

STATE OF VERMONT  
AGENCY OF NATURAL RESOURCES  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
WATERSHED MANAGEMENT DIVISION  
MAIN BUILDING, SECOND FLOOR  
ONE NATIONAL LIFE DRIVE  
MONTPELIER, VERMONT 05620-3522

**DISCHARGE PERMIT**  
**NPDES Number: VTS00136**  
**Permit Number: 6760-INDC**

For Stormwater Runoff from the re-construction of US Route 7, Pittsford - Brandon NH 019-3(494), located in the Towns of Pittsford and Brandon.

In compliance with provisions of the following state and federal laws and rules: the Vermont Water Pollution Control statute, 10 V.S.A. Chapter 47, including §§1258, 1259 and 1263; the Vermont Water Pollution Control Rules, Chapter 13, the federal Clean Water Act, as amended, 33 U.S.C. 1251 et seq., including 33 USC 1342(p); and the regulations of the federal Environmental Protection Agency including 40 CFR 122.26 and in accordance with terms and conditions hereinafter specified,

**Permittee:** Vermont Agency of Transportation  
C/o Director of Program Development  
1 National Life Drive  
Montpelier, VT 05633-5001

**Co-Permittees:** (All principal operators shall obtain coverage as co-permittees prior to the commencement of construction activities.)

are hereby authorized by the Stormwater Program of the Agency of Natural Resources (ANR), to discharge stormwater runoff from roadway reconstruction at Stations 15+193 – 16+428 of U.S. Route 7, discharging to a Class 2 wetland, an unnamed tributary, and Otter Creek; at Stations 14+696 – 14+992 to Otter Creek; and at Station 14+020 to unnamed tributary, a wetland, and Otter Creek.

This authorization incorporates by reference the following Erosion Prevention and Sediment Control Plan (EPSC Plan) provided by the applicant to the Stormwater Program:

**EPSC Plan Sheets for Pittsford – Brandon NH 019-3(494):**  
**EPSC Existing Conditions Sheets 1 – 17 (1 thru 17 of 56) date 13-Jun-2012**  
**EPSC Construction Sheets 1 – 17 (19 thru 35 of 57), all dated 13-Jun-2012**  
**EPSC Final Sheet 1 – 17 (36 thru 52 of 57), all dated 13-Jun-2012**  
**EPSC Detail Sheet 1 – 5 (53 thru 57 of 57), all dated 13-Jun-2012**

Prepared by Vermont Agency of Transportation  
Received June 18, 2012

## **Part I. Coverage Under this Permit**

### *A. Discharges Covered by this Permit*

Subject to compliance with the terms and conditions of this permit, this permit authorizes the discharge of pollutants in stormwater associated with roadway reconstruction at Stations 15+193 – 16+428 discharging to a Class 2 Wetland, an unnamed tributary, and Otter Creek; at Stations 14+696 – 14+992 to Otter Creek; and Stations at Station 14+020 to unnamed tributary, Wetland #7, Otter Creek. This permit only applies to construction activities performed in accordance with the approved EPSC Plan. This permit also authorizes discharges from excavation dewatering activities in accordance with Part II.H of this permit.

### *B. Limitations on Coverage*

1. The Stormwater Program has determined that an individual permit is required for this project.
2. This permit does not authorize:
  - a. Discharges of post-construction regulated stormwater runoff from impervious surfaces regulated pursuant to Vermont's stormwater statute (10 V.S.A. §1264) and Vermont Department of Environmental Conservation's (DEC) stormwater rules (i.e. Chapters 18 and 22 of DEC's Environmental Protection Rules);
  - b. Stormwater discharges not associated with construction activities;
  - c. Stormwater discharges or construction activity likely to jeopardize the continued existence of any State or federally listed threatened or endangered species or result in the destruction or adverse modification of critical habitat.

### *C. Support Activities*

1. The permittee shall obtain permit coverage from DEC prior to the use of any off-site support activities (e.g. equipment staging areas, material storage areas, excavated material waste and borrow areas) occurring outside of the approved project boundaries. Support activities outside of the approved project boundaries shall obtain coverage by amending this permit, by obtaining coverage under a different individual discharge permit, or by obtaining coverage under DEC's General Permit for Stormwater Runoff from Construction Sites.
2. Support activities within the approved project boundaries shown on the EPSC Plan, including activity on parcels immediately adjoining the main roadway corridor, are subject to the requirements of this permit.

