watercourse will not significantly damage the rights of the Town of Newfane as riparian owners. The stream bank stabilization work will not significantly damage the Town's fire pond.

## Conclusions of Law

Pursuant to 10 V.S.A. § 1023, a stream alteration permit shall be granted, subject to warranted conditions, if it appears that the change will not adversely affect the public safely, not significantly damage fish life or wildlife, not significantly damage the rights of riparian owners, and in the case of outstanding resource waters, not adversely affect the values sought to be protected by the designation. 10 V.S.A. § 1023 (a) (1)-(4).

In this case, the Town of Newfane appealed the decision of the Commissioner of the Department of Environmental Conservation which granted the Drukes a stream alteration permit. The only matter at issue was whether the change to the watercourse would significantly damage the rights of the Town as a riparian owner, as directed by 10 V.S.A. § 1023 (a) (3).

Based on the evidence before the Board, it appears that the proposed change to stabilize approximately 170 linear feet of streambank with rock rip rap will not significantly damage the rights of the Town of Newfane as riparian owners.

order

The Druke's request for a stream alteration permit is granted subject to the conditions stated in the stream alteration permit SA-2-0231, issued by the Department on June 6, 1990. However, condition 12 is deleted, and condition 9 is modified to read Work shall be accomplished during the period June 1 - October 1 of 1991 or 1992."

Dated this 12 day of June, 1991.

The Water Resources Board

David M. Wilson, Chair
Elaine B. Little
Mark DesMeules