

ADDENDUM NO. 1
February 6, 2019
224188

RE: TOWN OF MIDDLEBURY, VERMONT
SHARD VILLA ROAD BANK REPAIR & STABILIZATION

FROM: DuBOIS & KING, INC.
P.O. Box 339
Randolph, Vermont 05060
(802) 728-3376

TO: Prospective Bidders

This Addendum forms part of the Contract Documents and modifies the original Bidding Documents issued by the Town of Middlebury, for the Shard Villa Road Bank Repair & Stabilization project dated January 18, 2019. **Acknowledge receipt of this Addendum in the space provided on Page 1 of the Bid Form. Failure to do so will subject the Bidder to disqualification.**

I. Pre-Bid Meeting

A Pre-Bid meeting was held at the Project Site on February 1, 2019 at 10:30 a.m. Attendees are listed on the Pre-Bid Meeting Attendance Log (**Attachment 1**). Jonathan B. Ashley, P.E., of DuBois & King, Inc. described key elements of the project. **The following addresses questions received at the pre-bid meeting, as well as subsequent questions from prospective bidders.**

II. Contract Documents (Plan) Changes

III. Contract Documents (Specification) Changes

REVISED Contract Document Bid Form is included as **Attachment 2** and replaces the original Bid Form.

REVISED Contract Document Agreement is included as **Attachment 3** and replaces the original Agreement.

REVISED Contract Document Special Provisions is included as **Attachment 4** and replaces the original Special Provisions.

IV. Questions & Answers

Question 1: What is the Engineer's Opinion of Cost?

Answer 1: The Engineer's Opinion of Construction Cost is between \$108,000 and \$119,000.

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Question 2: What is the requirement for lane closure?

Answer 2: Shard Villa Road can be closed completely from the start of the Bank Stabilization until it is complete. The Contractor is responsible for providing necessary detour signage and a detour plan submittal is required.

Question 3: Is there a requirement for where the Type IV stone comes from?

Answer 3: No; as long as it meets the Specification.

V. Additional Information/Clarifications

- a. An Army Corps of Engineers Permit was received February 6, 2019. It is included with this Addendum as **Attachment 5**. The conditions to the permit state trees larger than 3" DBH must be cut before April 1, 2019. This work is not within the scope of work for the Contractor and will be done by the Town. Stumps will be left in place by the Town.
- b. There is a gravel parking area just south of the bridge over the Middlebury River. This area can be used for a staging area.
- c. If the Contractor is Bidding on both the Shard Villa Road Bank Repair & Stabilization and Shard Villa Road Improvements, one (1) Bond is acceptable to cover both projects.
- d. The Bid Alternate for Gabion baskets is being removed to comply with the Stream Alteration Permit Conditions. A revised set of plans reflecting this change will be included in **ADDENDUM 2**.
- e. Questions are due by email to the Engineer (jashley@dubois-king.com) by 12:00pm February 8, 2019.

This document constitutes Addendum 1 for this project.

ATTACHMENT 1

ATTACHMENT 2

REVISED PER ADDENDUM 1 FEBRUARY 5, 2019

BID FORM

SHARD VILLA ROAD BANK REPAIR & STABILIZATION

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ARTICLE 1 – BID RECIPIENT

1.01 This Bid is submitted to:

Town of Middlebury Public Works Department, 1020 South Rt. 7, Middlebury, VT 05753

Mailing Address: Town of Middlebury Public Works Department, 77 Main Street,
Middlebury, VT 05753

1.02 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

ARTICLE 2 – BIDDER’S ACKNOWLEDGEMENTS

2.01 Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 60 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

ARTICLE 3 – BIDDER’S REPRESENTATIONS

3.01 In submitting this Bid, Bidder represents that:

A. Bidder has examined and carefully studied the Bidding Documents, and any data and reference items identified in the Bidding Documents, and hereby acknowledges receipt of the following Addenda:

<u>Addendum No.</u>	<u>Addendum, Date</u>
_____	_____
_____	_____
_____	_____
_____	_____

B. Bidder has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and satisfied itself as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

C. Bidder is familiar with and has satisfied itself as to all Laws and Regulations that may affect cost, progress, and performance of the Work.

D. Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.

E. Bidder has considered the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and any Site-related

reports and drawings identified in the Bidding Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder; and (3) Bidder's safety precautions and programs.

- F. Bidder agrees, based on the information and observations referred to in the preceding paragraph, that no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents.
- G. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
- H. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and confirms that the written resolution thereof by Engineer is acceptable to Bidder.
- I. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance and furnishing of the Work.
- J. The submission of this Bid constitutes an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article, and that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

ARTICLE 4 – BIDDER'S CERTIFICATION

4.01 Bidder certifies that:

- A. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation;
- B. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid;
- C. Bidder has not solicited or induced any individual or entity to refrain from bidding; and
- D. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 4.01.D:
 - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process;
 - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Owner, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 - 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish bid prices at artificial, non-competitive levels; and
 - 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

ARTICLE 5 – BASIS OF BID

5.01 Base Bid - Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

Item No.	Brief Description - Unit or Lump Sum Price (in both words and numerals)	Estimated Quantity	Total Price (in numerals)
201.10	<u>Clearing & Grubbing, Including Individual Trees and Stumps</u> , per lump sum;		
	_____ Dollars and	1	
	_____ Cents (\$_____)	L.S.	\$_____
203.15	<u>Common Excavation</u> , per cubic yard;		
	_____ Dollars and	160	
	_____ Cents (\$_____)	C.Y.	\$_____
203.25	<u>Channel Excavation of Earth</u> , per cubic yard;		
	_____ Dollars and	460	
	_____ Cents (\$_____)	C.Y.	\$_____
203.32	<u>Granular Borrow</u> , per cubic yard;		
	_____ Dollars and	315	
	_____ Cents (\$_____)	C.Y.	\$_____
613.13	<u>Stone Fill, Type IV</u> , per cubic yard;		
	_____ Dollars and	245	
	_____ Cents (\$_____)	C.Y.	\$_____
613.15	<u>Riprap, Heavy Type</u> , per cubic yard;		
	_____ Dollars and	275	
	_____ Cents (\$_____)	C.Y.	\$_____

Item No.	Brief Description - Unit or Lump Sum Price (in both words and numerals)	Estimated Quantity	Total Price (in numerals)
635.11	<u>Mobilization / Demobilization</u> , per lump sum; _____ Dollars and _____ Cents (\$_____)	1 L.S.	\$_____
641.10	<u>Traffic Control</u> , per lump sum; _____ Dollars and _____ Cents (\$_____)	1 L.S.	\$_____
653.15	<u>Biotechnical Slope Protection (Live Staking)</u> , per each; _____ Dollars and _____ Cents (\$_____)	316 E.A.	\$_____
901.01	<u>Erosion Prevention & Sediment Control</u> , per lump sum; _____ Dollars and _____ Cents (\$_____)	1 L.S.	\$_____
902.10	<u>General Conditions & Miscellaneous Work</u> , per lump sum; _____ Dollars and _____ Cents (\$_____)	1 L.S.	\$_____

Total of Base Bid Items	(BASE BID)	(\$_____)
_____	Dollars	
And _____	Cents	

Notes:

- Unit quantities shown in the bid schedule are for bid comparison purposes only; actual quantities may vary.
- Basis for Bid evaluation shall be either the BASE BID or ALTERNATE 1 prices, as the discretion of the Owner.

ARTICLE 6 – TIME OF COMPLETION

- 6.01 Bidder agrees that the Work will be substantially complete and will be completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before the dates or within the number of calendar days indicated in the Agreement.
- 6.02 Bidder accepts the provisions of the Agreement as to liquidated damages.

ARTICLE 7 – ATTACHMENTS TO THIS BID

- 7.01 The following documents are submitted with and made a condition of this Bid:
- A. Required Bid security; (A Certified Check or Bid Bond for 5% of the Total Amount of Bid).
 - B. Evidence of authority to do business in the state of the Project; or a written covenant to obtain such license within the time for acceptance of Bids;
 - C. Required Bidder Qualification Statement

NOTE: ALL ITEMS A THROUGH C MUST BE CLEARLY SUBMITTED WITH THIS BID OR BIDDER MAY BE DETERMINED AS NON-RESPONSIVE

ARTICLE 8 – DEFINED TERMS

- 8.01 The terms used in this Bid with initial capital letters have the meanings stated in the Instructions to Bidders, the General Conditions, and the Supplementary Conditions.

ARTICLE 9 – BID SUBMITTAL

BIDDER: [Indicate correct name of bidding entity]

By:
[Signature] _____

[Printed name] _____
(If Bidder is a corporation, a limited liability company, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest:
[Signature] _____

[Printed name] _____

Title: _____

Submittal Date: _____

Address for giving notices:

Telephone Number: _____

Fax Number: _____

Contact Name and e-mail address: _____

Bidder's License No.: _____
(where applicable)

NOTE TO USER: Use in those states or other jurisdictions where applicable or required.

Bidder Qualification Statement

The Bidder is requested to provide the following information to enable the Owner to judge the Bidder's experience, skill, and business standing.

1. Name of Bidder.
2. Permanent Main Office address.
3. When organized?
4. Where incorporated?
5. Is bidder registered with the Secretary of the State to do business in Vermont?
6. How many years have you engaged in the contracting business under your present firm name?
7. Contracts on hand. (Schedule these, showing gross amount of each contract and the approximate anticipated dates of completion.)
8. General character of work performed by your company.
9. Have you ever failed to complete any work awarded you in the scheduled contract time, including approved time extensions? ___ (Yes) ___ (No).
If so, where and why?
10. Have you ever defaulted on a contract? ___ (Yes) ___ (No).
If so, where and why?
11. Have you every had liquidated damages assessed on a contract?
_____(Yes) _____(No). If so, where and why?
13. List your major equipment available for this contract.
14. List your key personnel such as Project Superintendent and foreman available for this contract.
15. List any subcontractors who you would expect to use for the project.
16. With what banks do you do business?