### *D. Co-Permittees*

1. In addition to the permittee, all parties associated with the construction activity who meet either of the following two criteria of Operator must obtain coverage under this permit as co-permittee prior to the commencement of construction activities:
  - a. The party has operational control over construction plans and specifications, including but not limited to the ability to make modifications to those plans and specifications; or
  - b. The party has continuous day-to-day operational control of those activities at the project that are necessary to ensure compliance with an EPSC Plan for the site or other permit conditions (i.e. they are authorized to direct workers at a site to carry out activities required by the EPSC Plan or comply with other permit conditions).

## **Part II. Erosion Prevention and Sediment Control Requirements**

### *A. Implementation of EPSC Plan*

1. Each permittee is responsible for implementing the approved EPSC Plan and shall at all times comply with the approved EPSC Plan or amended versions of the EPSC Plan updated in accordance with this permit.
2. The EPSC Plan is incorporated by reference and included in the terms of this permit, and each permittee shall implement the provisions of the EPSC Plan, and all amendments thereto, as a condition of this permit. Failure to comply with the EPSC Plan, and all amendments thereto, shall be deemed a violation of this permit and subject to potential enforcement.
3. The permittee is responsible for ensuring that each Operator is familiar with the terms and conditions of the EPSC Plan and that each contractor's activities are carried out in accordance with the EPSC Plan.
4. The permittee shall assure that construction of sedimentation ponds and sediment traps, where proposed on the site, is completed prior to upslope disturbance of areas for which these features are designed to provide large area sediment control, in accordance with the 2006 Vermont Standards and Specifications for Erosion Prevention and Sediment Control.
5. The permittee shall assure that, prior to earth disturbance within any area of the site located within 100 feet upslope of a stream or wetland, silt fence or approved perimeter control shall be installed in accordance with the 2006 Vermont Standards and Specifications for Erosion Prevention and Sediment Control and the EPSC Plan at an appropriate distance down slope from disturbed areas and upslope from such waters.
6. The permittee shall install all required elements with the EPSC Plan within a given work area prior to earth disturbance within that work area. Earth disturbance includes, but is not limited to, stumping and grubbing.

### *B. On-Site Plan Coordinator (OSPC)*

1. The permittee shall designate a person as the OSPC who shall be directly responsible for on-site implementation of the EPSC Plan. Such person shall be knowledgeable in the principles and practice of erosion and sediment controls and possess the skills to assess conditions at the construction site that could impact stormwater quality and to assess the effectiveness of all sediment and erosion control measures selected to control the quality of stormwater discharges from the construction activity.
2. The OSPC shall have the authority to stop and/or modify construction activities as necessary to comply with the EPSC Plan and the terms and conditions of this permit and shall be responsible for inspections and record keeping. The OSPC or his/her designee shall be on site on a daily basis during active construction.
3. The name and daytime telephone number of the OSPC shall be filed in writing with DEC before the start of construction.

### *C. Maintenance of Erosion Prevention and Sediment Control Measures*

1. All erosion prevention and sediment control measures identified in the EPSC Plan shall be maintained in effective operating condition. If site inspections required by Part III.A identify Best Management

Practices (BMPs) that are not operating effectively, maintenance shall be performed before the next storm event to maintain the continued effectiveness of the measures. If implementing BMPs is impracticable before the next storm event, then the affected area shall be stabilized temporarily until such time that the BMPs can be installed.

2. If existing BMPs need to be modified or if additional BMPs are necessary for any reason, implementation shall be completed before the next storm event. If implementing BMPs is impracticable before the next storm event, then the affected area shall be stabilized temporarily until such time that the BMPs can be installed.

*D. Modifications to the EPSC Plan Identified as Necessary by Inspections from DEC Representatives*

1. If, based upon inspections or investigations by DEC representatives, it is determined that the EPSC Plan will not be sufficient to prevent runoff of visibly discolored stormwater from the construction site, the permittee shall modify the EPSC Plan as necessary to include additional or modified BMPs designed to correct problems identified. Revisions to the EPSC Plan shall be completed within seven (7) calendar days following the inspection or investigation.
2. At any time after issuing this permit, the Stormwater Program may determine that a stormwater discharge may cause, has reasonable potential to cause, or contribute to a violation of Vermont's Water Quality Standards. If such a determination is made, the Stormwater Program will require the permittee to:
  - a. Amend the EPSC Plan to address adequately the identified water quality concerns;
  - b. Submit valid and verifiable data and/or information that are representative of ambient conditions and indicate that the receiving water is attaining water quality standards; or
  - c. Cease discharges of pollutants to surface waters from the construction activity.
3. The Stormwater Program has the sole discretion to order a permittee to immediately stop all ongoing construction and construction-related activities upon a finding that a discharge or potential discharge from such activities presents a current or potential threat of harm to the environment. The Stormwater Program's stop work order may also require the permittee to take all actions to prevent or correct the discharge or potential discharge. Any action taken by the Stormwater Program pursuant to this subpart shall not limit the Stormwater Program's authority to pursue other enforcement actions pursuant to 10 V.S.A Chapters 47 and 201.
4. Each revised EPSC Plan prepared pursuant to this Part shall be maintained on-site.

