

**Water Quality Certification**  
**(33 U.S.C. § 1341)**

In the matter of:       Green Mountain Power Corporation  
                                  2152 Post Road  
                                  Rutland, Vermont 05701

**APPLICATION FOR CLAY HILL ROAD LINE 66 TRANSMISSION LINE PROJECT**

Section 401 of the federal Clean Water Act requires that any applicant for a Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters, shall provide the licensing or permitting agency a certification from the State in which the discharge originates that any such discharge will comply with other substantive provisions of the Clean Water Act. 33 U.S.C. § 1341(a)(1). The certifying State may set forth any effluent limitations and other limitations, and monitoring requirements necessary to assure that any applicant for a Federal license or permit will comply with the Clean Water Act and with any other appropriate requirement of State law. 33 U.S.C. § 1341(d). In Vermont, the Agency of Natural Resources is the certifying agency of the State for purposes of Section 401 of the Clean Water Act. 10 V.S.A. § 1004. The Secretary of Natural Resources has delegated the authority to make certification determinations to the Department of Environmental Conservation (Department).

The Department has reviewed a water quality certification application dated May 12, 2020 filed by the Green Mountain Power Corporation (GMP or the Applicant) for the Clay Hill Road Line 66 Transmission Line Project (the project). The supporting documentation for the certification application includes the Applicant's Federal Energy Regulatory Commission (FERC) license application (FERC No. 12766-006) dated November 22, 2019 and other supporting documents filed by the Applicant in support of the application. The record for this decision includes the April 22, 2020 FERC Additional Information Request (AIR) responses; and other documents related to the project and its relicensing filed through May 29, 2020.

The current application is subject to review under the Vermont Water Quality Standards promulgated by the Agency of Natural Resources and effective beginning January 15, 2017 (Environmental Protection Rule, Chapter 29A) (Standards). (Standards, Section 29A-101 Applicability).

The Department, based on the application and record before it, makes the following findings and conclusions.

**I.       Applicable Statutes and Regulations**

**A.       Applicable provisions of the Vermont Water Quality Standards**

1.       The applicable 2017 Vermont Water Quality Standards (Environmental Protection Rule, Chapter 29A) (Standards) were adopted by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A., Chapter 47, Water Pollution Control. Section 1252 of the chapter provides for the classification of high quality waters as either Class A(1), A(2), B(1) or B(2) and authorizes the adoption of standards of water quality to achieve the purpose of classification.

2. The Anti-Degradation Policy in the Standards requires that “[a]ll waters shall be managed in accordance with [Standards] to protect, maintain, and improve water quality.” (Standards, § 29A-105).
3. All waters of the State shall be managed to support their designated and existing uses. A body of water may be assigned different classifications for different uses. (Standards, § 29A-104(a)-(b)).
4. The designated uses in the Standards are: aquatic biota and wildlife that may utilize or are present in the waters; aquatic habitat to support aquatic biota, wildlife, or plant life; the use of waters for swimming and other primary contact recreation; the use of waters for boating and related recreational uses; the use of waters for fishing and related recreational uses; the use of waters for the enjoyment of aesthetic conditions; the use of the water for public water source; and the use of water for irrigation of crops and other agricultural uses. (Standards, § 29A-104(d)).
5. The affected reaches of the streams have been classified as Class B(2) for all uses.
6. The management objectives for waters classified as Class B(2) for aquatic biota and wildlife are: “Waters shall be managed to achieve and maintain good biological integrity.” (Standards, § 29A-306(a)(3)(A)). The Class B(2) criteria for aquatic biota and wildlife use require “Change from the natural condition for aquatic macroinvertebrate and fish assemblages not exceeding moderate changes in the relative proportions of taxonomic, functional, tolerant, and intolerant aquatic organisms.” (Standards, § 29A-306(a)(3)(B)).
7. The management objectives for waters classified as Class B(2) for aquatic habitat are: “Waters shall be managed to achieve and maintain high quality aquatic habitat. The physical habitat structure, stream processes, and flow characteristics of rivers and streams and physical character and water level of lakes and ponds necessary to fully support all life-cycle functions of aquatic biota and wildlife, including overwintering and reproductive requirements, are maintained and protected.” (Standards, § 29A-306(b)(A)). The Class B(2) criteria for aquatic habitat use in rivers and streams are: “Changes to flow characteristics, physical habitat structure, and stream processes limited to moderate differences from the natural condition and consistent with the full support of high quality aquatic habitat. (Standards, § 29A-306(b)(3)(B)(i). Additionally, “waters shall comply with the Hydrology Criteria in § 29A-304” of the Standards. (Standards, § 29A-306(b)(3)(B)(iii)).
8. The management objectives for waters classified as Class B(2) for aesthetics are: “Waters shall be managed to achieve and maintain good aesthetic quality.” (Standards, § 29A-306(c)(3)(A)). The Class B(2) criteria for aesthetics use in rivers and streams are: “Water character, flows, water level, bed and channel characteristics, and flowing and falling water of good aesthetic value.” (Standards, § 29A-306(c)(3)(B)(i)).
9. The management objectives for waters classified as Class B(2) for fishing are: “Waters shall be managed to achieve and maintain level of water quality compatible with good quality fishing. (Standards, § 29A-306(e)(3)(A)). The Class B(2) criteria for fishing are “measures of wild salmonid densities, biomass, and age composition indicative of good population levels” and compliance with the temperature criteria in Section 29A-302(B) of the Standards. ((Standards, § 29A-306(e)(3)(B)(i) and (§ 29A-306(e)(3)(B)(ii)).