Do you grant the Engineer permission to contact this (these) institutions?
__(Yes)__(No)

17. Provide references for three similar projects.

Project Description:

Project Location:

Year Completed:

Contact Name:

Position:

Contact Email:

Project Description:

Project Location:

Year Completed:

Contact Name:

Position:

Contact Email:

Project Description:

Project Location:

Year Completed:

Contact Name:

Position:

Contact Email:

NOTE: Bidders may be required to furnish their latest financial statement as part of the award process.

Respectively submitted:

Signature

Address

Title

Date

ATTEST: _____

ATTACHMENT 3

AGREEMENT
BETWEEN OWNER AND CONTRACTOR
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)
REVISED PER ADDENDUM 1 FEBRUARY 5, 2019

THIS AGREEMENT is by and between Town of Middlebury, Vermont (“Owner”) and
_____ (“Contractor”).

Owner and Contractor hereby agree as follows:

ARTICLE 1 – WORK

- 1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows: This project includes repair of an adjacent slope between the road and the Middlebury River, in Middlebury, Vermont. The road recycling project shall be over the Middlebury River to the south for approximately 2,700 feet. The slope repair includes installation of gabion baskets to stabilize the failing slope, along the 210-foot-long section.

ARTICLE 2 – THE PROJECT

- 2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: Shard Villa Road Bank Repair & Stabilization.

ARTICLE 3 – ENGINEER

- 3.01 The Project has been designed by DuBois & King, Inc., 25 Union Street, Brandon, VT 05733.
- 3.02 The Owner has retained DuBois & King, Inc. (“Engineer”) to act as Owner’s representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 – CONTRACT TIMES

- 4.01 Time of the Essence
- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.
- 4.02 Contract Times: Dates
- A. The Work will be substantially completed on or before October 1, 2019, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before October 15, 2019.
- 4.03 Liquidated Damages
- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with the Contract. The parties also recognize the

delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):

1. Substantial Completion: Contractor shall pay Owner \$750 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.02.A above for Substantial Completion until the Work is substantially complete.
2. LEFT BLANK INTENTIONALLY.
3. LEFT BLANK INTENTIONALLY.
4. LEFT BLANK INTENTIONALLY.

4.04 Special Damages

- A. In addition to the amount provided for liquidated damages, Contractor shall reimburse Owner (1) for any fines or penalties imposed on Owner as a direct result of the Contractor's failure to attain Substantial Completion according to the Contract Times, and (2) for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Substantial Completion (as duly adjusted pursuant to the Contract), until the Work is substantially complete.
- B. LEFT BLANK INTENTIONALLY

ARTICLE 5 – CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:

A. ~~For all Work other than Unit Price Work, a lump sum of: \$ _____.~~

~~All specific cash allowances are included in the above price in accordance with Paragraph 13.02 of the General Conditions.~~

B. For all Unit Price Work, an amount equal to the sum of the extended prices (established for each separately identified item of Unit Price Work by multiplying the unit price times the actual quantity of that item):

Unit Price Work					
Item No.	Description	Unit	Estimated Quantity	Unit Price	Extended Price

REFER TO CONTRACTOR'S EXECUTED BID FORM

The extended prices for Unit Price Work set forth as of the Effective Date of the Contract are based on estimated quantities. As provided in Paragraph 13.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer.

C. Total of Lump Sum Amount and Unit Price Work (subject to final Unit Price adjustment) \$ _____.

D. For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.

ARTICLE 6 – PAYMENT PROCEDURES

6.01 Submittal and Processing of Payments

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 Progress Payments; Retainage

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 30th day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.
 1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract
 - a. 90 percent of Work completed (with the balance being retainage). If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and
 - b. 90 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 100 percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less 200 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

6.03 Final Payment

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 15.06 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 15.06.

ARTICLE 7 – INTEREST

- 7.01 All amounts not paid when due shall bear interest at the rate of 1.0 percent per annum.

ARTICLE 8 – CONTRACTOR’S REPRESENTATIONS

- 8.01 In order to induce Owner to enter into this Contract, Contractor makes the following representations:
- A. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.
 - B. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - C. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
 - D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.
 - E. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (3) Contractor’s safety precautions and programs.
 - F. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
 - G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
 - H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
 - I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
 - J. Contractor’s entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 Contents

- A. The Contract Documents consist of the following:

1. This Agreement (pages 00520-1 to 0520-7, inclusive).
 2. Performance bond (pages 00610-1 to 00610-3, inclusive).
 3. Payment bond (pages 00615-1 to 00615-3, inclusive).
 4. Other bonds.
 - a. N/A
 5. General Conditions (pages 00700-1 to 00700-65, inclusive).
 6. Supplementary Conditions (pages 00800-1 to 00800-8, inclusive).
 7. Special Provisions (pages 1 to 16, inclusive).
 8. Technical Specifications: Vermont Agency of Transportation Standard Specifications for Construction, 2018, sections 101, 106, 107 and 200 through 780.
 9. Drawings (not attached but incorporated by reference) consisting of 9 sheets with each sheet bearing the following general title: Shard Villa Road Bank Repair & Stabilization.
 10. Addenda (numbers ___ to ___, inclusive).
 11. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor's Bid (pages 1 to 11, inclusive).
 12. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
 - a. Notice to Proceed.
 - b. Work Change Directives.
 - c. Change Orders.
 - d. Field Orders.
 - e. Vermont Stream Alteration General Permit
 - f. US Army Corps of Engineers General Permit (authorization pending)
 - g. Middlebury Town ROW Permit
- B. The documents listed in Paragraph 9.01.A are not attached to this Agreement (except as expressly noted otherwise above), but are made a part of this Agreement.
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 Terms

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

10.02 Assignment of Contract

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 Successors and Assigns

- A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 Severability

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 Contractor's Certifications

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
 - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 - 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
 - 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on _____ (which is the Effective Date of the Contract).

OWNER:

CONTRACTOR:

Town of Middlebury, Vermont

By: _____

By: _____

Title: _____

Title: _____

(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest: _____

Attest: _____

Title: _____

Title: _____

Address for giving notices:

Address for giving notices:

1020 South Rt. 7

Middlebury, VT, 05753

License No.: _____
(where applicable)

(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)

NOTE TO USER: Use in those states or other jurisdictions where applicable or required.

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ATTACHMENT 4

SPECIAL PROVISIONS – UPDATED PER ADDENDUM 1 FEBRUARY 5, 2019

STANDARD SPECIFICATIONS. The provisions of the 2018 STANDARD SPECIFICATIONS FOR CONSTRUCTION, as modified herein, shall apply to this Contract.

CONTRACT COMPLETION DATE. In-stream work (that is, work conducted below the prevailing water surface elevation) shall be completed prior to **October 1, 2019** unless otherwise authorized. The Contract shall be substantially complete by **October 1, 2019** and final completion on or before **October 15, 2019.**

UTILITIES. The Contractor is advised to use caution when working around aerial or underground utilities to protect the facilities from damage.

Employees or agents of utility companies are to be allowed free and full access within the project limits with the tools, materials, and equipment necessary to install, operate, maintain, place, replace, relocate, and remove their facilities.

There will be no extra compensation paid to the Contractor for any inconvenience caused by working around and with the companies.

Act No. 86 of 1987 (30 VSA Chapter 86)(“Dig Safe”) requires that notice be given prior to making an excavation. It is suggested that the Permit Holder or his/her contractor telephone 1-888-344-7233 at least 48 hours before, and not more than 30 days before, beginning any excavation at any location.

SECTION 101 – DEFINITIONS

101.02, DEFINITIONS, are hereby modified by deleting the existing following definitions and replacing as follows:

ACTUAL COMPLETION DATE – Date noted in the Completion and Acceptance memorandum on which designated responsible Municipal personnel have reviewed the project and determined that all Contract work is complete and all Contract requirements have been met, generally considered to be the last day the Contractor performed physical work on any contract item.

AGENCY – Wherever the word Agency appears on the plans, in any specification, or in the contract, it shall be read as, and shall mean; the Town of Middlebury as the Owner of the project, except when in reference to publications, manuals, standards or specifications, in which case it shall be taken to mean the Vermont Agency of Transportation.

BOARD – Wherever the term Board or Transportation Board appears on the plans, in any specification, or in the contract, it shall be read as, and shall mean; the Selectboard.

CHIEF OF CONTRACT ADMINISTRATION – Wherever the term Chief of Contract administration appears on the plans, in any specification, or in the contract, it shall be read as, and shall mean, the Town Project Manager.

CONSTRUCTION ENGINEER – Wherever the term Construction Engineer appears on the plans, in any specification, or in the contract, it shall be read as, and shall mean; the Town Project Manager or appointed representative.

DIRECTOR OF PROJECT DEVELOPMENT – Wherever the terms Director of Project Development, director of Engineering and Construction, Director of Construction and Maintenance, Director, or Chief Engineer appears on the plans, in any specification, or in the Contract, they shall be read as and shall mean; the Town of Middlebury Project Manager.

ENGINEER – Wherever the term Engineer appears on the plans, in any specification, or in the contract, it shall be read as, and shall mean; the Resident Engineer (RE).

FINAL ACCEPTANCE DATE – Wherever the term Final Acceptance Date appears on the plans, in any specification, or in the Contract, it shall mean the date that the Municipality signs the Final Completion Certificate.

MATERIALS AND RESEARCH ENGINEER – Whenever the term Materials and Research Engineer appears on the plans, in any specification, or in the Contract, it shall be read as, and shall mean; DuBois & King, Inc.

PROPOSAL FORM – Whenever the term Proposal Form appears on the plans, in any specification, or in the Contract it shall be read as, and shall mean; the BID FORM unless specifically referenced otherwise in these Special Provisions.

REGIONAL CONSTRUCTION ENGINEER – Whenever the term Regional Construction Engineer appears on the plans, in any specification, or in the contract, it shall be read as, and shall mean; the Town Project Manager or appointed representative.

SECRETARY – Wherever the term Secretary appears on the plans, in any specification, or in the contract it shall be read as, and shall mean; the Town of Middlebury Selectboard.

STATE – Wherever the term State appears on the plans, in any specification, or in the contract, it shall be read as the State of Vermont.

ADD the following definitions:

ADDENDUM (addenda) – Contract revisions developed after advertisement and before opening bids.

