

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

PERMIT #: FP-2-0010-IND

Date: 6/15/2017

Applicant: Eric Skovsted, Joe's Brook Farm

Contact: Same as above

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Project Location: 1525 Joe's Brook Road, Barnet, VT

Flooding Source: Joe's Brook

Project Description: Installation of 96' X 21' x 10' greenhouse (hoop house) with roll-up sides and electrical & gas connections. Placement of no more than 4,000 cubic feet of fill and excavation/removal of 4,320 cubic feet of earth. Application is after-the-fact.

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 A). The project is also located within the river corridor.
- (b) This project is exempt from municipal regulation because it is a Required Agricultural Practice.
- (c) This project authorization includes one 96' x 21' greenhouse (hoop house) anchored with posts driven at least 2' deep. The greenhouse lacks a constructed floor/slab and is open to the soil. Greenhouse sides will be rolled up (to create an opening in the sides at ground level) in the event of a flood. Electrical line servicing the greenhouse is in watertight conduit buried at least 4' deep. Fuel line is buried at least 2' deep. Fuel line connects to an existing fuel tank located outside of the Special Flood Hazard Area and River Corridor. Electrical breaker and gas heater are elevated inside the greenhouse at least 7' above field ground level. A maximum of 4,000 cubic feet (~148 cubic yards) of fill is spread beneath the greenhouse to provide drainage. This fill is offset by 4,320 cubic feet of earthen material excavated from a drainage swale and removed from the Special Flood Hazard Area and River Corridor. The excavation is 216' x 16' x 2.5' and triangular in cross section.
- (d) This project meets the Standards of the Flood Hazard Area & River Corridor Rule (Subchapter 4), based on the following:

- (1) The greenhouse can be located within the River Corridor because it is a temporary hoop house to be used solely for growing crops. Because of their temporary nature, the greenhouse and its fill footprint are not considered an expansion of the farm production area. The project will not cause or contribute to fluvial erosion hazards.
- (2) The project has provided compensatory storage, as verified by Patrick Ross, P.E. Therefore, the project will not adversely affect the public safety by increasing flood elevations, flood velocities, or decreasing flood storage volume.
- (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) Unless otherwise authorized under this Rule, the excavated area shall be maintained as needed and remain unobstructed to allow floodwater access.
- (b) The permittee shall notify the DEC Floodplain Manager when the greenhouse is relocated or removed in the future. Restoration of land grades may be required at that time as well as new authorization under this Rule.
- (c) The greenhouse shall be used for the propagation and growing of crops and shall not be used for storage. The greenhouse shall not be converted to any other use.
- (d) The greenhouse is considered temporary in nature and therefore any steps to convert the greenhouse to a more permanent structure in the future may require new authorization under this Rule.

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.

Emily Boedecker, Commissioner
Vermont Department of Environmental Conservation

By  dated 6/15/2017
Sacha Pealer, Northeast Floodplain Manager
Rivers Program
Watershed Management Division

cc: Benjamin P. Heisholt, Town Clerk, Town of Barnet
Shirley Warden, Zoning Administrator, Town of Barnet
Northeastern Vermont Development Association
Stephanie Smith, Vermont Agency of Agriculture, Food & Markets

Abutters:

John Patton Hyman Revocable Trust
Stewart Hoyt
Grace Gershuny