

O&M and Site Access Agreements

Natural Shoreland Erosion Control Certification

January 23 & 26, 2024

Vermont Department of Environmental Conservation and Lake Champlain
Sea Grant

Introductions



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Outline:



Clean Water Projects and Maintenance

O&M for Enhancement Grants

O&M for Formula Grants

Resources and Available Trainings

Questions

What are Clean Water Projects?

Prevent nutrient and sediment pollution from washing off the landscape into Vermont's rivers, lakes, and wetlands.



Shoreland native
revegetation



Road erosion
mitigation projects



Lakeshore
Bioengineering



Green stormwater
infrastructure

Clean Water Project Life Cycle



Assessment/Identification

Development

Design

Implementation

Maintenance

What does maintenance look like?



- Stabilizing eroded areas
- Mowing
- Removing trash and debris
- Removing accumulated sediment.
- Replanting dead vegetation.

O&M for Enhancement Grants

O&M Agreement

- Required 10-year (minimum) O&M Plan signed by O&M Responsible party and landowner for implementation phase projects

[Applicant & Recipient Resources | Department of Environmental Conservation \(vermont.gov\)](#)

Operation and Maintenance Agreement

For [Project Name]

Installed under the following agreement: [Agreement number]

This Operations and Maintenance Agreement, ("Agreement") is made and entered into this ____ day of _____, 20__, between _____ (hereinafter referred to as the "Responsible Party") and _____ (hereinafter referred to as the "Landowner" if different from the Responsible party) and the Department of Environmental Conservation, (hereinafter referred to as the "DEC").

1. The Responsible Party agrees to inspect and maintain the above-mentioned project(s) or practice(s) at regular intervals, according to the attached Operation and Maintenance Plan.
2. The Responsible Party agrees to correct any maintenance issues or conduct needed repairs that are observed during inspections, such as the as-needed maintenance and repairs listed in the attached plan.
3. The Responsible Party agrees to maintain the practice outlined according to the attached plan for ____ years from the date the project installation and/or construction.
4. DEC staff may periodically visit the project site to inspect the condition of the installed practice(s). If the project is on private land, the grantee and responsible party/landowner will be notified by DEC staff at least 48 hours prior to any site visit. The landowner agrees to provide DEC staff or contractors with access to the site during State of Vermont Business hours (8:00-4:30).
5. If a project or practice is found to be in need of maintenance or in a state of disrepair, DEC will conduct the following steps:
 - a. Notify the Responsible Party of the items that need to be corrected.
 - b. Provide the Responsible Party a reasonable schedule to correct the items in need of maintenance.
 - c. If the items cannot be corrected within the allotted time, require the Responsible Party to establish a schedule to complete the correction
 - d. If no adequate response or correction action has been taken within the allotted time, provide the Responsible Party a written warning that failure to meet all grant conditions could result in the Responsible Party being ineligible for future clean water grants.
6. The Responsible Party and/or Landowner shall not be able to transfer or modify its responsibilities with respect to this agreement without the DEC's written prior consent.
7. Any delays in or failures of performance by a party under this Agreement shall not be considered a breach of this Agreement if caused by occurrences beyond the reasonable control of the party affected, including but not limited to: severe storms, floods or other natural events and sabotage. Any time for performance hereunder shall be extended by the time of delay caused by such occurrence.

Signature of Responsible Party: _____ Date: _____

Signature of Landowner: _____ Date: _____

O&M Agreement

- Contact information for landowner and responsible party
- Project location
- Project type and completion date
- Identified maintenance practices and frequency to maintain project function

[Applicant & Recipient Resources | Department of Environmental Conservation \(vermont.gov\)](#)

Operation and Maintenance Plan

For Project Title., BMP/Practice name., installed under the following agreement:
Agreement Number.

The purpose of this Operation and Maintenance Plan and Agreement is to ensure that the projects and/or practices supported by the Vermont Department of Environmental Conservation (DEC) continue to function properly throughout their useful lives and contribute to improving water quality conditions of Vermont's waterways.

