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Agency of Transportation

December 29, 2015

Tina Heath, District Wetland Ecologist
VT Agency of Natural Resources
DEC-Watershed Management Division-Wetlands Section
1 National Life Drive, Main 2
Montpelier, VT 05620-3522

Reference: **Charlotte FEGC 019-4(20)**
Individual Wetland Permit# 2010-138 Extension

Dear Tina:

On behalf of the Vermont Agency of Transportation (VTrans) I am submitting an extension of time for the above referenced project. The original individual wetland permit #2010-138 was received on MAR 2, 2011 for the upgrades along US Route 7 in the town of Charlotte, VT. The current permit has a time limit for completing the work authorized for MAR 2, 2016. We are requesting the date be extended another 5 years. The current schedule calls for construction in 2016 although the project will take at a minimum 2 construction years to complete the necessary work.

The current schedule was delayed due to a variety of reasons: complex right of way process, utility coordination and project funding. The project has cleared right of way hurdles, utility relocations are being completed and the project has construction funds authorized. It is very likely the project will start construction in the spring of 2016 or fall of 2016. As this is an extension I will be submitting the \$240 application fee.

If you have any questions regarding this project, please feel free to contact me. Thanks in advance.

Sincerely,

A handwritten signature in black ink, appearing to read "Glenn Gingras".

Glenn Gingras
VTrans Environmental Biologist

Attachments

cc.

Jeff Ramsey, VTrans Environmental Specialist (electronic)
Ken Upmal, VTrans Project Manager (electronic)





Fee Processing Information

Project: Charlotte FEGC 019-4(20)

EA: 0194020-100

Activity: 1630

Permit Type: State Wetlands

Permit #: 2010-138

Fee: \$240.00

Approval

Signature/Date

Title: Environmental Services Manager



Vermont Department of Environmental Conservation
Water Quality Division
103 South Main Street, Building 10 North
Waterbury, VT 05671-0408

Agency of Natural Resources

[phone] 802-241-3770
[fax] 802-241-3287

received
3.3.11

Notice of Issuance of Individual Wetland Permit # 2010-138

Please be notified, as per Section 9.4 of the Vermont Wetland Rules that the request for an Individual Wetlands Permit received from Vermont Agency of Transportation was issued on this 2nd day of March, 2011. The approved proposal is for the re-construction of US Route 7 in the Town of Charlotte, beginning at the Ferrisburgh-Charlotte Town line and extending northerly 2.9 miles to impact 23,600 square feet of Class II wetland and 131,175 square feet of Class II wetland buffer zone. It was found by the Agency of Natural Resources that this conditional use will not result in any undue, adverse effects to the protected functions of the significant wetland located at the Ferrisburgh-Charlotte Town Line in Charlotte, Vermont.

Complete copies of the decision can be obtained by calling the Water Quality Division at 802-241-3761 or writing to the address below.

Any person with an interest in this matter can appeal this decision pursuant to 10 V.S.A. Section 8504. Pursuant to 10 V.S.A. Chapter 220, any appeal of this decision must be filed with the clerk of the Environmental Court within 30 days of the date of the decision. The appellant must attach the Notice of Appeal and the appropriate entry fee, payable to the State of Vermont.

The Notice of Appeal must specify the parties taking the appeal and the statutory provision under which each party claims party status; must designate the act or decision appealed from; must name the Environmental Court; and must be signed by the appellant or their attorney. In addition, the appeal must give the address or location and description of the property, project or facility with which the appeal is concerned and the name of the applicant or any permits involved in the appeal. The appellant must also serve a copy of the Notice of Appeal in accordance with Rule 5(b)(4)(B) of the Vermont Rules for Environmental Court Proceedings.

For further information, see the Vermont Rules for Environmental Court Proceedings, available on line at www.vermontjudiciary.org. The address for the Environmental Court is 2418 Airport Road, Suite 1, Barre, VT 05641 (Tel. # 802-828-1660).

