

State of Vermont
WATER RESOURCES BOARD

In re: Champlain Oil Company
(Denial of Conditional Use Determination #91-351),
Docket No. CUD-94-11

ORDER

On October 4, 1995, the Water Resources Board issued the Findings of Fact, Conclusions of Law, and Order in the **above-**captioned matter. On October 18, 1995, the Agency of Natural Resources (ANR) filed a timely Motion to Correct Decision, pursuant to Rule 29(B) of the Board's Rules of Procedure. The **ANR** asked the Board to strike the following sentence in the first full paragraph on page 11 of the decision: "Moreover, compensation may be considered only if there is a showing by the applicant that the adverse impacts are 'necessary in the course of meeting a compelling public need to protect public health and safety.'" The **ANR** asserted that the inclusion of this sentence in the decision constitutes manifest error, in that the standard **quoted** from Section 8.5(c) of the Vermont Wetland Rules is applicable only to Class One wetlands and the wetland that is the subject of this appeal is a Class Two wetland.

After providing the other parties to this proceeding with an opportunity to file written responses to the **ANR's** motion, and after receiving none in opposition to the pending request, the Board deliberated on November 1, 1995. The Board determined that the **ANR's** Motion to Correct decision should be granted on the basis that the statement heretofore referred to is an incorrect statement of the law as applied to the facts of this case and therefore its inclusion in the October 4 decision constitutes manifest error.

For this reason, the Board orders that a revised page 11 issue to reflect the requested amendment.

Dated at Berlin, Vermont, **this 1st** day of November, 1995.

Vermont Water Resources Board


William Boyd Davies, Chair

Concurring:
William Boyd Davies
Stephen Dycus
Ruth Einstein
Gail Osherenko
Jane Potvin