

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

PERMIT #: FP-1-0004-IND

Date: 11/10/2015

Applicant: Vermont Gas Systems, Inc.

Contact: Thomas Murray (VT Gas); Robert Wildey (VHB)

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Project Location: Natural gas distribution line located along Shard Villa Road, Three Mile Bridge Road & Halladay Road. 2 perennial stream HDD crossings are located along the route.

Flooding Source: Middlebury River & unnamed tributary to Middlebury River

Project Description: approximately 4.6 miles of new natural gas distribution pipeline, installed primarily within the public road ROW to connect the proposed methane digester facility in Salisbury to the planned VGS local distribution network throughout Middlebury. Distribution line will cross 2 perennial streams along the proposed route. At these crossings, VGS has proposed to construct a horizontal directional drill (HDD) crossing located beneath the existing streambed elevation. The proposed crossing of the Middlebury River will leave the public road ROW to accommodate the Middlebury River's river corridor.

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 located within the special flood hazard area (Zone AE) of the Middlebury River. The project is also located within the river corridor of the Middlebury River and an unnamed tributary to the Middlebury River.
- (b) This project is exempt from municipal regulation because it is covered under a Certificate of Public Good by the VT Public Service Board, as part of a planned Public utility power generating plant and transmission facility.
- (c) This project authorization includes a horizontal directional drill beneath 2 perennial stream crossings along the distribution line route.
- (d) This project meets the Standards of the Flood Hazard Area & River Corridor Rule (Subchapter 4), based on the following:
 - (1) Both HDD crossings shall not have an adverse impact on the river corridor. The crossings will perpendicularly cross the River Corridor at or below the streambed elevation to avoid damage from

vertical or horizontal adjustment of the stream channel. Therefore, the project will not cause the stream reach to depart from or further depart from the channel width, depth, meander pattern, and slope associated with natural stream process and equilibrium conditions; and will not result in an immediate need or anticipated future need for stream channelization, as a result of the proposed development, that would increase flood elevations and velocities or alter the sediment regime triggering channel adjustments and erosion in adjacent downstream locations.

- (2) The HDD crossing for the Middlebury River will not have an adverse impact on the inundation floodway or flood fringe because the distribution line will be located below streambed elevation and there shall be no changes to topography within the mapped special flood hazard area or regulatory floodway of the Middlebury River. Therefore, the project shall not have any effect on floodwater storage and will not divert floodwaters onto adjacent properties.
- (3) The project will not adversely affect the public safety by increasing flood elevations, flood velocities, or decreasing flood storage volume.
- (4) The project is designed to be reasonably safe from flooding as required by §29-401(c)(2) of the Rule.
- (5) The project is designed to comply with the NFIP Floodplain Management Criteria in 44 C.F.R. § 60.3.

II. Specific Conditions

- (a) The horizontal directional drill (HDD) crossing of the Middlebury River shall be depart from the public road ROW and across the Goodrich agricultural fields, as shown on Sheet 2 of the River Corridor, Floodway and Floodplain Map series included in the permit application. The HDD shall be constructed at the depth profile depicted on the cross-sections on sheet 6 of the plan set, maintaining a minimum of 10' below the streambed elevation.
- (b) The HDD of the unnamed tributary shall be constructed as depicted on sheet 2 of the plan set, a minimum of 5' below bed elevation which would be maintained for 10' on both sides of the channel.
- (c) In addition to the perennial stream crossings conditioned above in (a), at any location where the distribution line crosses within a mapped special flood hazard area or mapped river corridor, the distribution pipeline shall be constructed so that there shall be no change in the pre and post construction grades.
- (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

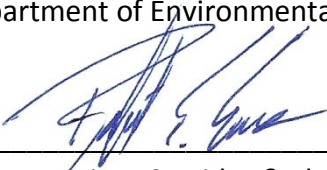
Public Service Board, available online at www.psb.vermont.gov. The address for the Public Service Board is 112 State Street, Montpelier, Vermont, 05620-2701 (Tel. # 802-828-2358).

(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 11/10/2015
Rob Evans, River Corridor & Floodplain Manager
Rivers Program

cc: Ann Webster, Middlebury Town Clerk
Addison County Regional Planning Commission

Abutters:

Richard E. Berthiaume
Jessica Racusin & Donald Mason, Jr.
Eric & Holly Hathaway
Town of Middlebury
Goodrich Family Farm, LLC