



State of Vermont
Department of Environmental Conservation

Agency of Natural Resources

Facilities Engineering Division
Laundry Building
103 South Main Street
Waterbury, VT 05671-0511

FAX (802) 244-4516

E-Mail Address: tom.joslin@state.vt.us
Direct Telephone (voice mail): (802) 241-3740

Patrick Scheidel, Town Manager
Authorized Representative
Town of Essex
81 Main Street
Essex Junction, Vermont 05452

November 17, 2009

Re: **Contract #1, Eurowest Town Center Stormwater Upgrade**
Contract #2, Perkins Bend Stormwater Upgrade

Vermont/ USEPA ARRA Clean Water Revolving Loan Numbers:
Contract #1, AR1-032, and Contract #2, AR1-033

Categorical Exclusion from Detailed Environmental Review

Dear Mr Scheidel:

The Department of Environmental Conservation has determined that the Town's proposed **Contract #1, Eurowest Town Center Stormwater Upgrade**, and **Contract #2, Perkins Bend Stormwater Upgrade**, may be excluded from the detailed environmental review procedures that are required for projects that have significant environmental effects. The Department's environmental review procedures require a **30 day public comment period** following the issuance of a Notice of Determination of Eligibility for Categorical Exclusion. If no public comments received during that period demonstrate that this Determination is in error, then the Categorical Exclusion exempting the project from detailed review will become effective.

Copies of documents supporting a Categorical Exclusion are enclosed. Please keep copies of the **enclosed documents available for public inspection** during a public comment period of 30 days. A full listing of the documents that must be available for public inspection is attached. Please call (241-3740) if you have any questions or concerns.

Sincerely

Thomas G. Joslin, P.E.
Environmental Engineer
Design Section

TGJ/tgj

Enclosures



Patrick Scheidel, Town Manager, Authorized Representative; Town of Essex, Vermont
Contract #1, Eurowest Town Center Stormwater Upgrade
Contract #2, Perkins Bend Stormwater Upgrade
Categorical Exclusion from Detailed Environmental Review
November 17, 2009

Documents Enclosed for Categorical Exclusion Public Comment Period (30 days)

1. *"Notice of Determination of Eligibility for Categorical Exclusion"*
(Signed by Larry R. Fitch, P.E., Director, Facilities Engineering Division.)
2. *"Evaluation of Eligibility for Categorical Exclusion"*
(Approved by Larry R. Fitch, P.E., Director, Facilities Engineering Division.)
3. *"Environmental Review Procedures for Projects Funded Through the Vermont/EPA Revolving Loan Program"*, also available online at:

http://www.anr.state.vt.us/dec/fed/design/docs/Environmental_Review_Procedures_for_VT-EPA_SRF.htm
4. **Categorical Exclusion** request letter, Town of Essex
5. **Environmental information document** titled *"Town of Essex, Stormwater System Improvements"*, and dated October 2009, by **O'Leary-Burke Civil Associates, PLC**, of Essex, Vermont.

COPY LIST

Dennis Lutz, P.E., Director of Public Works, Town of Essex

Paul O'Leary, P.E., O'Leary-Burke Civil Associates, PLC, Essex

James Pease ,	Environmental Analyst, Stormwater Section, VT-DEC, Water Quality Division
Kevin Burke ,	Environmental Analyst, Stormwater Section, VT-DEC, Water Quality Division
Jennifer Callahan ,	Environmental Analyst, Stormwater Section, VT-DEC, Water Quality Division
Emily Schelley ,	Environmental Analyst, Stormwater Section, VT-DEC, Water Quality Division

Alan Quackenbush, State Wetlands Coordinator, Wetlands Section, VT-DEC, Water Quality Division

Timothy Schmalz, State Plant Pathologist, Vermont Agency of Agriculture, Food and Markets

Everett Marshall, Information Manager, Nongame and Natural Heritage Program, VT Dept of Fish & Wildlife

Chuck Schwer, Chief, Site Management Section, VT-DEC, Waste Management Division

Scott Dillon, Archeologist, Division for Historic Preservation, VT Dept Housing and Community Affairs



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Notice of Determination of Eligibility for Categorical Exclusion

Town of Essex, Vermont

Contract #1, Eurowest Town Center Stormwater Upgrade
Contract #2, Perkins Bend Stormwater Upgrade

Vermont/ USEPA ARRA Clean Water Revolving Loan Numbers:
Contract #1, AR1-032, and Contract #2, AR1-033

In accordance with section VII of the Department's "*Environmental Review Procedures for Projects Funded Through the Vermont/EPA Revolving Loan Program*", the **Town of Essex** has requested that its proposed **Contract #1, Eurowest Town Center Stormwater Upgrade**, and **Contract #2, Perkins Bend Stormwater Upgrade**, be evaluated for eligibility for a Categorical Exclusion from the detailed environmental review that is described in the Procedures and required for projects with significant environmental effects.

Consideration of the **Town of Essex** request for Categorical Exclusion included a review of the following document:

Environmental information document titled "*Town of Essex, Stormwater System Improvements*", and dated October 2009, by **O'Leary-Burke Civil Associates, PLC**, of Essex, Vermont.

Upon completion of its independent evaluation, the Department has determined that the proposed project meets the criteria for issuance of a Categorical Exclusion.

The project will not create new stormwater discharge points, will not increase stormwater pollutant loadings or peak flow rates discharged to Indian Brook (Contract #1), and will decrease stormwater pollutant loadings and peak flow rates discharged to an unnamed brook directly tributary to the Winooski River (Contract #2).

Further, the project does not involve (create) serious local or environmental issues, or meet any of the criteria that would result in denial of an Exclusion.



Town of Essex, Vermont
Contract #1, Eurowest Town Center Stormwater Upgrade
Contract #2, Perkins Bend Stormwater Upgrade
Notice of Determination of Eligibility for Categorical Exclusion from Detailed Environmental Review
November 17, 2009

Further information on the project and this Determination is available for inspection at the following locations:

Patrick Scheidel, Town Manager
Town of Essex
81 Main Street
Essex Junction, Vermont 05452

voicemail (802) 878-1341
pscheidel@essex.org

Tom Joslin, P.E.
Vermont Department of Environmental Conservation
Facilities Engineering Division
Laundry Building, 103 South Main Street
Waterbury, VT 05671-0511

voicemail (802) 241-3740
tom.joslin@state.vt.us

Paul O'Leary, P.E.
O'Leary-Burke Civil Associates, PLC
1 Corporate Drive, Suite 1
Essex Junction, Vermont 05452

voicemail (802) 878-9990
poleary@olearyburke.com

No significant administrative action will be taken on this project for thirty (30) days from issuance of this Notice of Determination, to allow for public response.



Larry R. Fitch, P.E., Director
Facilities Engineering Division

Nov 17, 2009
Date

Department of Environmental Conservation
Vermont Agency of Natural Resources



State of Vermont
Department of Environmental Conservation

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Waterbury, VT 05671-0511

FAX (802) 244-4516

E-Mail: tom.joslin@state.vt.us
Direct Telephone (voice mail): (802) 241-3740

TO: Larry Fitch, Director, Facilities Engineering Division *Cancel by 10/17/09*
FROM: *TJ* Tom Joslin, Environmental Engineer, Design Section, Facilities Engineering Division
SUBJECT: Town of Essex
Contract #1, Eurowest Town Center Stormwater Upgrade
Contract #2, Perkins Bend Stormwater Upgrade

Evaluation of Eligibility for Categorical Exclusion
from Detailed Environmental Review

DATE: November 17, 2009

A. Project Identification

Project Name: Town of Essex
Contract #1, Eurowest Town Center Stormwater Upgrade
Contract #2, Perkins Bend Stormwater Upgrade

Address: Patrick Scheidel, Town Manager
Authorized Representative
Town of Essex
81 Main Street
Essex Junction, Vermont 05452

Project Location: Town of Essex, Vermont
Contract #1, north of Vermont Route 289 and west of Essex Way
Contract #2, south of Pinewood Drive and west of River View Drive

Vermont/ USEPA ARRA Clean Water Revolving Loan Numbers:
Contract #1, AR1-032, and Contract #2, AR1-033



Town of Essex, Vermont
Contract #1, Eurowest Town Center Stormwater Upgrade
Contract #2, Perkins Bend Stormwater Upgrade
Evaluation of Eligibility for Categorical Exclusion from Detailed Environmental Review
November 17, 2009

B. Summary of Environmental Review

In accordance with section VII of the Department's "*Environmental Review Procedures for Projects Funded Through the Vermont/EPA Revolving Loan Program*", the **Town of Essex** has requested that its proposed **Contract #1, Eurowest Town Center Stormwater Upgrade**, and **Contract #2, Perkins Bend Stormwater Upgrade**, be evaluated for eligibility for a Categorical Exclusion from the detailed environmental review that is described in the Procedures and required for projects with significant environmental effects.

The applicant's request, along with the following planning document, have been reviewed, and our findings are summarized below:

- **Environmental information document** titled "*Town of Essex, Stormwater System Improvements*", and dated October 2009, by **O'Leary-Burke Civil Associates, PLC**, of Essex, Vermont.

1. Project Description

The Town of Essex is located in **Chittenden County**, Vermont.

The proposed **Contract #1** will enlarge and upgrade the existing stormwater flow attenuation and treatment ponds that are located at the Essex Town Center area commercial and residential development, immediately north of Vermont Route 289 (Circumferential Highway) and between Vermont Route 15 and Essex Way. The enlarged and upgraded stormwater ponds will attenuate and treat stormwater flows from existing development as well as proposed additional mixed use development in the Town Meadow area immediately south and southeast of the intersection of Vermont Route 15 and Old Stage Road.

The proposed **Contract #2** will insert a compact underground stormwater detention and treatment facility into an existing storm drain system serving the neighborhood of the Perkins Bend condominium development. A stormwater discharge permit that had been issued to Perkins Bend had required a stormwater treatment pond at the location of the currently proposed facility, but that pond had not been constructed because of unfavorable soil conditions and steep slopes. **Contract #2** will bring the Perkins Bend stormwater system into discharge permit compliance.

The Town of Essex will acquire municipal easements for maintenance of the stormwater facilities constructed by both contracts.

The contract documents will contain standard requirements to limit hours of construction and to control noise, dust and discharges of pollutants during construction.

Town of Essex, Vermont

Contract #1, Eurowest Town Center Stormwater Upgrade

Contract #2, Perkins Bend Stormwater Upgrade

Evaluation of Eligibility for Categorical Exclusion from Detailed Environmental Review

November 17, 2009

In addition, the contract documents will contain provisions for prevention of spread of common reed (Phragmites australis), a Class B noxious weed (invasive plant), listed by the Vermont Agency of Agriculture, Food and Markets, that is now present within the work areas of both contracts.

2. Justification for Categorical Exclusion

We have determined that the proposed project meets the criteria for issuance of a Categorical Exclusion.

Contract #1 will enlarge and upgrade existing stormwater ponds, increasing their stormwater treatment capability and increasing storage capacity for attenuation of increased stormwater flows entering the ponds from new development. The treated and attenuated flows from the upgraded ponds will continue to discharge to Indian Brook, a stormwater impaired watershed. Contract #1 will not create a new stormwater discharge point and is not expected to increase pollutant loadings or peak flow rates.

Contract #2 will add stormwater treatment and flow attenuation to an existing storm drain system. The treated and attenuated stormwater flows will continue to discharge to an unnamed brook that flows directly to the Winooski River. Contract #2 will not create a new stormwater discharge point and is expected to decrease pollutant loadings and peak flow rates.

The project is not expected to adversely affect wetlands, wetlands buffer zones, floodplains, historic sites, archeological sites; habitats of rare, threatened or endangered species; or other environmentally or culturally sensitive areas.