Responsible Party Name(s):	
Responsible Party Phone:	() -
Responsible Party Email:	
Landowner Name (if different):	
Landowner Phone:	() -
Landowner Email:	
Property Address/description: (or attach site plan)	
Practice Latitude Longitude (center point in Decimal Degrees):	Latitude °N, Longitude °W
BMP Construction Completion date:	
BMP Useful Life End Date (minimum of 10 years from construction):	
BMP Type:	Choose a BMP.
Special Equipment Required, if any: (e.g., Vactor truck, anything other than hand tools)	
Frequency of Regular Inspections: (recommend 2-3/yr for Stormwater, 1/yr for Natural Resource Projects)	

Regular Maintenance and Frequency: If engineer or designer had designed the project, engineer or designer shall complete the following. Include activities such as weeding, mowing, sediment and debris removal, inlet and/or outlet cleaning, and equipment maintenance per manufacturer.

Maintenance Item	Frequency

As needed maintenance and repair: (e.g. replanting, major erosion or damage repair):

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Updated 12/11/2019

Y:\WID_CWIP\Grants\Grants\Ecosystem Restoration\Documents uploaded to Website\FY 2020 updates

O&M for Formula Grants

Site Access to Verify and Maintain

- Signed agreement between CWSP and landowner that...
 - Grants CWSP, DEC, and partners access to the project site to **install, verify, and maintain** non-regulatory clean water projects funded by formula grants.
 - Outlines maintenance expectations and frequency.
- Either a license or an easement.
- Initial term of agreement = design life

SITE ACCESS EASEMENT AGREEMENT FOR A CLEAN WATER PROJECT

THIS SITE ACCESS EASEMENT AGREEMENT FOR A CLEAN WATER PROJECT (Agreement) is made and entered into this ____ day of _____, 20__ by and between: _____ of _____, Vermont, [add additional landowner lines if needed] and their heirs, administrators, successors, and assigns (collectively, “Landowner”); and _____ (“Clean Water Service Provider” or “CWSP” and with Landowner, the “Parties”).

WHEREAS, the Landowner owns certain land and premises located at _____ in _____, Vermont (“Property”), as set forth in Exhibit A, within the _____ watershed basin (“Basin”); and

WHEREAS, the CWSP has been assigned by the Secretary of the Vermont Agency of Natural Resources for the purpose of achieving pollutant reduction values, in accordance with the Clean Water Service Delivery Act (Act 76 of 2019) at 10 V.S.A. §§ 921-930 and the Clean Water Service Provider Rule, Environmental Protection Rule Chapter 39 (“Rule”); and

WHEREAS, the CWSP is responsible for implementation and operation and maintenance of clean water projects designed to improve water quality to achieve certain pollutant reduction targets (10 V.S.A. § 924 and the Rule §§ 39-101 and 39-403); and

WHEREAS, maintenance means ensuring that a clean water project continues to achieve its designed pollution reduction value for its design life and design life means the period of time that a clean water project is designed to operate according to its intended purpose; and

WHEREAS, Landowner wishes to voluntarily provide the CWSP with Property access for the clean water project, and the project is anticipated to result in a clean water improvement and possibly related environmental improvement outcomes; and

WHEREAS, the Parties desire that a clean water project be implemented and operated and maintained on the Property, as more particularly described in Sections 2 and 3 below (the Project); and

WHEREAS, the Project may require the CWSP, with its own forces or those of contractors, to enter upon the Property; and

Site Access Agreements

Agreement Type	Terms	Duration	DEC Policy
Site Access License	A signed agreement between landowner(s) and CWSP to allow access to project area for planned visits to install, inspect, conduct maintenance, and if necessary, repair damage to a project.	<p>Initial term lasts for the project's design life.</p> <p>Following initial term, agreement automatically renews for consecutive terms, until the agreement is terminated by either party.</p> <p>Does not run with the land (i.e., if land is sold CWSP/Landowner liaison will need to renegotiate terms to maintain access)</p>	Can be used for projects with implementation costs below \$200K.
Site Access Easement	A signed agreement between landowner(s) and CWSP that is filed in the municipal land record to allow access to project area for planned visits to install, inspect, conduct maintenance, and if necessary, repair damage to a project.	<p>Initial term lasts for the project's design life.</p> <p>Following initial term, the agreement automatically renews for consecutive terms, until renewal is declined by either party.</p> <p>Runs with the land (i.e., even if the land is sold the easement still applies).</p>	Can be used for all project types, if desired by landowner/CWSP, and is required for projects with implementation costs equal to/over \$200K.