ADVERTISEMENT – A public announcement, inviting bids for work to be performed or materials to be furnished.

AGREEMENT – The written instrument which is evidence of the agreement between the Municipality and the Contractor.

AWARD – The formal acceptance by the Municipality of a proposal.

BID – The offer of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

BIDDER – The individual, partnership, firm, corporation, or any combination thereof, or joint venture, submitting a Bid in accordance with the bidding requirements.

CALENDAR DAY – Any day shown on the calendar, beginning and ending at midnight.

COMPLETION – Completion of the project occurs when the Contractor has completed all work required by the Contract and has satisfactorily executed and delivered to the Engineer all documents, certificates and proofs of compliance required by the contract.

CONTRACT – The written agreement between the Municipality and a contractor setting out the obligations of the parties to the contract for the performance of the work described therein.

CONTRACT TIME – The time allowed for completion of the contract including authorized time extensions.

GENERAL SPECIAL PROVISIONS – Approved additions and revisions to the Standard Specifications for Construction.

INCIDENTAL AND INCIDENTAL ITEM – These terms are used to indicate work for which no direct payment will be made. Such work is considered to be incidental to items having contract prices, and the bid prices submitted by the contractor shall be sufficient to absorb the cost of all work designated as incidental or as incidental items.

RESIDENT ENGINEER – An entity employed or appointed by the Municipality to perform supervisory duties including the oversight of testing services on the project.

INVITATION FOR BIDS – An advertisement for receiving proposals for all work and/or materials on which bids are invited from prospective contractors.

TOWN PROJECT MANAGER – A person or firm employed or appointed by the Municipality to provide administrative services for the project.

NOTICE OF AWARD – The written notice of the acceptance of the Bid from the Owner to the successful Bidder.

OWNER – Town of Middlebury.

PROPOSAL – The offer of a bidder, on the prescribed form, to perform work and/or provide materials at the price quoted in the offer.

PROPOSAL FORM – The prescribed form on which the Municipality requires the Bid be submitted.

PROPOSAL GAURANTY – The security furnished with a bid to ensure that the bidder will enter into a contract if the bidder’s proposal is accepted by the Municipality.

SPECIAL PROVISIONS – Additions and revisions to the Standard Specifications for Construction, Supplemental Specifications, General Special Provisions, Plans, or other documents that are part of a particular contract.

SPECIFICATIONS – The compilation of provisions and requirements for the performance of prescribed work including the Standard Specifications for Construction, Supplemental Specifications, General Special Provisions, Special Provisions, Plans, and other documents that are part of a particular contract.

STANDARD SPECIFICATIONS – The Vermont Agency of Transportation book entitled 2018 Standard Specifications For Construction and the specifications included therein, as approved for general and repetitive use and application in Agency/Municipal projects.

SUBCONTRACTOR – An individual or legal entity to which the contractor sublets a part of the work included in the contract.

TESTING FIRM – An independent firm employed by the Municipality or Resident Engineer to perform all sampling and testing of materials as specified in the Contract Documents.

WORK – The furnishing of all labor, materials, equipment, and incidentals necessary or convenient to the successful completion of a project and the carrying out of all duties and obligations imposed by a contract.

SECTION 105 CONTROL OF WORK

105.09 CONSTRUCTION STAKES, Part (a) Initial Layout, (b) Layout of Subgrade and (c) Permanent Marking Layout delete these paragraphs in their entirety and replace with the following:

Horizontal and vertical control information for the project is shown on the project plans or shall be based on existing conditions. The information is sufficient to enable the Contractor to stake the project. The Contractor shall perform all staking requirements for the proposed work. The Contractor will be responsible for the accuracy and preservation of the staking.

105.20 CLAIMS FOR ADJUSTMENT (c) Procedure; Delete the second and third sentence and replace with the following:

Special Provisions

Shard Villa Road Improvements

UPDATED PER ADDENDUM 1 FEBRUARY 5, 2019

Page 4 of 9

Claims must be judged first by the Engineer and then by the Local Project Manager. Should a claim be judged in favor of the Contractor, it will be allowed and paid as provided in the Contract. Should a claim be denied by the Local Project Manager the Contractor may appeal to the Middlebury Selectboard.

SECTION 203 EXCAVATION AND EMBANKMENTS

203.13 METHOD OF MEASUREMENT Add the following after paragraph (a)(1):

Measurement for Item 203.15 Common Excavation shall occur above the prevailing water elevation in the channel **as shown on the plans as OHW.**

Add the following after paragraph (a)(5):

Measurement for Item 203.25 Channel Excavation of Earth shall occur below the prevailing water elevation in the channel **as shown on the plans as OHW.** Excavation occurring above the prevailing water surface elevation in the channel shall be measured under Item 203.15 Common Excavation.

203.14 BASIS OF PAYMENT After the second paragraph add the following:

Payment for Item 203.25 Channel Excavation of Earth shall include control of water measures, including sediment curtains, dewatering, cofferdams, shoring, treatment of discharged water, and removal of those measures prior to the completion of construction.

SECTION 613 STONEFILL, RIPRAP, AND SLOPE PAVING

613.02 MATERIALS Add the following entry to the material table:

Stone for Riprap, Heavy Type.....706.03(a)

613.04 PLACING Add the following paragraph to section 613.04(a):

Stone for Riprap, Heavy Type shall be stacked to create a stable wall as shown on the plans. Stone shall be stacked in even courses in a staggered manner without running vertical joints or loose rocks.

613.05 METHOD OF MEASUREMENT After the first paragraph, add the following:

The Contractor shall also maintain all truck slips documenting the number of loads delivered to the site and shall provide this information to the Engineer when requested. Prior to first delivery of stonefill, the Contractor and the Engineer shall measure dump body dimensions and agree on per load volume below any side boards. Each truck delivering stonefill will be expected to be

fully loaded below the sideboards and will be measured as 80% of the per load volume to account for voids.

613.06 BASIS OF PAYMENT

Add the following pay item to this section:

Delete these paragraphs in their entirety and replace with the following:

The accepted quantity of Stone Fill the type specified will be paid for at the Contract unit price per cubic yard. Payment will be full compensation for furnishing, transporting and placing the specified material in the manner required in the specifications and drawings, and for furnishing all labor, tools, equipment, and incidentals necessary to complete the work. Any additional excavation required to access the area to place the material, and for the excavation and removal of loose material, woody debris, deleterious material or benching required for the placement of stone fill, chinking stone, and any required compaction of placed material shall not be paid for separately, but shall be considered incidental to this pay item.

Stone Fill paid for under this item shall meet the following gradation:

Type IV:

D100 48-32”

D50 24-18”

D15 12-9”

Stone for Riprap, Heavy Type:

D100 60-72”

D50 36-24”

D15 18-12”

Note: Type VI (**Stone for Riprap, Heavy type**) stone fill shall be angular or subangular. It need not be rectangularly-cut or blasted but shall not be rounded or spheroidal.

(Dimensions refer to the minor axis)

Payment will be made under:

<u>Pay Item</u>	<u>Pay Unit</u>
613.13 Stone Fill, Type IV	CY
613.015 Stone for Riprap, Heavy Type	CY

SECTION 635 MOBILIZATION/DEMobilIZATION

635.03 BASIS OF PAYMENT

Replace paragraph 3, letters (a) and (b) with the following:

Partial payments will be made as follows:

The maximum limit of the BID VALUE for this item shall not exceed 10% of the total BASE BID.

Payment of the lump sum price will be made in two equal installments. The first installment will occur at the time the first payment requisition is submitted after the Contractor has initiated full-time construction activity. The second installment will occur when the Contractor has completed all construction activity including final cleanup and punch list items.

SECTION 653 EROSION PREVENTION AND SEDIMENT CONTROL MEASURES

653.15 BIOTECHNICAL SLOPE PROTECTION Replace part (c) with the following:

- (c) **Live Stakes.** Live stakes shall be installed for repair of small earth slips and slumps and for stabilizing raw streambanks. Live stakes shall be 25 to 50 mm (1 to 2 inches) in diameter and 600 mm to 1.8 m (2 to 6 feet) long, depending on site application. If placed in stone fill, at least two feet of the length of the stake shall be inserted into the soil below the stone. A minimum 50 to 100 mm (2 to 4 inches) of the stake and two live buds shall be left exposed.

Live stakes shall be healthy dormant material

653.16 METHOD OF MEASUREMENT Add the following paragraph:

The quantity of Live Stakes to be measured for payment will be for each used in the complete and accepted work.

653.17 BASIS OF PAYMENT

Add the following pay item to this section:

The accepted quantity of Live Stakes specified will be paid for at the Contract unit price per each. Payment will be full compensation for furnishing, transporting and placing the specified material in the manner required in the specifications and drawings, and for furnishing all labor, tools, equipment, and incidentals necessary to complete the work.

Payment will be made under:

<u>Pay Item</u>	<u>Pay Unit</u>
653.15 Biotechnical Slope Protection	EA

DIVISION 700 - MATERIALS

706.04 STONE FOR STONE FILL Add the following paragraph

- (e) Type VI (**Riprap, Heavy Type**): The longest dimension of the stone shall be at least 72 inches, and at least 50 percent of the volume of the stone in place shall have a least dimension of 24 inches. The least dimension of the stone shall be greater than 33 percent of the longest dimension. Stone for stone fill shall be approved, hard, blasted or angular rock other than serpentine rock containing the fibrous variety chrysotile (asbestos).

DIVISION 900 – SPECIAL PROVISION ITEMS

SECTION 901 EROSION CONTROL AND SLOPE RESTORATION

901.01 DESCRIPTION. This work shall consist of all erosion prevention and sediment control work necessary to prevent the discharge or sediment into surface waters or off the site, create stable, vegetated surfaces on the site including installation and maintenance of silt fences, placement and spreading of topsoil, seed, mulch, erosion control matter and fertilizer as shown in the Plans, inspection and maintenance of erosion control measures, and removal of erosion prevention and sediment control measures. The work performed under this Section shall conform to the requirements of following Sections:

651 Turf Establishment
653 Erosion Prevention and Sediment Control Measures

901.05 METHOD OF MEASUREMENT. The quantity of Erosion Prevention and Sediment Control will be on a single lump sum basis, in the complete and accepted work.

