

VT SUPERIOR COURT
WASHINGTON COUNTY

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ORDER

2012 NOV -5 P 3:39 STATE OF VERMONT
WASHINGTON COUNTY, SS.

2012 NOV -5 A 10:51

Stipulation

SUPERIOR COURT
Washington Unit

CIVIL DIVISION
Docket No. 593-8-09 Wnev

State of Vermont)
Plaintiff,)
)
v.)
)
Adrien Inkel and Son, Inc.)
Stephane Inkel, Inc.)
Defendants.)

STIPULATION OF SETTLEMENT
AND
ORDER

In order to resolve the allegations made in the complaint filed in the above-captioned matter, the plaintiff ("the State of Vermont") and the defendants Adrien Inkel and Son, Inc. and Stephane Inkel, Inc. ("the defendants") stipulate and agree as follows:

1. The defendants jointly own approximately 2,113 acres of forest land in Bloomfield, Vermont that they purchased in August 2003.
2. In December 2003, the defendants submitted to the Department of Forests, Parks and Recreation ("the Department") a 32 V.S.A. § 3755 Use Value Appraisal (UVA) forest management plan for state approval and a 10 V.S.A. § 2625 notice of intent to cut for their Bloomfield property. In their notice, the defendants certified that the cutting that they proposed would be consistent with the state-approved UVA forest management plan.
3. The Department approved the UVA forest management plan, and issued a notice of determination stating that the defendants' proposed cut was consistent with their

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GENERAL
109 State Street
Montpelier, VT
05609

state-approved UVA forest management plan.

4. The defendants then cut on their land.
5. In 2006, during a UVA inspection, the Department determined and alleged that the defendants had cut in noncompliance with their state-approved UVA forest management plan in eleven (11) forest stands, and that the defendants had not implemented Acceptable Management Practices, causing discharges to the waters of the state in three (3) locations.
6. The Department issued a UVA adverse inspection report, and the Department of Taxes removed the land from the UVA program.
7. The State of Vermont filed a complaint in this matter pursuant to the environmental civil enforcement provisions of 10 V.S.A. § 8221. The State of Vermont alleged in its complaint that the defendants committed eleven (11) violations of 10 V.S.A. § 2625(j) by cutting trees in noncompliance with their state-approved UVA forest management plan in each of eleven (11) individual forest stands on their land, and committed a violation for each day that each of these violations continued. The State also alleged that the defendants discharged materials into the waters of the state without a permit in violation of 10 V.S.A. § 1259 in three (3) locations, and committed a violation for each day that each of these violations continued.
8. To resolve the State of Vermont's allegations in its complaint, the defendants admit that they committed four (4) violations of 10 V.S.A. § 2625(j) by cutting not in compliance with their state-approved UVA forest management plan in four (4) individual forest stands on their land, and agree that they will pay civil penalties to the State of Vermont in the amount of \$150,000.00 for the four (4) § 2625(j)

violations.

9. The entry of this judgment as to the four (4) forest stands shall not be construed as an admission to any other allegations made by the State in its complaint. The defendants deny the State's allegations as to the seven (7) remaining forest stands as well as the State's allegations regarding the violations of Acceptable Management Practices at three (3) locations. The defendants claim that their cutting in those seven (7) stands was appropriate based on their contention that the stands were damaged by ice.
10. The State contends that the civil penalties of \$150,000 take into consideration the burden of proof at trial with regard to the eleven alleged violations in the eleven (11) forest stands; the economic advantage that the State believes was gained by the defendants from the sale of the timber that they cut in violation of their state-approved UVA forest management plan; and the additional economic effect on the defendants from the loss of eligibility for use value appraisal of the subject real property; and also serve as a deterrent to future similar conduct. The State also contends that the penalties reflect the impact on the environment by the destruction of the productive value of the forest land and the loss of its preservation for its future productive use caused from the defendants' cutting.
11. The payment of the civil penalties in Paragraph 8 above by the defendants fully resolves any and all legal and equitable claims that the State of Vermont has or may have had against the defendants and their agents, officers and employees related to the violations of the state-approved UVA forest management plan on the defendants' jointly owned land in the town of Bloomfield that was the subject of

this action.

12. In consideration of the defendants' payment of civil penalties in the amount of \$150,000.00 to the State of Vermont, the State, as the plaintiff, agrees to dismiss with prejudice its remaining claims in this action.
13. Nothing in this Stipulation of Settlement and Order modifies the defendants' obligations to comply with Vermont state laws and rules regarding the requirements for eligibility and qualification for the UVA program, regarding the regulation of the heavy cutting of timber resources, and regarding Vermont's water pollution control laws including, but not limited, to acceptable management practices for maintaining water quality on logging jobs in Vermont.
14. The terms of this stipulation may be entered as an order of the court.
15. Each party shall be responsible for its own costs.

Dated at Montpelier, Vermont this 31 day of October, 2012.

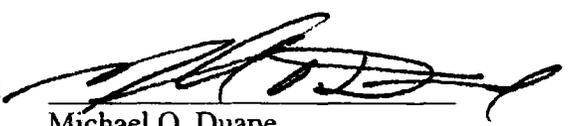
STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

By:


Thea J. Schwartz
Assistant Attorney General

and

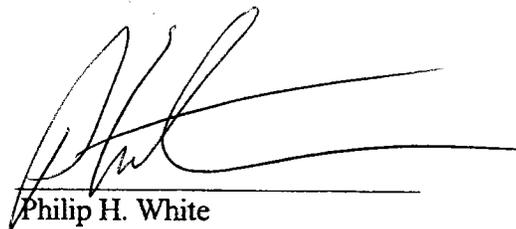

Michael O. Duane
Assistant Attorney General

Dated at Newport, Vermont this 2nd day of November, 2012.

Adrien Inkel and Son, Inc.
Stephane Inkel, Inc.
Defendants

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GENERAL
109 State Street
Montpelier, VT
05609

By:



Philip H. White
Wilson and White
Their Attorney

ORDER

Upon the Stipulation of Settlement and the consent of the parties, Judgment is entered against the Defendants and in favor of the Plaintiff as to four counts of 10 V.S.A. § 2625(j) in stands numbered 5002, 5007, 5012, and 5005 and Defendants are ordered to pay a penalty of \$150,000 to the State of Vermont. All other counts are hereby dismissed with prejudice. Each party shall be responsible for their own costs.

SO ORDERED:



Honorable Robert R. Bent
Superior Court Judge

DATE: 11 5 12