

VERMONT DEPARTMENT OF ENVIRONMENTAL CONSERVATION
AUTHORIZATION TO DISCHARGE UNDER
GENERAL PERMIT 3-9050

A determination has been made that the applicant(s):

Vermont Agency of Transportation
Dill Building
2178 Airport Road
Barre, VT 05641

Impervious Area: 13.65 acres

meets the criteria necessary for inclusion under General Permit 3-9050. Hereinafter, the named applicant shall be referred to as the permittee. Subject to the conditions of General Permit No. 3-9050, the permittee is authorized to discharge stormwater as described herein:

Project Name: Swanton - VT 78 (NH 036-1(9))

Project Location: Vermont Route 78 near the Missisquoi Bay Bridge to near the Swanton dam in Swanton, Vermont

Receiving Waters:

- Black Creek
- Charcoal Creek
- Maquam Creek
- Missisquoi River
- Unnamed tributary to Lake Champlain

Replacing Permit #(s): 7846-INDS

Manner of Discharge:

S/N 001: Stormwater runoff from roadway station 34+00 to 61+00, via sheet flow discharging to the first unnamed tributary to Lake Champlain. A portion of runoff is disconnected.

S/N 002: Stormwater runoff from roadway station 61+00 to station 164+50, via sheet flow discharging to Charcoal Creek. A portion of runoff is disconnected.

S/N 003: Stormwater runoff from the east side of the roadway from station 77+50 to station 93+00, via sheet flow discharging to the second unnamed tributary to Lake Champlain. A portion of runoff is disconnected.

S/N 004: Stormwater runoff from roadway station 164+50 to station 228+00, from roadway station 259+00 to station 338+00, via sheet flow discharging to Missisquoi River. Runoff from station 327+00 to 335+00 via dry swale discharging via underdrain to Missisquoi River.

S/N 005: Stormwater runoff from the south side of the roadway from station 228+00 to station 232+25, via sheet flow discharging to Maquam Creek. A portion of runoff is disconnected.

S/N 006: Stormwater runoff from roadway station 232+50 to station 259.00, via sheet flow discharging to Black Creek. A portion of runoff is disconnected.

Design: This project shall be constructed and operated in accordance with the site plans and details designed by VHB; Sheet 1, "Cover," dated 06/29/2017; Sheet 2, "Index of Sheets," dated 06/29/2017; Sheet 3, "Conventional Symbolology Legend," dated 06/29/2017; Sheets 4-8, "Typical Sections," dated 06/29/2017; Sheets 9-12, "Roadway Details," dated 06/29/2017; Sheet 13, "Drive Details," dated 06/29/2017; Sheets 38-65, "Plan Sheet #1-28," dated 06/29/2017; Sheets 66-93, "Profile Sheet #1-28," dated 06/29/2017; Sheets 101-114, "EPSC Existing Conditions Plan #1-14," dated 06/29/2017; and all supporting information.

By reference, the above noted plans are made part of this authorization.

Compliance with General Permit 3-9050 and this Authorization

The permittee shall comply with this authorization and all the terms and conditions of General Permit 3-9050, including the payment of annual operating fees to the Department. A billing statement for such fees will be sent to the permittee each year. An invoice for the first year's operating fee will be sent separately. Any permit non-compliance, including a failure to pay the annual operating fee, constitutes a violation of 10 V.S.A. Chapter 47 and may be grounds for an enforcement action or revocation of this authorization to discharge.

Construction of the Stormwater Management System:

The stormwater management system as described in the approved design above shall be installed prior to the discharge of stormwater from any new or redeveloped impervious surface covered by this authorization. Where stormwater from existing impervious surface is being treated pursuant to "Site Balancing", per the approved design, the stormwater system treating such areas shall be installed prior to the discharge of stormwater from new or redeveloped impervious surface.

For any existing impervious surface covered by this authorization, except for existing impervious surfaces used for Site Balancing, as noted above, the stormwater management system as described in the approved design above shall be installed no later than 10/30/2027.