10. The stream resources affected by the project are designated as cold-water fish habitat. (Standards, § 29A-308).
11. In waters designated as cold-water fish habitat, the dissolved oxygen (D.O.) standard is not less than 7mg/L and 75 percent saturation at all times, nor less than 95 percent saturation during late egg maturation and larval development of salmonids in waters that the Secretary determines are salmonid spawning or nursery areas important to the establishment or maintenance of the fishery resource. In all other waters designated as a cold-water fish habitat, the standard is not less than 6 mg/L and 70 percent saturation at all times. (Standards, § 29A-302(5)(A)).
12. The general temperature standard for waters is “[c]hange or rate of change in temperature, either upward or downward, shall be controlled to ensure full support of aquatic biota, wildlife, and aquatic habitat uses.” (Standards, § 29A-302(1)(A)).
13. In waters designated as cold-water fish habitat and classified as Class B(2) for the fishing use, the total increase from ambient temperature due to all discharges and activities shall not exceed 1.0° F. (Standards, § 29A-302(1)(B)(iii)).
14. The turbidity standard as an annual average under dry weather base-flow conditions is 10 NTU for cold-water fish habitat. (Standards, § 29A-302(4)(A)).

## **II. Factual Findings**

### **A. Background and General Setting**

15. The Clay Hill Road 66 Transmission Line Project is a 2.3-mile, 12.5 kV, three phased line located in the Town of Hartford, Vermont. The transmission line runs along Clay Hill Road and carries electricity generated from the North Hartland Hydroelectric Project (FERC No. 2816), which is owned and operated by North Hartland, LLC.
16. The transmission line was originally a component of the North Hartland Hydroelectric Project but was transferred to Central Vermont Public Service in May 2007, and subsequently transferred to Green Mountain Power Corporation (GMP) in September 2012.
17. The Clay Hill Project cuts through sections of forest and agricultural land along Clay Hill Road which is fragmented by the development of single-family houses. The Project crosses Fuller Brook and three unnamed streams that all flow into the reservoir created by North Hartland dam.

### **B. Project Works**

#### *Existing Development*

18. The Project includes a 2.3-mile, 12-kV, three phase line mounted on GMP distribution line (Line 66) along Clay Hill Road from pole 115 to 62x and appurtenant facilities.

#### *Current Operations*

19. The Project carries electricity exclusively generated by the FERC-licensed North Hartland Hydroelectric Project.

*Applicant Proposed Operations*

20. The Applicant is not proposing any changes to current operations.
21. The Applicant proposes to consult with resource agencies for any planned changes, such as non-emergency replacement of, or construction of, new utility poles to minimize potential impacts on riparian resources.
22. The Applicant proposes to implement seasonal restrictions and avoid tree trimming and removal between April 1<sup>st</sup> and October 31<sup>st</sup> for protection of the northern long-eared bat (*Myotis septentrionalis*). If emergency tree trimming, removal, or pole removal is required during the seasonal protective period, GMP will consult with the Department and U.S. Fish and Wildlife Service as soon as is practical afterwards.
23. The Applicant proposes to follow the Vermont Wetland Rules allowed uses and best management practices for distribution line maintenance and repair activities. The following measures are proposed to be implemented to protect wetland and riparian resources:
  - The placement, maintenance, or removal of a pole shall not result in discharge to Waters of the State. Department-recommended sediment and erosion controls shall be utilized as needed;
  - No alteration to the configuration of a wetland outlet or the flow of water into or out of a wetland. This includes no draining, dredging, or grading within wetlands;
  - No use of large equipment in wetland areas until the ground is frozen;
  - Disturbed areas or ruts created by repair or maintenance activities shall be reseeded with a mix of perennials approved by the Department;
  - Low-growing vegetation within wetlands and riparian areas shall be maintained to prevent erosion;
  - Unavoidable, cutting of woody vegetation in wetland areas shall be completed by hand. Only trees and sapling that have the potential to reach a height that interferes with utilities shall be removed.
  - The Applicant proposes to consult with the Department regarding any activity that may conflict with or may be beyond the scope of the above outlined measures. The Applicant proposes to pursue any necessary permits or implement additional best practices for required work.