Alan Quackenbush
State Wetlands Coordinator
Water Quality Division
Department of Environmental Conservation
10 North Building
103 South Main Street
Waterbury, Vermont 05671-0408

cc: Distribution list

**VERMONT AGENCY OF NATURAL RESOURCES
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

INDIVIDUAL WETLAND PERMIT

In the matter of:

Vermont Agency of Transportation
c/o Glenn Gingras
One National Life Drive
Montpelier, Vermont 06633

**Application for the re-construction of US Route 7
in the Town of Charlotte, beginning at the Ferrisburgh-Charlotte
Town line and extending northerly 2.9 miles. The proposed
impacts are to 23,600 sq ft of wetland (10 wetlands); and
131,175 sq ft of buffer zone (primarily existing roadway.)**

File #:2010-138
DEC ID #: EJ01-0019

Date of Decision: March 2, 2011
Decision: Approved
Expiration Date: March 2, 2016

10 V.S.A. §913 and Section 9.1 of the Vermont Wetland Rules provides that any activity in a Class 1 or Class II wetland or its associated buffer zone is prohibited unless it is an allowed use under the Wetland Rules or unless it receives a permit allowing such activity. Applicants for an individual permit for a proposed activity in any Class I or Class II wetland or its buffer zone have the burden of proof to show that the proposed activity complies with the Wetland Rules and will have no undue adverse impact on protected functions and values.

The Vermont Agency of Natural Resources (Agency) received an application dated November 19, 2010 from Vermont Agency of Transportation for a Vermont Wetland Permit #2010-138 for a project involving activities in wetlands and associated buffer zones located in the Town of Charlotte, Vermont. Public notice of the application was given in accordance with the Vermont Wetland Rules. Any comments received during the public comment period were considered during review of the application and issuance of this permit.

DECISION AND PERMIT CONDITIONS

- I. Based on the Findings contained in this permit, the permit application, and information obtained during a site visit by Agency staff, the Secretary finds that the proposed activities will comply with the Vermont Wetlands Statute, 10 V.S.A. §901 et. seq. and the Vermont Wetland Rules. The applicant has demonstrated that the project will have no undue adverse effects on the protected functions and values of the subject significant wetlands

and associated buffer zones, and adjacent wetland complexes, provided the project is conducted in accordance with the following conditions:

- A. All activities in the wetland and buffer zone shall be completed, operated and maintained as set forth in the permit application #2010-138 and the supporting materials listed in Section 13 of the permit application. No material or substantial changes shall be made to the project without the prior written approval of the Vermont Wetlands Program. Project changes may require a permit amendment and additional public notice.
- B. The applicant shall notify the Vermont Wetlands Program in writing or by email prior to the start of the approved project.
- C. **Prohibitions:** No additional activities are allowed in the wetland and associated buffer zone without the approval of the Secretary unless such activities are allowed uses under the Vermont Wetland Rules. No draining, dredging, filling, grading or alterations of the water flow is allowed. No cutting, clearing or removal of vegetation within the wetland and buffer zone is allowed with the exception of the proposed project area as approved by this permit.
- D. All construction activities in the wetland and adjacent 50-foot buffer zone shall be completed within five years of the date of this permit or this permit will expire. Upon request by the permittee, the Secretary may grant an extension to this five-year period. Any request for an extension must be received by the Department at least 30 days prior to the end of the five-year period in order to prevent the expiration of the permit. A request for extension may be considered a minor modification at the discretion of the Secretary. Projects may not be extended beyond ten years of the issuance date, in accordance with Section 9.1 of the Vermont Wetland Rules.
- E. The wetland boundary delineation is valid for five years from the date of this determination. The delineation will need to be re-evaluated by a qualified wetland consultant if the project is not constructed, or additional impacts are proposed, after the five-year time period expires.
- F. Within thirty (30) days of completion of the work approved by this permit, the permittee or their representative shall supply the Vermont Wetlands Section with a letter certifying that the project was constructed in compliance with the conditions of this permit.
- G. **FOR STREAM ALTERATIONS:** The method of construction and installation shall be that which presents the least disturbance of stream flow and prevents any discharge of sediment downstream; stream flow at all times shall be diverted from the work area; the contractor's equipment shall be clean and well maintained; free of fuel, hydraulic and gear oil leaks, especially if such equipment is to be used in or adjacent to the water; there shall be absolutely no discharge of uncured concrete to the stream flow; pumping from excavation areas shall be discharged to an overland area or settling basin such that the effluent shall be essentially clarified before reentering the stream flow; all areas of stream bank disturbed during construction shall be suitably reshaped and stabilized with stone fill or a vegetative planting prior

to completion of the project; additionally, the extent of stream bank disturbance shall be strictly limited, and all existing vegetation maintained to the greatest degree practicable; the applicant or its representative shall contact the Stream Alteration Engineer prior to commencing construction to arrange a pre-construction conference; stream work shall be limited to the period June 1 to October 1.