Annual Inspection and Report

The stormwater management system shall be properly operated. The permittee shall submit an annual inspection report on the operation, maintenance and condition of the stormwater management system. The inspection report shall be submitted regardless of whether the project has been constructed. The inspection shall be conducted between the conclusion of spring snow melt and June 15th of each year and the inspection report shall be submitted to the Secretary by July 15th of each year, or by July 30th if performed by a utility or municipality pursuant to a duly adopted stormwater management ordinance. The inspection report shall note all problem areas and all measures taken to correct any problems and to prevent future problems. The online submittal system, ANR Online, can be accessed at <https://anronline.vermont.gov>.

Initial Statement of Compliance

An initial statement of compliance, signed by a designer, must be submitted to the Stormwater Management Program no later than 30 days following completion of construction of the stormwater management system. Forms for completing this requirement are available on the Stormwater Management Program's website. The online submittal system, ANR Online, can be accessed at <https://anronline.vermont.gov>.

Transferability

This authorization to discharge is not transferable to any person except in compliance with Part 8.4 of General Permit 3-9050. A copy of General Permit 3-9050 is available from the Department via the internet at https://dec.vermont.gov/sites/dec/files/wsm/stormwater/docs/2020_09_01%20Final%20GP%203-9050.pdf

Changes to Permitted Development

In accordance with Part 8.6. of General Permit 3-9050, the permittee shall notify the Department of any planned development or facility expansions or changes that may result in new or increased stormwater discharges. The Department shall determine the appropriateness of continued inclusion under General Permit 3-9050 by the modified development or facility.

Recording in Land Records

The permittee shall record in the local land records, within 30 days of issuance of this authorization, a one-page notice of permit coverage. A one-page notice form may be obtained from the Secretary. A copy of the recording shall be provided to the Secretary within 14 days of the permittee's receipt of a copy of the recording from the local land records. Permits for public linear transportation projects shall be exempt from this requirement provided the permit is retained by the permittee in the official project file.

Right to Appeal

(A) Pursuant to 10 V.S.A. Chapter 220, any appeal of this permit, except for appeal of a renewable energy plant as described in (B), must be filed with the clerk of the Environmental Division of the Superior Court within 30 days of the date of the decision. 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 Division; and must be signed by the appellant or the appellant's 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 further information, see the Vermont Rules for Environmental Court Proceedings.

(B) If this permit relates to a renewable energy plant for which a certificate of public good is required under 30 V.S.A. § 248, any appeal of this decision must be filed with the Vermont Public Utility Commission pursuant to 10 V.S.A. § 8506. This section does not apply to a facility that is subject to 10 V.S.A. § 1004 (dams before the Federal Energy Regulatory Commission), 10 V.S.A. § 1006 (certification of hydroelectric projects), or 10 V.S.A. Chapter 43 (dams). Any appeal under this section must be filed with the clerk of the Public Utility Commission within 30 days of the date of this decision; the appellant must file with the clerk an original and six copies of its appeal. The appellant shall provide notice of the filing of an appeal in accordance with 10 V.S.A. § 8504(c)(2) and shall also serve a copy of the notice of appeal on the Vermont Public Service Department. For further information, see the Rules and General Orders of the Public Utility Commission.

Effective Date and Expiration Date of this Authorization

This authorization to discharge shall become effective on October 31, 2022 and shall expire on October 30, 2027. The permittee shall reapply for coverage prior to the expiration of this authorization.

Dated October 31, 2022.

Julia S. Moore, Secretary
Agency of Natural Resources



By:

Chris Gianfagna, Program Manager
Stormwater Management Program

Notice of Authorization

Individual Discharge Permit for Stormwater Runoff from
Construction Activities



Project Name: VTrans Route 78 Swanton

Permit Number: 7846-INDC

**Permittee Name: Vermont Agency of Transportation
(VTrans)**

Date of Issuance: 11/29/2022

Date of Expiration: 11/28/2027

The above project has been issued an Individual Permit to discharge stormwater for the construction of the VTrans Route 78 Swanton. The proposed roadway redevelopment will include reconstruction, rehabilitation and widening of an approximately 5.7-mile long section of VT Route 78 in Swanton, Vermont. The physical redevelopment will involve slight widening of roadway with sections of new subbase and pavement, and widening without new subbase and pavement in other sections.