901.06 BASIS OF PAYMENT. Erosion Prevention and Sediment Control will be paid for at the Contract lump sum price in two installments. The first installment of 50% of the lump sum cost of this item will be made when all required erosion prevention and sediment control measures are in-place. The second installment of 50% will be made after substantial completion, when all temporary sediment control measures have been removed and the site has been stabilized.

Payment will be made under:

<u>Pay Item</u>	<u>Pay Unit</u>
901.10 Erosion Prevention and Sediment Control	LS

SECTION 902 GENERAL CONDITIONS & MISCELLANEOUS WORK

902.01 DESCRIPTION. This work shall consist of work necessary for proper completion of the project but not included under other payment items, including: protection, removal and/or resetting of guardrails, fences, signs or landscaping, temporary facilities required by the Contractor, layout of the project, superintendence and other miscellaneous work not covered under other sections.

902.02 CONSTRUCTION REQUIREMENTS.

The Contractor shall complete other miscellaneous tasks not paid for under another Contract item.

902.06 BASIS OF PAYMENT. Miscellaneous Site Work will be paid for at the Contract lump sum price. Payment will be full compensation for removing and disposing of all materials; and for furnishing all labor, tools, equipment and incidentals necessary to complete the work that are not covered under other payment items.

Payment shall be lump sum. Payment for General Conditions and Miscellaneous Work will be made in proportion to the percentage of the overall project completed.

Payment will be made under:

<u>Pay Item</u>	<u>Pay Unit</u>
902.10 General Conditions & Miscellaneous Site Work	LS

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ATTACHMENT 5



DEPARTMENT OF THE ARMY
US ARMY CORPS OF ENGINEERS
NEW ENGLAND DISTRICT
696 VIRGINIA ROAD
CONCORD MA 01742-2751

February 4, 2019

Regulatory Division
CENAE-RDC-62
File Number: NAE-2018-02114

Mr. Dan Werner
Town of Middlebury
1020 South Route 7
Middlebury, Vermont 05735

Dear Mr. Werner:

We have reviewed your application to place and maintain bank stabilization along 210 linear feet of the Middlebury River off Shard Villa Road in Middlebury, Vermont. The work is shown on the attached plans, on ten sheets, titled "SHARD VILLA ROAD BANK REPAIR & STABILIZATION", and dated "7-31-2018".

Based on the information you have provided, we have determined that the proposed activity, which includes work and/or a discharge of dredged or fill material into waters of the United States, including wetlands, will have only minimal individual or cumulative environmental impacts. Therefore, this work is authorized under General Permit #9 of the enclosed Federal permit known as the Vermont General Permits (GPs). This work must be performed in accordance with the terms and conditions of the GPs **and also in compliance with the following special condition:**

To protect the potential presence of any Indiana bat and Northern long-eared bats that may be in maternity roost trees, no trees greater than 3" DBH shall be cut from April 1 – November 1 of any year unless evening emergence surveys are conducted within the proposed impact area. This survey shall be conducted prior to all work in accordance with the Vermont Fish and Wildlife Department's "Survey Methods for Potential Trees for Endangered Bats", dated "February 2017" and a report shall be furnished to the United States Army Corps of Engineers Vermont Project Office, 11 Lincoln Street, Room 210, Essex Junction, Vermont 05452 and to the United States Fish and Wildlife Service, New England Field Office, 70 Commercial Street, Suite 300, Concord, NH 03301.

This authorization **requires you to complete and return the enclosed Work Start Notification Form** to this office before the anticipated starting date. You must also complete and return the enclosed Compliance Certification Form within one month following the completion of the authorized work.

You are responsible for complying with all of the GPs' requirements. Please review the enclosed GPs carefully, as well as the general conditions, to be sure you understand its requirements. You should ensure that whoever does the work also fully understands the requirements and that a copy of the permit document and this authorization letter are at the project site throughout the time the work is being performed.


This authorization expires on December 6, 2022, unless the GPs are modified, suspended, or revoked before then. You must commence or have under contract to commence the work authorized herein by December 6, 2022 and complete the work by December 6, 2023. If not, you must contact this office to determine the need for further authorization before beginning or continuing the activity. We recommend that you contact us *before* this authorization expires to discuss-permit reissuance. If you change the plans or construction methods for work in our jurisdiction, please contact us immediately to discuss modification of this authorization. This office must approve any changes before you undertake them.

This authorization presumes that the work as described above and as shown on your plans noted above is in waters of the U.S. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law. Performing work not specifically authorized by this determination or failing to comply with any special condition(s) provided above or all the terms and conditions of the GPs may subject you to the enforcement provisions of our regulations.

We continually strive to improve our customer service. In order for us to better serve you, we would appreciate your completing our Customer Service Survey located at http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey

Please contact Michael S. Adams of my staff at (802) 872-2893 if you have any questions.

Sincerely,


Frank J. DelGiudice
Chief, Permits & Enforcement Branch
Regulatory Division

Enclosures

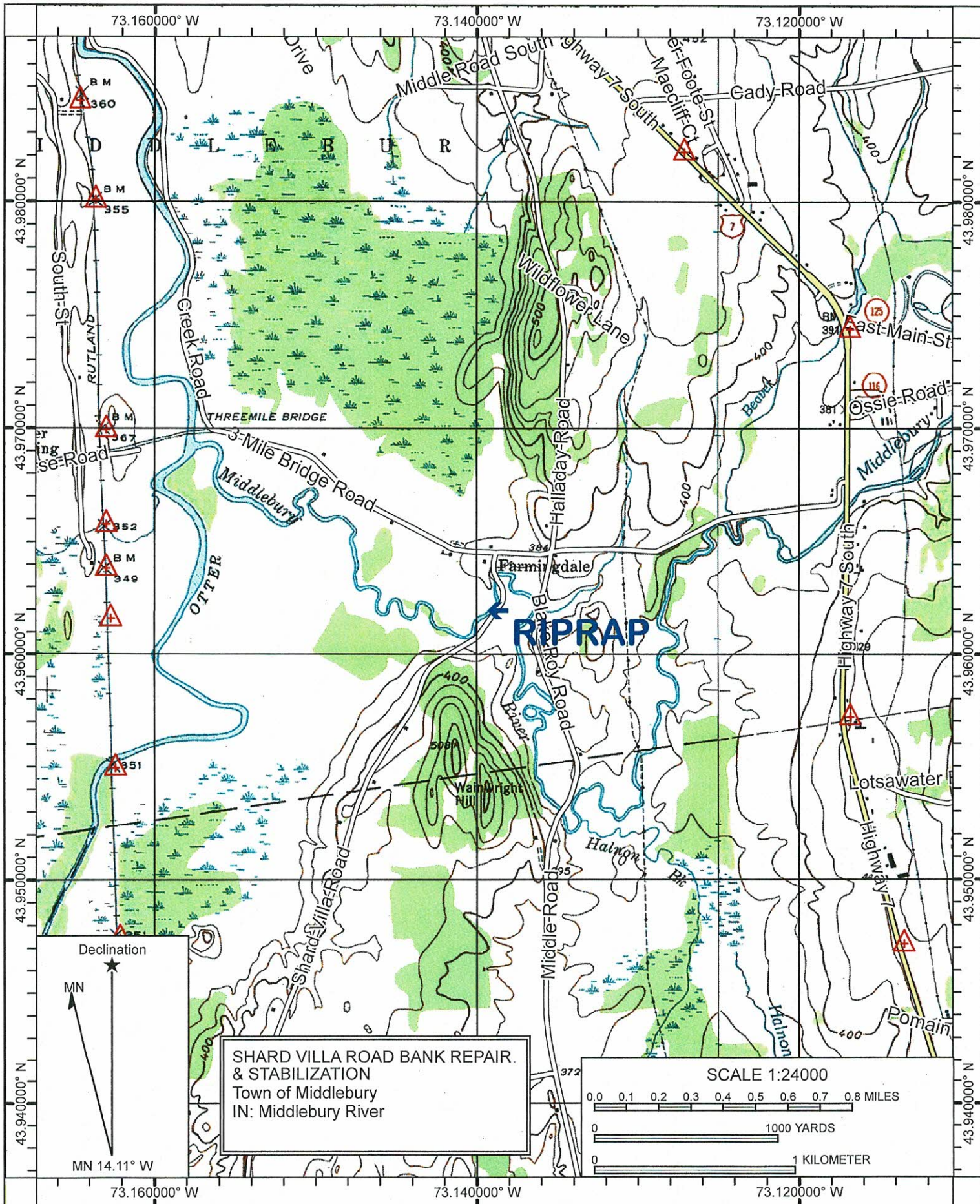
cc:

Mr. Jaron Borg
River Management Engineer
jaron.borg@vermont.gov

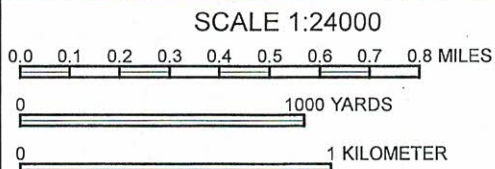
Mr. Michael Mainer
DuBois & King
mmainer@dubois-king.com

Ms. Susi von Oettingen
USFWS
Susi_vonOettingen@fws.gov

Mr. Dan Werner
dwerner@townofmiddlebury.org



SHARD VILLA ROAD BANK REPAIR.
 & STABILIZATION
 Town of Middlebury
 IN: Middlebury River



Name: CORNWALL
 Date: 7-31-2018
 Scale: 1 inch = 2,000 ft.

Location: 43.961944° N, 73.138925° W
 Caption: <<Type caption here.>>

General Permit No.: NAE-2017-02232
Applicant: General Public in the State of Vermont

Effective Date: December 6, 2017
Expiration Date: December 6, 2022

**DEPARTMENT OF THE ARMY
GENERAL PERMITS FOR THE
STATE OF VERMONT**

The New England District of the U.S. Army Corps of Engineers (Corps) hereby issues General Permits (GPs) for activities subject to Corps jurisdiction in waters of the United States (U.S.), including navigable waters, within boundaries of the State of Vermont. These GPs are issued in accordance with Corps regulations at Title 33 of the Code of Federal Regulations, Parts 320–332 (see 33 CFR 325.2(e)(2)). These GPs will provide protection to the aquatic environment and the public interest while effectively authorizing activities that have no more than minimal individual and cumulative adverse environmental effects.

