



State of Vermont

Agency of Natural Resources – Office of General Counsel
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Agency of Natural Resources

July 15, 2016

Judith C. Whitney, Clerk
Vermont Public Service Board
112 State Street
Montpelier, VT 05620-2701

Re: Vermont Gas Systems, Inc., Addison Natural Gas Project
Docket No. 7970

Dear Ms. Whitney:

The Agency provides the following in response to the Board's order dated July 8, 2016 seeking comments on the request for an order to show cause filed on July 8, 2016 with respect to the segment of the above Project's route through Geprags Park in Hinesburg.

Wetlands

Vermont Gas Systems, Inc. (VGS) presently possesses three separate wetland permits¹ issued by the Agency's wetlands program for the Project. The wetland permits authorize VGS to conduct Project activities in wetlands and associated buffer zones as specifically identified in those permits. It was recently brought to the Agency's attention that the wetlands associated with Geprags Park were not accurately depicted in any of VGS's wetland permit applications and that none of the permits include allowance for impacts to newly found wetlands and buffers in that area.

Those wetlands have now been redelineated and the new delineation was field reviewed by the Agency's wetlands program on July 8 and 12, 2016. The Agency's field review confirmed that the boundaries of the wetlands extended beyond what was previously depicted. Therefore, VGS will need to obtain a new wetland permit for the Geprags Park portion of the Project prior to performing any work within the previously unidentified portions of those wetlands. VGS's wetland permits remain valid for the previously identified portions and all other aspects of the Project.

Threatened species

Factual allegation M., which appears on page four of the request for an order to show cause, states:

¹ Individual Wetland Permits Numbered 2012-184 and 2015-464 and 2015-776.

On information and belief, the project as presently planned has already "taken" or will "take" threatened species in or near the wetlands in Hinesburg, as that term is defined by 10 V.S.A. § 5401.

The Agency is unaware of the presence of any threatened or endangered species in or near the wetlands which are the subject of the July 8 request - and this letter. The Agency has no reason to believe that threatened or endangered species exist in this area. VGS's natural resources assessment for this area did confirm the presence of an uncommon plant (State Rank S3). However, the need for a takings permit is not triggered by the presence of this plant. Therefore, the Agency does not require that VGS obtain a takings permit before performing work in this area.

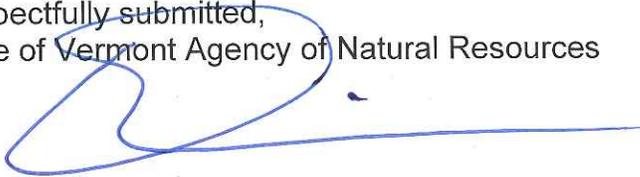
Conclusion

VGS will need to obtain a new wetland permit from the Agency for the Geprags Park portion of the Project if VGS intends to perform any work within the previously unidentified portions of those wetlands or their buffers. The new wetland permit would need to be obtained prior to commencement of that work. VGS's current wetland permits remain valid and authorize VGS to conduct Project activities in all wetlands and associated buffer zones as specifically identified in those permits. VGS does not need to obtain a takings permit in connection with the uncommon (S3) plant in Geprags Park.

The Agency cautions that it expects VGS, indeed all permit applicants, to provide comprehensive and accurate data when submitting permit applications. Agency staff invest substantial time in their review of submittals and field verification of a significant amount of information. Review and field verification of supplemental information which should have been included with an original application is an inefficient use of Agency resources and, if perpetuated, has the potential to undermine the permitting process. With this in mind, the Agency intends to examine the underlying issues which gave rise to the need for further delineation of the wetlands in this matter.

Thank you for the opportunity to submit comments and feel free to contact me if you should have any questions.

Respectfully submitted,
State of Vermont Agency of Natural Resources



By: Donald J. Einhorn, Esq.

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