

## **Authorization under the Flood Hazard Area & River Corridor General Permit Reporting Activities - 10 V.S.A. § 754**

PERMIT #: FP-1-0031-2017-REG

Date: 2/1/2018

Applicant: Vermont Agency of Transportation

Contact: Jeff Ramsey

Phone: 802-828-1278

Email: [jeff.ramsey@vermont.gov](mailto:jeff.ramsey@vermont.gov)

Project Location: VTrans structure STP HES028-1(22) right near the intersection of US Route 2 & VT Route 314 in the Town of South Hero

Flooding Source: Unnamed Tributary to Lake Champlain

Project Description: Replacement of existing box culvert, including abutment and channel work.

Based upon the Findings contained in this authorization, the Secretary has determined that the proposed project complies with the requirements of the 2016 Flood Hazard Area & River Corridor General Permit and the Flood Hazard Area & River Corridor Rule (Environmental Protection Rule, Chapter 29) and is hereby approved subject to the conditions of the 2016 Flood Hazard Area & River Corridor General Permit and this authorization.

### **I. Findings**

The Secretary of Natural Resources has determined that:

- (a) The project is located within the special flood hazard area (Zone A). The project is also located within the river corridor.
- (b) This project is exempt from municipal regulation because it is a State-owned and operated institution or facility.
- (c) This project authorization includes the replacement of the existing 4'x4' box culvert with the proposed 8'x6' box culvert (4' high inside opening, with 32 square feet of waterway area) with wingwalls at the inlet and outlet. The new culvert installation will result in a minor stream crossing realignment to better align with the existing small stream. The culvert will be an extended length to accommodate the additional turn lane being added at the intersection. The existing structure has an atypical inlet with a 5' vertical drop down into the box. The replacement structure will remove this 5' drop at the inlet and the filled in portions of the upstream channel which resulted from the raised inlet will be excavated and stabilized. According to the VTrans 9/18/2012 Hydraulics Memo, the culvert underneath the

abandoned rail bed that is located about 55'-60' downstream of the subject culvert acts as a channel constriction during high runoff events and appears to control/affect the subject structure's hydraulics.

- (d) Based on the information provided by the applicant, the project is an eligible activity and will meet the standards in the above-referenced General Permit, if built as proposed.

## II. General Conditions


- (a) **Compliance with General Permit and this Authorization.** The permittee shall comply with this authorization and all the terms and conditions of the 2016 Flood Hazard Area & River Corridor General Permit.
- (b) **Access to property.** By conducting any activity under this authorization, the permittee agrees to allow Agency representatives access to the property covered by this authorization, at reasonable times and upon presentation of credentials, for the purpose of ascertaining compliance with the Vermont Flood Hazard Area & River Corridor Rule and the General Permit. This authorization does not grant the permittee the right to enter onto any property not owned by the permittee.
- (c) **Authorization for Substantial Changes.** All activity shall be completed and maintained in accordance with the terms and conditions of the General Permit and this authorization. The permittee shall notify the Secretary of any planned changes to the authorized activity. The Secretary may require the permittee to submit additional information on any proposed changes. The Secretary will notify the permittee if, based on the proposed changes to the authorized activity, a revised application for an individual permit must be submitted.
- (d) **Remedial measures.** The Secretary maintains continuing jurisdiction over the activity authorized under this authorization and may at any time order remedial measures if it appears the activity is not in compliance with the General Permit or this authorization.
- (e) **Compliance with other regulations.** This authorization does not relieve the permittee of the responsibility to comply with any other applicable federal, state, and local laws, regulations, and permits.
- (f) **Legal responsibilities for damages.** The Secretary, by issuing this authorization, accepts no legal responsibility for any damage direct or indirect of whatever nature and by whomever suffered arising out of the approved activity.
- (g) **Revocation.** The Secretary may, after notice and opportunity for a hearing, revoke or suspend, in whole or in part, this authorization for cause, including:
- (1) Violation of the terms or conditions of the General Permit or this authorization;
  - (2) Obtaining authorization by misrepresentation or failure to fully disclose all relevant facts;
  - (3) A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized activity.
- (h) **Duty to comply; enforcement.** The permittee shall comply with all terms and conditions of the General Permit and this authorization. Any 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 authorization.
- (i) **Transfer of Authorization.** This authorization may be transferred provided that a notice of transfer is submitted to the Secretary no later than five days prior to the transfer and the notice includes the following:
- (1) The name, mailing address, and contact information of the present permittee;
  - (2) The name, mailing address, and contact information of the prospective permittee;
  - (3) The proposed date of transfer; and

- (4) A statement signed by the prospective permittee, stating that the prospective permittee has read and is familiar with the terms and conditions of the permit and the authorization and agrees to comply with the permit and authorization.
- (j) **Limitations.** This authorization conveys no vested rights or exclusive privileges. This authorization 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 Utility Commission 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 Utility Commission 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 Utility Commission, available online at [www.puc.vermont.gov](http://www.puc.vermont.gov). The address for the Public Utility Commission 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 online at [www.vermontjudiciary.org](http://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 three years.

Emily Boedecker, Commissioner  
Department of Environmental Conservation

By  dated 2/1/2018  
Rebecca Pfeiffer, Northwest Floodplain Manager  
Rivers Program  
Watershed Management Division

cc: Sharon B. Roy, South Hero Town Clerk

Abutters:

Tricia Breault - 495 US Route 2, South Hero, VT 05486

Michael R. & Pamela J. Fulchino - 499 US Route 2, South Hero, VT 05486

LGM Holings, LLC - 19 East Allen St., Winooski, VT 05404

Anthony H. Bushway - P.O. Box 73, South Hero, VT 05486

Salvatore & Diana M. Yannotti - 2 Ferry Road, South Hero, VT 05486