I. GENERAL CRITERIA

1. In order for activities to qualify for these GPs, they must meet the terms, eligibility criteria and stipulations listed in Appendix A – General Permits, as well as the General Conditions (GCs) listed in Appendix B. The Corps will consider any activity requiring Corps authorization to be unauthorized if that activity is under construction or completed and does not comply with all of the terms and conditions.
2. Project proponents are encouraged to contact the Corps with questions at any time. Pre-application meetings (see 33 CFR 325.1(b)), whether arranged by the Corps or requested by permit applicants, are encouraged to facilitate the review of projects. Pre-application meetings and/or site visits can help streamline the permit process by alerting the applicant to potentially time-consuming concerns that may arise during the evaluation of their project (e.g., avoidance, minimization and compensatory mitigation requirements, historic properties, and endangered species).
3. Federal and state jurisdictions may differ in some instances. Applicants are responsible for applying for and obtaining any of the required state or local approvals (see General Condition (GC) 1). A permit from the Corps may be required for specific projects regardless of State of Vermont jurisdiction.

These GPs may also be used to authorize projects that are not regulated by the State of Vermont (e.g., seasonal floats or moorings).

4. How to Obtain/Apply for Authorization:

Project proponents must read the text of each GP and the GCs to see if an activity is eligible for authorization.

a. Self-Verification (SV):

- i. May proceed without application or notification to the Corps provided the project proponent verifies that the activity will meet the terms and conditions of applicable GPs. Project proponents must comply with other federal laws such as the National Historic Preservation Act

(NHPA), the Endangered Species Act (ESA) and the Wild and Scenic Rivers Act. Consultation with outside experts, such as the State Historic Preservation Office, Stockbridge-Munsee Tribe, and the U.S. Fish and Wildlife Service (USFWS) may also be necessary.

b. Pre-Construction Notification (PCN):

i. For activities that do not qualify for SV, the applicant must submit a PCN to obtain written verification from the Corps before starting work in Corps jurisdiction. Applicants must submit the following directly to the Corps at the Vermont Project Office (VPO):

- A completed Corps application form (ENG Form 4345¹).
- Plans that illustrate the proposed work in reference to the limits of Corps jurisdiction as applicable. Plans should be on 8.5” x 11” or 11” x 17” paper and contain all other appropriate information.
- Federal wetland delineation documentation (i.e. Wetland Determination Data Forms).
- Any information on federally listed endangered and threatened species and critical habitat that occur or may occur in the project area (See GC 11). Contact information for the Vermont Agency of Natural Resources (VT ANR), Vermont Fish & Wildlife Department, and the Nongame and Natural Heritage program is provided on Page 37.
- Any correspondence with the Vermont State Historic Preservation Officer (VT SHPO) and the Stockbridge-Munsee Tribal Historic Preservation Officer (THPO) indicating coordination with these entities to ensure compliance with GC 10. Applicants are encouraged to submit a copy of their application materials to the VT SHPO and THPO, for projects in Addison, Rutland and Bennington counties, at the same time, or before, they apply to the Corps to be reviewed for the presence of historic, archaeological or tribal resources in the permit area that the proposed work may affect.

The Corps will coordinate review of all PCN activities with federal and state agencies to ensure that the proposed activity results in no more than a minimal impact to the aquatic environment. This may require project modifications involving avoidance, minimization, and/or compensatory mitigation for unavoidable impacts to ensure the net effects of a project are minimal.

ii. Emergency Situations: Contact the Corps in the event of an emergency situation for information on the application and approval process. Emergency situations are limited to sudden, unexpected occurrences that could potentially result in an unacceptable hazard to life, a significant loss of property, or an immediate, unforeseen, and significant economic hardship if corrective action requiring a permit is not undertaken within a time period less than the normal time needed to process an application under standard procedures. Emergency work is subject to the same terms and conditions of these GPs as non-emergency work, and similarly, must qualify for authorization under the GPs; otherwise an Individual Permit (IP) is required. The Corps will work with all applicable agencies to expedite verification according to established procedures in emergency situations.

5. Projects that are not authorized by these GPs may require an IP (33 CFR 325.5(b)) and proponents must submit an application directly to the Corps. These GPs do not affect the Corps’ IP review process or activities exempt from Corps permit requirements. The Corps retains discretionary authority on a case-by-case basis to elevate a SV to PCN or IP, or a PCN to IP based on concerns for the aquatic environment or for any other factor of the public interest (33 CFR 320.4(a)). Whenever the Corps notifies an applicant that a PCN or IP is required, no work in Corps jurisdiction may be conducted until the Corps issues the required authorization in writing indicating that work may proceed. For IPs an

¹ Located at www.nae.usace.army.mil/regulatory under “Forms.”

individual 401 Water Quality Certification (WQC) or waiver is required from the VT ANR. Contact the VT ANR for procedures on how to apply for the WQC.

II. JURISDICTION/AUTHORITY TO ISSUE PERMITS

1. Permits are required from the Corps of Engineers for the following regulated activities:
 - a. Work and structures that are located in, under or over any navigable water of the U.S. (defined at 33 CFR 329) that affect the course, location, condition, or capacity of such waters; or the excavating from or depositing material in navigable waters. (Regulated by the Corps under Section 10 of the Rivers and Harbors Act of 1899);
 - b. The discharge of dredged or fill material into waters of the U.S. (defined at 33 CFR 328), which is regulated by the Corps under Section 404 of the Clean Water Act (CWA).
2. Related laws: 33 CFR 320.3 includes a list of related laws, including: Section 401 of the CWA, Section 402 of the CWA, the National Historic Preservation Act of 1966, the Endangered Species Act, the Fish and Wildlife Act of 1956, Magnuson-Stevens Act, and Section 7(a) of the Wild and Scenic Rivers Act.
3. In order for authorizations under this GP to be valid, a WQC under Section 401 of the CWA (33 USC 1341) or waiver thereof must be obtained from the VT ANR, Watershed Management Division prior to the commencement of work in Corps jurisdiction. The VT ANR has granted WQC for SV activities provided that (a) the Corps will exercise its discretionary authority to review any project covered under SV when notified by the VT ANR that such project represents a threat to water quality and; (b) upon issuing notice to the Corps, VT ANR may exercise its discretion to require an individual water quality certification.

The VT ANR conditionally granted WQC for PCN activities provided the Corps notifies the VT ANR of a project application for a PCN activity. The VT ANR retains its discretion to require an individual WQC. The VT ANR will respond within the same response times required of the Federal resource agencies.

III. ELIGIBLE ACTIVITIES

An activity listed below may be authorized by this GP only if that activity and the permittee satisfy all of the GP's terms and conditions. Any activity not specifically listed below may still be eligible for the GP; applicants are advised to contact the Corps for a specific eligibility determination.

“Permanent impacts” means waters of the U.S. that are permanently affected by filling, flooding, excavation, drainage or clearing because of the regulated activity. Permanent impacts include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. Temporary impacts include, but are not limited to, waters of the U.S. that are temporarily filled, flooded, excavated, drained or cleared because of the regulated activity. Temporary impacts are usually associated with construction activities and often involve the placement of cofferdams and construction mats. These fills are removed when construction is completed. Pilings and associated structures do not ordinarily constitute a discharge of fill material. Impacts resulting from activities eligible for exemptions under §404(f) of the CWA are not considered when calculating the impact area.

Vermont General Permits

1. Aids to Navigation
2. Repair or maintenance of existing currently serviceable, authorized or grandfathered structures/fills, removal of structures
3. Moorings
4. Pile-supported structures & floats, including boat lifts/hoists and other miscellaneous structures & work
5. Boat ramps and marine railways
6. Utility line activities
7. Dredging, beach nourishment, rock removal & rock relocation
8. Discharges of dredged or fill material incidental to the construction of bridges
9. Shoreline and bank stabilization projects
10. Aquatic habitat restoration, establishment and enhancement activities
11. Fish and wildlife harvesting activities
12. Oil spill and hazardous material cleanup
13. Cleanup of hazardous and toxic waste
14. Scientific measurement devices
15. Survey activities
16. Mining Activities
17. New/expanded developments & recreational facilities
18. Linear transportation projects and stream/wetland crossings
19. Energy generation and renewable energy generation facilities and hydropower projects
20. Temporary fill not associated with any other GP activities
21. Agricultural activities

APPENDIX A – GENERAL PERMITS

<p>GP 1. AIDS TO NAVIGATION (Section 10) Aids to navigation and regulatory markers that are approved by and installed in accordance with the requirements of the U.S. Coast Guard (USCG). See 33 CFR 66, Chapter I, subchapter C.</p>	
<p>Self-Verification (SV) Eligible</p>	<p>Pre-Construction Notification (PCN) Required</p>
<p>1. Aids to navigation and regulatory markers approved by and installed in accordance with the requirements of the USCG. Not located within a Corps Federal Navigation Project (FNP).</p>	<p>1. Work not eligible for SV.</p> <p>2. Aids to navigation and regulatory markers or temporary buoys, markers, floats, and similar structures that are located within a Corps FNP.</p>

GP 2. REPAIR OR MAINTENANCE OF EXISTING CURRENTLY SERVICEABLE, AUTHORIZED OR GRANDFATHERED STRUCTURES/FILLS & REMOVAL OF STRUCTURES AND FILLS (Sections 10 & 404)

(a) Repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3 (activities occurring before certain dates), provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, requirements of other regulatory agencies, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorized. Includes removal of structures and fill.

Not authorized under GP 2: Permanent impacts >5,000 SF in Lake Champlain, Lake Memphremagog, Wallace Pond and adjacent wetlands, and >1 acre in all other waterways and/or wetlands.