This permit includes the following requirements:

1. Implementation of the authorized site-specific Erosion Prevention and Sediment Control Plan.
2. All areas of disturbance must have temporary or final stabilization within **14 days** of the initial disturbance. After this time, any disturbance in the area must be stabilized in advance of any runoff producing event. The following exceptions apply:
 - a. Stabilization is not required if work is occurring in a self-contained excavation (i.e. no outlet for stormwater) with a depth of 2 feet or greater.
 - b. During Winter Construction areas of disturbed soil must be stabilized prior to any runoff producing event, in accordance with the previous exception.
3. The total earth disturbance associated with construction of this project is approximately **43.7 acres**. The maximum area of earth disturbance at any one time allowed under this permit is **5 acres**.
4. With certain exceptions described in Part III A. of the permit, Inspections shall be conducted at least once every seven (7) calendar days and as soon as reasonably possible, during, or after, every rainfall event which produces runoff from the construction site.
5. If there is a discharge of visibly discolored stormwater from the construction site or from the construction site to waters of the State, the permittee shall inspect and maintain Best Management Practices as soon as practicable and take corrective action in accordance with Part III. B. of this permit.
6. The On-site Plan Coordinator 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. If an on-site location is unavailable to store the EPSC Plan when no personnel are present, notice of the plan's location shall be posted near the main entrance at the construction site.

To request information on this authorization or to report compliance concerns please contact:

Vermont DEC, Watershed Management Division
Davis Building, Third Floor
One National Life Drive
Montpelier, VT 05620-3222
(802) 828-1115

[See next page for posting requirements]

Permittee Directions for Posting:

This notice shall be placed near the construction entrance at a location visible to the public. If displaying near the main entrance is infeasible, the notice shall be posted in a local public building such as the town hall or public library. For linear projects, the notice shall be posted at a publicly accessible location near the active part of the construction project (e.g. where a pipeline project crosses a public road or at a project staging area).

Flood Hazard Area & River Corridor Individual Permit 10 V.S.A. § 754

PERMIT #: FP-8-0027-IND

Date: 6/16/2023

Applicant: Vermont Agency of Transportation

Contact: Jeff Ramsey

Phone: 802-917-4467

Email: jeff.ramsey@vermont.gov

Project Location: Rt. 78 from Swanton, VT to Alburg, VT (approximately 5.72 miles) adjacent to the Missisquoi River

Flooding Source: Missisquoi River

Project Description: The Swanton Rt. 78 Roadway Improvement Project proposes upgrades to the Route 78 ROW, including ROW expansions for improved functionality, capacity, and public safety. Improvements include widening the road prism and numerous culvert replacements/new culvert crossing installations which require additional fill (22,500 yd³) in small increments throughout the ~5.7 mile stretch. The majority of the fill is proposed within the portion of the SFHA associated with Lake Champlain tailwater flooding, with minimal filling occurring in the Missisquoi River SFHA near existing settlements. Compensatory storage is not proposed due to elevations and lack of material removal opportunities within the ROW; work outside the new/future ROW limits is not proposed. Work to be performed in the ROW includes cold planning, full depth reconstruction, correcting superelevation deficiencies, resurfacing with base, intermediate, and wearing courses, new pavement markings, signage, guardrail improvements, retaining walls, drainage improvements, large culvert replacement, and other highway related items.

Based upon the Findings contained in this permit, the Secretary has determined that the proposed project will comply with the Flood Hazard Area & River Corridor Rule (Environmental Protection Rule, Chapter 29) and is hereby approved under the following conditions and specifications.

