



Town of Shelburne, Vermont

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Vermont Department of Environmental Conservation
Watershed Management Division
Stormwater Program – MSGP
1 National Life Drive, Main 2
Montpelier, Vt. 05620

July 15, 2016

Re: Town of Shelburne Requests a Public Hearing – MSGP 3-9003
Facility Operator: Vermont Railway, Inc.
Facility Name: Shelburne Transload Facility

Dear Vermont Department of Environmental Conservation:

The Town of Shelburne hereby respectfully requests a public hearing on the July 8, 2016 Notice of Intent (NOI) to discharge storm water pursuant to the Vermont Multi-Sector General Permit (MSGP) 3-9003 filed by Vermont Railway, Inc. The Town wishes to make public comment at the hearing and further wishes to extend the public comment period for this NOI beyond the ten (10) days to a minimum of thirty (30) days. A hearing in this matter is warranted because this application for coverage under the MSGP presents significant concerns to the Town, with respect to both natural resources, historic places and public health.

In particular, the Town is concerned about the Railway's representation in Paragraph D3 of the application. The application seeks direct discharge to Shelburne Bay via the LaPlatte River. Lake Champlain is an impaired water for phosphorous and new TMDLs were promulgated on or about June 17, 2016. Paragraph D3 fails to address this issue. The LaPlatte River is also an impaired water for E. coli. This was equally not indicated.

Furthermore, the Town is concerned about the impacts to endangered species. Section 1.2.4.5 of the permit provides that the discharge "will not adversely affect any species that are state or federally-listed as endangered or threatened ("listed") under the Endangered Species Act (ESA) and will not result in the adverse modification or destruction of habitat that is federally designated as "critical habitat" under the ESA or Vermont's Protection of Endangered Species Law, 10 VSA §§ 5401-5410." As there is potential habitat for the Stonecat and the Pocketbook in the proximity of the project site, the Town believes that a study should be performed to demonstrate no adverse affect to these and possibly other species.

Finally, Section 1.2.4.6 provides that "each permittee must comply with applicable federal and state or local laws concerning the protection of historic properties and places." It is known that this property contains historic Native American artifacts and the Town does not believe that the activities on this site comply with these requirements. For the reasons stated the Town of Shelburne believes a public hearing is warranted.

Sincerely,


Joe Colangelo,
Town Manager

Cc: Claudine Safar, Esq, Town Attorney, Monaghan Safar Ducham, PC
Shelburne Natural Resources and Conservation Commission
Shelburne Selectboard
Dean Pierce, Shelburne Director of Planning & Zoning
Chris Robinson, Shelburne Water Quality Superintendent