Self-Verification (SV) Eligible

1. Repair, replacement in-kind, or maintenance of existing, currently serviceable, authorized structures or fills with no substantial expansion or change in use:
 - Conditions of the original authorization apply.
 - Minor deviations in fill design allowed.
 - The repair, rehabilitation, or replacement of those structures or fills destroyed or damaged by storms, floods, fire or other discrete events is authorized, provided the repair, rehabilitation, or replacement is commenced, or is under contract to commence, within two years of the date of their destruction or damage. In cases of catastrophic events, such as hurricanes or tornadoes, the Corps may waive the two-year limit in writing provided the permittee can demonstrate funding, contract, or other similar delays.
 - Maintenance includes, but it is not limited to, the removal of accumulated sediments and debris in the vicinity of existing structures (such as bridges, culverted road crossings, water intake structures, dams, etc.), provided: (a) removal is the minimum necessary to restore the waterway in the vicinity of the structure to the approximate dimensions that existed when the structure was built; and (b) all dredged or excavated materials are deposited and retained in an upland area.
2. Bulkhead replacement via installation of new bulkhead within 18” of existing bulkhead & backfill.
3. Construction mats of any area necessary to conduct activities that were previously authorized, authorized under SV, or not subject to regulation in all waterways and wetlands other than Lake Champlain, Lake Memphremagog, Wallace Pond and adjacent wetlands and should be removed as soon as work is completed.
4. Removal of previously authorized structures or fills.

Pre-Construction Notification (PCN) Required

1. Work not eligible for SV.
 2. Dam and flood control or levee repair, rehabilitation, or replacement which involves a change in the flood elevation or permanent water surface elevation of the impoundment.
 3. Construction mats of any area necessary to conduct activities that were previously authorized, authorized under SV, or not subject to regulation in Lake Champlain, Lake Memphremagog, Wallace Pond and adjacent wetlands and should be removed as soon as work is completed.
 4. The discharge of more than *de minimis* (i.e., inconsequential) quantities of accumulated bottom sediment occurring from or through a dam into downstream waters.
- NOTE 1: Grandfather dates include structures or work completed before December 18, 1968 & fill placed before July 25, 1975 for Corps purposes only.
- NOTE 2: This GP authorizes the repair, rehabilitation, or replacement of any previously authorized structure or fill that does not qualify for the CWA §404(f) exemption for maintenance. See 33 CFR 323.4(a)(2).

GP 3. MOORINGS (Section 10) (a) New private, non-commercial, non-rental, single-boat moorings; (b) Minor relocation of previously authorized moorings; (c) Mooring field expansions, boundary reconfigurations, or modifications of previously authorized mooring fields; and (d) Maintenance and replacement of moorings.

Not authorized under GP 3: Moorings or moored vessels that extend within the horizontal limits of Federal Navigation Projects (FNPs) and moorings associated with a new boating facility.

Self-Verification (SV) Eligible	Pre-Construction Notification (PCN) Required
1. Private, non-commercial, non-rental, single-boat moorings. 2. Minor relocation of previously authorized moorings.	1. Work not eligible for SV. 2. New moorings associated with an existing boating facility.

GP 4. PILE-SUPPORTED STRUCTURES & FLOATS, INCLUDING BOAT LIFTS/HOISTS & OTHER MISCELLANEOUS STRUCTURES & TEMPORARY RECREATIONAL STRUCTURES (Section 10)

(a) New, expansions, reconfigurations, or modifications of structures for navigation access including docks, decks, floats, stairs, and boat/float lifts; and (b) Temporary buoys, markers, and similar structures placed for recreational use during specific events such as water skiing competitions and boat races or seasonal use.

Not authorized under GP 4: (a) Fill or excavation; (b) Structures within Federal Navigation Projects (FNPs); or (c) Structures associated with a new boating facility.

Self-Verification (SV) Eligible	Pre-Construction Notification (PCN) Required
<p>1. Reconfiguration of existing authorized docks with no additional slips and no expansion, provided those structures do not extend beyond the existing perimeter of the facility.</p> <p>2. Seasonal private, residential pile- or float-supported structures for navigational access extending no further waterward than 50 FT beyond mean high water (MHW), not >4 FT wide, and a dock deck area <500 SF.</p> <p>3. Private, bottom-anchored floats and seasonal swim floats <400 SF.</p> <p>4. Private boat & float lifts.</p> <p>5. Temporary buoys, markers, and similar structures: (a) placed for recreational use during specific events, provided that such structures are removed within 30 days after use has been discontinued and/or; (b) placed during winter events on ice and removed before spring thaw.</p> <p>Provided 1 - 4 above do not extend across >25% of the waterway width at mean low water (MLW).</p>	<p>1. Work not eligible for SV.</p> <p>2. Piers, docks, decks, floats, and similar structures that provide public, community or government recreational uses such as boating, fishing, swimming, access, etc.</p> <p>3. Structures or work in or affecting navigable waters of the U.S. that are not defined under any other GP activity.</p> <p>4. New structures within an existing boating facility, provided those structures do not extend beyond the existing perimeter of the boating facility.</p> <p>5. Temporary buoys, markers, and similar structures that will not be removed within 30 days after use has been discontinued.</p> <p>NOTE: The Corps may require a letter of no objection from the abutter if structure is to be within 25 feet of the property line.</p>

GP 5. BOAT RAMPS (Sections 10 and 404) Activities required for the construction of boat ramps including excavation and fill.

Not authorized under GP 5: (a) Permanent impacts $\geq 5,000$ SF in Lake Champlain, Lake Memphremagog and Wallace Pond and adjacent wetlands, and >1 acre in all other waterways and/or wetlands; (b) Temporary impacts >1 acre in waters of the U.S.; or (c) dredging in navigable waters of the U.S. (see GP 7).

Self-Verification (SV) Eligible	Pre-Construction Notification (PCN) Required
<p>1. $<5,000$ SF of permanent and temporary impacts in waterways and/or wetlands other than Lake Champlain, Lake Memphremagog, Wallace Pond and adjacent wetlands.</p>	<p>1. Work not eligible for SV.</p> <p>2. <5000 SF permanent impact and <1 acre of temporary impact and excavation in Lake Champlain, Lake Memphremagog and Wallace Pond and adjacent wetlands.</p> <p>3. Permanent and temporary impacts $\geq 5,000$ SF and <1 acre in waterways and/or wetlands, other than Lake Champlain, Lake Memphremagog, Wallace Pond and adjacent wetlands.</p> <p>NOTE: The Corps may require a letter of no objection from the abutter if structure is to be within 25 feet of the property line.</p>

GP 6. UTILITY LINE ACTIVITIES (Sections 10 & 404) Activities required for (a) The construction, maintenance, relocation, repair, & removal of utility lines, including outfall and intake structures, and the associated excavation, backfill, or bedding for utility lines; (b) The construction, maintenance or expansion of utility line substation facilities associated with a power/utility line in waters of the U.S.; and (c) The construction and maintenance of foundations for overhead utility line towers, poles, and anchors, provided the foundations are the minimum size necessary, and separate footings for each tower leg (rather than a larger single pad) are used where feasible. This GP authorizes the construction of access roads to facilitate construction of the above activities, provided the activity, in combination with all other activities included in one single and complete project, does not cause the permanent loss of greater than 1 acre of waters of the U.S. Impacts resulting from mechanized pushing, dragging or other similar activities that redeposit excavated soil material shall be figured into the area limit determination.

Not authorized under GP 6: Permanent and temporary impacts $\geq 5,000$ SF in Lake Champlain, Lake Memphremagog, Wallace Pond and adjacent wetlands, and >1 acre in all other waterways and wetlands.

Self-Verification (SV) Eligible	Pre-Construction Notification (PCN) Required
<p>1. $<5,000$ SF of permanent and temporary impacts in waterways and/or wetlands other than Lake Champlain, Lake Memphremagog, Wallace Pond and adjacent wetlands.</p> <p>2. Intake structures that are dry hydrants used exclusively for firefighting activities with no stream impoundments.</p> <p>NOTE: Construction mats of any area necessary to conduct activities do not count towards the 5,000 SF threshold and should be removed as soon as work is completed.</p>	<p>1. Work not eligible for SV.</p> <p>2. Overhead utility lines constructed over navigable waters of the U.S. and submarine utility lines that are routed in or under such waters.</p> <p>3. Permanent and temporary impacts are:</p> <ul style="list-style-type: none"> a. $<5,000$ SF in Lake Champlain, Lake Memphremagog, Wallace Pond and adjacent wetlands. b. $\geq 5,000$ SF and <1 acre in waterways and/or wetlands other than Lake Champlain, Lake Memphremagog, Wallace Pond and adjacent wetlands. <p>4. Work involves stream channelization, relocation or loss of streambed including impoundments.</p> <p>NOTE 1: Construction mats of any area necessary to conduct activities do not count towards the thresholds and should be removed as soon as work is completed.</p> <p>NOTE 2: Utility lines consisting of aerial electric power transmission lines crossing navigable waters of the U.S. must comply with the applicable minimum clearances specified in 33 CFR 322.5(i).</p>
<p>NOTE: A utility line is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquescent, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone, data, and telegraph messages, and radio and television communication. The term utility line does not include activities that drain a water of the U.S., such as drainage tile or French drains, but it does apply to pipes conveying drainage from another area.</p>	

GP 7. DREDGING (Section 10), BEACH NOURISHMENT (Sections 10 & 404); ROCK REMOVAL (Section 10) & ROCK RELOCATION (Sections 10 & 404) (a) New and maintenance dredging, including disposal of dredged material for beach nourishment, provided the Corps finds the dredged material to be suitable for such disposal; (b) Beach nourishment not associated with dredging; and (c) Rock removal and relocation for navigation.

Not authorized under GP 7: (a) New and maintenance dredging $\geq 5,000$ CY; (b) Permanent fill $\geq 5,000$ SF in Lake Champlain, Lake Memphremagog, Wallace Pond and adjacent wetlands, and >1 acre in all other waterways and/or wetlands; (c) Regulated discharges associated with excavation, and disposal $>1/2$ acre; and (d) Temporary fill >1 acre in all waterways and wetlands.