The project does not involve (create) serious local or environmental issues, or meet any of the criteria that would result in denial of an Exclusion.

Vermont Department of Environmental Conservation
Facilities Engineering Division

Environmental Review Procedures for
Projects Funded Through the
Vermont/EPA Revolving Loan Program

I. Purpose and Policy

- a. Section 602(b)(6) of Title VI of the Federal Clean Water Act requires that states have an environmental review process for Title VI projects. This process can be the same as that applied to Title II projects under the National Environmental Policy Act (NEPA) or can be modified if the intent of NEPA is met. The State of Vermont, Department of Environmental Conservation (VT DEC) provides state grant funds to projects under Title II and Title VI and applies the NEPA process to Title II projects. It is our intent to apply substantially the same process to Title VI projects. A statement of the process follows.

II. Definitions

- a. Terminology. All terminology used in this part will be consistent with the terms as defined in 40 CFR Part 1508 (the CEQ Regulations). Any qualifications will be provided in the definitions set forth in each subpart of the procedure.
- b. The term "environmental review" means the process whereby an evaluation is undertaken by the VT DEC to determine whether a proposed project may have a significant impact on the environment and therefore require the preparation of an EIS.
- c. The term "environmental information document" means any written analysis prepared by an applicant or contractor describing the environmental impacts of a proposed project. This document will be of sufficient scope to enable the responsible official to assess the environmental impacts of the proposed project.
- d. The term "loan" means a loan of funds by a written loan agreement from the VT/EPA Revolving Loan Fund (SRF).
- e. "Applicant" means any local authority which has filed an application for loan assistance from the SRF.
- f. "Responsible official" means the Director, VT Public Facilities Division, or a designated representative thereof, who is authorized to fulfill the requirements of these procedures.
- g. The term "record of decision" (ROD) means a document prepared and issued by the VT DEC responsible official on the environmental impact statement which includes an identification of mitigation measures.
- h. The term "planning/design loan" means a loan which is issued for the purpose of preparation of a plan (including environmental review process) and/or preparation of design drawings

and specifications for a potential construction project.

- i. The term "project" means a construction project which receives a loan for the purpose of building a publicly owned treatment works.

III. Applicability

These procedures apply to all construction projects funded wholly or partly from funds within the VT/EPA Revolving Loan Fund which are derived from the federal capitalization grant, except as provided in Section IV. These procedures may be carried out during the planning/design project which received a loan from the revolving fund.

IV. Overview of the Environmental Review Process

The process for conducting an environmental review of wastewater facility construction projects includes the following steps:

- a. Consultation. The applicant is encouraged to consult with VT DEC early in project formulation or the facilities planning stage to determine whether a project is eligible for a categorical exclusion from the remaining substantive environmental review requirements of these procedures, to determine alternatives to the proposed project for evaluation, to identify potential environmental issues and opportunities for public recreation and open space, and to determine the potential need for partitioning the environmental review process and/or the need for an Environmental Impact Statement (EIS).
- b. Determining categorical exclusion eligibility. At the request of an applicant, VT DEC will determine if a project is eligible for a categorical exclusion as described in Section VII of these procedures.
- c. Documenting environmental information. If the project is determined to be ineligible for a categorical exclusion, or if no request for a categorical exclusion is made, the potential applicant subsequently prepares an Environmental Information Document (EID) for the project.

In the event that the proposed action is of a limited nature, but does not qualify for a categorical exclusion, and that an EID has been approved previously by the US EPA or VT DEC for wastewater facilities, the responsible official may determine to what extent updated information may suffice to provide the requisite environmental review of the project.

- d. Assessing environmental impacts. The VT DEC reviews the environmental information document and based upon an assessment of the environmental impacts of the proposed project, the VT DEC:
 1. Prepares and issues a Finding of No Significant Impact (FNSI); or
 2. Prepares and issues a Notice of Intent to prepare an original or supplement EIS and Record of Decision (ROD).
- e. Monitoring. The construction and post-construction operation and maintenance of the facilities are monitored to ensure implementation of mitigation measures identified in the FNSI or ROD.

V. Consulting During the Facilities Planning Process

The responsible official shall initiate the environmental review process early to identify environmental effects, avoid delays, and resolve conflicts. The environmental review process should be integrated throughout the facilities planning process. Potential applicants should consult with VT DEC early in the facilities planning process to determine the appropriateness of a categorical exclusion, the scope of an Environmental Assessment, or the appropriateness of the early preparation of an Environmental Impact Statement (EIS). The consultation would be most useful during the evaluation of project alternatives prior to the selection of a preferred alternative to assist in resolving any identified environmental problems.

VI. Coordination With Other Environmental Review and Consultation Requirements

Various state and federal laws and executive orders address specific environmental concerns and review procedures. The responsible official shall integrate to the greatest practicable extent those concerns and applicable procedures during implementation of the environmental review process to ensure an interdisciplinary approach to assessing impacts including adherence to other state and federal environmental objectives. Coordination shall be implemented early with the State Clearinghouse Review Process.

Referenced below are pertinent laws, regulations, or executive orders which should be included in this coordinated effort:

- a. Landmarks, historical, and archaeological sites
 - 1. Historic Sites Act;
 - 2. National Historic Preservation Act;
 - 3. Archaeological and Historic Preservation Act;
 - 4. Executive Order 11593, "Protection and Enhancement of the Cultural Environment;"
 - 5. Executive Order 12372, "Intergovernmental Review of Federal Programs;"
- b. Wetlands, floodplains, important farmlands, coastal zones, wild and scenic rivers, fish and wildlife, and endangered species.
 - 1. Executive Order 11990, "Protection of Wetlands;"
 - 2. Executive Order 11988, "Floodplain Management;"
 - 3. Farmland Protection Policy Act;
 - 4. EPA Policy to Protect Environmentally Significant Agricultural Lands, September 8, 1978;
 - 5. Coastal Zone Management Act;
 - 6. Wild and Scenic Rivers Act;

7. Fish and Wildlife Coordination Act; and
8. Endangered Species Act.

c. Air Quality-Clean Air Act, as amended in 1977.

VII. Categorical Exclusions

a. At the request of an applicant, the responsible official shall determine from existing information and documents whether an action is consistent with the categories eligible for exclusion from review identified in VII (b) and not inconsistent with the criteria in VII (c).

b. Categories of actions eligible for exclusion. For these procedures actions consistent with any of the following categories are eligible for a categorical exclusion:

1. Actions for which the facilities planning is solely directed toward minor rehabilitation of existing facilities, functional replacement of equipment, or toward the construction of new ancillary facilities adjacent or appurtenant to existing facilities which do not affect the degree of treatment or capacity of the existing facility by more than 20%. Such actions include, but are not limited to, infiltration and inflow corrections, replacement of existing facility, equipment or structures, and the construction of additional treatment structures on existing sites.
2. Actions in communities of less than 10,000 persons which are for minor upgrading and minor expansion of existing treatment works or collection lines, or for on-site disposal systems.
3. Other actions developed in accordance with paragraph (d) of this section.

c. Criteria for not granting a categorical exclusion.

1. The full environmental review procedures must be followed if undertaking an action consistent with the categories described in paragraph (b) may involve serious local or environmental issues, or meets any of the criteria listed below:
 - a. The facilities to be provided will create a new discharge to surface or groundwater;
 - b. The facilities will result in substantial increases in the volume of discharge or the loading of pollutants from an existing source or from new facilities to receiving waters;
 - c. The facilities would provide capacity to serve an equivalent population 30% greater than the existing equivalent population;
 - d. The action is known or expected to have a significant negative effect on the quality of the human environment, either individually, cumulatively over time, or in conjunction with other federal, state, local, or private actions;

- e. The action is known or expected to directly or indirectly affect: (1) cultural resource areas such as archaeological and historic sites, (2) habitats of endangered or threatened species, (3) environmentally important natural resource areas such as floodplains, wetlands, important farmlands, aquifer recharge zones, or (4) other resource areas identified in supplemental guidance issued by the VT DEC; or
 - f. The action is known or expected not to be cost-effective or to cause significant public controversy.
2. Notwithstanding the provisions of paragraph (b), if any of the above conditions exist, the responsible official shall ensure:
- a. That a categorical exclusion is not granted or, if previously granted, that it is revoked according to paragraph e2(c) of this part;
 - b. That either a FNSI or an EIS and ROD are prepared and issued.
- d. Developing new categories of excluded actions. The responsible official or other interested parties may request that a new category of excluded actions be created, or that an existing category be amended or deleted. The request shall be made in writing to the Director, and shall contain adequate information to support the request. Proposed new categories shall be developed by VT DEC. The following shall be considered in evaluating proposals for new categories:
- 1. Actions in the proposed category should seldom result in the effects identified in Paragraph VIII.(c)(1);
 - 2. Based upon previous environmental reviews, actions consistent with the proposed category have not required the preparation of an EIS; and
 - 3. Whether information adequate to determine if a potential action is consistent with the proposed category will normally be available when needed.
- e. Proceeding with loan agreements.
- 1. After a categorical exclusion on a proposed treatment works has been granted, and notices published, loan agreements may proceed without being subject to any further environmental review requirements, unless the responsible official determines that the project, or the conditions at the time of the categorical determination was made, have changed significantly since the independent VT DEC review of information submitted by the applicant in support of the exclusion.
 - 2. For categorical exclusion determinations five or more years old, the responsible official shall re-evaluate the project, environmental conditions and public views, and prior to a loan agreement, either:
 - a. Reaffirm--issue a public notice reaffirming the original environmental determination to proceed with the project without need for any further environmental review;
 - b. Supplement--update the information in the decision document on the

categorically excluded project and prepare, issue, and distribute a revised notice; or

- c. Reassess--revoke the categorical exclusion and require a complete environmental review to determine the need for an EIS, followed by preparation, issuance, and distribution of a FNSI, or EIS and ROD.

VIII. Environmental Review Process

- a. Review of completed facilities plans. VT DEC shall review the completed facilities plan with particular attention to the Environmental Information Document (EID) and its utilization in the development of alternatives and the selection of a preferred alternative. An adequate Environmental Information Document shall be an integral part of any facilities plan submitted to Vermont DEC. The EID shall be of sufficient scope to enable the responsible official to make determinations on requests for partitioning the environmental review process and for preparing a FNSI.
- b. Environmental assessment. The environmental assessment process shall cover all potentially significant environmental impacts. VT DEC personnel shall assess environmental impacts before the facilities plan approval if needed for compliance with environmental review requirements. Each of the following subjects, and requirements, shall be included in the EID so that Vermont DEC personnel may objectively identify potentially significant environmental concerns and the potential impacts.
 1. Description of the existing environment. For the delineated facilities planning area, the existing environmental conditions relevant to the analysis of alternatives, or to determining the environmental impacts of the proposed action, shall be considered.
 2. Description of the future environment without the project. The relevant future environmental conditions shall be described. The no action alternative should be discussed.
 3. Purpose and need. This should include a summary discussion and demonstration of the need, or absence of need, for wastewater facilities in planning area, with particular emphasis on existing public health or water quality problems and their severity and extent.
 4. Documentation. Sources of information used to describe the existing environment and to assess future environmental impacts should be clearly referenced. These sources should include regional, state, and federal agencies with responsibility or interest in the environmental concerns.
 5. Analysis of alternatives. This discussion shall include a comparative analysis of feasible alternatives, including the no action alternative, throughout the study area. The alternatives shall be screened with respect to capital and operating costs; direct, indirect, and cumulative environmental effects; physical, legal, or institutional constraints; and compliance with regulatory requirements. Special attention should be given to: The environmental consequences of long-term, irreversible, and induced impacts; and that applicants have satisfactorily demonstrated analysis of potential recreation and open-space opportunities in the planning of the proposed treatment works. The reasons for rejecting any alternatives shall be presented in addition to any

significant environmental benefits precluded by rejection of an alternative. The analysis should consider when relevant to the project:

- a. Flow and waste reduction measures, including infiltration/flow reduction and pretreatment requirements.
 - b. Appropriate water conservation measures;
 - c. Alternative locations, capacities, and construction phasing of facilities;
 - d. Alternative waste management techniques, including pretreatment, treatment and discharge, wastewater reuse, land application, and individual systems;
 - e. Alternative methods for management of sludge, other residual materials, including utilization options such as land application, composting, and conversion of sludge for marketing as a soil conditioner or fertilizer.
 - f. Improving effluent quality through more efficient operation and maintenance;
 - g. Appropriate energy reduction measures; and
 - h. Multiple use including recreation, other open space, and environmental education.
6. Evaluating environmental consequences of proposed action. A full range of relevant impacts of the proposed action shall be discussed, including measures to mitigate adverse impacts, any irreversible or irretrievable commitments of resources to the project and the relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity. Any specific requirements, including loan conditions and area wide waste treatment management plan requirements, should be identified and referenced. In addition to these items, the responsible official may require environmental review requirements be included with the facilities plan. Such requirements should be discussed whenever meetings are held with applicants.
7. Minimizing adverse effects of the proposed action.
 - a. Structural and nonstructural measures, directly or indirectly related to the facilities plan, to mitigate or eliminate adverse effects on the human and natural environments, shall be identified during the environmental review. Among other measures, structural provisions include changes in facility design, size, and location; nonstructural provisions include staging facilities, monitoring and enforcement of environmental regulations, and local commitments to develop and enforce land use regulations.
 - b. The Vermont DEC shall not accept a facilities plan, nor approve loan assistance for its implementation, if the applicant has not made, or agreed to make, changes in the project, in accordance with determinations made in a FNSI or the ROD for a EIS. The Vermont DEC shall condition a loan or seek other ways to ensure that the applicant will comply with such environmental

review determinations.

- c. FNSI/EIS determination. The responsible official shall apply the criteria under Section XI to the following:

1. A complete facilities plan;
2. The EA; and
3. Other documentation deemed necessary by the responsible official adequate to make an EIS determination by Vermont DEC. Following an independent environmental review of the project, the responsible official shall document

in writing the reasons for his determination to issue a FNSI or to prepare an EIS. The responsible official's determination to issue a FNSI or to prepare an EIS shall constitute final Vermont DEC action.

IX. Partitioning the Environmental Review Process

- a. Purpose. Under certain circumstances, the building of a component/portion of a wastewater treatment system may be justified in advance of completing all environmental review requirements for the remainder of the system(s). When there are overriding considerations of cost or impaired program effectiveness, the responsible official may approve a loan for a discrete component of a complete wastewater treatment system(s). The process of partitioning the environmental review for the discrete component shall comply with the criteria and procedures described in paragraph (b) of this section. In addition, all reasonable alternatives for the overall wastewater treatment works system(s) of which the component is a part shall have been previously identified and each part of the environmental review for the remainder of the overall facilities plan shall comply with all requirements under Section VIII.
- b. Criteria for partitioning. The project component must:
1. Immediately remedy a severe public health, water quality, or other environmental problem;
 2. Not foreclose any reasonable alternatives identified for the overall wastewater treatment works system(s);
 3. Not cause significant adverse direct or indirect environmental impacts including those which cannot be acceptably mitigated without completing the entire wastewater treatment system of which the component is a part; and
 4. Not be highly controversial.
- c. Request for partitioning. The applicant's request for partitioning must contain the following:
1. A description of the discrete component proposed for construction before completing the environmental review of the entire facilities plan;

2. How the component meets the above criteria;
 3. The environmental information required by Section VIII for the component; and
 4. Any preliminary information that may be important to Vermont DEC in an EA determination for the entire facilities plan.
- d. Approval of requests for partitioning. The responsible official shall:
1. Review the request for partitioning against all requirement of this procedure;
 2. If approvable, prepare and issue a FNSI;
 3. Include a loan condition prohibiting the building of additional or different components of the entire facilities plan for which the environmental review is not complete.

X. Finding of no Significant Impact (FNSI) Determination

- a. Criteria for producing and distributing a FNSI. If, after completion of the environmental review, Vermont DEC determines that an EIS will not be required, the responsible official shall issue a FNSI. The FNSI will be based on Vermont DEC independent review of the EID and any other environmental information deemed necessary by the responsible official consistent with the requirements of Section VIII. The FNSI shall list mitigation measures necessary to make the recommended alternative environmentally acceptable.
- b. Proceeding with loan agreement.
 1. Once the issued FNSI becomes effective for the facilities plan for the study area, a loan agreement may proceed without preparation of an additional FNSI, unless the responsible official determines that the project or environmental conditions have changed significantly from that which underwent environmental review.
 2. For an Environmental Assessment/FNSI five or more years old, the responsible official shall re-evaluate the project, environmental conditions, and public views, and, prior to approval of loan agreement, either:
 - a. Reaffirm--issue a public notice reaffirming the original environmental determination to proceed with the project without revising the Environmental Assessment;
 - b. Supplement--require an update of the Environmental Assessment, issue and distribute a revised FNSI; or
 - c. Reassess--withdraw the FNSI and publish a notice of intent to produce an Environmental Assessment, followed by the preparation, issuance, and distribution of the Environmental Assessment and ROD.

c. Revisions to the Project.

1. Statement of Findings. If the project scope of work is revised after FNSI has been issued, but the revision is determined by the VT DEC to be a minor revision, the VT DEC shall issue a Statement of Findings (SOF) documenting the reason for the revision and its impact, if any, on the environment. The SOF shall be distributed to parties who previously indicated interest in the project environmental review process.
2. Amendment. If the project scope of work is revised after a FNSI has been issued, but the revision is determined by the DEC to be significant, the DEC shall issue an amendment to the FNSI with proper public notification as identified in Section XV and shall provide for a public meeting to discuss the amendment.

XI. Criteria for Initiating Environmental Impact Statements (EIS)

- a. Conditions requiring an EIS. The responsible official shall assure that an EIS will be prepared and issued when it is determined that the treatment works or collector system will cause any of the conditions to exist, or when:
 - b. The project may significantly affect the pattern and type of land use (industrial, commercial, agricultural, recreational, residential) or growth and distribution of population;
 - c. The effects resulting from any structure or facility constructed or operated may conflict with local, regional, or state land use plans or policies;
 - d. The project may have significant adverse effects on wetlands, including indirect and cumulative effects, or any major part of the project may be located in significant wetlands;
 - e. The project may significantly affect a habitat identified on the Department of the Interior' or the state's threatened and endangered species lists, or may be located in the habitat;
 - f. Implementation of the project may directly cause or induce charges that significantly:
 1. Displace population;
 2. Alter the character of existing residential areas;
 3. Adversely affect a floodplain; or
 4. Adversely affect significant amounts of important farmlands or agricultural operations on this land.
 - g. The project may directly, indirectly, or cumulative have significant adverse effects on parklands, preserves, other public land, or areas of recognized scenic, recreational,

archaeological, or historic value;

- h. The project may directly, or through induced development, have a significant adverse effect upon local ambient air quality, local ambient noise levels, surface water or groundwater quality or quantity, water supply, fish, shellfish, wildlife, and their natural habitats;
- i. The treated effluent is being discharged into a body of water where the present classification is too lenient or is being challenged as too low to protect present or recent uses, and the effluent will not be of sufficient quality or quantity to meet the requirements of these uses; or
- j. Other conditions. The responsible official shall also consider preparing an EIS if: the project is highly controversial; the project, in conjunction with related federal, state, or local resource projects, produces significant cumulative impacts; or if it is determined that the treatment works may violate federal, state, or local laws or requirements imposed for the protection of the environment.

XII. Environmental Impact Statement (EIS) Preparation

- a. Steps in preparing the EIS. In addition to the other requirements specified in this procedure, the responsible official will conduct the following activities:
 - 1. Notice of intent. If a determination is made that an EIS will be required, the responsible official shall prepare and distribute a notice of intent.
 - 2. Scoping. As soon as possible, after the publication of the notice of intent, the responsible official will convene a meeting of affected federal, state, and local agencies, the applicant and other interested parties to determine the scope of the EIS. As part of the scoping meeting, VT DEC will, as a minimum:
 - a. Determine the significance of issues for and the scope of those significant issues to be analyzed in depth in the EIS;
 - b. Identify potential cooperating agencies and determine the information or analyses that may be needed from cooperating agencies or other parties;
 - c. Discuss the method for EIS preparation and the public participation strategy;
 - d. Identify consultation requirements of other environmental laws; and
 - e. Determine the relationship between the EIS and the completion of the facilities plan and any necessary coordination arrangements between the preparers of both documents.
 - 3. Identifying and evaluating alternatives. Immediately following the scoping process, the responsible official shall commence the identification and evaluation of all potentially viable alternatives to adequately address the range of issues identified in the scoping process. Additional issues may be

addressed, or others eliminated, during this process and the reasons documented as part of the EIS.

- b. Method for preparing EIS. After Vermont DEC determines the need for an EIS, it shall select one of the following methods for its preparation:
 1. By Vermont DEC contracting directly with a qualified consulting firm;
 2. By utilizing a third party method whereby the responsible official enters into "third party agreements:" for the applicant to engage and pay for the services of a third party to prepare the EIS. Such agreement shall not be initiated unless both the applicant and the responsible official agree to its creation. A third party agreement will be established prior to the applicant's EID and eliminate the need for the comment. In proceeding under the third party agreement, the responsible official shall carry out the following practices:
 - a. In consultation with the applicant, choose the third party contractor and manage that contract;
 - b. Select the consultant based on ability and absence of conflict of interest. Third party contractors will be required to execute a disclosure statement prepared by the responsible official signifying they have no financial or other conflicting interest in the outcome of the project; and
 - c. Specify the information to be developed and supervise the gathering, analysis, and presentation of the information. The responsible official shall have sole authority for approval and modification of the statements, analyses, and conclusion included in the third party EIS.

XIII. Record of Decision (ROD) for the EIS and Identification of Mitigation Measures

- a. Record of Decision. After a final EIS has been issued, the responsible official shall prepare an issue a ROD prior to, or in conjunction with, the approval of the facilities plan. The ROD shall include identification of mitigation measures derived from the EIS process including loan conditions which are necessary to minimize the adverse impacts of the selected alternative.
- b. Specific mitigation measures. Prior to the approval of a facilities plan, the responsible official must ensure that effective mitigation measures identified in the ROD will be implemented by the applicant. This should be done by revising the facilities plan, initiating other steps to mitigate adverse effects, or including conditions in loans requiring actions to minimize effects. Care should be exercised if a condition is to be imposed in a loan document to assure that the applicant possesses the authority to fulfill the conditions.
- c. Proceeding with loan agreements.
 1. Once the ROD has been prepared on the selected or preferred alternative(s) for the facilities plan described within the EIS, loan agreements may proceed without preparation of a supplemental EIS unless the responsible official determines that the project or the environmental conditions described within

the current EIS have changed significantly from the previous environmental review.

2. For EISs five or more years old, the responsible official shall re-evaluate the project, environmental conditions, and public views, and compare them to the information contained within the EIS and, prior to loan agreement, make a determination to either:
 - a. Reaffirm--prepared, issue, and distribute a FNSI affirming the original environmental determination to proceed with the project, and documenting that no additional significant impacts were identified during the re-evaluation which would require supplementing the EIS; or
 - b. Supplement--conduct additional studies and prepare, issue, and distribute a supplemental EIS and document the original or any revised decision in an addendum to the ROD.