*E. EPSC Plan Availability*

The permittee shall provide a copy of the EPSC Plan and all amendments to the OSPC and all contractors responsible for construction activities that involve soil disturbance. A copy of the EPSC Plan shall be kept on site at all times and shall be made available to the Stormwater Program, or his or her designated representative, upon request.

*F. Amending the EPSC Plan*

1. The permittee shall amend the EPSC Plan prior to implementing any change in the design, construction, operation or other procedure which would alter the grading plan, construction sequence, or the location or implementation of any BMPs.

2. An amendment to the EPSC Plan is required, when support activities are identified pursuant in Part I.C.2. EPSC Plan amendments shall be reported on an EPSC Plan Amendment Record Form provided by the Stormwater Program.
3. An amendment to the EPSC Plan is required, if after taking corrective action, as required in Part III.B, it is determined that the EPSC Plan requires an amendment to be effective in future efforts in preventing erosion and controlling the discharge of sediment.
4. An amendment to the EPSC Plan is required if the Stormwater Program makes this determination pursuant to Part II.D.2 of this permit.
5. The OSPC is authorized to implement changes that involve substituting accepted interchangeable erosion prevention and sediment control practices, as detailed in the Vermont Erosion Prevention and Sediment Control Field Guide. The substitution of interchangeable practices shall be reported on an EPSC Plan Amendment Record Form provided by the Stormwater Program.
6. For changes to the EPSC Plan other than substitution of interchangeable practices from the Vermont Erosion Prevention and Sediment Control Field Guide, the permittee shall have the EPSC Plan modified to reflect the change by either the original designer, a professional engineer licensed in the State of Vermont, or a Certified Professional in EPSC. Such modification shall include a certification that the modified EPSC Plan meets the requirements of this permit and the 2006 Vermont Standards and Specifications for Erosion Prevention and Sediment Control. EPSC Plan amendments shall be reported on an EPSC Plan Amendment Record Form provided by the Stormwater Program.
7. All proposed changes to the EPSC Plan that do not conform to the 2006 Vermont Standards and Specifications for Erosion Prevention and Sediment Control must be submitted to DEC for formal approval prior to implementation of the changes in the field. The submission shall include:
  - a. Narrative description of the plan changes;
  - b. Justification for the alternative EPSC practice(s);
  - c. Updated EPSC Plan sheets showing the proposed changes;
  - d. Any additional information required by the Stormwater Program.
8. Any proposed change that involves earth disturbance substantially outside of the originally authorized project limits requires coverage under a separate authorization or an amendment to this permit.

*G. Late Fall/Winter/Early Spring Construction Activities*

1. If construction activities involving earth disturbance continue past October 15 or begin before April 15 (Winter Construction), the permittee shall implement Winter Construction EPSC practices as outlined in the EPSC Plan.
2. If a permittee plans to undertake construction activities during Winter Construction and the EPSC Plan does not identify EPSC measures during this time period, the permittee shall submit a stand-alone EPSC Plan for this late fall/winter/early spring work to DEC for formal approval prior to undertaking such activities. The submission shall include a narrative description of the proposed work and the stand-alone EPSC Plan shall include only this work. The stand-alone EPSC Plan shall be designed according to The Vermont Standards and Specifications for Erosion Prevention and Sediment Control.
3. All possible measures will be taken to limit the exposure of soils during all late fall/winter/early spring construction activities. The Stormwater Program reserves the right to require suspension of construction

activities until after April 15 if late fall/winter/early spring construction is determined to present a significant risk to water quality. Also, the Stormwater Program reserves the right to prohibit construction activities between October 15 and April 15 if late fall/winter/early spring construction is determined to present a significant risk to water quality.

#### *H. Dewatering Activities*

1. A site-specific dewatering plan shall be employed for any dewatering activities. The dewatering plan shall detail the following:
  - a. Nature of activity requiring dewatering;
  - b. Location of the dewatering pumpage show on plan;
  - c. EPSC practice(s) to be used during dewatering activities; and
  - d. Anticipated duration of dewatering activities.
2. The use of EPSC practice(s) for dewatering activities not included in the original EPSC Plan are subject to the requirements of Part II.F.
3. Pumpage from areas excavated for the construction of the project shall be treated or disposed of in such manner that the turbidity criteria of Vermont Water Quality Standards are met. Prior to any dewatering activities which may result in the pumpage reaching State waters by surface flow, the Principal Permittee shall measure and document the turbidity value to ensure that it is sufficient to comply with the Vermont Water Quality Standards. The inspection reports shall contain information on when dewatering is being done, measures being utilized for treatment, and effectiveness of those measures.