Self-Verification (SV) Eligible	Pre-Construction Notification (PCN) Required
<p>1. No new or maintenance dredging in navigable waters of the U.S.</p> <p>2. $<5,000$ SF of temporary impact associated with dredging in waterways and/or wetlands.</p> <p>3. Rock removal and relocation ≤ 200 SF of impacts.</p>	<p>1. Work not eligible for SV.</p> <p>2. New and maintenance dredging up to $5,000$ CY with upland disposal or beach nourishment in navigable waters of the U.S.</p> <p>3. $\geq 5,000$ SF and <1 acre of temporary impact associated with dredging in all waterways and/or wetlands.</p> <p>4. Disposal of dredged material for beach nourishment:</p> <ul style="list-style-type: none"> a. $<5,000$ SF in Lake Champlain, Lake Memphremagog, Wallace Pond and adjacent wetlands. b. $\geq 5,000$ SF and <1 acre in waterways and/or wetlands other than Lake Champlain, Lake Memphremagog, Wallace Pond and adjacent wetlands.

GP 8. DISCHARGES OF DREDGED OR FILL MATERIAL INCIDENTAL TO THE CONSTRUCTION OF BRIDGES (Section 404 – navigable waters of the U.S. only) Discharges of dredged or fill material incidental to the construction and modification of bridges across navigable waters of the U.S., including cofferdams, abutments, foundation seals, piers, and temporary construction and access fills, **provided that the USCG authorizes the construction of the bridge structure under Section 9 of the Rivers and Harbors Act of 1899 or other applicable laws.** A USCG Authorization Act Exemption or a STURRA (144h) exemption do not constitute USCG authorization (see GP 18).

Not authorized under GP 8: Causeways and approach fills (see GP 18)

Self-Verification (SV) Eligible	Pre-Construction Notification (PCN) Required
Discharges of dredged or fill material incidental to the construction and modification of bridges.	

GP 9. SHORELINE & BANK STABILIZATION PROJECTS (Sections 10 & 404) Bank stabilization activities necessary for erosion protection along the banks of lakes, ponds, streams, and any other open waters. Includes bulkheads, seawalls, riprap, revetments or slope protection & similar structures, as well as vegetative planting, soil bioengineering, or alternative techniques that are a combination of the two (e.g. living shorelines), specifically for the purpose of shoreline protection.

Not authorized under GP 9: (a) Bank stabilization ≥ 500 LF in total length and/or involving more than an average of 1CY of fill per linear foot placed below the plane of the ordinary high water mark in Lake Champlain, Lake Memphremagog and Wallace Pond and adjacent wetlands; (b) Stream channelization or relocation activities; or (c) breakwaters, groins and jetties.

Self-Verification (SV) Eligible	Pre-Construction Notification (PCN) Required
<ol style="list-style-type: none"> 1. No fill in Lake Champlain, Lake Memphremagog, Wallace Pond and adjacent wetlands. 2. Bank stabilization <200 linear feet long and does not exceed an average of 1 CY of fill per linear foot placed below the plane of the ordinary high water mark in waterways and wetlands other than Lake Champlain, Lake Memphremagog, Wallace Pond and adjacent wetlands. 3. <5,000 SF of temporary fill associated with bank stabilization in waterways and/or wetlands, other than Lake Champlain, Lake Memphremagog, Wallace Pond and adjacent wetlands. 	<ol style="list-style-type: none"> 1. Work not eligible for SV. 2. Bank stabilization <500 linear feet and an average of <1 CY of fill per linear foot placed below the plane of the ordinary high water mark in Lake Champlain, Lake Memphremagog, Wallace Pond and adjacent wetlands.

GP 10. AQUATIC HABITAT RESTORATION, ESTABLISHMENT & ENHANCEMENT ACTIVITIES (Sections 10 and 404) Activities in waters of the United States associated with the restoration, enhancement, and establishment of wetlands and riparian areas; the restoration and enhancement of streams and other open waters; the relocation of non-navigable waters of the U.S., including streams & associated wetlands for reestablishment of a natural stream morphology and reconnection of the floodplain; and the restoration and enhancement of shellfish, finfish and wildlife, provided those activities result in net increases in aquatic resource functions and services.

Not authorized under GP 10: Stream channelization activities.

Self-Verification (SV) Eligible	Pre-Construction Notification (PCN) Required
<p>1. No fill in Lake Champlain, Lake Memphremagog, Wallace Pond and adjacent wetlands.</p> <p>2. Permanent and temporary impacts are <5,000 SF in waterways and/or wetlands provided the activity is supported in writing by a state, or non-Corps Federal environmental agency.</p> <p>3. No conversion of a stream to wetland or vice versa, or wetland to a pond or uplands.</p> <p>4. Temporary structures in navigable waters of the U.S. not exceeding 30 days.</p>	<p>1. Work not eligible for SV.</p> <p>2. Permanent or temporary impacts are: a. In Lake Champlain, Lake Memphremagog, Wallace Pond, adjacent wetlands; or b. \geq5,000 SF in all other waterways and/or wetlands.</p> <p>3. Permanent structures in navigable waters of the U.S.</p> <p>4. Sea Lamprey control projects.</p> <p>5. Water impoundments.</p> <p>6. Dam removals.</p> <p>7. Restoration, establishment and/or enhancement activities approved for use by a Corps-approved In-Lieu Fee Program or Corps-approved mitigation bank, with impacts of any size.</p>

GP 11. FISH & WILDLIFE HARVESTING ACTIVITIES (Sections 10 and 404) Activities in waters of the United States associated with fish and wildlife harvesting devices, such as duck blinds, fish shanties, and small fish aggregating and attraction devices.

Not authorized by GP 11: (a) Artificial reefs; and (b) Permanent and temporary fill >5,000 SF in all waterways and/or wetlands.

Self-Verification (SV) Eligible	Pre-Construction Notification (PCN) Required
<p>1. Non-fill activities associated with fish and wildlife harvesting devices including duck blinds, fish shanties and small fish aggregating and attraction devices.</p>	<p>1. Work not eligible for SV. 2. Permanent and temporary impacts <5,000 SF in all waterways and/or wetlands.</p>

GP 12. OIL SPILL & HAZARDOUS MATERIAL CLEANUP (Sections 10 and 404): (a) Activities conducted in response to a discharge or release of oil and hazardous substances that are subject to the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR 300) including containment, cleanup, and mitigation efforts, provided activities are done under either (i) The Spill Prevent, Control & Countermeasure Plan required by 40 CFR 112.3; (ii) The direction or oversight of the Federal on-site coordinator designated by 40 CFR 300; or (iii) Any approved existing State, regional or local contingency plan, provided that the Regional Response Team concurs with the proposed response efforts or does not object to the response effort; (b) Activities required for the cleanup of oil releases in waters of the U.S. from electrical equipment that are governed by EPA's polychlorinated biphenyl (PCB) spill response regulations at 40 CFR 761; (c) Booms placed in navigable waters of the U.S.; and (d) Use of structures & fills for spill response training exercises. Special Aquatic Sites (SAS) must be restored to their original condition and elevation.

Self-Verification (SV) Eligible	Pre-Construction Notification (PCN) Required
<ol style="list-style-type: none"> 1. Activities that are conducted in accordance with a. or b. above. 2. Booms placed in navigable waters of the U.S. for hazardous and toxic waste containment, absorption and prevention, provided they are removed upon completion of the cleanup. 3. Temporary impacts for spill response training exercises <1000 SF in navigable waters of the U.S. and <5000 SF in all other waters of the U.S., and in place ≤30 days. 	<ol style="list-style-type: none"> 1. Work not eligible for SV. 2. Permanent structures or impacts for spill response training exercises.

GP 13. CLEANUP OF HAZARDOUS & TOXIC WASTE (Sections 10 and 404) Specific activities to effect the containment, stabilization or removal of hazardous or toxic waste materials, including court ordered remedial action plans or related settlements which are performed, ordered or sponsored by a government agency with established legal or regulatory authority. SAS must be restored to their original condition and elevation.

Not authorized under GP 13: (a) the establishment of new disposal sites; or (b) the expansion of existing sites used for the disposal of hazardous or toxic waste.

Self-Verification (SV) Eligible	Pre-Construction Notification (PCN) Required
<ol style="list-style-type: none"> 1. Permanent and temporary impacts are <5,000 SF in waterways and wetlands. 2. No fill in navigable waters of the U.S. 3. Booms placed in navigable waters of the U.S. for oil and hazardous substance containment, absorption and prevention, provided they are removed upon completion of the cleanup. 	<ol style="list-style-type: none"> 1. Work not eligible for SV. 2. Permanent and temporary impacts: <ol style="list-style-type: none"> a. $\geq 5,000$ SF in all waterways and wetlands; or b. Located in navigable waters of the U.S. 3. Work involves stream channelization, relocation, impoundments or loss of streambed.

GP 14. SCIENTIFIC MEASUREMENT DEVICES (Sections 10 and 404) Scientific devices for measuring and recording scientific data, such as staff gauges, tide and current gauges, meteorological stations, water recording and biological observation devices, water quality testing and improvement devices, and similar structures. Also eligible are small temporary weirs and flumes constructed primarily to record water quantity and velocity, provided the discharge is less than 25 cubic yards.

Not authorized under GP 14: (a) Permanent and temporary impacts >1/2 acre in navigable waters of the U.S.; and (b) Permanent and temporary impacts >1 acre in all other waterways and wetlands.

