

From: Star Childs
To: [NRB - Comments](#)
Subject: Riverbend Associates Limited Partnership Proposed AO Public Comment
Date: Wednesday, August 29, 2018 6:48:47 PM

To the Superior Court on the matter regarding VT Natural Resources Board (NRB) v. Riverbend Assoc. LP and Edward C Childs:

I am, Starling W Childs, a partner in the Riverbend Assoc. LP and an abutting land owner as well. Furthermore, it should be stated at the outset that I am also directly related to Edward C. Childs in that he is my younger brother.

I have read the lengthy complaints and citations lodged against the Respondents and presented in the yet to be numbered Env. Div. docket before the court.

While I am not now, nor have I ever been, actively involved in any of the years long management of the property in question, I am a licensed forester in the State of Connecticut and hold a Masters Degree in Forest Science from Yale University. my professional practice involves designating land for permanent conservation easements, designing environmentally appropriate land subdivisions and of course practicing forestry.

My first comment addresses Violation I having to do with stream buffers and logging. It has been a long held understanding in forestry practices that limited harvesting within riparian buffers is not detrimental to the overall health of the forest nor does it necessarily negatively impact water quality or aquatic habitat values when practiced with care and moderation with regard to maintaining adequate stream canopy for shade and no compaction to the surrounding riparian soils. It is my understanding that at all times the Respondent has maintained adequate shade and high percentage of tree canopy cover along stream buffers along with protection of soils with the possible exception of a skid trail stream crossing. While NRB professionals can read their conditions 5 and 8 in order to find fault in Respondents' case, best management forestry practices throughout New England generally allow for some limited selection harvest in and along stream buffer zones which can be both beneficial to water quality and also introduce aquatic faunal habitat media into streams at the same time, primarily as leaf litter nutrients, but also as occasional coarse woody debris. One need only consider the most successful timber harvesters and H2O impoundment engineers of free flowing waterways to understand that humankind does not have the last word in how riparian zones should be managed. The North American Beaver, *Castor canadensis*, proves this out whenever and wherever they decide to alter natural stream and river systems to their own purposes. Studies have shown that the multiple environmental benefits of occasional downed trees in waterways, additional sunlight penetration stimulating phytoplankton, additional nutrient inputs, additional water recharge to groundwater reserves, and a modicum of flood control are all desirable incidental environmental benefits of heavy cutting(tree killing) in riparian zones and floodplains in general. While Mr. E C Childs and his forester came nowhere near as wide spread impacts as might a free roaming *Castor canadensis*, it really stretches one's credulity to find fault in the sort of "hither and yon" individual tree selective harvest that was the case on the Riverbend property. It would seem that in the case of NRB professionals, a too literal application of their own standards and guidelines is at work here and perhaps even some effort to bring the respondents to heel where they might not have had to in the first place by the very measure of sound forest science and long standing record of local land use and forest clearing history.

This latter mention leads through to Violation II and III with regard to "critical habitat in Hemlock forest stands". Here again, too literal interpretation and choosing more likely than not to simply find fault is at work in the NRB personnel's citation. The inexorable northward advance of a devastating aphid- like beetle Hemlock Woolly Adelgid , *Adelges tsugiae*, will one day in the not too distant future challenge forest managers throughout Vermont whether maintaining dense deer winter habitat cover or when simply seeking to grow another hemlock forest somewhere. Our

experience in CT where the *Adelges tsugiae* first landed in 1995 is that hemlock stands endure heavy defoliation and significant crown mortality, if not wholesale losses on drier sites. Any semblance of a "critical winter habitat" will be vastly altered when the Adelgids arrive in Vermont. Forest entomologists suggest, and have studied silvicultural treatments in advance of infestation by Hemlock woolly Adelgids, and it is recommended that hemlock stands be thinned out to provide adequate spacing such that tree crowns do not touch or overlap. Trees will respond with additional foliar production over time making them more resistant to attack and more resilient when they are attacked, as undoubtedly they will be. Such stands will still provide more than adequate winter habitat cover and deer yarding opportunities, even better sunlight penetration at midday for colder weather. In the long run managed hemlock stands will be the only survivors to an onslaught of *Adelges tsugiae* in more densely maintained forests where the crawling insects can simply go from tree to tree throughout the Hemlock rich canopy and suck the life out of every tree. I have seen these phenomena with my own eyes in hemlock forests managed according to recommended entomological and forest science, and the end result is a healthier more resilient hemlock stand which weathers an infestation of the bugs much better.