#### *I. Disturbance Limitations/Stabilization*

1. The total earth disturbance associated with construction of this project is approximately **26** acres.
  - a. The maximum area of concurrent earth disturbance at any one time allowed under this permit for the main roadway corridor (Begin-End Stations 13+752 – 16+502) is five (**5**) acres.
  - b. The maximum area of concurrent earth disturbance at any one time allowed under this permit for each support area, subject to Part I.C, is two (**2**) acres for each designated area, and shall not occur within 50 feet upslope of any surface waters.
2. All areas of earth disturbance must be stabilized within seven (**7**) days of initial disturbance. After this initial 7-day period, all disturbances in these areas must be stabilized on a daily basis, with the following exceptions:
  - a. Stabilization is not required if work is to continue in the disturbed area within the next 24 hours and there is no precipitation forecast for the next 24 hours.
  - b. Stabilization is not required if the work is occurring in a self-contained excavation (i.e. no outlet for stormwater) with a depth of 2 feet or greater (e.g. underground line installation).
  - c. During Winter Construction, to ensure cover of disturbed soil in advance of a melt event, areas of disturbed soil must be stabilized at the end of each work day, in accordance with the previous exceptions.

#### *J. Pre-construction Conferences*

The permittee shall notify DEC of the planned start date and schedule a pre-construction conference at least two weeks prior to commencing construction. The pre-construction conference shall occur prior to initiating construction activities and shall be attended by the OSPC, EPSC Specialist, and a representative of DEC.

*K. Presumption of Compliance with Vermont's Anti-Degradation Policy and Water Quality Standards*

1. The Stormwater Program has determined that the permitted discharges satisfy Vermont's Anti-Degradation Policy described in the DEC's Interim Anti-Degradation Implementation Procedure (Procedure), because the Procedure allows a presumption of compliance for discharges that meet the requirements of a BMP or treatment and control manual as described in Section IX.D.1.a of the Procedure. The Stormwater Program has also determined that for such discharges that qualify for the presumption under Section IX.D.1.a, all existing uses of surface waters, and the level of water quality necessary to protect those existing uses will be maintained and protected. The Stormwater Program has determined that if the permittee is in full compliance with all permit conditions, including approved plans, sampling, monitoring, reporting and recordkeeping conditions, and is fully implementing stormwater BMPs required by this permit, the permitted discharges will meet the requirements of the Vermont Standards and Specifications for Erosion Prevention and Sediment Control and qualify for the presumption described in Section IX.D.1.a of the Procedure and will be presumed to comply with the Vermont Water Quality Standards, including but not limited to §1-03 (Vermont's Anti-degradation Policy).
2. In conducting an anti-degradation review under the Policy and Procedure, the Stormwater Program must also consider the cumulative impacts associated with a discharge. The Procedure defines "cumulative impact" as the impact on the receiving water that results from the incremental impact of a discharge when added to other past and present legal discharges.
3. Based on the findings in Part II. J.1 and 2, the Stormwater Program finds that there will be no limited reduction in high quality waters and therefore it is not necessary to perform a socio-economic analysis under the Policy and Procedure.

**Part III. Inspections, Discharge Sampling, Corrective Action, and Recordkeeping**

*A. General Inspection Requirements*

1. The Permittee is responsible for inspecting and maintaining erosion prevention and sediment controls that minimize or eliminate pollutants in the discharge in accordance with the requirements of this permit.
2. Inspections shall be conducted at least once every seven (7) calendar days and as required in Part III.B of this permit.
3. During active construction during the late fall/winter/spring season (October 15th through April 15th), daily inspections shall be conducted of areas that have been disturbed and are not yet finally stabilized.
4. Inspection frequency may be reduced to not less than once per month if active construction has ceased and the entire site is temporarily stabilized.
5. Inspections may be postponed indefinitely if the entire site is permanently stabilized.
6. Inspections shall be conducted by, or under the direction of, the OSPC.
7. Inspections shall include all areas of the site disturbed by construction activity and all discharge locations, including areas with temporary stabilization.
8. An inspection report shall be completed for each inspection and signed by the OSPC or the person acting under the direction of the OSPC. At a minimum, each inspection report shall include:

- a. The inspection date;
  - b. Names, titles, and qualifications of personnel making the inspection;
  - c. A general description of weather information for the period since the last inspection (or since commencement of construction activity if the first inspection) including a description of any precipitation, any runoff of visibly discolored stormwater from the construction site and any discharges of visibly discolored stormwater from the construction site to waters of the state;
  - d. A description of current weather information and a description of any runoff or discharges of visibly discolored stormwater to waters of the state occurring at the time of the inspection;
  - e. Location(s) of runoff or discharges of visibly discolored stormwater to waters of the state from the construction site;
  - f. Location(s) of BMPs that need to be maintained;
  - g. Location(s) of BMPs that failed to operate as designed or proved inadequate for a particular location;
  - h. Location(s) where additional BMPs are needed;
  - i. Any other corrective action required including any necessary changes to the EPSC Plan and implementation dates;
  - j. Description of areas that are currently disturbed and areas that have been temporarily or finally stabilized since last inspection;
  - k. A description of the soil conditions (e.g. dry, wet, saturated); and
  - l. A certification that the construction activity is compliant with the EPSC Plan and this permit.
9. A record of each inspection report and of any actions taken in accordance with this Subpart shall be maintained on-site with the EPSC Plan and shall be made available upon request by DEC representatives.
10. When site conditions between April 15<sup>th</sup> – May 15<sup>th</sup> and September 15<sup>th</sup> – October 15<sup>th</sup> are similar to winter conditions, such as snow cover, frozen ground and/or saturated soils, within the areas of planned earth disturbance, the appropriate winter restrictions on page 3.19 of the 2006 Vermont Standards and Specifications for Erosion Prevention and Sediment Control selected by the OSPC shall be applied to the portions of the site that are experiencing those conditions.

*B. Inspection, Sampling and Corrective Action Requirements*

1. As soon as reasonably possible, during, or after, every rainfall event which produces runoff from the construction site, the OSPC shall inspect for the runoff of visibly discolored stormwater from the construction site. If there is runoff of visibly discolored water from the construction site, the OSPC shall as soon as practicable inspect and maintain BMPs for compliance with the approved EPSC plan. For purposes of this permit, “construction site” shall mean the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity or the area of earth disturbance directly associated with the permitted construction activity.
2. If after inspecting and maintaining existing BMPs in accordance with Part III.B.1, the runoff of visibly discolored stormwater continues, the OSPC shall sample the runoff as follows:
  - a. A turbidity sample shall be taken at each point where visibly discolored stormwater runs off the construction site. Samples shall be representative of the flow and characteristics of the runoff.
  - b. If due to unexpected circumstances an OSPC is unable to sample during periods of runoff, the monitoring report shall include a brief explanation of such circumstances.
  - c. Sampling is required at all points where visibly discolored stormwater runoff from disturbed areas that have not been finally stabilized leaves the construction site.
  - d. All sampling points shall be identified on the EPSC Plan site map and be clearly marked in the field with a flag, tape, stake or other visible marker.

- e. After approval by DEC, sampling may be discontinued at those points of stormwater runoff that are deemed to pose no risk of discharge to waters of the state.
3. If the turbidity sample taken is 25 NTU or lower, no further sampling or action is required during this particular event.
  4. If the turbidity sample taken is greater than 25 NTU:
    - a. The OSPC shall as soon as practicable evaluate the need for supplemental BMPs and install such BMPs as necessary to correct the runoff.
    - b. The OSPC shall, within 72 hours of first discovering the runoff, submit a written report about the runoff and resulting corrective action to the Stormwater Program. The report shall:
      - i. Be on a form provided by the Stormwater Program
      - ii. Describe the cause, time and date, and location of the runoff;
      - iii. Describe the status of construction and conformance with the EPSC Plan at the time of the runoff;
      - iv. Detail the corrective action taken to stop the runoff, including a description of the actions taken, their location, and the time and date of the corrective action; and
      - v. Be copied and a copy retained on-site with the EPSC Plan.
    - c. The EPSC Plan shall be updated within 72 hours to reflect the actions taken.
  5. After taking the actions required in Part III.B.4.a above, and if the runoff of visibly discolored stormwater continues, the OSPC shall again follow the inspection and sampling requirements in Part III.B.2 above. If the turbidity sample is less than 25 NTU then no further action is needed. If the turbidity sample is greater than 25 NTU, the OSPC shall immediately notify DEC's Stormwater Program. DEC may require the OSPC to reevaluate existing BMPs and install supplemental BMPs as necessary to correct the runoff. Stormwater Program may also require the OSPC to continue sampling runoff daily when runoff is occurring until:
    - a. Turbidity is 25 NTU or lower; or
    - b. The runoff stops or is eliminated.