XIV. Monitoring for Compliance

- a. General. The responsible official shall ensure adequate monitoring of mitigation measures and other loan conditions identified in the FNSI or ROD.
- b. Enforcement. If the applicant fails to comply with loan conditions, the responsible official may consider applying the following sections:
 1. withhold payment
 2. suspend or terminate the loan agreement for cause
 3. suspend the applicant as an eligible applicant
 4. take other appropriate administrative action or
 5. institute judicial proceedings

XV. Public, Federal Agency, and Other State Agency Involvement

- a. The VT DEC shall make diligent efforts to involve the public in the environmental review process consistent with program statutes, regulations and State Clearinghouse for Intergovernmental Review policies on public participation. The responsible official shall ensure that public notice is provided and shall ensure that public involvement is carried out following state policies and guidelines on public participation.

General. Consistent with state public participation regulations, it is VT DEC policy that certain public participation steps be achieved before the VT DEC completes the environmental review process. As a minimum, for projects not qualifying for a categorical exclusion, potential applicants shall conduct:

1. One public meeting when alternatives have been developed, but before an alternative has been selected, to discuss all alternatives under consideration and the reasons for rejection of others; and
2. One public hearing prior to formal adoption of a facilities plan to discuss the

proposed facilities plan and any needed mitigation measures. In the event that a full-scale facilities plan is not prepared, or an existing facilities plan is amended because the proposed action is determined to be of a limited nature, the responsible official may approve the substitution of a public meeting with appropriate public notice instead of a public hearing for this requirement.

- b. Publication of notices of intent. As soon as practicable after a decision is rendered to issue a categorical exclusion or FNSI, or to prepare an EIS (but before initiating the process), the responsible official shall send the notice of intent to interested and affected members of the public, and shall publish the notice of intent in a newspaper of general circulation in the community of the project.

The responsible official shall not take administrative action on the project for at least thirty (30) calendar days after release of the notice of determination on the categorical exclusion or release of the FNSI to allow time for public response.

- c. Record of Decision. The responsible official shall disseminate the record of decision to those parties which commented on the draft of final EIS. One copy shall be submitted to EPA.
- d. EIS. The responsible official shall follow, as applicable, procedures identified at 40 CFR, Part 6, Subpart B, for official filing requirements, availability of documents, commenting process, and supplements to the EIS.
- e. Scope. The responsible official may institute additional NEPA-related public participation procedures as are deemed necessary during the environmental review process.

XVI. The Environmental Impact Statement Format

Preparers of EIS must use plain language and may use appropriate graphics so that decision makers and the public can readily understand them. Statements shall be based upon the analyses and supporting data from the natural and social sciences and the environmental design. The format used for the EIS shall encourage good analysis and clear presentation of alternatives, including the proposed action, and their environmental, economic, and social impacts. The following standard format for EISs should be used unless the responsible official determines that there is a compelling reason to do otherwise:

- a. Cover Sheet;
- b. Executive Summary;
- c. Table of Contents;
- d. Purpose of and need for action;
- e. Alternatives including proposed action;
- f. Affected environment;

- g. Environmental consequences of the alternative;
- h. Coordination (includes list of agencies, organizations, and persons to whom copies of the EIS are sent);
- i. List of preparers;
- j. Index (commensurate with complexity of EIS);
- k. Appendices.

XVII. Executive Summary

The executive summary shall describe in sufficient detail (10-15 pages) the critical facets of the EIS so that the reader can become familiar with the proposed project or action and its net effects. The executive summary shall focus on:

- a. The existing problem;
- b. A brief description of each alternative evaluated (including the preferred and no action alternatives) along with a listing of the environmental impacts, possible mitigation measures relating to each alternative, and any areas of controversy (including issues raised by governmental agencies and the public); and
- c. Any major conclusions.

A comprehensive summary may be prepared in instances where the EIS is unusually long in nature. The comprehensive summary may be circulated in lieu of the EIS; however, both documents shall be distributed to any federal, state, and local agencies who have EIS review responsibilities and also shall be made available to other interested parties upon request.

XVIII. Body of the EIS

- a. Purpose and need. The EIS shall clearly specify the underlying purpose and need to which VT DEC is responding.
- b. Alternatives including the proposed actions. In addition to alternatives indicated in 40 CFR 1502.14, the EIS shall discuss:
 - 1. Alternatives considered by the applicant. This section shall include a balanced description of each alternative considered by the applicant. These discussions shall include size and location of facilities, land requirements, operation and maintenance requirements, auxiliary structures such as pipelines and construction schedules. The alternative of no action shall be discussed and the applicant's preferred alternative(s) shall be identified. For alternatives which were eliminated from detailed study, a brief discussion of the reasons for their having been eliminated shall be included.
 - 2. Alternatives available to VT DEC. VT DEC alternatives to be discussed shall

include:

- a. Taking an action; or
 - b. Taking an action on a modified or alternative project, including an action not considered by the applicant; and
 - c. Denying the action.
3. Identifying preferred alternative. In the final EIS, the responsible official shall signify the preferred alternative.
- c. Affected environment and environmental consequences of the alternatives. The affected environment on which the evaluation of each alternative shall be based includes, for example, hydrology, geology, air quality, noise, biology, socioeconomic, energy, land use, and archeology and historic subject. The discussion shall be structured so as to present the total impacts of each alternative for easy comparison among all alternatives by the reader. The effects of a "no action" alternative should be included to facilitate reader comparison of the beneficial and adverse impacts of other alternatives to the applicant doing nothing. A description of the environmental setting shall be included in the "no action" alternative for the purpose of providing needed background information. The amount of details in describing the affected environment shall be commensurate with the complexity of the situation and the importance of the anticipated impacts.
- d. Coordination. The EIS shall include:
1. The objections and suggestions made by local, state, and federal agencies before and during the EIS review process must be given full consideration, along with the issues of public concern expressed by individual citizens and interested environmental groups. The EIS must include discussions of any such comments concerning our actions, and the author of each comments should be identified. If a comment has resulted in a change in the project of the EIS, the impact statement should explain the reason.
 2. Public participation through public hearings or scoping meetings shall also be included. If a public hearing has been held prior to the publication of the EIS, a summary of the transcript should be included in this section. For the public hearing which shall be held after the publication of the draft EIS, the date, time, place, and purpose shall be included here.
 3. In the final EIS, a summary of the coordination process and VT DEC responses to comments on the draft EIS shall be included.

XIX. Incorporation by Reference

Material may be incorporated by reference as provided by 40 CFR 1502.21. In addition such material shall be organized to the extent possible into a Supplemental Information Document and be made available for review upon request. No material may be incorporated by reference unless it is reasonably available for inspection by potentially interested persons within the period allowed for comment.

XX. List of Preparers

When the EIS is prepared by contract, either under direct contract to VT DEC or through an applicant's or grantee's contractor, the responsible official must independently evaluate the EIS prior to its approval and taken responsibility for its scope and contents. The VT DEC officials who undertake this evaluation shall also be described under the list of preparers.



TOWN OF ESSEX VERMONT

81 MAIN STREET, ESSEX JUNCTION, VERMONT 05452
Fax: 878-1353 • E-mail: manager@essex.org • Website: www.essex.org

November 13, 2009

Mr. Tom Joslin, Environmental Engineer
Facilities Engineering Division
Vermont Department of Environmental Conservation
Agency of Natural Resources
103 South Main Street, Laundry Building
Waterbury, VT. 05671

Re: Request for Categorical Exclusion
Town of Essex Stormwater Improvements

Dear Tom,

The Town of Essex Stormwater Improvement Project is comprised of two separate projects. Contract No. 1, (AR1-032), Eurowest Town Center Stormwater Ponds, and Contract No. 2, (AR1-033), Perkins Bend Stormwater System Upgrade.

The "Environmental Information Document" for the above referenced projects is being submitted for your review and to meet the requirements of the environmental review procedures. The enclosed Environmental Information Document demonstrates that there are no significant impacts due to these projects, and the projects are eligible for a categorical exclusion. Therefore, the Town of Essex requests that a Categorical Exclusion be issued for both projects.

Please call me at 878-1344 or e-mail me at dlutz@essex.org with any questions.

Sincerely,

Dennis E. Lutz, P.E.
Town Engineer / Public Works Director

Enclosures

Cc: Paul O'Leary, P.E., O'Leary - Burke
File

TOWN MANAGER	PARKS AND RECREATION	COMMUNITY DEVELOPMENT	PUBLIC WORKS	ASSESSOR	FINANCE	TOWN CLERK	LIBRARY	POLICE
878-1341	878-1342	878-1343	878-1344	878-1345	878-1359	879-0413	879-0313	878-8331

W:\PDOC\Storm water\ARRA Projects 09 - 10\Request for Categorical Exclusion - Nov 2009.doc

Town of Essex

Stormwater System Improvements

Environmental Information Document

October, 2009

A. Project Identification

Project Name: Town of Essex Stormwater System Improvements
Contract No. 1 (ARI-032) EuroWest Town Center Stormwater Ponds
Contract No. 2 (ARI-033) Perkins Bend Stormwater System Upgrade

Contact and Address: Mr. Dennis Lutz
81 Main Street
Essex Jct., VT 05452

Project Locations: **Contract #1**
Hannaford Brothers property (Parcel A-1) and
Essex Shoppes and Cinema property (Parcel A)
Essex, VT

Contract #2
Pinewood Drive
Essex, VT

B. Summary of Environmental Review

The Stormwater System Improvement plans, this Environmental Information Document, including other supporting documents and comments have been reviewed and are in accordance with the State and Federal regulations. The findings of this environmental review are as summarized below.

Environmental Information Document

1. Project Description

- a. **Contract #1** involves the enlargement of several existing storm ponds and new outlet structures to improve the storage and treatment capabilities in the Indian Brook watershed. The site is located near the Butlers Corners intersection (Old Stage Road) on VT Route 15. Access to the site is from VT Route 15 onto Billie Butler Drive to the Hannafords Supermarket property and the Essex Shoppes and Cinema property. The existing storm ponds are located south of the parking lots, adjacent to the VT Route 289 right-of-way.

The stormwater ponds were built in the late 1980's as part of the Lang Farm Development to treat runoff from the new shopping center. VT Route 289 was also being constructed at the same time. Overflow from the ponds runs under VT Route 289, through the 'The Links at Lang Farm' golf course and eventually to Indian Brook.

Contract #2 involves the installation of a new underground water quality and storage unit to provide stormwater treatment for an existing condominium development in the Winooski River watershed. Access is from VT 117, two miles east of Essex Jct., left onto Pinewood Drive to the Kurk Drive / River View Drive intersection. The site is located on the south side of Pinewood Drive and the west side of River View Drive.

The Perkins Bend Condominium development which was also constructed in the late 1980's contains several paved and curbed roadways that connect VT 117 to the Pinewood Manor development. A closed storm system currently discharges the projects stormwater runoff into a small waterway that empties into the Winooski River.

- b. Project Duration/Schedule

Construction on both projects is anticipated to begin in the Spring of 2010 and be complete by October 1, 2010.

- c. Ownership - The Town of Essex will assume ownership of both projects following construction. Easements will be conveyed to the

Environmental Information Document

Town for access and maintenance rights to the stormwater ponds and to the underground treatment unit.

2. Purpose and Need

Contract #1 - Prior to 1980, most of the Butlers Corners vicinity was rural and undeveloped. Development in this section of the Town essentially began in the late 1980's with the Lang Farm development and the construction of VT Route 289. Following the construction of the shopping center, additional construction in the area has also occurred, including the Town Center project, which is a mixed use combination of commercial / residential buildings and parking located between the shopping center and VT Route 15. Most recently, mixed residential and commercial development has begun on the Town Meadow parcel, including Carmichael Street, which is also north of the shopping center. These newer developments have increased stormwater flows to the existing ponds and with additional development proposed, there is a need to enlarge and improve the storm ponds that currently store and treat the areas runoff, prior to being discharged into the Indian Brook watershed.