**C. Stream Resources**

13. The transmission line is located within the Ottauquechee Watershed. The line crosses three unnamed streams and Fulling Brook all of which flow into the Ottauquechee River. All the streams are classified as Class B(2) for all designated uses and criteria. The drainage area for the streams at the crossing point are provided in below.
14. The Department does not have information on the water chemistry (temperature, dissolved oxygen, etc.) for the streams that the Project crosses, and the continued operation of the transmission line is not expected to affect the water quality of the streams. However, the

continued need for maintenance (i.e. vegetation management and replacement or movement of utility poles) of the transmission line may result in a discharge that has the potential to affect water chemistry.

15. The transmission line poles at the stream crossings may reside within the riparian area of the streams.

<b>Streams</b>	<b>Watershed Area (sq. miles)</b>
Unnamed Stream 1	0.25
Unnamed Stream 2	0.11
Unnamed Stream 3	0.05
Fulling Brook	5.76

**D. Wetland Resources**

38. There are no known wetlands within the project boundary. The Vermont wetlands inventory information identifies two class 2 wetlands adjacent to the project at approximately 1.3 and 1.9 miles. The first wetland is associated with a freshwater pond and its surround riparian area off Clay Hill Road. The second is a freshwater emergent wetland.
39. Maintenance of vegetation and the transmission line has the potential to impact wetlands and/or associated buffer areas.

**E. Aquatic Biota**

40. “Aquatic Biota” means all organisms that, as part of their natural life cycles, live in or on waters. (Standards, Section 29A-102(5)). Aquatic biota includes, for example, fish, aquatic insects, amphibians, and some reptiles such as turtles.
41. There has been no fish or aquatic biota sampling conducted on the streams that are crossed by the Project. Fulling Brook likely supports brook trout (*Salvelinus fontinalis*), *Rhinichthys spp.* (blacknose and longnose dace) and Cyprinids along with various other macroinvertebrates and amphibians. Cyprinids, macroinvertebrates, and amphibians are likely present in the other unnamed streams crossed by the Project.
42. Maintenance of the poles and vegetation may result in a discharge to waters that has the potential to affect the aquatic biota of the streams that the project crosses.

**F. Aquatic Habitat**

43. “Aquatic Habitat” means the physical, chemical, and biological components of the water environment. (Standards, Section 29A-102(6)). Aquatic habitat includes aquatic plants, woody debris, and an adequate flow regime.
44. The transmission line crosses four streams and the continued operation of the transmission line may affect the woody debris regime and other stream processes through associated maintenance activities and location of utility poles in the riparian area.

### **G. Rare, Threatened, and Endangered Species**

45. The northern long-eared bat (*Myotis septentrionalis*) is listed as endangered under the Vermont Endangered Species Law (10 VSA Chapter 123). Northern long-eared bats have been documented within a mile of the Project.
46. Northern long-eared bats are known to roost in tree cavities, under bark, or in hollows of live or dead trees that are typically greater than 3 inches in diameter in the summer months, either as single individuals or small colonies. Additionally, trees with exfoliating bark, cracks or other cavities have been found to be used by northern long eared bats for roosting.
47. Vegetation maintenance associated with the continuing operation of the transmission line has the potential impact northern long eared bats when they utilize trees for roosting.

### **H. Recreation**

48. The streams crossed by the transmission line may support recreational activities, such as fishing.

### **I. Aesthetics**

49. The flow and substrate of the streams crossed by the Project will not be affected by continuing operations.

### **J. Sediment and Erosion**

50. The maintenance of the transmission line may result in a discharge to waters of the state. Specifically, the placement, maintenance, or removal of poles or activities related to removal of vegetation such as removing vegetation in the riparian or wetland areas or using large equipment that causes ruts.