### *C. Recordkeeping*

1. The following records shall be maintained on-site with the EPSC Plan:
  - a. Inspection reports prepared pursuant to Part III.A of this permit;
  - b. Discharge Reports prepared pursuant to Parts III.B and VIII.C of this permit;
  - c. Notices of Addition or Notices of Termination of Co-Permittees submitted to the Stormwater Program in accordance with Part V of this permit;
  - d. Any Notice of Termination for Portions of an On-going Construction Site in accordance with Part V of this permit; and
  - e. Any amendments to the EPSC Plan required by this permit.
  - f. Any additional information reported on forms provided by the Stormwater Program.
2. A copy of the authorized EPSC Plan shall be on-site during normal working hours from the date of commencement of construction activities to the date of final stabilization. EPSC Plans shall be made available upon request by DEC representatives.
3. The OSPC shall have a copy of the EPSC Plan and all amendments available at a central location on-site for the use of all those identified as having responsibilities under the EPSC Plan whenever they are on the construction site.

4. The permittee shall post a Notice of Authorization, provided by the Stormwater Program, demonstrating authorization under this permit. The notice shall be placed near the construction entrance at a location visible to the public.

#### **Part IV. EPSC Specialist Oversight**

##### *EPSC Specialist*

1. In addition to the regular inspections required under Part III.A., the permittee shall designate an EPSC Specialist who will be responsible for performing environmental inspections during the project; confirming water resources protection throughout the project, and for related record keeping. The name, address, telephone number, and basic qualifications of the person shall be provided to DEC for approval before the commencement of construction. This person shall not be the OSPC.
2. The EPSC Specialist shall determine, confirm, and report whether the EPSC Plan is being followed and that appropriate revisions are being made to the EPSC Plan when the EPSC Plan proves inadequate. In addition, the EPSC Specialist shall, in conjunction with the OSPC bear the responsibility of reviewing the site to ensure compliance with the approved EPSC Plan and to direct corrective action in accordance with Part III.B of this permit.
3. The EPSC Specialist shall notify the contractor when changes in practice are necessary to comply with the EPSC Plan and the terms and conditions of this permit. The EPSC Specialist shall be responsible for inspections, photo documentation, and record keeping and shall, biweekly during earth disturbance activities, file with DEC a report outlining:
  - a. Construction status;
  - b. EPSC practices installed and removed since last report;
  - c. New measures undertaken subsequent to the prior report;
  - d. Erosion problems encountered and how and when resolved;
  - e. Status of the project in terms of consistency with the planned construction sequence;
  - f. Description, including location and total area (acres), of disturbed land at the time of the inspection;
  - g. Description of areas temporarily or permanently stabilized since the last inspection record;
  - h. Changes in the EPSC Plan that are required (including submission for authorization from DEC, when necessary);
  - i. When dewatering is underway, discussion and photographs of measures being utilized for treatment, and turbidity monitoring results in conformance with Part III.H of this permit;
  - j. Photographs of areas stabilized since the prior report;
  - k. Photographs of all disturbed areas;
  - l. Photographs of receiving water(s) at turbidity monitoring location(s); and
  - m. All turbidity monitoring results collected since prior report in accordance with Part III.B of this permit.
4. In advance of the start of construction, the EPSC Specialist shall present to DEC for approval the proposed reporting format. Construction may not commence prior to DEC's written approval of the reporting format and schedule. Bi-weekly reports shall be submitted on the day authorized by DEC following the bi-weekly reporting period. EPSC Specialist reports shall be filed via mail with:

Department of Environmental Conservation  
Watershed Management Division  
Main Building, Second Floor

One National Life Drive  
Montpelier, VT 05620-3522

Or, via email to the appropriate DEC representative.

5. Each inspection report shall be prepared in consultation with the OSPC, shall include a review of the OSPC's inspection reports since the last inspection period, and shall be signed by the EPSC Specialist.

## **Part V. Transfers of Permit, Co-Permittees, and Termination**

### *A. Transfer of Permit Coverage*

1. A transfer of this permit may occur only in connection with the transfer of the entire construction site to a new owner.
2. A Notice of Transfer must be submitted to the Stormwater Program not later than thirty (30) days prior to the transfer and shall include the following:
  - a. The name and address of the present permittee;
  - b. The name and address of the prospective permittee;
  - c. The proposed date of transfer; and
  - d. A statement signed by the prospective permittee, stating that:
    - i. The conditions of the facility operation that contribute to, or affect, any discharge will not be materially different under the new ownership;
    - ii. The prospective permittee has read and is familiar with the terms of the permit and agrees to comply with all the terms and conditions of the permit; and
    - iii. The prospective permittee has adequate funding or other means to effect compliance with all the terms of the permit.