Contract #2 - The Perkins Bend Condominium development consists of paved, curbed roads with a closed storm collection system that discharges to a small waterway, which flows into the Winooski River. The construction of a storm pond was originally planned to treat a large portion of the projects runoff. This pond has not been installed and an underground storage treatment system is being proposed that would treat runoff from the development and meet the State of Vermont requirements for stormwater storage and treatment.

3. Discussion of Alternatives

Contract #1 - The Butlers Corners area is located at the height of land, with the original flows of surface water historically draining to both the Indian Brook and Alder Brook watersheds. Where possible stormwater flows from recent development in the area have been directed to the new Saybrook stormwater pond that discharges to the Alder Brook watershed. A portion of the stormwater collection system that formerly drained through the Essex Shoppes and Cinema parcel was recently intercepted and redirected to the Saybrook pond. Storm drain connections have been left available to the remaining portion of the Town Center parcel that is able to drain to the Saybrook Pond. Stormwater from the remainder of the undeveloped land that lies north of the shopping center can only flow to the existing shopping center pond, because of elevation differences. These ponds are the most

Environmental Information Document

feasible solution to stormwater treatment for the area due to their location and the capability for enlarging them.

Contract #2 – When the Perkins Bend Condominium development was started, an area was set aside for a stormwater pond site. A depressed area was constructed, but due to unstable soils and steep grades the pond was never completed. An easement for the pond location was never conveyed to the Town of Essex and when it became unlikely that the Perkins Bend Condominium Association would grant an easement for an above ground stormwater pond after the fact, an alternative design became necessary. The installation of an underground storage and treatment unit will not change the appearance of the intersection, which is a maintained lawn, but will still provide the necessary storage and treatment. The Condominium Association will convey an easement to the Town of Essex for ownership and maintenance of the underground unit.

4. Impact of the Proposed Projects on the Environment

a. Direct Impacts

I. Air Quality:

- During construction, standard noise control devices, including mufflers will be utilized to reduce construction noises. Dust will be controlled by the application of water or calcium chloride. Work will be limited to standard working hours of 7 am to 6 pm, Monday through Friday and Saturdays from 8 am to 5 pm.

II. Water Quality and Quantity:

- Alan Quackenbush of the Wetlands Division has been contacted with regards to possible wetland impacts.
- Marty Abair of the U.S. Army Corps of Engineers has been contacted with regards to possible wetland impacts. She has responded that the wetland impact is under the 3000 sf threshold for non-reporting Category 1 of the Vermont General Permit program.
- Chris Brunelle has been contacted with regards to Stream Modifications and has deferred comment to Padraic Monks of the Stormwater Management Division.

Environmental Information Document

- Temporary and permanent erosion prevention and silt control measures will be implemented for the construction work and maintained until the two project sites have grass established.

III. Environmentally Sensitive Areas:

- Floodplains and Wetlands - Alan Quackenbush of the Wetlands Division has been contacted regarding possible wetland impacts.
- Prime Agricultural Land - Brendan O'Shea of the Agency of Agriculture has been contacted regarding possible impacts to any Prime Agricultural land. He responded that the Agency of Agriculture has no concerns regarding the two projects.
- Wildlife Habitat - Tim Appleton of the Fish and Wildlife Department has been contacted regarding possible impacts to wildlife habitat. He responded that the Fish and Wildlife Dept. has no concerns regarding the two projects.

Fisheries Habitat – Bernie Pientka of the Fish and Wildlife Dept. has been contacted regarding possible impacts to fisheries habitat. He responded that the two projects will not pose any negative impacts to fisheries habitat.

- Stream Modification - Chris Brunelle of the Stream Alteration Division has been contacted regarding possible stream modifications. During a phone conversation he deferred comment to the Storm Discharge Division.

IV. Socio-Economic Impacts:

- The total construction cost of the proposed projects is \$235,000 for Contract #1 and \$135,000 for Contract #2 for a total of \$370,000. The Town of Essex intends to use ARRA funds for construction of the projects and will conduct a bond vote for voter approval of the work.

Environmental Information Document

V. Historical / Archaeological Sites:

- Dr. Charles Knight of the UVM Archaeology Consulting Program has been contacted regarding possible impacts to archaeological sites by the proposed projects. He responded that the two projects will have no effect on Historic Properties.

VI. Endangered Species:

- Everett Marshall of the Nongame and Natural Heritage Program has been contacted regarding possible impacts to 'endangered species' within the project areas.

VII. Coastal Zone Management:

- Not Applicable.

VIII. Wild and Scenic Rivers:

- Not Applicable.

b. Indirect Impacts

- I. Contract #1 - The south side of VT Route 15 in the Butlers Corner area to VT Route 289 is zoned Mixed Use Commercial by the Town of Essex, which encourages dense development. The area surrounding this project includes four (4) parcels, all of which are proposed to be fully developed. Approximately 9.5 acres of undeveloped land remain that flows to the existing storm ponds.

Contract #2 – The Perkins Bend development is located in the 'Low Density Residential' (R1) zone. There are no plans for any future development in the area.

5. Mitigation of Environmental Impacts

There are no significant, long term, adverse impacts anticipated as a result of the construction of these projects. Minor impacts will be mitigated as follows:

- I. Air Quality;

Environmental Information Document

- Dust caused by construction and exhaust fumes from the equipment may temporarily adversely affect the air quality. Timely and regular applications of calcium chloride or water is specified in the contract documents for dust control. Noise that is generated by construction equipment will be minimized by the use of adequate mufflers and construction will be restricted to regular hours as outlined in the construction documents.

II. Water Quality and Quantity;

- To minimize downstream impacts from the project work areas, temporary and permanent erosion control measures will be installed and maintained. The contractor will be responsible for ensuring that the measures are functioning properly during and following construction. These methods are outlined on the Final Design plans and specifications.

III. Environmentally Sensitive Areas;

- The construction of these projects will not negatively impact any environmentally sensitive areas.

IV. Socio-Economic Impacts;

- The projects will not require mitigation of socio-economic impacts.

V. Historical / Archaeological Sites;

- The projects will not require mitigation of historical / archaeological sites.

VI. Endangered Species;

- The projects will not require mitigation of endangered species.

VII. Coastal Zone Management;

- Not Applicable.

VIII. Wild and Scenic Rivers;

Environmental Information Document

- Not Applicable.

6. Summary of Agency and Public Consultation

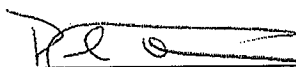
- a. The State of Vermont Water Quality Division has been involved with the project design. The Perkins Bend project will disturb less than 1/2 acre of area and will not require a Stormwater Permit for Runoff from Construction Sites. The Town Center project is categorized as a "low-risk" project and a Stormwater Permit for Runoff from Construction Sites has been applied for.
- b. There have not been any significant objections by the public to the projects.
- c. Significant comments – no comments have been received.

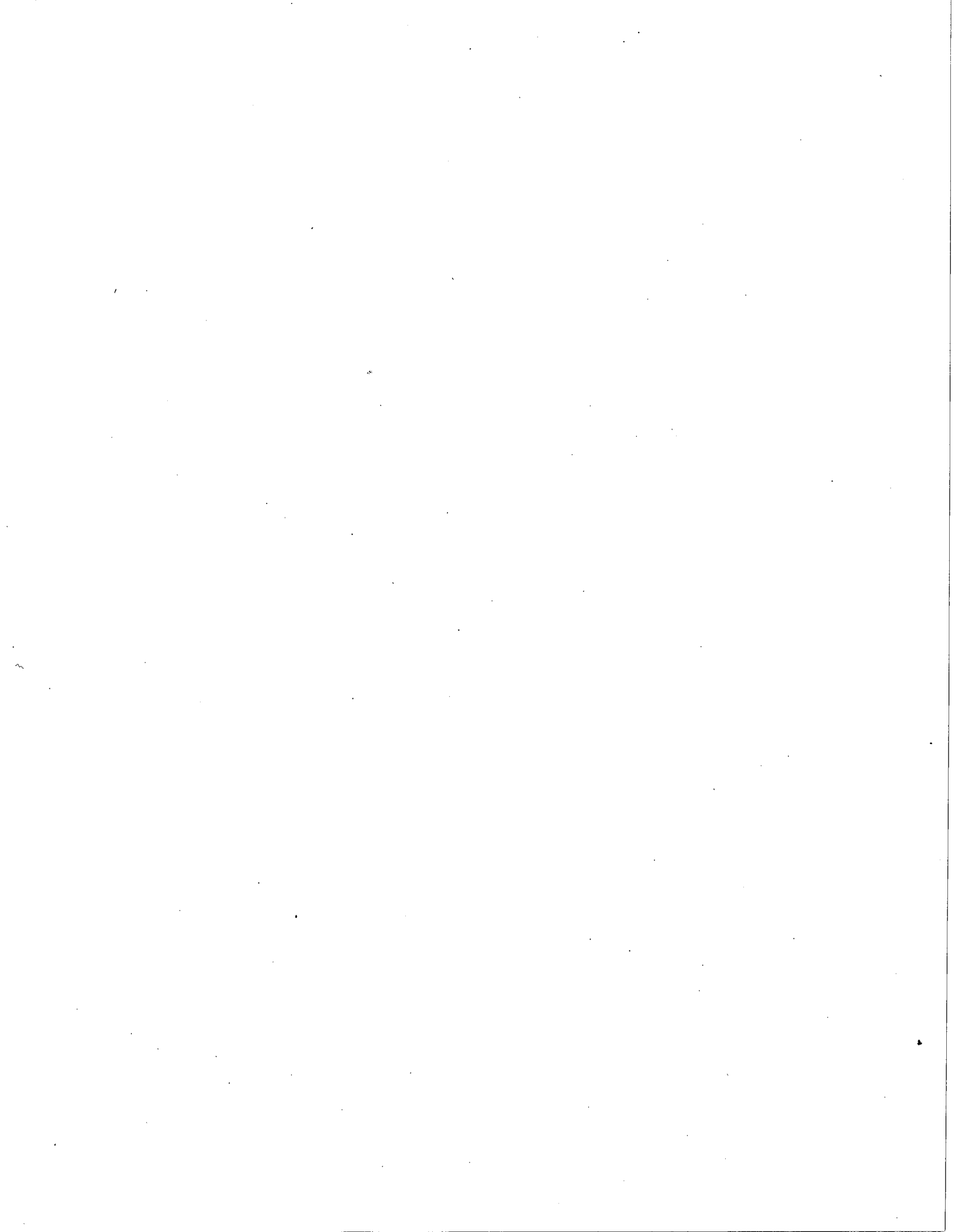
7. List of Agencies and Groups Consulted

- State of Vermont Facilities Engineering;
- State of Vermont Water Quality Division – Stormwater;
- State of Vermont Water Quality Division – Wetlands;
- State of Vermont Water Quality Division – River Management;
- State of Vermont Fish and Wildlife;
- State of Vermont NonGame and Natural Heritage Program;
- State of Vermont Agency of Agriculture;
- UVM – Consulting Archaeology Program;
- U.S. Army Corps. Of Engineers;
- Town of Essex – Town Engineer;

C. Preparers Signature

O'Leary-Burke Civil Associates
1 Corporate Drive, Suite 1
Essex Jct., VT 05452


Paul O'Leary Jr. PE # 5477



Howie Snider

From: Abair, Martha A NAE [Martha.A.Abair@usace.army.mil]
Sent: Thursday, November 12, 2009 6:14 PM
To: Howie Snider
Cc: Abair, Martha A NAE
Subject: RE: Essex Stormwater Projects

Hi Howie

Looks like you're well under the 3000 sq. ft. threshold for non-reporting Category 1 of the VTGP.

