

Responsiveness Summary for Wetlands Permit #2015-776

Re: For the revised impacts to certain Class II wetlands and their buffers, resulting from the construction of Phase 1 of the Addison Natural Gas Project, a natural gas transmission mainline, gate stations, distribution mainline, and local distribution network to extend natural gas services from Colchester to Middlebury and Vergennes in Monkton, VT.

The Department of Environmental Conservation (DEC) placed the permit application on public notice on March 10, 2016 and the public comment period remained open until March 28, 2016. In anticipation of public interest, DEC held a public meeting in Hinesburg on March 24, 2016 at 6:00pm.

The Department received both written and verbal comments on the wetland application. The following is a summary of the public comments received on the wetland permit application #2015-776 and DEC's responses to those comments. Where appropriate, comments have been paraphrased, consolidated, and categorized for clarity.

A. Comments Regarding Function and Value

Comment A-1: Concerns have been raised about aquatic habitat impairment resulting from sedimentation. Is there an Erosion Prevention and Sediment Control plan in place? If so, was it developed by a EPSC certified consultant?

Response A-1: A construction permit has been issued under the oversight of the DEC Stormwater program to protect aquatic resources from erosion and sedimentation. The specific questions are beyond the scope of this review. For more details, contact the Stormwater program.

Comment A-2: Of special concern to us is the impact of blasting and associated ground and air vibrations that could harm amphibians and harass birds. Construction activities could also create turbidity and other debris that can impact amphibian eggs and larvae in the waters around the proposed construction site.

Response A-2: The scope of the wetlands permit pertain to activities proposed within wetland and 50 foot buffer. The wetlands involved in this amendment do not contain significant amphibian breeding habitat. Wetland 2012-JB-12 is likely to require blasting. The blasting would occur next to a roadway where noise and vibrations are frequent. Since the blasting only occurs for the construction of the trench, the noise impact of blasting within the wetland is unlikely to have more than a minimal impact on wildlife habitat. Blasting is a potential need within wetlands 2014-CM-3 and 2015-CM-3. The DEC does not anticipate wildlife impact in these areas either.

Comment A-3: The federally endangered Indiana bat (*Myotis sodalis*) has been found in the area along Rotax Road and likely feeds on insects in the swamp between dusk and dawn. Twenty-five-foot-wide forested buffers should be maintained around all streams, ponds, lakes and wetlands. Habitat disturbances should be restricted to between November 1 and April 1. The trees in the Rotax Road area should be surveyed for their potential as habitat for federally and state listed bat species before construction begins. We would like to be informed as the time and date of bat surveys and have the option for one of the Monkton Conservation Commission accompany the surveyor.

Response A-3: The scope of the wetlands permit pertain to activities proposed within wetland and 50 foot buffer. For this amendment, wetland 2015-CM-3 has proposed tree clearing, but no potential bat trees were found in the wetland or buffer when the area was surveyed. The proposed impacts to 2015-CM-3 have been minimized to the extent practicable, but some forested buffer will be removed due to this project.

Wetland Permits confer no property rights, and therefore we have no authority to grant access to anyone other than the DEC employees who are responsible for the ongoing oversight of the DEC permits.

Comment A-4: Monkton has just completed construction of two amphibian underpasses downstream in the wetlands complex that originates to the north of Rotax Road. The Addison Natural Gas project must ensure that digging, drilling, and blasting are conducted at appropriate times so as not to adversely impact the population of amphibians using this site. We feel it is incumbent upon the applicant to ensure that the public and private investment made to ensure the sustainability of this population of amphibians is in no way compromised by construction of this pipeline.

Response A-4: The proposed pipeline alignment is over 500 feet away from the amphibian underpasses and the drill set up and pull back areas are within agricultural field and existing utility right of way. The DEC does not anticipate impacts to the amphibian crossing by the project as currently proposed.

Comment A-5: At the time of the original permit review, the Monkton Conservation Commission was assured that construction would consist of directional boring and that there would be no impacts to the wetland or the species that use it. The applicant's means and methods of construction have changed to the degree that the potential for impacting water quality and the habitat functions and values of this wetland could be severely compromised. Therefore, any alteration plan for this wetland must include technical oversight by a qualified herpetologist. The Monkton Conservation Commission suggests that this oversight be conducted by Jim Andrews, who oversaw the recent installation of the Monkton amphibian crossings at this Huizenga wetland site. This ongoing oversight should ensure that the aquatic habitat of this area is maintained or enhanced.

Response A-5: This amendment to the alignment does not change the plan to directional bore under Monkton Swamp (wetland 2012/2013-PW-67).

Comment A-6: Members of the Conservation Commission previously identified several instances in the initial Filing for Certificate of Public Good and the Supplementary Filing where questionable methodology or insufficient assessment should require that permitting be contingent on further assessment or mitigation. Appendix 6 (p. 13) states that vernal pool surveys were conducted for Jefferson's salamander in the spring of 2013. Since the Supplementary Filing was dated February 28, 2013, this survey was either not conducted as of Filing, or the survey date is in error. Further any vernal pool surveys seeking Jefferson's salamander in the fall or winter would have been ineffective. As proposed in Appendix 6 (p. 5), survey for hairy-fruited sedge south of Rotax Road should be conducted prior to construction and impacts on any population present should be mitigated.

