



STATE OF VERMONT
DISTRICT 5 ENVIRONMENTAL COMMISSION
324 NORTH MAIN STREET
BARRE, VERMONT 05641
(802) 479-3621
Fax: (802) 479-4272

TOWN CLERKS OFFICE
EAST MONTPELIER, VT
RECEIVED

FEB 20 1997

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MEMO

To: Ellery Packard
Richard Casavant
Town of East Montpelier

From: Diana Peduzzi, Assistant District Coordinator

Date: February 18, 1997

Re: Riverbank slide in East Montpelier

With this memo all written correspondence on this matter is circulated for your information and comment.

It has yet to be determined which of the adjoining land owners is or are responsible for or liable for the runoff which caused the bank failure and the resulting soil erosion. I am not aware if the slide has yet resulted in a discharge into the Winooski River.

Barry Cahoon, Stream Alteration Specialist for the Agency of Natural Resources, has indicated that the extent of the damage and preferred solutions can best be determined after spring runoff. It would seem to make sense for the affected, potentially liable parties to work together to develop a proposal for repair of the area which will reduce the potential for discharge to the Winooski and decrease the danger of further erosion from the top of the bank.

Please respond to the enclosed letters and submit any other new information by March 5, 1997.

cc: Barry Cahoon, Agency of Natural Resources
Sean McVeigh, Enforcement Officer, Agency of Natural Resources
George Gay, General Counsel, Environmental Board

From: "BARRY CAHOON" <BCAHOON@anrstj.anr.state.vt.us>
Organization: ANR St Johnsbury Regional Office
To: "DIANA PEDUZZI" <dpeduzzi@anrbarre.anr.state.vt.us>
Date sent: Fri, 6 Dec 1996 15:50:16 EST
Subject: Re: East Montpelier river bank erosion
Priority: normal

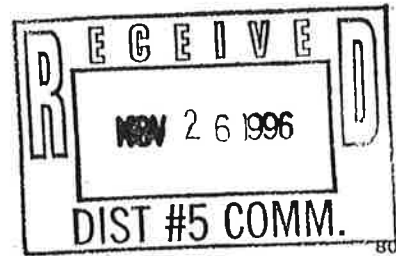
From: "DIANA PEDUZZI" <dpeduzzi@anrbarre.anr.state.vt.us>
To: BARRY CAHOON <BCAHOON@anrstj.anr.state.vt.us>
Date: Thu, 5 Dec 1996 16:33:54 EST
Subject: East Montpelier river bank erosion
Priority: normal

No, we don't ever get enough of deer hunting. I'm always sorry to see it end.

I met with Ellery P. at the site last tues. His drainage probably aggravated the situation but the whole bank is unstable, undermining and sliding due to saturation of the surface soil layers. It's not only the road that's built too close but the entire housing development, especially Ellery's lot is not adequately set back from the river to accommodate the river's natural propensity to wander around.

So I would hesitate to condemn Ellery for the erosion problem. The solution would be very expensive and we talked about several options. I advocate a wait and see approach until spring and then we can evaluate things further at that time.

GEORGE E. RICE
ATTORNEY AT LAW
137 ELM STREET
MONTPELIER, VERMONT 05602



802-229-0364
FAX 802-223-1095

22 November 1996

Agency of Natural Resources
and Environmental Board
Attention: Diana Peduzzi
324 North Main Street
Barre, VT 05641

Re: Complaint #BAA-332

Dear Ms. Peduzzi:

This letter is in response to your letter to Ellery Packard dated 20 November 1996. We feel that it is extremely important that we respond immediately as Mr. Packard also feels that there are serious problems pertaining to this matter which should be resolved as soon as possible. Unfortunately, the facts are somewhat different than you indicate in your letter. It certainly appears to us that this is nothing more than an attempt by Richard Casavant to place the blame on a potential problem which was caused directly by himself or by his agents and his refusal to do anything by way of remediation.

Without knowing all of the facts pertaining to this development, it is our understanding that Richard Casavant has owned this land for a number of years and that he hired an engineer to design a road as part of his Act 250 permitting process. The road was then built by someone at his direction. We now understand that the road was dedicated to the Town of East Montpelier which now owns it. We further understand that Mr. Casavant has contacted the Town and advised the Town that it has a problem now that it owns the road and should be resolving any problems caused by the road. As an aside, it appears that the way the road was designed, constructed, and the way it presently sheds water is a cause of the new erosion. The road drains into one low spot which happens to be the boundary between the Packard lot and a lot which was retained by Casavant and is still owned by him.

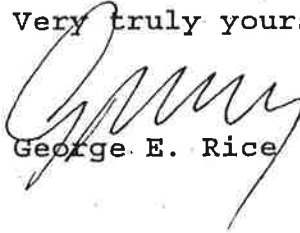
Casavant has accused Packard of creating ditches and swales, thereby channeling water to that area which failed a few weeks ago. Packard categorically denies causing any of the problems which have occurred. In fact, he has slowed the rate of water flow to the problem area.

Any work that was done while Casavant still retained ownership was with Casavant's knowledge and acquiescence. That included removing all of the trees on the lot but those that still remain and cutting approximately 5 trees on the bank at Casavant's suggestion. At the time that Packard purchased the lot, the foundation had already been put into place, rough grading had been completed, and all footing drains were in place. At no time did Casavant express any concern. It was not until the day of the closing that relevant permits and their conditions were provided to Packard.