Marty

-----Original Message-----

From: Howie Snider [mailto:hsnider@olearyburke.com]
Sent: Thursday, November 12, 2009 7:59 AM
To: Abair, Martha A NAE
Subject: Essex Stormwater Projects

Good Morning Marty - We are meeting with the state today regarding these projects, just inquiring as to whether you have any comments yet. Howard.

Howie Snider

From: Howie Snider
Sent: Monday, November 09, 2009 1:09 PM
To: 'Abair, Martha A NAE'
Subject: RE: Town of Essex Stormwater Improvements
Attachments: PERKINSBEND.JPG; 8040-StormTech.pdf

Hi Marty - There is a Class Three wetland that drains to the catch basin at the Pinewood Drive site (Area #2). Enclosed is a photo, I added the approximate location to the Plan View. Approximately 1,500 sf of the wetland will be disturbed during construction. At the Hannafords/Eurowest site (Area #1), there are Class Three wetlands within all of the existing storm ponds, but none outside of the pond limits. If you need anything else, don't hesitate to call.

Howard.

From: Abair, Martha A NAE [mailto:Martha.A.Abair@usace.army.mil]
Sent: Friday, November 06, 2009 4:45 PM
To: Howie Snider
Cc: Abair, Martha A NAE
Subject: Town of Essex Stormwater Improvements

Hi Howie

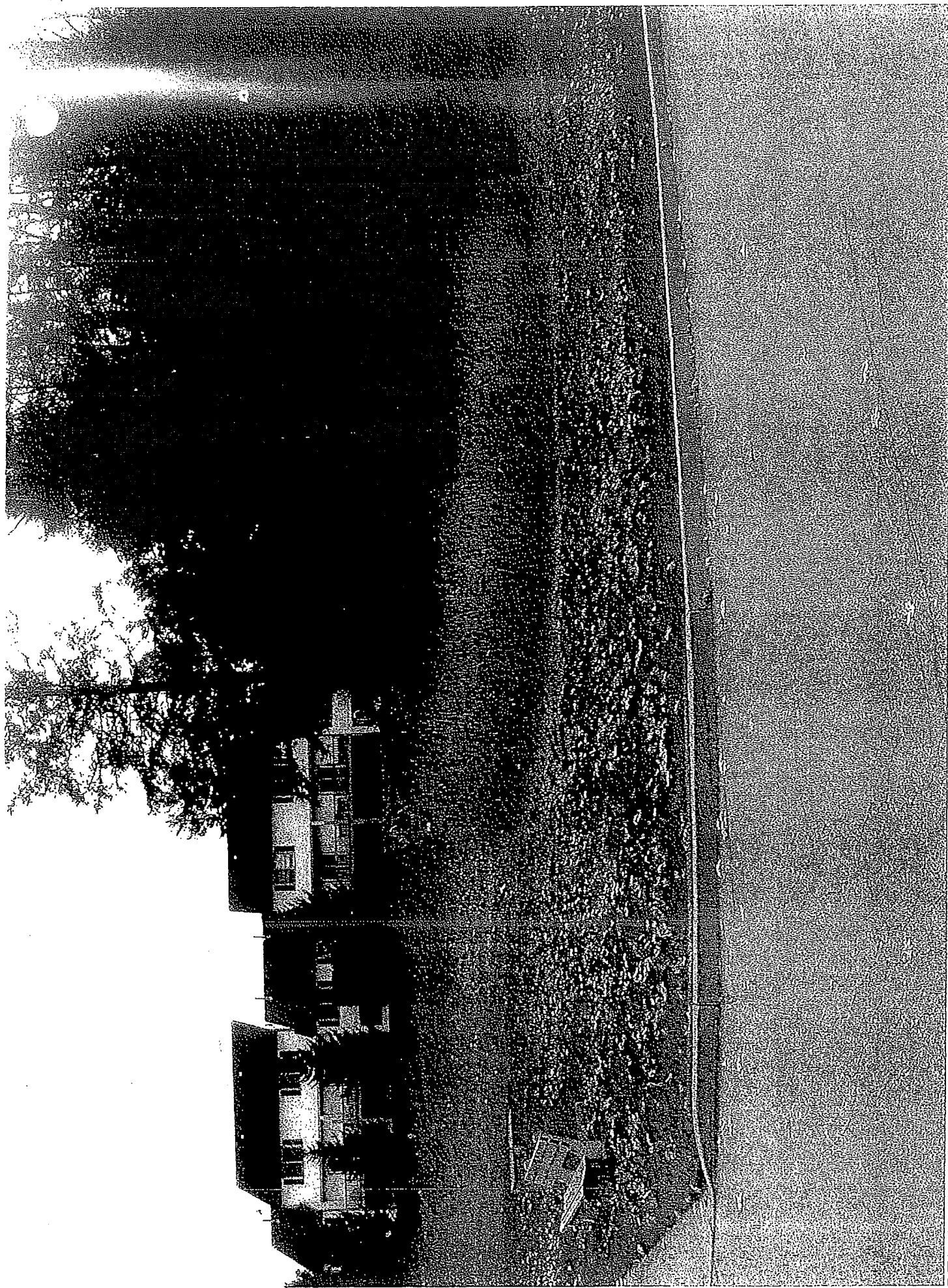
I'm just getting a chance to look at the info you sent over on the Town of Essex stormwater improvements. Are there any wetlands within the footprints of the proposed work?

Thanks

Marty Abair
Regulatory Division
U.S. Army Corps of Engineers, New England District
Vermont Project Office
8 Carmichael Street, Suite 205
Essex Junction, Vermont 05452

802 872-2893

In order for us to better serve you, we would appreciate your completing our Customer Service Survey located at <http://per2.nwp.usace.army.mil/survey.html>



Howie Snider

From: Paul O'Leary
Sent: Thursday, October 29, 2009 12:07 PM
To: Howard Snider
Subject: FW: Essex Town, Eurowest Stormwater, Phragmites Reed Disposal

From: Popp, Bob [mailto:Bob.Popp@state.vt.us]
Sent: Thursday, October 29, 2009 11:47 AM
To: Joslin, Tom
Cc: Paul O'Leary; 'dlutz@essex.org'; 'amartin@essex.org'; Ladue, Winslow; Lewis, Allyn
Subject: RE: Essex Town, Eurowest Stormwater, Phragmites Reed Disposal

Tom, I have been trying to come up with an easy solution, but can't really find one that is dependable. First, there is only one species (*Phragmites australis*) but at least 2 subspecies: an introduced one from Europe (ssp. *Australis*) and a native one (ssp. *Americana*). The native ssp is actually quite rare and something that is of conservation concern. However, it is extremely unlikely that it would occur in the situation that you describe. It occurs in natural wetlands and doesn't form dense stands as does the more aggressive European ssp.

There is no easy way of disposing of the dredged material to ensure that the *Phragmites* doesn't resprout. Note that the rhizomes can reach down almost 2 meters below ground, their roots penetrating even deeper. If you can separate the rhizomes from the soil, you can burn the rhizomes. Otherwise, the soil containing the rhizomes needs to either be buried deeply enough so that they won't be able to resprout or covered with thick layer of black plastic. In the latter case the plastic would need to be checked a couple of times a year for at least 2 years to ensure that no sprouts have penetrated the plastic.

Good luck with this and let me know if I can be of further assistance.

Bob

Bob Popp
Program Botanist
Nongame and Natural Heritage Program
VT. Dept of Fish & Wildlife
5 Perry St. Suite 40
Barre, VT. 05641
(802) 476-0127

From: Joslin, Tom
Sent: Tuesday, October 27, 2009 2:56 PM
To: Popp, Bob
Cc: 'poleary@olearyburke.com'; 'dlutz@essex.org'; 'amartin@essex.org'; Ladue, Winslow; Lewis, Allyn; Joslin, Tom
Subject: RE: Essex Town, Eurowest Stormwater, Phragmites Reed Disposal

Bob,

10/29/2009



O'Leary-Burke Civil Associates, PLC

CIVIL ENGINEERING | REGULATORY AND PERMIT PREPARATION | LAND SURVEYING | CONSTRUCTION SERVICES | LAND USE PLANNING

October 28, 2009

Bob Popp, State Botanist
VT Fish and Wildlife Dept.
5 Perry Street, Suite 40
Barre, VT 05641

RE: Town of Essex
Stormwater Improvement projects

Dear Bob:

Our office has been contracted to perform engineering services for two areas in Essex per the requirements of ARRA (American Recovery and Reinvestment Act) and NEPA (National Environmental Policy Act). The NEPA review requires an EID (Environmental Information Document), which our office will prepare. The EID requires review of possible environmental impacts by the proposed projects, including impacts to 'endangered species'.

The Town of Essex is proposing to improve the stormwater systems in two separate areas. Area #1 is a series of existing stormwater ponds that are located between the Circumferential highway (VT Rte. 289) and the Hannafords / Essex Shoppes and Cinema parking areas. Area #2 involves the construction of an underground stormwater treatment system on Pinewood Drive that will intercept and treat area stormwater before it reaches the Winooski River. Both areas have previously been extensively disturbed from construction of surrounding highways and utility infrastructure.

I've contacted Everett Marshall about possible impacts to 'Rare and Endangered' at these two sites, but understand that Tom Joslin has contacted you about concerns of the invasive species of Phragmites that exists at both sites.

Enclosed are plans with the two project areas highlighted to assist you with your review of the sites. Tom Joslin will keep us informed regarding your recommendations for handling the soils that contain the Phragmites and we will incorporate your findings into our plans and specifications.

Sincerely,

Howard Snider

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Howie Snider

From: Paul O'Leary
Sent: Tuesday, October 27, 2009 2:56 PM
To: Howard Snider
Subject: FW: Essex Town, Eurowest Stormwater, Phragmites Reed Disposal

From: Joslin, Tom [mailto:tom.joslin@state.vt.us]
Sent: Tuesday, October 27, 2009 2:56 PM
To: Popp, Bob
Cc: Paul O'Leary; 'dlutz@essex.org'; 'amartin@essex.org'; Ladue, Winslow; Lewis, Allyn; Joslin, Tom
Subject: RE: Essex Town, Eurowest Stormwater, Phragmites Reed Disposal

Bob,

Is there just one species of *Phragmites* that is commonly seen in Vermont? *Phragmites communis*? *Phragmites australis*?

Thanks for your help. I would appreciate your prompt response, since these projects are on a fairly tight schedule.

Phragmites of some species is fairly common at Hannaford, alternating with cattails, but there is also a small patch of *Phragmites*, at the Perkins Bend site, that will also be disturbed by excavation.

From: Popp, Bob
Sent: Tuesday, October 27, 2009 1:51 PM
To: Joslin, Tom
Subject: RE: Essex Town, Eurowest Stormwater, Phragmites Reed Disposal

Tom, thanks again for your vigilance in catching things that might otherwise fall thru the cracks. Your concern is warranted with the grading as the way that *Phragmites* typically spreads is via rhizomes (underground stems). Apparently even small bits of rhizomes in soil can lead to further spread of this exotic plant. I will look into the best biological manner to treat the soil from the grading and get back to you on that. In addition, there are some legal constraints as per the Noxious Quarantine Statute. I have attached a copy FYI. You will note that transporting any quarantine species is prohibited, but there is an exemption for disposal as part of a management control activity.