Response A-6: As stated in the original permit responsiveness summary: *"According to the VGS environmental consultant who prepared the report, the "Spring of 2013" notation was a typographic error. The survey was conducted in Spring 2012 as described in the NRR. A follow-up vernal pool survey was conducted in Spring 2013 to investigate areas which were not directly investigated or were not within the study area for the alignment submitted for review to the PSB on 2/28/13. The results of the follow up natural resources surveys conducted in Spring 2013 are summarized in the "Addison Natural Gas Project – Phase I – Natural Resources Studies - June 2013 Supplemental Memorandum" (June Supplemental*

Memorandum), submitted as Exhibit Petitioner Supplemental JAN-2 on 6/28/13 as part of the "Supplemental and Rebuttal Testimony of Jeffrey A. Nelson on Behalf of Vermont Gas Systems, Inc." on June 28, 2013. No Jefferson salamanders or evidence of their use were found during the vernal pool surveys conducted for the project in Spring 2012 or 2013."

Hairy-fruited sedge has been surveyed and populations were identified. Annual impact monitoring of rare plants will be completed by September 1 of each required monitoring year. Monitoring and control methods will be carried out as specified in the *VGS-ANGP-Phase I Vegetation Management Plan – Transmission Main Plan* dated September 16, 2013. Vermont Gas will submit a report each monitoring year.

Comment A-7: In general, the proposal to maintain a 50-foot forest opening in the pipeline alignment is inappropriate. A 50-foot opening presents a significant barrier to the normal movements of small mammals, reptiles, amphibians, and some bird species. Wherever possible the forest opening should be kept to a maximum of 25 feet rather than a default to a wider opening.

Response A-7: Vermont Gas committed to the corridor sizes proposed based both on conditions imposed by the DEC in addition to technical feasibility. The DEC has concluded that the corridor established for the Project has been minimized to the extent practicable.

B. Procedural Comments

Comment B-1: I would like to better understand the process used for changing wetland designations from class II to class III. Did the Wetlands Program assess the wetlands that were downgraded to class III?

Response B-1: There are two Class III wetlands indicated in the Natural Resources maps within the amended alignment areas: 2012-JB-10 and 2015-MJ-2. VHB delineated both of these wetlands and consulted with the program to determine the appropriate default classifications. Wetland 2012-JB-10 was reviewed by the wetlands program in the field and office and was not reclassified from Class II to Class III. 2012-JB-10 is a small roadside wetland which is neither mapped as Class II or presumed Class II, so is Class III. This default classification appears appropriate. Wetland 2015-MJ-2 was reviewed by the program last fall in the field with a VHB consultant. The wetland mapping overlaps the delineated wetland area and is therefore a Class II wetland unless a formal determination is made by submitting a petition. The map labeling on the application's natural resources maps are incorrect and the applicant has submitted updated maps with the correct classification. Regardless of the classification, the applicant will not be changing the nature of the 50ft cropped field wetland buffer by traveling across it, and will not need a wetland permit for such activity.

Comment B-2: What measures does the Wetlands Program take to ensure compliance during pipeline construction and site restoration?

Response B-2: The Wetlands Program does not have regularly scheduled compliance visits, however we have conducted compliance visits for this project. The program is committed to following up on complaints, and regularly works throughout the area of the project. Vermont Gas is required to notify the Wetlands Program when construction is completed, which will allow the program to review restoration.

Comment B-3: Are other state entities involved in regulatory compliance as it relates to the protection of wetland functions and values?

Response B-3: Yes, The Environmental Compliance Division investigates environmental complaints made by citizens as well as other matters referred to the Division by DEC environmental media programs, and other State and Federal Agencies.

Comment B-4: Comment pertaining to the fact that the wetland amendments do not show the same location of main line valve #4 as that which the Public Service Board has approved, and therefore the application should be deemed incomplete. Also commented that the alignments for the two amendments are different and should be one amendment rather than two.

Response B-4: The wetland application is deemed technically complete when it is determined that it provides adequate information and documentation to allow the DEC to initially determine whether the application appears to meet the applicable standards. Each application for alignment changes for VGS Phase I have included an analysis of the cumulative impacts of the project. This new permit supercedes the previously permitted impacts to wetlands 2013-CM-3, 2014-CM-3, 2012-JB-12, and 2013-AW-RS-29.

C. Other Comments

Comment C-1: The Commission has general concerns about oversight of the construction process and the potential spread of invasive species. The proposed Memorandum of Understanding between Vermont Gas Systems and the Town of Monkton included funding for professional construction oversight and post construction monitoring of the large wetland (2012-RTE-PS-045) for exotic invasive species. In lieu of the Memorandum of Understanding, permits should require that contractors be required to thoroughly clean their equipment between job sites and prior to commencement of this project to prevent the spread of invasive species. Post-construction monitoring for exotic invasives should persist for at least 10 years. Introduction of invasive plant species to this wetland could significantly compromise the effectiveness of the amphibian crossings recently constructed at this site.

Response C-1: This concern has been addressed in the wetlands permit condition J.

Comment C-2: General concerns of blasting and the contamination of water.

Response C-2: Health concerns pertaining to the blasting of rock are beyond the scope of review for a wetlands permit.