Casavant's engineer, Wayne Lawrence, has viewed the area and should be providing advice and recommendations to his client so that this matter may be resolved before any damage is done to the Packard lot.

Obviously, Ellery Packard will cooperate in any way to ensure the integrity of his own property and has already advised Richard Casavant of his position. Feel free to contact me directly with reference to this matter.

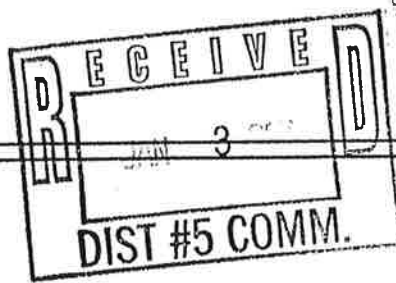
Very truly yours,



George E. Rice

GER/nma
cc: Ellery E. Packard, III

Richard G. Casavant



25501 Trost Blvd. 12-41
Bonita Springs, Fl. 34135

Phone 941-495-1153
Fax 941-495-1153
Email Rcasa1240@aol.com

December 30, 1996

Barry Calhoun
Agency Of Natural Resources
184 Portland St.
St. Johnsbury, Vt.
05819

Dear Barry,

Thank you for inspecting the washout at our development in East Montpelier. I wish our timing had been a little better, as I would have liked to have been there for the inspection.

I agree with your comments as to the cause and the cure. However, I was left with the feeling that for whatever reason it was your understanding that we had created the ditch line that now exist. That is not the case.

I am sending you a copy of an inspection report done by the State Agency Of Transportation for the Town Of East Montpelier. It is the towns policy to obtain an inspection by the agency and to have the developer correct any deficiencies before the roads are accepted. You will note that particular attention was paid to drainage. Based on my 35 years as a developer in the central Vermont area, I doubt that there is an engineer at the agency that would have recommended acceptance by the town of the existing ditch line and drainage. This ditch line was constructed after the road was turned over to the town and not by us.

I would also ask that we be given copies of any correspondence, past or future. We also request that we be made aware of any future site visits so that I may return for it or have a representative there. Future corresponce should go to Fred Cleveland at P.O. Box F Montpelier, Vt. 05601-1455

Sincerely,



STATE OF VERMONT
AGENCY OF TRANSPORTATION
DISTRICT 6 HIGHWAY OFFICE
120 BARRE-MONTPELIER ROAD
BARRE, VERMONT 05641



September 29, 1993

Mr. William Bryant
Administrative Assistant
Town of East Montpelier
P.O. Box 157
East Montpelier, Vermont 05651

TOWN CLERKS OFFICE
EAST MONTPELIER, VT
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RE: CASSAVANT DEVELOPMENT ROAD

Dear Mr. Bryant:

With regards to the inspection of the Cassavant Development Road on September 29, 1993 the following is offered.

Based on my observations during our walking tour it is perhaps the best candidate that I have seen for a private road turn public.

I mentioned the possibility of guardrail in the hollow. My comments are based on Agency standards. If the State were to construct a town highway as part of a state highway construction project guardrail would be provided if a situation similar to the height of fill in the hollow were to exist. I hasten to add that if the Town's original intent was to accept conditions as they presently exist or if the developer was not made aware of those needs or policies during meetings and/or conversations with the Town, then I would question pursuing this matter.

A temporary culvert which exists for an access road should be removed or corrected. ✓

Fine grading should be done particularly in the vicinity of the hollow. ✓
In other locations general and minor cleanup is, in my opinion, all that is needed.

The Town may wish to dig several test holes to determine the depth of gravel to settle the question should it arise.

Finally, many Class 3 Town highways in this District are greatly inferior to the development road in question.

Please feel free to call if you have any questions.

Sincerely,

Joseph E. R. Landry

Joseph E. R. Landry, P.E.
District Transportation Administrator
District No. 6

stop sign

JERL/cj

CERTIFICATE OF SERVICE

I hereby certify that I, Joan Holton, Secretary, sent a copy of the foregoing Memorandum by U.S. Mail, postage prepaid, on this 18th day of February, 1997, to the following:

Ellery Packard
East Montpelier
Vermont 05651

Richard Casavant
25501 Trost Blvd. 12-41
Bonita Springs, Florida 34135

George E. Rice
Attorney at Law
137 Elm Street
Montpelier, Vermont 05602

Frederick G. Cleveland
McKee, Giuliani & Cleveland
P.O. Drawer F
Montpelier, Vermont 05602

East Montpelier Select Board
c/o William Bryant
P.O. Box 157
East Montpelier, Vermont 05651

Barry Cahoon
District Environmental Office
184 Portland Street
St. Johnsbury, Vermont 05819

Sean McVeigh
Environmental Enforcement Officer
P.O. Box 823
Stowe, Vermont 05672

George Gay, General Counsel
Environmental Board
National Life Records Center Building
Drawer 20
Montpelier, Vermont 05620-3201

Dated at Barre, Vermont this 18th day of February, 1997.

BY Joan Holton
Joan Holton, Secretary

c:\files\packard.cos