

AGENCY OF NATURAL RESOURCES  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
WATERSHED MANAGEMENT DIVISION  
1 NATIONAL LIFE DRIVE, DAVIS 3  
MONTPELIER, VT 05620-3522

*FACT SHEET*

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT TO DISCHARGE  
TO WATERS OF THE UNITED STATES

**NPDES Number: VTS006249**  
**Permit Number: 7354-INDC.1**

The below named applicant has applied for an individual discharge permit for stormwater runoff from construction sites pursuant to 10 V.S.A. §1258, §1259, §1263; the federal Clean Water Act, as amended, 33 U.S.C. §1251 et seq., including §1342(p); and U.S. Environmental Protection Agency regulations including 40 CFR 122.26 and 40 CFR 122.28. This application was received on May 8, 2020.

**Requiring an Individual Permit**

As per the risk scoring process in Appendix A of General Permit 3-9020 for Stormwater Runoff from Construction Sites, it has been determined that the stormwater discharges from the construction activities associated with this project requires an Individual Construction Stormwater Permit.

NAME AND ADDRESS OF APPLICANT(S):

Champlain VT, LLC dba TDI New England  
c/o Donald Jessome  
P.O. Box 155  
Charlotte, VT 05445

RECEIVING WATERS: **Black River, Lake Champlain, Otter Creek, and the Poultney River**

CLASSIFICATION: Class B

I. Proposed Action, Discharge, and Location

This permit authorizes the discharge of stormwater runoff from the construction activities for the construction of the **New England Clean Power Link** project located in **Alburgh, Benson, Fair Haven, West Haven, West Rutland, Rutland Town, Castleton, Ira, Clarendon, Shrewsbury, Wallingford, Mount Holly, Ludlow, and Cavendish, Vermont**, discharging stormwater to **Black River, Lake Champlain, Otter Creek, and the Poultney River**. This draft discharge permit will replace permit 7354-INDC.

This permit includes performance-based benchmarks for BMP performance and turbidity sampling requirements in order to provide greater protection of Vermont's surface waters. In addition, this permit includes a stop-work order provision which provides the Secretary with the authority to issue a stop-work directive if the Secretary finds that a discharge or potential discharge from construction activities presents a current or potential threat of harm to the environment.

## II. Description of Discharge

Stormwater runoff with pollutants associated with construction activities.

The construction and construction related activities will discharge to Class B waters. Class B waters are managed to achieve and maintain a level of quality that fully supports the following designated uses: aquatic biota, wildlife, and aquatic habitat, aesthetics, public water supply, irrigation of crops and other agricultural uses, swimming and other primary contact recreation, boating, fishing and other recreational uses. (Vermont Water Quality Standards, Section 3-04 *Class B Waters: Management Objectives*).

## III. Authority

Discharge permits are issued under the authority 10 V.S.A., Chapter 47, *Water Pollution Control*.

In 1987 Congress amended the Federal Water Pollution Control Act, also known as the Clean Water Act, requiring the Environmental Protection Agency (EPA) to regulate stormwater discharges under the National Pollutant Discharge Elimination System (NPDES) permit program. In November 1990, EPA published regulations that established permit application requirements for stormwater discharges "associated with industrial activity." EPA defined industrial activity in a comprehensive manner, covering a wide range of facilities in the regulatory requirements. Among the facilities included under its definition are construction activities that result in the disturbance of five or more acres of land. Construction sites are distinct from the other industrial activities included in the federal stormwater program and are appropriately covered under a separate general permit. As a delegated state under the NPDES program, the State of Vermont has the responsibility to administer the permit program and issue permits for discharges within the state.

## IV. Tentative Decision

The Department's tentative determination is to grant a discharge permit subject to the conditions contained in the draft permit currently on notice. The tentative determination to grant a permit is based on the applicant's development of an erosion prevention and sediment control plan (EPSC) Plan and on the special provisions of this permit.

The EPSC Plan has been prepared and will be implemented in conjunction with the general earthworks at the site. The EPSC Plan has been prepared to meet, at a minimum, the protection outlined in the Vermont Standards and Specifications for Erosion and

Sediment Control. The objective of the EPSC Plan is to prevent erosion and the transport of sediments to surface waters.

The minimum elements included in the EPSC Plan are information on proximity to surface waters, existing vegetative cover and topography, soils, a grading plan, a schedule and phasing plan which limits the amount of exposed soil at any point in time, erosion prevention and sediment control specifications, oversight by an EPSC Specialist, a turbidity monitoring plan, and a narrative strategy. The EPSC Plan is designed to limit the risk of erosion by minimizing the extent and duration of exposed soil.

The Secretary has determined that the permitted discharges satisfy Vermont's Anti-degradation Policy provided in Section 1-03 of the Vermont Water Quality Standards and the Department of Environmental Conservation's Interim Anti-degradation Implementation Procedure because the applicant has demonstrated how the proposed development will implement practices and monitor construction to ensure water quality is maintained in the receiving waters. In particular, the applicant has demonstrated how the proposed development will implement appropriate best management practices (BMPs) during construction in accordance with the Erosion Prevention and Sediment Control Plan (EPSC Plan) and how the applicant will ensure the project is closely monitored throughout construction.

V. Procedure

Public comments on the proposed permit are invited and must be received on or before November 13, 2020. Your comments may be submitted through the public Environmental Notice Bulletin (ENB) website at <https://enb.vermont.gov>.

All comments received by the above date will be considered in the formulation of the final determination. At the conclusion of the public notice period and after consideration of additional information received during the public notice period, the ANR will make a final determination to issue or to deny the permit.

For information on the application, access to related documents, including the public comment period and the draft permit, visit the ENB website at <https://enb.vermont.gov>. For additional information, including the Vermont Water Quality Standards (including §1-03 Anti-degradation Policy) or the Vermont Standards and Specifications for Erosion Prevention and Sediment Control, interested persons should contact:

**Vermont Agency of Natural Resources  
Department of Environmental Conservation  
Watershed Management Division  
1 National Life Drive, Davis 3  
Montpelier, VT 05620-3522  
Telephone: 802-828-1115**

## VI. Appeals

### Renewable Energy Projects – Right to Appeal to Public Utility Commission:

Any appeal of this decision must be filed with the clerk of the Vermont Public Utility Commission pursuant to 10 V.S.A. §8506 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 information, see the Rules and General orders of the Public Utility Commission available on line at [www.puc.vermont.gov](http://www.puc.vermont.gov). The address for the Public Utility Commission is 112 State Street Montpelier, Vermont 05620-2701 (Tel. #802-828-2358).

### All Other Projects – Right to Appeal to Environmental Court

Pursuant to 10 V.S.A. Chapter 220, if this decision relates to all other projects, any appeal of this decision must be filed with the clerk of the Environmental Court within 30 days of the date of the decision. The appellant must attach to the Notice of Appeal the entry fee of \$250.00 payable to the State of Vermont. 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 Court; and must be signed by the appellant or their 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 additional information, see the Vermont Rules for Environmental Court Proceedings, available online at [www.vermontjudiciary.org](http://www.vermontjudiciary.org) or call (802) 951-1740. The address for the Environmental Court is 32 Cherry Street, 2nd Floor Suite 303 Burlington, Vermont 05401.