I. Findings

The Secretary of Natural Resources has determined that:

- (a) The project is located within the special flood hazard area (Zone AE). The project is also partially within the river corridor (the river corridor boundary is mostly delineated by Rt.78 through the project area).
- (b) This project is exempt from municipal regulation because it is a State-owned and operated institution or facility.
- (c) This project authorization includes construction activities related to the widening and resurfacing of the Rt. 78 road embankment (~5.7 miles from Swanton to Alburg) including ROW expansion, new culvert installations, existing culvert replacements, retaining walls/wing walls, drainage improvements,

guardrails, and other highway related items. This authorization includes placement of 22,500 yd³ of fill placed incrementally along the ROW for road widening (max width 18') and negligible amounts of temporary fill as needed beyond the limits of the permanent fill required to allow maintenance of traffic through the project area during construction, which will be removed prior to the completion of the project. *(Fill quantities based on VHB Memorandum Re: Route 78 Missisquoi River Floodway / Floodway Fringe Analysis dated July 8, 2022.)*

- (d) This project meets the Standards of the Flood Hazard Area & River Corridor Rule (Subchapter 4), based on the following:
- (1) The applicant has provided hydraulic analysis and supporting documentation demonstrating no adverse impact to surrounding infrastructure.
(Re: Route 78 Missisquoi River Floodway / Floodway Fringe Analysis, July 8, 2022 / Proposed Floodplain Fill Map Series Sheets 1 & 2, November 16, 2022 / Route 78 Missisquoi River Floodway / Floodway Fringe Supplemental Review – Structures near STA 276+00, December 8, 2022)
The majority of fill is proposed in areas located within the Missisquoi NWR influenced by Lake Champlain flooding, fill has been minimized to the extent practicable near existing development and the Missisquoi River SFHA, culverts will be added or upgraded to further equalize base flood flows.
 - (2) The project will not adversely affect the public safety by increasing flood elevations, flood velocities, or decreasing flood storage volume.
 - (3) The project is designed to be reasonably safe from flooding as required by §29-401(c)(2) of the Rule.
 - (4) The project is designed to comply with the NFIP Floodplain Management Criteria in 44 C.F.R. § 60.3.

II. Specific Conditions

- (a) This authorization is based on hydraulic data from the FEMA Flood Insurance Study (FIS) Number 500220 effective October 18, 1982. If new, updated FEMA FIS or FIRMs are effective at the time of construction commencement and/or when this permit expires, an updated Floodway/Floodway Fringe hydraulic analysis would be required to include the current, effective FEMA FIS/FIRM data as it relates to the project impacts.
- (b) Fill quantity authorizations are based on information presented in *(Re: Route 78 Missisquoi River Floodway / Floodway Fringe Analysis, July 8, 2022)*. If the project fill quantities are altered from the information reviewed as the basis of this permit, the project must be re-evaluated by the DEC Regional Floodplain Manager.
- (c) The permittee must notify the Floodplain Manager by phone or email when construction begins and when the project is complete.
- (d) As specified below in general condition (b), as-built documentation prepared by a licensed land surveyor or professional engineer shall be submitted to the Floodplain Manager within 180 days of when the project is complete.

III. General Conditions

- (a) **Access to property.** By conducting any activity authorized under this permit, the permittee agrees to allow Agency representatives access to the property covered by this permit, at reasonable times and upon presentation of credentials, for the purpose of ascertaining compliance with the Vermont Flood

Hazard Area & River Corridor Rule and this permit. This permit does not grant the permittee the right to enter onto any property not owned by the permittee.