### *B. Adding or Terminating Co-Permittees*

1. An owner or principal operator may be added as a co-permittee by filing a Notice of Addition of Co-Permittee with the Stormwater Program. The Co-Permittee shall be subject to all the terms and conditions of this permit and the EPSC Plan.
2. If the owner of the construction site obtains coverage under this permit and the owner is not the principal operator or the sole principal operator, then all principal operators shall obtain coverage as co-permittees in accordance with this Subpart prior to the commencement of construction activities.
3. An owner or principal operator may be terminated as a Co-Permittee by filing a Notice of Termination of Co-Permittee Status with the Stormwater Program. The Co-Permittee shall only be terminated from the permit upon approval by the Stormwater Program.

### *C. Notice of Termination for Portions of an On-going Construction Site*

1. A permittee may submit a Notice of Termination (NOT) for a portion of the on-going construction project in the following instances:
  - a. When final stabilization has been achieved on the portion of the site for which termination is sought;
  - b. When title to a portion of the construction site has been transferred to a new owner and the new owner has obtained separate coverage under an individual construction permit or DEC's General Permit 3-9020 for Stormwater Runoff from Construction Sites (Amended 2008);

- c. When another operator has assumed control over the portion of the site for which termination is sought and the new operator has obtained coverage under an individual construction permit or DEC's General Permit 3-9020 for Stormwater Runoff from Construction Sites (Amended 2008);
  - d. For residential construction only, temporary stabilization has been completed and the residence has been transferred to the homeowner.
2. To obtain a notice of termination for a portion of an on-going construction site, the permittee shall follow the requirements of Part V.E of this permit.

*D. Notice of Termination for the Entire Construction Site*

1. The permittee may submit a NOT for the entire construction site in the following instances:
  - a. Final stabilization has been achieved on the entire construction site for which the permittee is responsible;
  - b. Another operator has assumed control over all areas of the site that have not been finally stabilized and has obtained permit coverage; or
  - c. Coverage under an individual or DEC's General Permit 3-9020 for Stormwater Runoff from Construction Sites (Amended 2008) has been obtained.
2. To obtain a notice of termination for the entire construction site, the permittee shall follow the requirements of Part V.E of this permit.

*E. Submitting a Notice of Termination*

1. A permittee shall submit a complete and accurate NOT, on a form provided by the Stormwater Program.
2. A NOT shall include, at a minimum, the following information:
  - a. The permit number for which termination is sought;
  - b. The basis for submission of the NOT;
  - c. The owner's and operator's name, address and telephone number;
  - d. The name of the project and address (or a description of location if no street address is available) of the construction site for which the notification is submitted;
  - e. A certification statement, signed and dated by the OSPC and by an authorized representative as defined in the signature requirements in Part VIII and Part I, and the name and title of that authorized representative; and
  - f. If the NOT is for only a portion of an ongoing construction project, a description of the portion of the site to which the NOT will apply and a plan showing the boundaries of this portion.

## **Part VI. Violation of Permit Requirements; Enforcement**

The permittee shall comply with all terms and conditions of this permit. Any permit noncompliance constitutes a violation of 10 V.S.A. Chapter 47 and the federal Clean Water Act, and is grounds for an enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

## **Part VII. Appeals**

*Right to Appeal to Environmental Court*

Pursuant to 10 V.S.A. Chapter 220, if this decision relates to all other projects, any appeal of this decision must be filed with the clerk of the Environmental Court within 30 days of the date of the decision. The appellant must attach to the Notice of Appeal the entry fee of \$250.00 payable to the State of Vermont. 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 Court; and must be signed by the appellant or their 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 additional information, see the Vermont Rules for Environmental Court Proceedings, available online at [www.vermontjudiciary.org](http://www.vermontjudiciary.org) or call (802) 828-1660. The address for the Environmental Court is 2418 Airport Road, Suite 1, Barre, Vermont 05641.

## **Part VIII. Standard Permit Conditions**

### *A. Permit Actions*

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

### *B. Limitations*

1. This permit conveys no vested rights or exclusive privileges. The permit conveys no title to land nor authorizes any injury to public or private property. The permit does not authorize infringement of any applicable federal, state or local laws or regulations nor obviate the necessity of obtaining such additional permits as may be required.
2. Nothing in this permit shall be construed as having relieved, modified, or in any manner affected the permittee's ongoing obligation to comply with all other federal, state or local statutes, regulations or directives applicable to the permittee in the operation of its business, nor does it relieve the permittee of the obligation to obtain all necessary federal, state and local permits.