Bob

Bob Popp
Program Botanist
Nongame and Natural Heritage Program
VT. Dept of Fish & Wildlife
5 Perry St. Suite 40
Barre, VT. 05641
(802) 476-0127

From: Joslin, Tom
Sent: Monday, October 26, 2009 8:16 AM
To: Popp, Bob

10/28/2009

Cc: Pease, Jim; Burke, Kevin; Quackenbush, Alan; Joslin, Tom
Subject: Essex Town, Eurowest Stormwater, Phragmites Reed Disposal

Hi, Bob,

Thanks for your help with the Severance Corners (Colchester) growth center review, last winter. The Airport Parkway (South Burlington) wastewater construction contract will finally be awarded, possibly today.

I am now reviewing another federal stimulus (ARRA) project, reconfiguration of the stormwater ponds at the foot of the Hannaford parking lot in the Town of Essex. The Town of Essex will be the project owner. For ARRA funding, the construction contract needs to be awarded by February 17. The existing storm ponds need to be regraded, but they are now clogged with thick growths of *Phragmites* reeds.

I am aware that *Phragmites* is considered an invasive plant. Are there any particular state or federal regulations applicable to the disposal of soil containing *Phragmites* root systems?

Jim Pease has approved the basis of design for this project, for the Water Quality Division. For the Facilities Engineering Division, I will be doing the required NEPA environmental review, plus a technical review of the contract documents, for constructability.

Thanks for your help.

10/28/2009



State of Vermont

AGENCY OF NATURAL RESOURCES



Vermont Department of Fish and Wildlife
5 Perry Street Suite 40
Barre, Vermont 05641
TEL: (802) 476-0199
FAX: (802) 476-0129

October 28, 2009

Mr. Howard Snider
O'Leary-Burke Civil Associates, PLC
1 Corporate Drive, Suite 1
Essex Junction, VT 05452

Re: Town of Essex Stormwater Improvements.

Dear Mr. Snider:

I am responding to your letter, dated October 22, 2009, requesting a review for information regarding the presence of fish and wildlife habitat. This information is requested to complete an Environmental Information Document as part of a NEPA (National Policy Act) review. Based on the information you have provided, the result of a desk review has determined that no apparent impact to *wildlife* habitat will occur as a result of the proposed projects.

The intent of the two proposed projects is to improve stormwater treatment for the Indian Brook watershed and the Winooski River. Since both of these projects involve streams, I suggest that you contact Bernie Pientka, fisheries biologist in Essex Junction, to ensure that water quality and aquatic habitat issues are addressed. He can be reached at 802-879-5698.

If you have any questions or concerns, please feel free to contact me at (802) 476-0198.

Sincerely,


Timothy J. Appleton
Fish & Wildlife Specialist

cc: Bernie Pientka, Fisheries Biologist





Agency of Agriculture, Food & Markets
116 State Street
Montpelier, VT 05620-2901
www.VermontAgriculture.com

O'Leary- Burke
1 Corporate Drive, Suite#1
Essex Junction, Vermont 05452

10/27/2009

Re: Two Stormwater Improvement Projects- Town of Essex
Consideration of primary agricultural soils

In reply to the letter and map you sent dated 10/22/09 concerning these proposed stormwater ponds, zero acres rated as primary agricultural soil will be impacted by the proposed project.

Having reviewed your submission, it is the Agency's assessment that all of the impacts will be either on previously disturbed soil or soils not rated as primary agricultural soils. Therefore, these soils, associated with these particular projects are not capable of supporting or contributing to an economic or commercial agricultural operation.

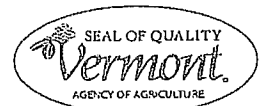
Consequently, this Agency has no objections to the project.

Call if you have any questions (802-828-2082.)

Sincerely,

A handwritten signature in black ink, appearing to read "Brendan B. O'Shea".

Brendan B. O'Shea
Vermont Agency of Agriculture





State of Vermont

AGENCY OF NATURAL RESOURCES

Department of Fish and Wildlife
Department of Forests, Parks and Recreation
Department of Environmental Conservation
State Geologist
Natural Resources Conservation Council

Vermont Department of Fish and Wildlife
Essex Junction District Office
111 West Street
Essex Junction, Vermont 05452
(802) 878-1564
FAX (802) 879-3871

From: Bernard Pientka
Date: 11/5/09
Ref: Town of Essex Stormwater Improvements

I reviewed the attached plans for Area #1 - Improvements to existing stormwater ponds along VT Rte 289 and Area #2 - Underground stormwater treatment system on Pinewood Drive. These projects do not pose any negative impacts to fisheries habitat.

If you have any additional questions or concerns feel free to contact me at (802) 879-5698.

Bernard Pientka 11/5/09

Bernard Pientka, Fisheries Biologist



The
UNIVERSITY
of VERMONT

CONSULTING ARCHAEOLOGY PROGRAM

State of Vermont Water Supply Division Archaeological Review for ARRA Funded
Projects

Municipality: Essex

Project: Essex Stormwater Systems Upgrade

Date of Review: 11/4/09

Reviewed by: UVM CAP

Summary Findings: No Effect on Historic Properties

1.0 PROJECT DESCRIPTION AND BACKGROUND

The Town of Essex is proposing stormwater system upgrades in two areas of Essex, Chittenden County, Vermont. Project Area #1 is a series of existing stormwater ponds that are located between the Circumferential highway (VT Rte. 289) and the Essex Shoppes and Cinema parking areas (Figure 1 and 2). These ponds are proposed to be enlarged for additional stormwater treatment in the Indian Brook Watershed. Project Area #2 involves the construction of an underground stormwater treatment system of pinewood Drive that will intercept and treat area stormwater before it reaches the Winooski River (Figures 3 and 4).

2.0 FIELD INSPECTION AND DESK REVIEW

As part of the desk review, the UVM CAP utilized the Vermont Division of Historic Preservation's (VDHP) predictive model for identifying precontact Native American archaeological sites. No known Native American sites exist within Area #1, the stormwater pond upgrade locale. The Project Area #1 upgrade location scores -16 on the VDHP Environmental Predictive Model for Locating Precontact Archaeological Sites, due to its location within 90 m of an unnamed tributary of Indian brook and within 90 m of a head-of-draw, but the area has been extensively disturbed. The digital Geographic Information System (GIS) application of this predictive model demonstrates that three overlapping sensitivity factors are located within the Project Area #1 limits. These factors are Drainage, Head-of-Draw, and Level Terrain (see Figure 1). The Project Area #2 upgrade location scores 12 on the VDHP Environmental Predictive Model for Locating Precontact Archaeological Sites, due to its location within 90 m of an unnamed tributary of the Winooski River. The digital Geographic Information System (GIS) application of this predictive model demonstrates that three overlapping sensitivity factors are located within the Project Area #2 area. These factors are Drainage, Kame Terrace and Floodplain (see Figure 3).

A field inspection was carried out of the Town of Essex Stormwater System Upgrade Project on November 3, 2009 by Charles Knight of the University of Vermont Consulting

Archaeology Program. Project Area #1 has been extensively disturbed due to the construction of the existing stormwater ponds and drainage system (see Figure 2). Project Area #2 has been extensively disturbed due to the construction of the existing stormwater drainage and landscaping associated with the nearby residential developments (see Figure 4).

3.0 CONCLUSIONS AND RECCOMENDATIONS

The proposed Town of Essex Stormwater System Upgrades project of two areas in Essex, Chittenden County, Vermont was research and inspected by the University of Vermont Consulting Archaeology Program. Due to extensive disturbances throughout the proposed project areas, no archaeological sensitivity was identified. As a result the proposed project areas do not contain significant cultural resources and the proposed project will have No Effect on Historic Properties. No additional archaeological work is recommended.

Sincerely,

Charles Knight, Ph.D.
Assistant Director

cc. Scott Dillon - VDHP

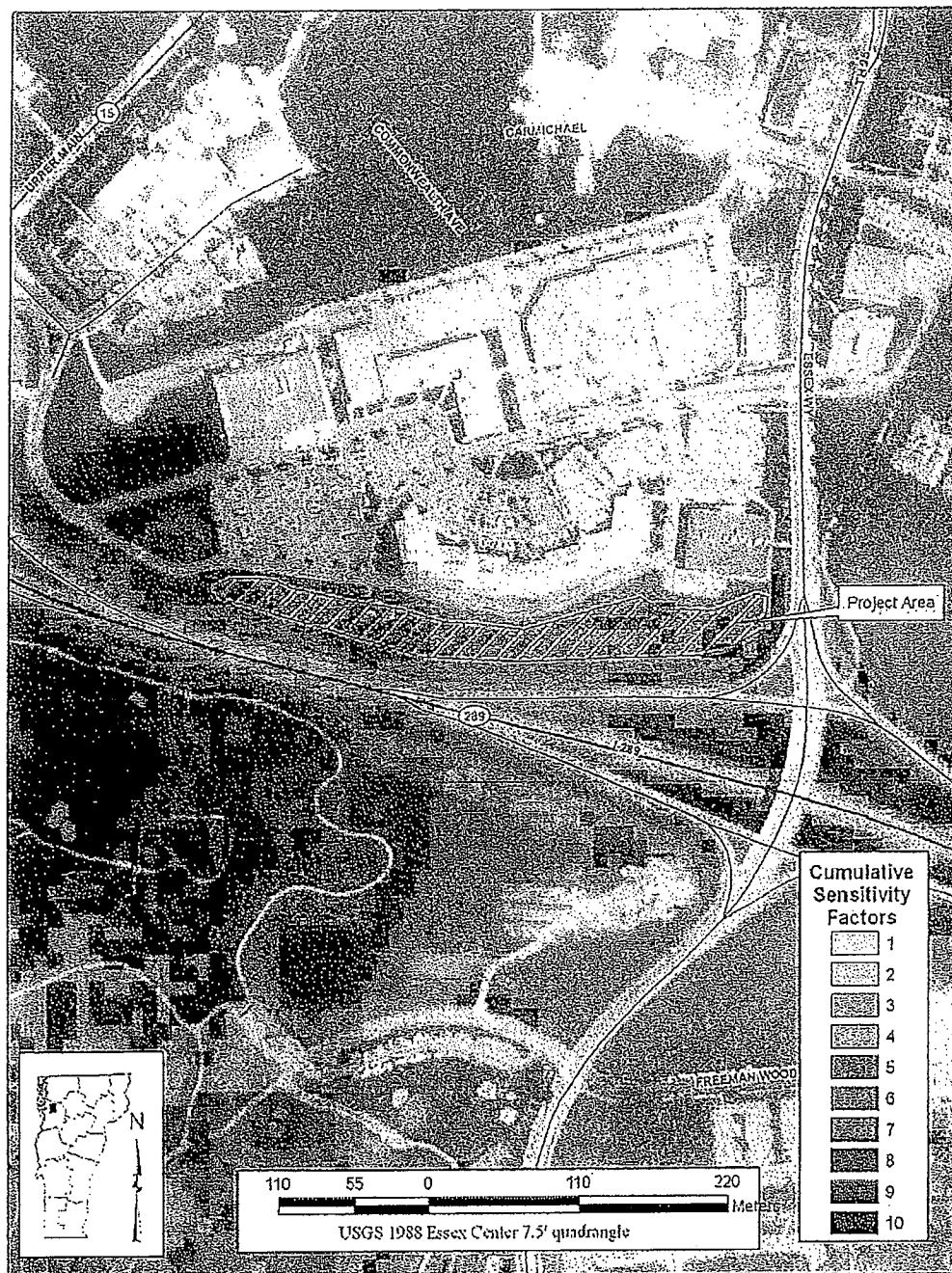


Figure 1. Map showing the location of Area #1 of the proposed Town of Essex Stormwater System Upgrade Project in relation to archaeological sensitivity, Essex, Chittenden County, Vermont.

