

From: MacLean, Alex
Sent: Thursday, March 03, 2011 10:06 AM
To: Markowitz, Deb
Subject: RE: Circ-Williston (UNCLASSIFIED)

Deb,

How does this fit into the overall context?

A

From: Markowitz, Deb
Sent: Wednesday, March 02, 2011 4:17 PM
To: MacLean, Alex
Cc: Searles, Brian
Subject: FW: Circ-Williston (UNCLASSIFIED)

FYI - Call if you want to discuss.

From: LaFlamme, Pete
Sent: Monday, February 21, 2011 10:59 AM
To: 'Abair, Martha A NAE'
Cc: Delgiudice, Frank J NAE; Gjessing, Catherine; McCrumb, Jeannine; Quackenbush, Alan; Almeida, John P NAE; Mears, David; Adams, Michael S NAE; Mccarthy, Jennifer L NAE; Groveman, Jon; Mears, David; Johnson, Justin
Subject: RE: Circ-Williston (UNCLASSIFIED)

Marty,

I am writing in response to your recent emails inquiring about VTDEC's position on the proposed "Circ Highway" project in Williston. As you know, with regard to wetland permits issued under our State law, the VTDEC has consistently maintained the position that the Circ Highway is a "grandfathered" project. This exemption is provided for in the Vermont Wetland Rules, as a result of the project having already received all of its required permits, including a §401 Water Quality Certification, and the concurrent fact that substantial work had begun on the project prior to February 23, 1992. All required mitigation was also completed, including at the so-called "Lemire site".

However, we have been copied on several recent letters from USEPA Region 1, regarding their intensifying concerns over potential impacts to wetland, wildlife, and water resources associated with the project. As you know, the Region has commented on a number of new resource-impact issues that would result if the project were constructed as previously authorized in the original §404 permit. The VTDEC will need to evaluate how the ACOE responds to these specific EPA concerns in any final determinations that the Corps makes, prior to VTDEC taking a final position as to any subsequent §401 certification.

With regard to your specific questions as to potential water quality impacts from runoff associated with the project, the VTDEC issued two operational phase stormwater discharge permits for the "Circ A/B" in 2002. Stormwater Discharge Permit #1-1556 covers discharges to the Winooski River, unnamed tributaries to the Winooski River, and Redmond Creek. Stormwater Permit #1-1557 covers discharges to Allen Brook, and unnamed tributaries to Allen Brook. Allen Brook was then on the 303(d) list of impaired waters due to stormwater runoff. Additionally, two authorizations under a general permit and an individual construction permit were issued to cover the construction phase of the project.

The permitted operational stormwater management system is designed in accordance with the 2002 Vermont Stormwater Management Manual. The 2002 Manual was developed for VTDEC by the Center for Watershed Protection in furtherance of a legislative requirement to develop a program to minimize any adverse impacts to waters of the state resulting from stormwater discharges. The General Assembly adopted the Vermont Stormwater Management Manual as a rule for this purpose. Based on compliance with these standards, it is was the VTDEC's position at the time of permit issuance that the discharges would comply with Vermont's water quality standards.

The two operational phase stormwater permits, and three construction phase permits, were appealed by the Conservation Law Foundation, and Friends of the Earth. The appellant raised over 50 issues in its Notices of Appeal, many of which were either consolidated or revised, however the Findings of Fact and Conclusions of Law, and Order, issued in 2004, affirms that the proposed discharges will not violate Water Quality Standards, will not contribute to an existing impairment, satisfy anti-degradation requirements, and comply with the Lake Champlain TMDL. *(RE: CCCH Stormwater Discharge Permits, Docket No. WQ-02-11 (ANR Permits #1-1556 and #1-1557); RE: CCCH Stormwater Discharge Permits; Docket No. WQ-03-05, -06, and -07 (ANR Individual Discharge Permit No. CP102; Stormwater General Permit, NOI Nos. 1030 and 1031) (Consolidated))*

Chloride levels in Allen Brook are only moderately elevated and are below EPA chronic levels. Given currently available information, it is not expected that any slight increase in in-stream chloride levels from road salt on the proposed connector would cause further degradation of the aquatic community. The section of stream in the proposed construction area is of low gradient with a soft bottom. Aquatic organisms residing there under both current condition and in the unimpaired condition are adapted to that type of habitat and any slight additions of sediment will not likely cause measureable degradation to the aquatic community.

In summary, given the information available to the VTDEC at this time, Water Quality Division biologists are of the opinion that stormwater discharges from construction of the connector will not result in additional impacts to aquatic biota in Allen Brook given the stormwater BMP's that are required in the existing stormwater permits for the construction and operational phases. Since the existing stormwater permits were upheld on appeal, it is assumed the conditions of the stormwater discharge permits will be protective of the aquatic resources. At this time however, the Department reserves its right to issue, deny or waive a §401 Water Quality Certification. VTDEC will thoroughly evaluate any additional information provided by the applicant and the ACOE in response to EPA's concerns regarding the wetland resources, in making its final §401 determination.

Pete



Pete LaFlamme, Director
Water Quality Division
103 South Main Street
Waterbury, VT 05671-0408
802.241.3765 / Pete.LaFlamme@state.vt.us
On the Web @ www.vtwaterquality.org

-----Original Message-----

From: Abair, Martha A NAE [mailto:Martha.A.Abair@usace.army.mil]

Sent: Tuesday, February 08, 2011 3:54 PM

To: LaFlamme, Pete

Cc: Delgiudice, Frank J NAE; Gjessing, Catherine; McCrumb, Jeannine; Quackenbush, Alan; Almeida, John P NAE; Mears, David; Abair, Martha A NAE; Adams, Michael S NAE; Mccarthy, Jennifer L NAE

Subject: Circ-Williston (UNCLASSIFIED)

Importance: High

Classification: UNCLASSIFIED

Caveats: NONE

Pete - When will you be able to get me an answer to these questions?

What is VTDEC's position as far as 401 certification for the Circ-Williston project? Is it all grandfathered? Are you going to be evaluating it as an individual 401? Do you have a timeline?

What is your position on the chloride concentration issue? What about the phosphorus loading?

Have you and your staff reached any conclusions as to whether the proposed Circ-Williston project will further impair the water quality of Allen Brook?

What is your position on whether or not the project will comply with the anti-degradation requirements of the VT State Water Quality Standards?

Thanks

Marty Abair
Regulatory Division
U.S. Army Corps of Engineers, New England District Vermont Project Office
8 Carmichael Street, Suite 205

Essex Junction, Vermont 05452

802 872-2893

In order for us to better serve you, we would appreciate your completing our Customer Service Survey located at <http://per2.nwp.usace.army.mil/survey.html>

Classification: UNCLASSIFIED

Caveats: NONE