- (b) **Submission of As-Built Information.** The permittee shall submit as-built documentation prepared by a licensed land surveyor or professional engineer to the Floodplain Manager within 180 days of when the project is complete.
- (c) **Changes to authorized activity.** All activity shall be completed and maintained in accordance with the terms and conditions of this permit. The permittee shall notify the Secretary of any planned changes to the authorized activity prior to carrying out such changes. The Secretary may require the permittee to submit additional information on the proposed change. The Secretary may require an amendment to this permit, which may require re-noticing of the project for public comment.
- (d) **Remedial measures.** The Secretary maintains continuing jurisdiction over an activity authorized under this permit and may at any time order remedial measures if it appears the activity is not in compliance with this permit.
- (e) **Compliance with other regulations.** This permit does not relieve the permittee of the responsibility to comply with any other applicable federal, state, and local laws, regulations, and permits.
- (f) **Legal responsibilities for damages.** The Secretary, by issuing permit, accepts no legal responsibility for any damage direct or indirect of whatever nature and by whomever suffered arising out of the approved activity.
- (g) **Revocation.** The Secretary may, after notice and opportunity for a hearing, revoke or suspend, in whole or in part, this permit for cause, including:
 - (1) Violation of the terms or conditions of this permit;
 - (2) Obtaining authorization by misrepresentation or failure to fully disclose all relevant facts;
 - (3) A change in any condition or new information that requires either a temporary or permanent reduction or elimination of the authorized activity.
- (h) **Duty to comply; enforcement.** The permittee shall comply with all terms and conditions of this permit. Any permit noncompliance constitutes a violation of the Flood Hazard Area & River Corridor Rule and may be cause for an enforcement action and/or revocation and reissuance, modification, or termination of this permit.
- (i) **Transfer of permit.** The permittee may transfer this permit by submitting a notice of transfer on a form provided by the Secretary. The notice shall be submitted at least 10 days prior to transfer and shall include at a minimum, the name and address of the new permittee, the name and address of the former permittee, the date of transfer, and a statement signed by the new permittee stating that he/she has read and is familiar with the terms and conditions of this permit and agrees to comply with it.
- (j) **Reopener.** If, after granting this permit, the Secretary determines, at his or her discretion, that there is evidence indicating that an authorized activity does not comply with the requirements of the Flood Hazard Area & River Corridor Rule, the Secretary may reopen and modify this permit to include different limitations and requirements.
- (k) **Limitations.** This permit conveys no vested rights or exclusive privileges. This permit conveys no title to land nor authorizes any injury to public or private property.
- (l) **Appeals.**
 - (4) **Renewable Energy Project.** If this decision relates to a renewable energy plant for which a certificate of public good is required under 30 V.S.A. § 248, any appeal of this decision must be filed with the Vermont Public Utility Commission pursuant to 10 V.S.A. § 8506. This section does not


apply to a facility that is subject to 10 V.S.A. § 1004 (dams before the Federal Energy Regulatory Commission), 10 V.S.A. § 1006 (certification of hydroelectric projects), or 10 V.S.A. Chapter 43 (dams). Any appeal under this section must be filed with the Clerk of the Public Utility Commission within 30 days of the date of this decision; the appellant must file with the Clerk an original and six copies of its appeal. The appellant shall provide notice of the filing of an appeal in accordance with 10 V.S.A. § 8504(c)(2), and shall also serve a copy of the Notice of Appeal on the Vermont Department of Public Service. For further information, see the Rules and General Orders of the Public Utility Commission, available online at www.puc.vermont.gov. The address for the Public Utility Commission is 112 State Street, Montpelier, Vermont, 05620-2701 (Tel. # 802-828-2358).

- (5) **All Other Projects.** Pursuant to 10 V.S.A. Chapter 220, any appeal of this decision must be filed with the clerk of the Environmental Division of the Superior Court within 30 days of the date of the decision. 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 Division; and must be signed by the appellant or the appellant's 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 further information, see the Vermont Rules for Environmental Court Proceedings, available on line at www.vermontjudiciary.org. The address for the Environmental Division is: 32 Cherry St.; 2nd Floor, Suite 303; Burlington, VT 05401. Telephone # 802-951-1740.

If the development is constructed as described and according to the above conditions, there is no reason to expect an adverse impact on either the river corridor or flood hazard area.

This permit shall be effective on the date of signing and shall be valid for a period of three years.

Julia S. Moore, Secretary
Vermont Agency of Natural Resources

By  dated 6/16/2023
Kyle Medash, Western Floodplain Manager
Rivers Program
Watershed Management Division