



STATE OF VERMONT  
DISTRICT 5 ENVIRONMENTAL COMMISSION  
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TOWN CLERKS OFFICE  
EAST MONTPELIER, VT  
RECEIVED

JUN 3 - 2002

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May 31, 2002

Richard Casavant  
P.O. Box 118  
East Montpelier, VT 05651

**RE: Land Use Permit #5W0032-7 - Bank Failure**

Dear Mr. Casavant:

The Town of East Montpelier wants to know why the state failed to follow through with the enforcement effort we began in 1996 when you first let us know about the problem of the bank failure at your subdivision in East Montpelier.

I have reviewed the material in my file and it appears that the enforcement effort was not pursued because there was an agreement between the two landowners most affected (you and Ellery Packard) to voluntarily work together toward a solution. Barry Cahoon, stream alteration specialist, and Bruce Chappelle of the Natural Resources Conservation Service visited the site and gave advice on how to prevent further bank failure and how to stabilize the existing slide area. It is my recollection that one of the problems encountered in implementing the solution was difficult access to the bottom of the slope to install the stabilization measures.

It also proved to be difficult to directly assign responsibility for the problem. You claimed at the time that Packard had constructed a ditch along the road which caused the problem. Since roadside ditches were shown on the Act 250 approved site plan, it was not possible to determine that the ditch was a violation of the permit. Others were of the opinion that the road cul-de-sac, and in fact the whole subdivision, were designed and constructed too close to the top of the bank. Another opinion indicated that the problem could have started with the instability of the river itself.

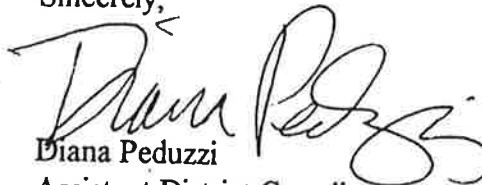
Unfortunately, it appears that nothing was done either to stabilize the failure area or to prevent continued run-off into the failure area in the intervening years, and as a result the problem has worsened. Someone placed some asphalt near the top of the chasm, which has now broken and fallen in, possibly in a misguided attempt to stabilize the rim. This may have exacerbated the problem by speeding up the runoff from the cul-de-sac area.

May 31, 2002

In the last five years, attempts to negotiate a workable, agreeable solution have failed. No temporary stabilization measures (except for the asphalt and your original pile of fill) have been attempted. At this time, the East Montpelier Select Board, through its Administrative Assistant, has expressed its intent to push the state to pursue this case through the enforcement process.

It is my understanding that the Packard lot has been sold to a new owner. It would now appear that you are the remaining party bearing some responsibility for the problem. Have you had any success in developing a solution, or in determining the original cause of the problem? If you have any evidence to indicate that your subdivision project is not the cause of the problem, please offer it at this time.

Sincerely,

  
Diana Peduzzi  
Assistant District Coordinator

cc: Sean McVeigh, Environmental Enforcement Officer  
Marlene Betit, for the Town of East Montpelier Select Board  
Barry Cahoon, ANR Stream Alteration Engineer  
Bruce Chappelle, Natural Resources Conservation Service