## **III. Analysis**

51. A state's 401 certification determination shall include a statement from the state that "there is a reasonable assurance that the activity will be conducted in a manner which will not violate applicable water quality standards." 40 C.F.R. § 121.2(a)(3); Environmental Protection Rules, Chapter § 13.11(g). Accordingly, the Department may set forth limitations and other requirements necessary for it to find that there is reasonable assurance that the activity and project will be operated in a manner which will not violate the Vermont Water Quality Standards.
52. The potential impacts associated with the project are those associated with the continued operation and maintenance of the transmission line project.

### **A. Stream Resources**

53. The maintenance activities associated with continued operation have the potential to cause erosion which could result in a discharge into state waters which may affect water chemistry. The Applicant has proposed various methods to reduce and control erosion and sedimentation during maintenance. These are included in Condition C and E of this certification.

54. The continued operation of the transmission project where poles are within the riparian area have the potential to affect stream resources. The Applicant has proposed to consult with the Department for any planned changes, such as non-emergency replacement of or construction of new utility poles to minimize a potential impacts the riparian resources (Condition B).

**B. Wetland Resources**

55. There are two wetlands adjacent to the Project. The Applicant has proposed various methods to limit potential impacts to the buffer area from vegetation management associated with continuing operation of the Project. These are included in Condition C of this certification.

**C. Aquatic Biota**

56. The maintenance activities associated with continued operation of the transmission line may result in a discharge into State waters which has the potential to impact aquatic biota. This certification includes conditions to control erosion to minimize the risk of a potential discharge (Condition E).

**D. Aquatic Habitat**

57. The continued operations of the transmission line and associated maintenance have the potential to affect components of aquatic habitat at the four stream crossings. The Applicant proposes to consult with the Department for any planned changes, such as non-emergency replacement of or construction of new utility poles to minimize potential impacts to stream and riparian resources (Condition B).

**E. Rare, Threatened, and Endangered Species**

58. As described in finding 45 through 47, the northern long-eared bat, a state-listed endangered species, is known to occur within the vicinity of the Clay Hill Transmission Line. To protect northern long-eared bats, the Applicant is proposing to implement seasonal restrictions on tree cutting. These conditions are required as part of this certification (Condition D).

**F. Recreation**

59. The continued operation of the transmission line will not impact recreational activities at the streams crossed by the project. The streams will continue to support recreational uses.

**G. Aesthetics**

60. The continued operation and maintenance of the Project will not affect the stream flow or substrate of the four streams crossed. The streams will continue to support the aesthetics use.

**H. Sediment and Erosion**

61. The maintenance and vegetation management activities associated with the continued operation of the transmission line may result in a discharge of sediment to State waters. The Applicant proposes to employ various erosion control and other management practices to limit the potential of sediment laden water to be discharged to State waters. This certification is being conditioned (Condition E) to require that all sediment and erosion

control measures are properly employed and best management practices utilized to reduce the potential for discharge.

**I. Antidegradation**

62. Pursuant to the Antidegradation Policy set forth in the Water Quality Standards, Section 29A-105 and the Agency's 2010 Interim Anti-Degradation Implementation Procedure (Procedure), the Secretary must determine whether a proposed discharge or activities are consistent with the Policy by applying the Procedure during the review of applications for any permit for a new discharge if, during the application review process, compliance with the Standards is evaluated pursuant to applicable state or federal law. (Procedure III(A)). This includes review of applications for water quality certifications required by Section 401 of the federal Clean Water Act for a federal license or permit for discharges to streams. (Procedure III(B)(6)).
63. In making the determination that proposed activities are consistent with the Policy, the Secretary is required to use all credible and relevant information and the best professional judgment of Agency staff. (Procedure III(D)). Section X of the Procedure governs the Agency's review of Section 401 applications for activities that may result in a discharge to streams or wetlands. (Procedure X(A)(1)). The Secretary may have to review a single waterbody under multiple tiers of review depending on whether a waterbody is impaired or high quality for different parameters.
64. Tier 3 review is required if the project will discharge to an Outstanding Resource Water. (Procedure X(E)). This project does not affect any Outstanding Resource Waters and therefore does not trigger a Tier 3 review under Section X of the Procedure.
65. This project affects waters classified as B(2) for all designated uses, which are assumed to be high quality waters for certain parameters that trigger a Tier 2 review under Section X of the Procedure. (Procedure X(F)(1)(c)). Under Tier 2, the Secretary must determine whether the proposed activity will result in a limited reduction in water quality in a high quality water by utilizing all credible and relevant information and the best professional judgment of Agency staff. (Procedure X(F)(2)(b)).
66. When conducting a Tier 2 review, the Secretary may consider, when appropriate, one or more of the following factors when determining if a proposed activity will result in a reduction in water quality: (i) the predicted change, if any, in ambient water quality criteria at the appropriate critical conditions; (ii) whether there is a change in total pollutant loadings; (iii) whether there is a reduction in available assimilative capacity; (iv) the nature, persistence and potential effects of the pollutant; (v) the ratio of stream flow to discharge flow (dilution ratio); (vi) the duration of discharge; (vii) whether there are impacts to aquatic biota or habitat that are capable of being detected in the applicable receiving water; (viii) the existing physical, chemical and biological data for the receiving water; (ix) degree of hydrologic or sediment regime modifications; and (x) any other flow modifications. (Procedure X(F)(2)(d)).
67. The Secretary considered the foregoing factors during the review of the project to determine if the project will result in a reduction of water quality. The principal impacts of the continued operation of the transmission line project are associated with the line and utility pole maintenance and vegetation management. Compliance with the conditions imposed by this certification will ensure that the maintenance and vegetation management