- H. All contractors' equipment shall be cleaned so as to contain no observable soil or vegetation prior to work in wetlands and buffer zones to prevent the spread of invasive species. The applicant shall monitor the portion of the wetland in question annually during early July for five years following construction for the nuisance plant species purple loosestrife (*Lythrum salicaria*) and common reed (*Phragmites australis*). All nuisance plants found shall be pulled by hand and disposed of by burial or burning in a non-wetland location. If hand pulling is not feasible, a state approved invasive species control plan is required.
2. The Agency maintains continuing jurisdiction over this project and may at any time order that remedial measures be taken if it appears that undue adverse impacts to the protected functions and values of the wetland or buffer are or will occur.
 3. This permit does not relieve the applicant of the responsibility to comply with any other applicable federal, state, and local laws, regulations, and permits.
 4. The permittee shall allow the Secretary or his/her representatives, at reasonable times and upon presentation of credentials, to enter upon and inspect the permitted property for the purpose of ascertaining compliance with this permit, the Vermont Wetland Rules and the Vermont Water Quality Standards and to have access to and copy all records required to be prepared pursuant to this permit.
 5. The Agency, by issuing this permit, accepts no legal responsibility for any damage direct or indirect of whatever nature and by whomever suffered arising out of the approved project. This general permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to public or private property or any invasion of personal rights, or any infringement of federal, state or local laws or regulations. This permit does not obviate the necessity of obtaining such federal, state or local permits or approvals as may be required by law. Nothing in this permit shall be construed to preclude the institution of legal action or relieve the permittee from any responsibilities, liabilities or penalties to which the permittee is or may be subject to under other laws.
 6. Any person with an interest in this matter can appeal this decision pursuant to 10 V.S.A. §917. Pursuant to 10 V.S.A. Chapter 220, any appeal of this decision must be filed with the clerk of the Environmental Court within 30 days of the date of the decision. The appellant must attach to the Notice of Appeal the applicable fees, payable to the state of Vermont. The Notice of Appeal must specify the parties taking the appeal and the statutory provision under which each party claims party status; must designate the act or decision appealed from; must name the Environmental Court; and must be signed by the appellant or their attorney. In addition, the appeal must give the address or location and

description of the property, project or facility with which the appeal is concerned; and the name of the applicant, and any permit involved in the appeal. The appellant must also serve a copy of the Notice of Appeal in accordance with Rule 5(b)(4)(B) of the Vermont Rules for Environmental Court Proceedings. For further information, see the Vermont Rules for Environmental Court Proceedings, available on line at www.vermontjudiciary.org. The address for the Environmental Court is 2418 Airport Road, Suite 1, Barre, VT 05641 (tel. 802-828-1660).

FINDINGS

1. A complete application was received from Glenn Gingras for Vermont Wetland Permit #2010-138 on November 19, 2010.
2. The wetlands and adjacent buffer zones are located along both sides of US route 7 in the Town of Charlotte.
3. Alan Quackenbush, Senior Wetlands Ecologist, has conducted several site visits to the subject wetlands from prior projects in Charlotte along Route 7; the last on Dec. 30, 2010.
4. The subject wetlands are mapped and contiguous to mapped wetlands on the Vermont Significant Wetlands Inventory maps and are therefore designated as Class II wetlands in the Vermont Wetland Rules.
5. The wetlands in question are described in detail in Section 7 and Section 8 of the permit application. The wetlands are comprised of ponds, wet meadows, emergent marsh, shrub swamp and forested wetlands, ranging in size from 3 acres to 175 acres.
6. The proposed project is described in detail in Section 10 and 11 of the permit application. The project is proposed to correct structural and safety deficiencies by increasing the width of the travel lanes from 11 ft to 12 ft; adding uniform 8-ft shoulders; and replacing deficient drainage features. The existing road bed of concrete slabs will be removed and replaced with coarse aggregate, sand and pavement.
7. Proposed impacts to the wetland and buffer zone as proposed in Section 11 of the permit application are as follows:

Wetland Alteration:		Buffer Zone Alteration:	
Temporary:	7,850 s.f.	Temporary:	49,990 s.f.
Permanent: :	23,600 s.f.	Permanent: :	131,175 s.f.
Total Wetland Impact	31,450 s.f.	Total Buffer Zone Impact:	181,165 s.f.