Cover Letter

- Must accompany the access agreements.
- Tone express gratitude and encourage collaboration.
- Outlines overall water quality benefits of the project.
- Identifies landowner liaison organization.
 - Landowner Liaison: the primary entity to communicate with the landowner about site visits and project concerns.
- Informs landowner of expected maintenance activities and its frequency.

Vermont Department of Environmental Conservation Clean Water Initiative Program
Form Updated: 8/11/2023 1:58:00 PM
Project WPD ID:

Installing and Maintaining your Clean Water Project

Dear _____, [landowner's name],

Thank you for partnering with us to host a voluntary clean water project on your property. This project is intended to protect the quality of Vermont's rivers, lakes, streams, and wetlands. Your participation is a valuable contribution to Vermont's water quality goals. This cover letter provides an overview of the attached Site Access License/Easement Agreement and Operation and Maintenance Plan and highlights some key aspects of how we will work together to help the project succeed. Please read the attached Agreement carefully for the complete agreement terms.

What is this agreement saying?

Introduction

Page One describes the parties to the Agreement, the property, the general clean water project context (with reference to the state statute and rule that supports this project), and the parties' intent for access to the property and installation, maintenance, and inspection of the project.

Project Description

Pages Two and Three provide contact information as well as project details including location, expected "design life" (the number of years we expect that the project will protect water quality), maintenance activities needed to keep the project in good condition, and the frequency of those maintenance activities.

Terms of Agreement

After the project description topics, the document lists the terms of the Agreement—what the parties agree to, how long you're agreeing to it, and other expectations for both parties.

The Agreement allows _____ [list the relevant organizations] and staff from the Vermont Department of Environmental Conservation to access the project on your property for planned visits with necessary equipment for the following purposes: 1) to install the project, 2) to regularly inspect the project to ensure proper function, and 3) to conduct routine maintenance activities that include _____ [short description of common maintenance activities] to keep the project working properly. We may also request to visit your property if damage is suspected (such as after a large storm) to inspect and possibly perform repairs. If you have concerns about damage to a project or if there is something you feel is not working properly, please contact us to request a site visit. All visits will be scheduled by _____ [landowner liaison organization] via phone or email [indicate landowner's preferred contact method] with at least 48 hours' notice. Refer to the Operation and Maintenance Plan in the Agreement for more details.

Note that the Agreement prevents you from making a trespass or similar claim against the parties that are being authorized to enter your property for the reasons listed, but you retain the right to make a claim for negligent acts or omissions by those parties.

Agreement Duration

O&M Plan: Tasks & Frequency

- Project description
- Maintenance and verification visit frequency
- Required equipment
- Routine maintenance activities

3. **Description of Project.** The Project and operation and maintenance will consist of the following:

Project Type:	Choose a Project Type
Practice Type:	Choose a Practice Type
Watershed Projects Database ID:	
Project Title:	
Project Implementation Completion Date:	
Project Design Life*:	
Special Equipment Required, if any*: (e.g., Vactor truck, anything other than hand tools)	
Frequency of Regular Inspections*:	

[Add additional project description table if multiple practices]

Operation and Maintenance Plan	
Operation and maintenance will include the following activities (such as weeding, mowing, sediment and debris removal, inlet and/or outlet cleaning, and equipment maintenance) and project repairs on an as-needed basis within the reasonable discretion of the CWSP*.	Frequency (e.g., quarterly, annually, or as needed)

More on Site Access Agreements

August 2023 training on the Site Access License and Easement Agreements and cover letter.

Please complete this [form](#) to request a link to the recorded training.

Templates can be found here: [Applicant & Recipient Resources | Department of Environmental Conservation \(vermont.gov\)](#)

DEC V&M Website: [Clean Water Project Verification | Department of Environmental Conservation \(vermont.gov\)](#)

Thank you for listening! Questions?

For follow up questions, please email us:

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