activities of the transmission line project will not result in a discharge of additional pollutants or reduce other ambient water quality criteria. As a result, factors (i), (ii), (iii), (iv), (v), and (vi) are not at issue. Continued operation of the project as conditioned will not impact aquatic habitat and aesthetics.

68. This Certification does not authorize any activities that would result in a lowering of water quality for those parameters that are exceeding water quality standards.
69. For those parameters for which the streams crossed by the transmission line project are not exceeding water quality standards, the Secretary must conduct a Tier 1 review to determine that the existing uses of the waters and the level of water quality necessary to protect those uses shall be maintained and protected. (Procedure X(G)).
70. Under Tier 1 review, the Secretary may identify existing uses and determine the conditions necessary to protect and maintain these uses. (Procedure X(G)). In determining the existing uses to be protected and maintained, the Secretary must consider the following factors: (a) aquatic biota and wildlife that utilize or are present in the waters; (b) habitat that supports existing aquatic biota, wildlife, or plant life; (c) the use of the waters for recreation or fishing; (d) the use of the water for water supply, or commercial activity that depends directly on the preservation of an existing high level of water quality; and (e) evidence of the uses' ecological significance in the functioning of the ecosystem or evidence of the uses' rarity. (Procedure X(G)(2)).
71. The Secretary considered all of the factors listed above and based on information supplied by the Applicant and Agency staff field investigations, identified the following existing uses: aquatic biota and wildlife; aquatic habitat; aesthetics; and recreation.
72. The transmission line has minimal effects on the natural condition of the streams crossed by the project. Currently, aquatic biota and wildlife, aquatic habitat, aesthetics, and recreational uses are being minimally impacted at the crossings and have the potential to be impacted by associated maintenance. However, the conditions under this Certification will address potential water quality concerns and limit the risk of a discharge to State waters from maintenance and vegetation management activities.
73. The Secretary finds that the operation of the project as conditioned by this Certification will comply with the Vermont Water Quality Standards. Accordingly, the Secretary finds that the project, as conditioned, meets the requirements of the Antidegradation Policy and Procedure relating to the protection and maintenance of high quality waters.

### **Decision and Certification**

The Department has examined the project application and bases its decision in this Certification upon an evaluation of the information contained therein that is relevant to the Department's responsibilities under Section 401 of the federal Clean Water Act and has examined other pertinent information deemed relevant by the Department, sufficient to enable the Department to certify that there is reasonable assurance that maintenance and operation of the Clay Hill Transmission Line Project in accordance with the following conditions will not cause a violation of Vermont Water Quality Standards and will be in compliance with sections 301, 302, 303, 306, and 307 of the Federal Clean Water Act, 33 U.S.C. § 1251 et seq., as amended, and other appropriate requirements of state law.

