



Vermont Department of Environmental Conservation

Watershed Management Division

Main Building, Second Floor

One National Life Drive

Montpelier, VT 05620-3522

Agency of Natural Resources

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CERTIFIED MAIL: RETURN RECEIPT REQUESTED

7013 2250 0001 0770 1411

January 28, 2016

Vermont Railway
Attn: Dave Wulfson
One Railway Lane
Burlington, VT 05401
dwulfson@vrs.us.com

NOTICE OF ALLEGED VIOLATION ("NOAV")

Dear Mr. Wulfson:

You are hereby put on notice that the Watershed Management Division of the Vermont Department of Environmental Conservation believes that you are in violation of the following: 10 V.S.A. § 1264(c)(4) and Construction General Permit (CGP) 3-9020 (Amended 2008).

Address of Alleged Violations:

4474 Shelburne Road (nearest, 911 address pending), Proposed Location of Shelburne Transload Facility

The Vermont Railway parcel abuts the east side of the LaPlatte River. The western side of this parcel included a state-significant, old-forest example of the rare Sand-Over-Clay Forest with hemlock trees to 170 years old. The eastern portion of the parcel is a young example of the rare Pine-Oak-Heath Sandplain Forest. The LaPlatte River Marsh is an exceptional and widely recognized natural area in Vermont. The approximately 450 acres of contiguous upland and wetland along the LaPlatte River from Shelburne Falls downstream to the Shelburne Bay supports natural features and river processes that are recognized by the Vermont Fish and Wildlife Department as being highly significant. There are nine state-significant examples of rare to uncommon natural communities, including one of the best examples in Vermont of rare Sand-Over-Clay Forest. At least 15 species of rare to uncommon plant and animal species occur in the river, wetlands, and surrounding uplands. The diverse wetlands provide exceptional waterfowl and waterbird habitat. The natural area also provides high quality deer wintering areas and habitat for bobcat, mink, and otter.

Description of Alleged Violations:

During a site inspection on January 19, 2016 the following violations were identified:

1. Commencement of project that will result in earth disturbance of one acre or greater without first obtaining a permit from the Secretary of the Vermont Agency of Natural Resources.
2. Construction and construction-related activities proceeding without authorization under CGP 3-9020 (Amended 2008). Earth disturbance related to the installation of silt fence was observed on site on January 19, 2016.

Directives:

1. **All construction and construction related activities at the site must be halted until owner and operator have received authorization under CGP 3-9020 (Amended 2008) or individual permit.**

Potential Future Action by the Department:

In response to the alleged violation(s) the Department may issue an enforcement order pursuant to either 10 V.S.A. Section 1272 or 10 V.S.A. Section 8008 to require correction and/or remediation of the alleged violation(s) and require other measures as deemed appropriate. The Department may also initiate an action to assess penalties, if appropriate. The correction of the alleged violation(s) through the actions requested above or by other acceptable means may lessen the possibility or severity of any enforcement action which may be taken by the Department.

Please direct all correspondence, and any questions, to Kevin Burke, Environmental Analyst, Stormwater Program. Our mailing address is at the top of this NOAV. Mr. Burke can be reached at (802) 490-6168 or kevin.burke@vermont.gov.

Sincerely,



Peter LaFlamme, Director
Watershed Management Division

CC: Kevin Burke, Stormwater Program
Briana O. Cronin, P.E., VHB, bcronin@vhb.com