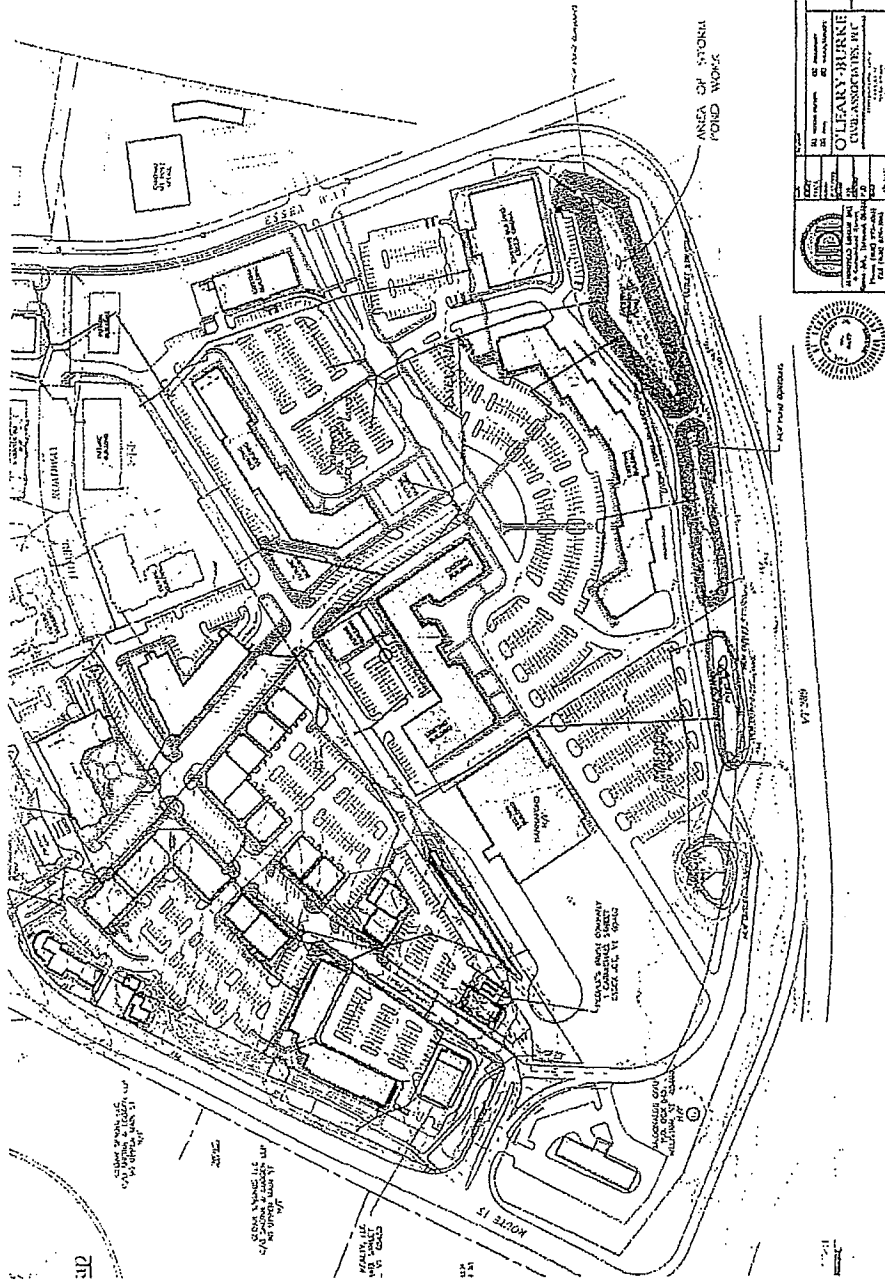


Figure 2. Map showing the plans for Area #1 (south of the Essex Cinemas) of the proposed Essex Stormwater System Upgrade Project in relation to archaeological sensitivity, Essex, Chittenden County, Vermont.

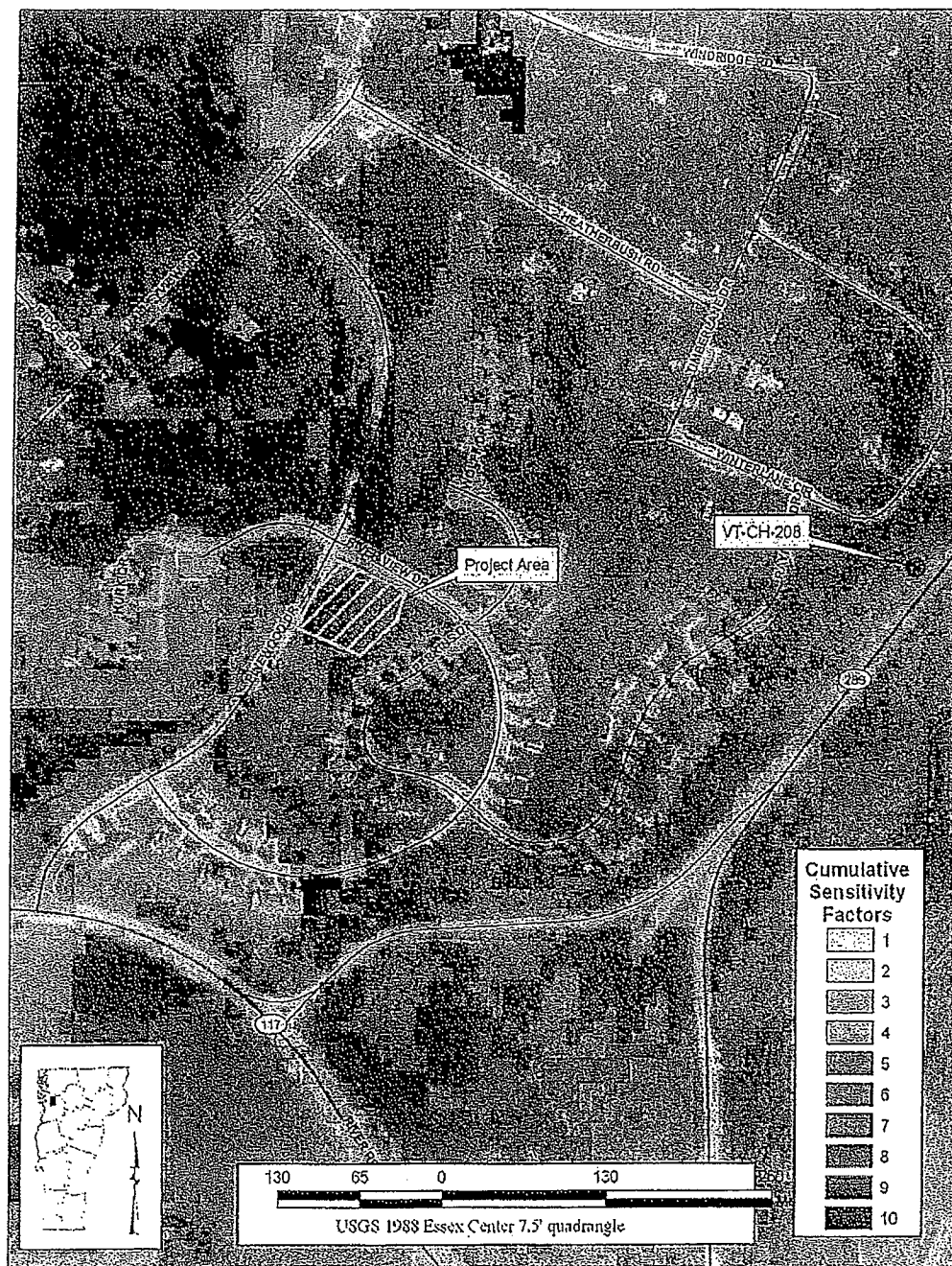


Figure 3. Map showing the location of Area #2 of the proposed Town of Essex Stormwater System Upgrade Project in relation to archaeological sensitivity, Essex, Chittenden County, Vermont.

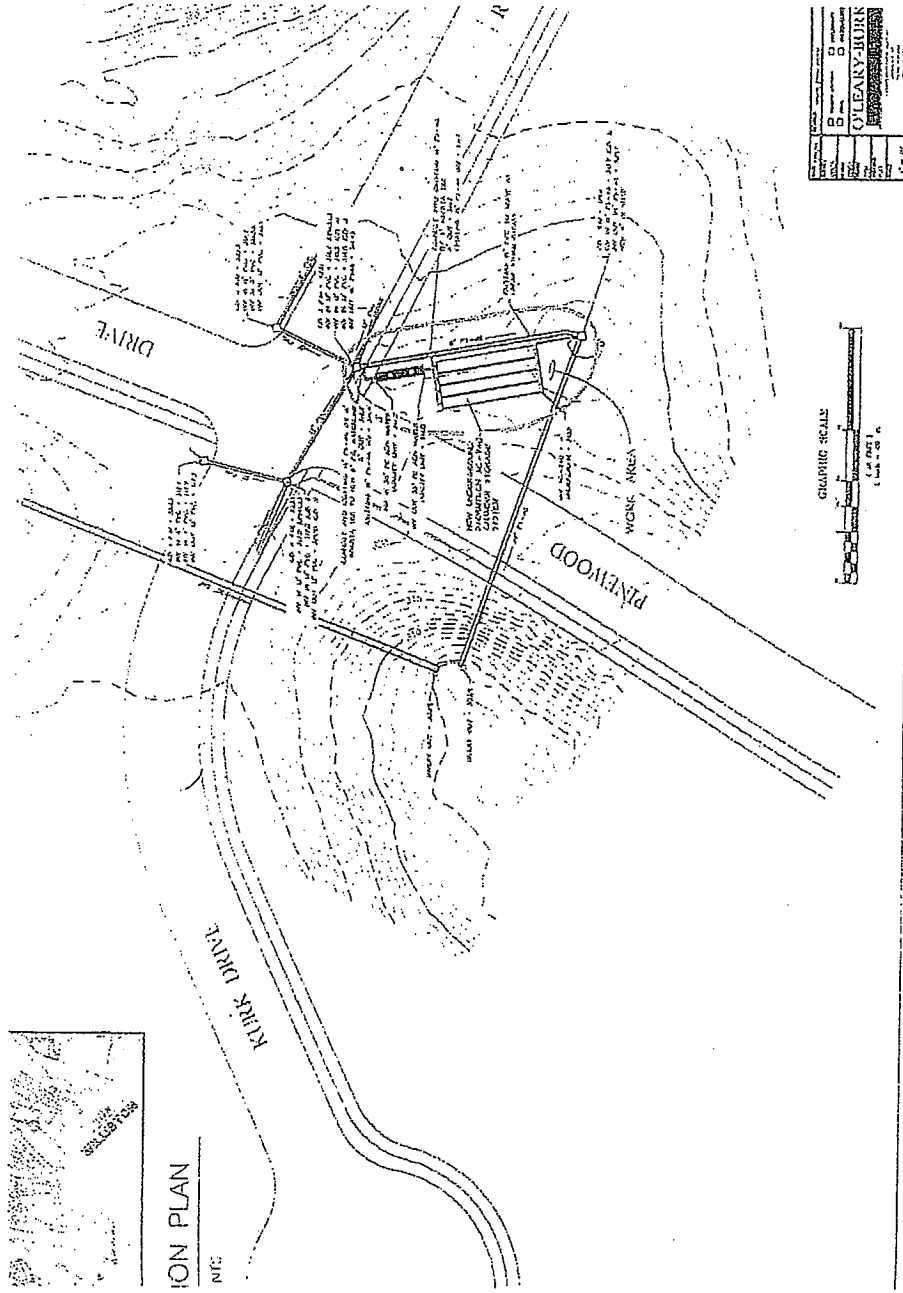


Figure 4. Map showing the plans for Area #2 (intersection of Pinewood and Riverview Drives) of the proposed Essex Stormwater System Upgrade Project in relation to archaeological sensitivity, Essex, Chittenden County, Vermont.