- A. **Compliance with Conditions.** The applicant shall operate and maintain this project consistent with the findings and conditions of this certification,
- B. **Riparian Area and Utility Pole Maintenance.** For any planned changes, such as non-emergency replacement of or construction of new utility poles for the project within the riparian areas of waters of the state, the Applicant shall consult with the Department to determine if placement of the pole could be done in a way as to minimize potential impacts on riparian resources.
- C. **Vegetation Management near Wetlands.** The Applicant shall implement the following measures to protect wetland and riparian resources during vegetation management and maintenance activities:
- The placement, maintenance, or removal of a pole shall not result in discharge to Waters of the State. Department-recommended sediment and erosion controls shall be utilized as needed;
  - No alteration to the configuration of a wetland outlet or the flow of water into or out of a wetland shall be allowed. This includes no draining, dredging, or grading within wetlands;
  - No use of large equipment in wetland areas until the ground is frozen;
  - Disturbed areas or ruts created by repair or maintenance activities shall be reseeded with a mix of perennials approved by the Department;
  - Low-growing vegetation within wetlands and riparian areas shall be maintained to prevent erosion;
  - Unavoidable cutting of woody vegetation in wetland areas shall be completed by hand. Only trees and sapling that have the potential to reach a height that interferes with utilities shall be removed.

The Applicant shall consult with the Department regarding any activity that may conflict with or may be beyond the scope of the above outlined measures.

- D. **Northern Long-Eared Bat Protective Measures.** The removal of trees of 3-inches in diameter breast height or larger shall be avoided, except in the case of an emergency, between April 1<sup>st</sup> and October 31<sup>st</sup> for protection of the northern long-eared bat (*Myotis septentrionalis*). In the case of an emergency where tree trimming, removal, or pole removal are required during seasonal protective period, the Applicant will consult with the Department and U.S. Fish and Wildlife Service as soon as is practical afterwards.

Prior to non-emergency tree removal activities (trees of 3-inches in diameter breast height or larger), the Applicant shall develop a tree removal plan in consultation with the Vermont Department of Fish and Wildlife and U.S. Fish and Wildlife Service. The plan shall include tree removal methods and an approximate work schedule.

- E. **Erosion and Sediment Control.** Erosion prevention and sediment control measures shall be employed as necessary to prevent any discharge to State waters that would violate Standards.

- F. **Maintenance and Repair Work.** Any proposals for project maintenance or repair work, shall be filed with the Department for prior review and approval, if said work may have an adverse effect on water quality.
- G. **Compliance Inspection by Department.** The Applicant shall allow the Department to inspect the project at any time to monitor compliance with Certification conditions.
- H. **Approval of Project Changes.** Any change to the project that would have a significant or material effect on the findings, conclusions, or conditions of this Certification, including project operation, must be submitted to the Department for prior review and written approval where appropriate and authorized by law and only as related to the change proposed.
- I. **Continuing Jurisdiction.** By condition of this certification, the Department retains the continuing jurisdiction over the Project and may reopen this certification to assure compliance with the Standards and to respond to any changes in classification or management objectives for the waters affected by the Project.

### **Effective Date and Expiration of Certification**

This certification shall become effective on the date of issuance, and the condition of any certification shall become conditions of the federal permit (33 U.S.C. § 1341(d)). If the federal authority denies a permit, the certification becomes null and void. Otherwise, the certification runs for the terms of the federal license or permit.

### **Enforcement**

Upon receipt of information that water quality standards are being violated as a consequence of the project's construction or operation or that one or more certification conditions has not been complied with, the Secretary, after consultation with the Applicant and notification of the appropriate federal permitting agency, may, after notice and opportunity for a public hearing, modify the Certification and provide a copy of such modification to the Applicant and the federal permitting agency.

Certification conditions are subject to enforcement mechanisms available to the federal agency issuing the license or permit and to the state of Vermont. Other mechanisms under Vermont state law may also be used to correct or prevent adverse water quality impacts from construction or operation of activities for which certification has been issued.

### **Appeals**

Pursuant to 10 V.S.A. Chapter 220, any appeal of this decision must be filed with the clerk of the Environmental Division of the Superior Court within 30 days of the date of the decision. 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 Division; 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 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 online at

[www.vermontjudiciary.org](http://www.vermontjudiciary.org). The address for the Environmental Division is 32 Cherry Street, 2nd Floor, Suite 303; Burlington, VT 05401 (Tel. 802.951.1740).

Pursuant to 10 V.S.A. Chapter 220, an aggrieved person shall not appeal this decision unless the person submitted to the Secretary a written comment during the applicable public comment period or an oral comment at the public meeting conducted by the Secretary. Absent a determination of the Environmental judge to the contrary, an aggrieved person may only appeal issues related to the person's comments to the Secretary as prescribed by 10 V.S.A. § 8504(d)(2).

Dated at Montpelier, Vermont this  
15th day of October 2020

Peter Walke, Commissioner  
Department of Environmental Conservation

By

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Peter LaFlamme, Director  
Watershed Management Division  
Department of Environmental Conservation