As for Violation IV, I cannot speak to what was required here other than to wonder how complicated this effort might be as the general partner and respondents were still trying to articulate what, if anything, was going to happen with the remainder of the property in the long term. Clearly, given the limited scope of the initial applications to Act 250 and the Land Use planning board, more than sufficient excess acreage still existed over the balance of the property which at any future date could receive permanent covenants satisfactory to the NRB. To designate areas which might hinder a more rational use of the property in the near term is just not sensible land use planning where limited area/ large lot development had already been more than demonstrated by the respondents.

Violation V is just plain silly when one considers the requirements. If someone in Vermont NRB still thinks the archaic practice of permanently wounding healthy trees on two faces with hatchet blazes and paint as well is necessary in the age of GPS and simple signage, then your agency needs to join the 21st century. The fact that the respondents forester more than adequately flagged the mitigation area to delineate it during harvesting activity was more than sufficient since no other impacts were likely to occur. That the same forester has the capability to delineate all of the boundaries with the use of modern survey grade GPS would more than suffice to reflag those acres at any future date, rather than go in and wound healthy trees. NRB should invest in handheld GPS unit and Riverbend can ship your field foresters the file necessary to survey the bounds both virtually and with boots on the ground.

Violation VI is also difficult to understand given it is simply a temporary camp facility that provides for onsite monitoring and security at times and given the hostile nature of some neighbors and certain officials with regard to the ongoing sustainable use of the property, having an occasional extra pair of eyes on the premises is not necessarily a bad thing. The structure as described and as utilized does not sound as though it rises to the level of having "altered a parcel of land" but rather it seems to be in almost organic harmony with the surrounding forest, much as the land dwellers who first came to Vermont in the early days of settlement...if you visit some of those original log and wooden structures today for evidence of "alteration of land use" at best you might find a cellar hole in a forest or remnants of a stone chimney as well. No such cellar hole exists in the case of this structure nor is there a permanent chimney or foundation footing, and in a matter of hours, the site would appear as it did before once the materials were hauled away. This hardly seems to rise to the level of a land use alteration permit requiring approval of District II Environmental Commission. Just imagine what happens when kids go into the woods as we used to do in the good old days to cob together a fort or tree house with all manner of recycled materials. Do you really then regulate these typical camping type activities in the Green Mtn state? Ethan Allen would be amazed.

Thank you for your attention to this submission of comments. I feel as though my embattled brother has been set upon by a bit of excessive and over-stretched bureaucracy that issues reports and concerns, but then does not enunciate actions or decisions clearly, and certainly not

in a timely fashion, such that working men and women can know where they stand whether out working in the well-timbered woods or worse on the shifting sands of Time which translates into money in the end. The projected penalties for above mentioned violations are clear evidence of a process gone wrong where Act 250 was intended to streamline and direct appropriate land protection and development and not drag it down into a quagmire of differing opinions and waffling orders. Please allow this applicant and the respondents herein to come to some logical way forward that more than meets the above mentioned, albeit very simply remedied concerns.

Sincerely,

**Starling W Childs, MFS
CT Certified Forester F-000100**

**c/o Environmental and Ecological Consulting Services
109 Litchfield Road
Norfolk, CT 06058**

www.eecos.com

860 307 2979 cell

SUPERIOR COURT ENVIRONMENTAL DIVISION Docket No. _____ Natural Resources Board, Petitioner ADMINISTRATIVE ORDER v. Riverbend Associates Limited Partnership And Edward C. Childs, Respondents Having found that Riverbend Associates Limited Partnership and Edward C. Childs ("Respondents") committed a violation as defined in 10 V.S.A. § 8002(9), the Natural Resources Board, pursuant to 10 V.S.A. § 8008, hereby issues the following Administrative Order: VIOLATION I. Failure to comply with Land Use Permit 2W0866 (the "Permit") condition 5 and Land Use Permit 2W0866-1 (the "-1 Amendment") condition 8 by logging within designated stream buffers. II. Failure to comply with -1 Amendment conditions 1 and 32 by logging hemlock trees within critical habitat. III. Failure to comply with -1 Amendment condition 33 by harvesting trees within critical habitat without a plan approved in writing by the Vermont Department of Fish and Wildlife (the "Department"). IV. Failure to comply with -1 Amendment conditions 1 and 30 and Land Use Permit 2W0866-2 (Revised) (the "-2 Amendment") condition 17 by failing to permanently deed restrict 82 acres of the property by December 1, 1996. V. Failure to comply with -1 Amendment conditions 1 and 34 by failing to delineate the mitigation area boundary within one year after receipt of the deposit on the first lot. VI. Failure to comply with -1 Amendment conditions 1 and 39 by altering a parcel of land without the approval of the District II Environmental Commission (the "Commission").

Star Childs
EECOS Environmental
Norfolk, CT