8. The protected functions of the subject wetlands include the following: water storage for flood water and storm runoff (§5.1 of the Vermont Wetland Rules), surface and groundwater protection (§5.2), fish habitat (§5.3), wildlife and migratory bird habitat

(§5.4), recreational value and economic benefits (§5.8), open space and aesthetics (§5.9), and erosion control through binding and stabilizing the soil (§5.10).

9. The following functions are either not present or are present at such a minimal level as to not be protected functions: exemplary wetland natural community (§5.5), threatened and endangered species habitat (§5.6), and education and research in natural science (§5.7).
10. **Water Storage for Flood Water and Storm Runoff.** The wetlands are significant for the water storage for flood water and storm runoff function as demonstrated in Section 16 of the permit application. Based on the factors described in Section 16.2 of the application, as confirmed through a site visit by Agency staff, the proposed project will not result in an undue adverse impact to this function.
11. **Surface and Groundwater Protection.** The wetlands are significant for the surface and ground water protection function as described in Section 17 of the permit application. Based on the factors described in Section 17.2 of the application, as confirmed through a site visit by Agency staff, the proposed project will not result in an undue adverse impact to this function.
12. **Fish Habitat.** The wetlands are significant for the fisheries habitat function as described in Section 18 of the permit application. Based on the factors described in Section 18.2 of the application, as confirmed through a site visit by Agency staff, the proposed project will not result in an undue adverse impact to this function.
13. **Wildlife and Migratory Bird Habitat.** The wetlands are significant for the wildlife and migratory bird habitat function as described in Section 19 of the permit application. Based on the factors described in Section 19.2 of the application, as confirmed through a site visit by Agency staff, the proposed project will not result in an undue adverse impact to this function.
14. **Recreational Value and Economic Benefits** The wetlands are significant for the recreational value and economic benefits function as demonstrated in Section 23 of the permit application. Based on the factors described in Section 23.2 of the application, as confirmed through a site visit by Agency staff, the proposed project will not result in an undue adverse impact to this function.
15. **Open Space and Aesthetics.** The wetlands are significant for the open space and aesthetics function as demonstrated in Section 24 of the permit application. Based on the factors described in Section 24.2 of the application, as confirmed through a site visit by Agency staff, the proposed project will not result in an undue adverse impact to this function.
16. **Erosion Control.** The wetland is significant for the erosion control function demonstrated in Section 25 of the permit application. Based on the factors described in Section 25.2 of the application, as confirmed through a site visit by Agency staff, the proposed project will not result in an undue adverse impact to this function.
17. Under 10 V.S.A. §913 and Section 9 of the Vermont Wetland Rules, the Secretary may authorize activities in a significant wetland or in its adjacent buffer zone if the Secretary determines that it complies with the Wetland Rules and will have no undue adverse effect

- on the protected functions and values. The Secretary has determined that the proposed project, described in these Findings and in the permit application, will have no undue adverse impacts to the protected functions and values of the subject Class Two wetlands or the adjacent wetland complexes.
18. The applicant has demonstrated the proposed activity in the subject wetland cannot practicably be located outside the wetland or on another site owned, controlled or available to satisfy the basic project purpose. All practicable measures have been taken in this proposal to avoid adverse impacts on protected functions, as described in the application. The roadway is being re-constructed on essentially the same alignment as currently exists; side slopes adjacent to wetlands have been steepened; temporary fills will be placed on geotextile fabric; all areas of temporary disturbance will be restored following construction.
 19. One comment letter was received; a copy of comments sent to the Army Corps of Engineers with an off-site mitigation proposal. The Corps is not requiring compensatory mitigation for this project, and the Agency of Natural Resources concurs.
 20. If the project is constructed according to the permit application and the conditions of this permit, the permitted activity is not expected to result in any violations of the Vermont Water Quality Standards.

David K. Mears, Commissioner
Department of Environmental Conservation

by: Alan Quackenbush
Alan Quackenbush
Wetland Program Manager, Water Quality Division

Dated at Waterbury, Vermont
this 2nd day of March, 2011

DKM/AQ

