

Flood Hazard Area & River Corridor Individual Permit 10 V.S.A. § 754

PERMIT #: FP-3-0002-IND

Date: 1/11/2016

Applicant: Green Mountain Railroad Corporation

Contact: Robert Wildey, VHB

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Project Location: Steamtown Road, Rockingham, VT

Flooding Source: Connecticut River

Project Description: Proposed upgrade to the existing rail servicing a propane off-loading facility; upgrade includes the construction of approximately 1380 feet of new railroad alongside an existing corridor including stone fill to raise the rail bed to match existing line elevations.

Based upon the Findings contained in this permit, the Secretary has determined that the proposed project will comply with the Flood Hazard Area & River Corridor Rule (Environmental Protection Rule, Chapter 29) and is hereby approved under the following conditions and specifications.

I. Findings

The Secretary of Natural Resources has determined that:

- (a) The project is partially located within the FEMA mapped special flood hazard area (Zone AE); the project is not located within the river corridor.
- (b) This project is exempt from municipal regulation because it is a state owned and operated facility.
- (c) This project authorization includes the construction a new rail spur, including the placement of 2,060 cubic yards of crushed stone to facilitate the off-loading of bulk propane at an existing facility owned and maintained by the Green Mountain Railroad Corporation.
- (d) This project meets the Standards of the Flood Hazard Area & River Corridor Rule (Subchapter 4), based on the following:
 - (1) The net change in fill below the Base Flood Elevation is expected to have no more than a minimal effect on the flood storage capacity and will not divert floodwaters onto adjacent properties thereby not adversely affecting public safety. The location of the new fill is located parallel to and further from the Connecticut River than the existing rail line, and is parallel to floodwater flow thereby having minimal impact to floodwater storage and flood conveyance. Additionally, flooding at the project area location is influenced by backwater effects from the Bellows Falls hydroelectric dam which is located downstream of the site.
 - (2) The project meets the No Adverse Impact Standard as required by the FHARC Rule 29-401(a).

- (3) The project is designed to be reasonably safe from flooding as required by §29-401(c)(2) of the Rule.
- (4) The project is designed to comply with the NFIP Floodplain Management Criteria in 44 C.F.R. § 60.3.

II. Specific Conditions

- (a) All construction shall be completed as shown on the plans submitted with the application materials for this Flood Hazard and River Corridor permit.
- (b) Construction shall not extend beyond summer 2016 construction season without a request for an extension.
- (c) All staging of materials and equipment during construction shall be removed from both the Special Flood Hazard Area and River Corridor at the completion of construction.
- (d) The permittee must notify the Floodplain Manager by phone or email when construction begins and when the project is complete.
- (e) As-built documentation prepared by a licensed land surveyor or professional engineer shall be submitted to the Floodplain Manager when the project is complete.

III. General Conditions

- (a) **Access to property.** By conducting any activity authorized under this permit, the permittee agrees to allow Agency representatives access to the property covered by this permit, at reasonable times and upon presentation of credentials, for the purpose of ascertaining compliance with the Vermont Flood Hazard Area & River Corridor Rule and this permit. This permit does not grant the permittee the right to enter onto any property not owned by the permittee.
- (b) **Changes to authorized activity.** All activity shall be completed and maintained in accordance with the terms and conditions of this permit. The permittee shall notify the Secretary of any planned changes to the authorized activity prior to carrying out such changes. The Secretary may require the permittee to submit additional information on the proposed change. The Secretary may require an amendment to this permit, which may require re-noticing of the project for public comment.
- (c) **Remedial measures.** The Secretary maintains continuing jurisdiction over an activity authorized under this permit and may at any time order remedial measures if it appears the activity is not in compliance with this permit.
- (d) **Compliance with other regulations.** This permit does not relieve the permittee of the responsibility to comply with any other applicable federal, state, and local laws, regulations, and permits.
- (e) **Legal responsibilities for damages.** The Secretary, by issuing permit, accepts no legal responsibility for any damage direct or indirect of whatever nature and by whomever suffered arising out of the approved activity.
- (f) **Revocation.** The Secretary may, after notice and opportunity for a hearing, revoke or suspend, in whole or in part, this permit for cause, including:
 - (1) Violation of the terms or conditions of this permit;
 - (2) Obtaining authorization by misrepresentation or failure to fully disclose all relevant facts;
 - (3) A change in any condition or new information that requires either a temporary or permanent reduction or elimination of the authorized activity.
- (g) **Duty to comply; enforcement.** The permittee shall comply with all terms and conditions of this permit. Any permit noncompliance constitutes a violation of the Flood Hazard Area & River Corridor Rule and


may be cause for an enforcement action and/or revocation and reissuance, modification, or termination of this permit.

- (h) **Transfer of permit.** The permittee may transfer this permit by submitting a notice of transfer on a form provided by the Secretary. The notice shall be submitted at least 10 days prior to transfer and shall include at a minimum, the name and address of the new permittee, the name and address of the former permittee, the date of transfer, and a statement signed by the new permittee stating that he/she has read and is familiar with the terms and conditions of this permit and agrees to comply with it.
- (i) **Reopener.** If, after granting this permit, the Secretary determines, at his or her discretion, that there is evidence indicating that an authorized activity does not comply with the requirements of the Flood Hazard Area & River Corridor Rule, the Secretary may reopen and modify this permit to include different limitations and requirements.
- (j) **Limitations.** This permit conveys no vested rights or exclusive privileges. This permit conveys no title to land nor authorizes any injury to public or private property.
- (k) **Appeals.**
 - (1) **Renewable Energy Project.** If this decision relates to a renewable energy plant for which a certificate of public good is required under 30 V.S.A. § 248, any appeal of this decision must be filed with the Vermont Public Service Board pursuant to 10 V.S.A. § 8506. This section does not apply to a facility that is subject to 10 V.S.A. § 1004 (dams before the Federal Energy Regulatory Commission), 10 V.S.A. § 1006 (certification of hydroelectric projects), or 10 V.S.A. Chapter 43 (dams). Any appeal under this section must be filed with the Clerk of the Public Service Board within 30 days of the date of this decision; the appellant must file with the Clerk an original and six copies of its appeal. The appellant shall provide notice of the filing of an appeal in accordance with 10 V.S.A. § 8504(c)(2), and shall also serve a copy of the Notice of Appeal on the Vermont Department of Public Service. For further information, see the Rules and General Orders of the Public Service Board, available online at www.psb.vermont.gov. The address for the Public Service Board is 112 State Street, Montpelier, Vermont, 05620-2701 (Tel. # 802-828-2358).
 - (2) **All Other Projects.** 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 the appellant's 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 on line at www.vermontjudiciary.org. The address for the Environmental Division is: 32 Cherry St.; 2nd Floor, Suite 303; Burlington, VT 05401. Telephone # 802-951-1740.

If the development is constructed as described and according to the above conditions, there is no reason to expect an adverse impact on either the river corridor or flood hazard area.

This permit shall be effective on the date of signing and shall be valid for a period of five years.

Alyssa B. Schuren, Commissioner
Vermont Department of Environmental Conservation

By  dated 1/11/2016
Rob Evans, River Corridor & Floodplain Manager
Rivers Program

cc: Kathleen Neathawk, Rockingham Town Clerk
Windham Regional Commission
Project Abutters:

- Green Mountain Railroad Corporation
- Sonnax Holdings, LLC