### *C. Prohibitions*

1. This permit does not relieve any person of the federal reporting requirements of 40 CFR Part 110, 40 CFR Part 117 and 40 CFR Part 302 relating to spills or other releases of oils or hazardous substances. This permit does not authorize the discharge of hazardous substances or oil resulting from an on-site spill.
2. If a release in excess of reportable quantities occurs, the permittee must modify the EPSC Plan required under Part III within 7 calendar days of knowledge of the release to: provide a description of the release, the circumstances leading to the release, and the date of the release. The EPSC Plan must identify measures to prevent the reoccurrence of such releases and to respond to such releases.
3. Discharges of any material other than stormwater, such as vehicle and equipment maintenance spills, fuels, wash water, construction debris, oil, wet concrete (including washout water from concrete batch trucks or equipment used to mix concrete), and other substances are prohibited.
4. Sediments and other pollutants collected and removed in the course of treatment of stormwater runoff shall be disposed in a manner that will not result in the sediments and pollutants entering waters of the State.

*D. Right of Entry*

The permittee shall allow DEC, at reasonable times, and upon presentation of credentials, to enter upon and inspect the property on which the construction activities are occurring and to sample any construction-related discharges and to have access to and copy any records required to be kept pursuant to this permit.

*E. Historic Properties*

Each permittee must comply with any applicable state and local laws concerning the protection of historic properties and places.

*F. Retention of Records*

Copies of the EPSC Plan, all amendments thereto, and all documentation required by this permit, including records of all data used to complete the NOI to be covered by this permit, must be retained for at least three years from the date that permit coverage expires or is terminated. This period may be extended by request of the Stormwater Program at any time.

*G. Need to Halt or Reduce Activity Not a Defense*

It shall not be a defense in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

*H. Duty to Mitigate*

A permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

*I. Signatory Requirements*

1. All applications must be signed as follows:

- a. For a corporation: by a responsible corporate officer. For the purposes of this section, a responsible corporate officer means:
  - i. A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation;
  - ii. The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or
- c. For a municipality, State, Federal or other public agency: by either a principal executive officer or a ranking elected official. For purposes of this section, a principal executive officer of a Federal Agency includes: the chief executive officer of the agency or a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

2. All reports required by this permit, including but not limited to EPSC Plans, must be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized

representative only if the authorization is made in writing by a person described above. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or any individual occupying a named position. The signed and dated written authorization must be included in the EPSC Plan. A copy must be submitted to DEC, if requested.

3. Any person signing documents required under the terms of this permit must include the following certification:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

*J. Duty to Reapply*

If a discharge from the construction site is anticipated to continue after the expiration date of this permit, the permittee must reapply for coverage under a new permit sixty (60) days prior to the expiration date of this permit.

*K. Proper Operation and Maintenance*

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control which are installed or used by the permittee to achieve compliance with the conditions of this permit.

*L. Notice of Planned Changes*

The permittee shall give notice to the Stormwater Program as soon as possible of any planned physical alterations to the permitted facility.

*M. Notice of Anticipated Noncompliance*

The permittee shall give advance notice to the Stormwater Program of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

*N. Duty to Provide Information*

The permittee shall furnish to the Stormwater Program, within a reasonable time, any information which the Stormwater Program may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine noncompliance with this permit. The permittee shall also furnish to the Stormwater Program upon request, copies of records to be kept pursuant to this permit. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in a report to the Stormwater Program, it shall promptly submit such facts or information.

*O. Penalty for Permit Violation*

10 V.S.A. Section 1275(a) provides that:

Any person who violations any provision of this subchapter or who fails, neglects or refuses to obey or comply with any order or the terms of any permit issued in accordance with this subchapter, shall be fined not more than \$25,000.00 or imprisoned not more than six months, or both. Each violation may be a separate offense and, in the case of a continuing violation, each day's continuance may be deemed a separate offense.

10 V.S.A. Section 8010(c) provides that:

A penalty of not more than \$25,000.00 may be assessed for each determination of violation. In addition, if DEC determines that a violation is continuing DEC may assess a penalty of not more than \$10,000.00 for each day the violation continues. The maximum amount of penalty assessed under this subsection shall not exceed \$100,000.00.

*P. Penalty for False Statement*

10 V.S.A. Section 1275(b) provides that:

Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan, or other document filed or required to be maintained under this subchapter, or by any permit, rule, regulation or order issued under this subchapter, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this subchapter or by any permit, rule, regulation, or order issued under this subchapter, shall upon conviction, be punished by a fine of not more than \$10,000.00 or by imprisonment for not more than six months, or by both.

*Q. Severability*

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

*R. Monitoring*

Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

*S. Twenty-four hour reporting*

Unless provided otherwise by this permit, the permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

**Part X. Effective Date of Permit and Permit Term**

This permit shall become effective upon signing and shall expire five (5) years from the date of signing.

Signed this 25th day of January, 2013

David K. Mears, Commissioner  
Department of Environmental Conservation

By:   
Padraic Monks  
Stormwater Program Manager