Self-Verification (SV) Eligible	Pre-Construction Notification (PCN) Required
<p>1. Permanent and temporary impacts are ≤1,000 SF in waterways and wetlands.</p> <p>2. Temporary structures in navigable waters of the U.S.</p> <p>Provided the activity does not:</p> <ul style="list-style-type: none"> • Restrict or concentrate movement of aquatic organisms; • Result in a hazard to navigation. 	<p>1. Work not eligible for SV.</p> <p>2. Permanent and temporary impacts >1000 SF in waterways and wetlands.</p> <p>3. Permanent structures in navigable waters of the U.S.</p> <p>4. The activity involves permanent biological sampling devices in non-navigable waters of the U.S., temporary or permanent biological sampling devices in navigable waters of the U.S., or weirs and flumes.</p>
<p>NOTE: Upon completion of the use of the device to measure and record scientific data, the measuring device, and any other structures or fills associated with that device (e.g., foundations, anchors, buoys, lines, etc.), must be removed to the maximum extent practicable.</p>	

<p>GP 15. SURVEY ACTIVITIES (Sections 10 and 404) Survey activities such as soil borings, core sampling, seismic exploratory operations, plugging of seismic shot holes, and other exploratory-type bore holes, exploratory trenching and historic resources surveys.</p> <p>Not authorized under GP 15: (a) Permanent impacts >5,000 SF in Lake Champlain, Lake Memphremagog and Wallace Pond, and >1 acre in all other waterways and/or wetlands, (b) Temporary impacts >1 acre in all waters of the U.S., excluding temporary mats.</p>	
<p>Self-Verification (SV) Eligible</p>	<p>Pre-Construction Notification (PCN) Required</p>
<p>1. No fill in Lake Champlain, Lake Memphremagog and Wallace Pond.</p> <p>2. <5,000 SF of permanent and temporary impacts in waterways and/or wetlands other than Lake Champlain, Lake Memphremagog and Wallace pond.</p> <p>3. No impacts, other than soil borings or core sampling, in navigable waters of the U.S.</p> <p>4. No permanent structures or drilling and discharge of excavated material from test wells for oil and gas exploration allowed.</p> <p>NOTE: Construction mats of any area necessary to conduct activities do not count towards the 5,000 SF threshold and should be removed as soon as work is completed.</p>	<p>1. Work not eligible for SV.</p> <p>2. <5000 SF permanent impact and <1 acre of temporary impact in Lake Champlain, Lake Memphremagog and Wallace Pond and adjacent wetlands.</p> <p>3. Permanent and temporary impacts are \geq5,000 SF and <1 acre of impact in waterways and/or wetlands, other than Lake Champlain, Lake Memphremagog, Wallace Pond and adjacent wetlands.</p> <p>NOTE: Construction mats of any area necessary to conduct activities do not count towards the 1 acre threshold and should be removed as soon as work is completed.</p>
<p>NOTE: The area in which the exploratory trench is dug must be restored to its preconstruction elevation upon completion of the work and must not drain a water of the United States. In wetlands, the top 6 to 12 inches of the trench should normally be backfilled with topsoil from the trench.</p>	

GP 16. MINING ACTIVITIES (Sections 10 and 404) Discharges of dredged or fill material into waters and wetlands for mining activities.

Not authorized under GP 16: Permanent and temporary impacts >5,000 SF in Lake Champlain, Lake Memphremagog, Wallace Pond and adjacent wetlands, and >1 acre in all other waterways and/or wetlands.

Self-Verification (SV) Eligible	Pre-Construction Notification (PCN) Required
<ol style="list-style-type: none"> 1. The activity does not occur in, over, or under navigable waters of the U.S. 2. <5,000 SF of permanent and temporary impacts in waterways and/or wetlands other than Lake Champlain, Lake Memphremagog, Wallace Pond and adjacent wetlands. 	<ol style="list-style-type: none"> 1. Work not eligible for SV. 2. Permanent and temporary impacts are: <ol style="list-style-type: none"> a. <5,000 SF in Lake Champlain, Lake Memphremagog, Wallace Pond and adjacent wetlands. b. \geq5,000 SF and <1 acre in waterways and/or wetlands other than Lake Champlain, Lake Memphremagog, Wallace Pond and adjacent wetlands. 3. Work occurs in navigable waters of the U.S. 4. Work involves stream channelization, relocation, impoundment, loss of streambed, or discharge of tailings into streams.

GP 17. NEW/EXPANDED DEVELOPMENT & RECREATIONAL FACILITIES (Sections 10 and 404) Discharges of dredged or fill material for the construction or expansion of developments and/or recreational facilities. This GP authorizes attendant features that are necessary for the use of the development. Attendant features may include but are not limited to roads, parking lots, garages, yards, utility lines, storm water management facilities, and septic fields. Fill area includes all temporary and permanent fill, and regulated discharges associated with excavation.

Not authorized under GP 17: Permanent and temporary impacts >5,000 SF in Lake Champlain, Lake Memphremagog, Wallace Pond and adjacent wetlands, and >1 acre in all other waterways and/or wetlands.

Self-Verification (SV) Eligible	Pre-Construction Notification (PCN) Required
<p>1. <5,000 SF of permanent and temporary impacts in waterways and/or wetlands other than Lake Champlain, Lake Memphremagog and Wallace pond and adjacent wetlands.</p> <p>NOTE: Construction mats of any area necessary to conduct activities do not count towards the 5,000 SF threshold and should be removed as soon as work is completed.</p>	<p>1. Work not eligible for SV.</p> <p>2. Permanent and temporary impacts are:</p> <ul style="list-style-type: none"> a. <5,000 SF in Lake Champlain, Lake Memphremagog, Wallace Pond and adjacent wetlands. b. ≥5,000 SF and <1 acre in waterways and/or wetlands other than Lake Champlain, Lake Memphremagog, Wallace Pond and adjacent wetlands. <p>3. Work involves stream channelization, relocation, or loss of streambed, including impoundments.</p> <p>NOTE: Construction mats of any area necessary to conduct activities do not count towards the thresholds and should be removed as soon as work is completed.</p>

GP 18. LINEAR TRANSPORTATION PROJECTS AND STREAM/WETLAND CROSSINGS (Sections 10 & 404) Activities required for the construction, expansion, modification, or improvement of linear transportation projects (e.g., driveways, roads, highways, railways, trails, airport runways, and taxiways), and attendant features. Any stream channel modification is limited to the minimum necessary to construct or protect the linear transportation project; such modifications must be in the immediate vicinity of the project.

Not authorized under GP 18: Permanent and temporary impacts >5,000 SF in Lake Champlain, Lake Memphremagog, Wallace Pond and adjacent wetlands, and >1 acre in all other waterways and/or wetlands.

Self-Verification (SV) Eligible	Pre-Construction Notification (PCN) Required
<p>1. <5,000 SF of permanent and temporary impacts in waterways and/or wetlands other than Lake Champlain, Lake Memphremagog and Wallace pond and adjacent wetlands.</p> <p>2. Permanent and temporary stream crossings that comply with GC 20; and</p> <p>3. Existing crossings (e.g., culverts, elliptical or arch pipes, etc.) are not modified by (a) decreasing the diameter of the crossing or (b) changing the friction coefficient, such as through sliplining (retrofitting an existing culvert by inserting a smaller diameter pipe), culvert relining or invert lining.</p> <p>NOTE: Construction mats of any area necessary to conduct activities do not count towards the 5,000 SF threshold and should be removed as soon as work is completed.</p>	<p>1. Work not eligible for SV.</p> <p>2. Permanent and temporary impacts are:</p> <p>a. <5,000 SF in Lake Champlain, Lake Memphremagog, Wallace Pond and adjacent wetlands.</p> <p>b. ≥5,000 SF and <1 acre in waterways and/or wetlands other than Lake Champlain, Lake Memphremagog, Wallace Pond and adjacent wetlands.</p> <p>3. Work involves stream channelization, relocation or loss of streambed including impoundments.</p> <p>NOTE: Construction mats of any area necessary to conduct activities do not count towards the thresholds and should be removed as soon as work is completed.</p>
<p>Note: Non-linear features commonly associated with transportation projects, such as vehicle maintenance or storage buildings, parking lots, train stations, or aircraft hangars may be authorized by GP 17.</p>	

GP 19. ENERGY GENERATION & RENEWABLE ENERGY GENERATION FACILITIES & HYDROPOWER PROJECTS (Sections 10 and 404) Structures and work in navigable waters of the U.S. and discharges of dredged or fill material into waters of the U.S. for the construction, expansion, modification or removal of: (a) Land-based renewable energy production facilities, including attendant features; (b) Water-based wind production facilities or hydrokinetic renewable energy generation projects and their attendant features; and (c) Discharges of dredged or fill material associated with hydropower projects.

Attendant features may include, but are not limited to, land-based collection and distribution facilities, control facilities, and parking lots. For each single and complete project in (b) above, no more than 10 generation units (e.g., wind turbines or hydrokinetic devices) are authorized in navigable waters of the U.S.

Not authorized under GP 19: Permanent and temporary impacts that are (a) >1 acre in non-Section 10 waterways and/or wetlands; (b) >5,000 SF in Section 10 waterways; and (c) >5,000 SF in wetlands adjacent to Lake Champlain, Lake Memphremagog, and Wallace Pond.

Self-Verification (SV) Eligible	Pre-Construction Notification (PCN) Required
<p>For land-based facilities:</p> <p>1. <5,000 SF of permanent and temporary impacts in non-Section 10 waterways and/or wetlands.</p> <p>NOTE: Construction mats of any area necessary to conduct activities do not count towards the 5,000 SF threshold and should be removed as soon as work is completed.</p>	<p>1. Work not eligible for SV.</p> <p>2. Permanent and temporary impacts are:</p> <p>a. ≥5000 SF and <1 acre in non-Section 10 waters and wetlands, and</p> <p>b. <5000 SF in navigable waters of the U.S.</p> <p>3. Work involves stream channelization, relocation or loss of streambed including impoundments.</p> <p>NOTE: Construction mats of any area necessary to conduct activities do not count towards the thresholds and should be removed as soon as work is completed.</p>

Note: Utility lines constructed to transfer the energy from the land-based renewable generation or collection facility to a distribution system, regional grid, or other facility may be authorized by GP 6.

GP 20. TEMPORARY CONSTRUCTION, ACCESS, AND DEWATERING (Sections 10 and 404)

Temporary structures, work, and discharges, including cofferdams, necessary for construction activities or access fills or dewatering of construction sites that are not authorized under another GP activity.

Not authorized under GP 20: (a) Permanent structures or impacts; (b) Temporary impacts >1 acre in waters and/or wetlands; (c) use of cofferdams to dewater wetlands or other aquatic areas to change their use; or (d) Structures or fill left in place after construction is completed.

Self-Verification (SV) Eligible

1. Temporary impacts including land clearing in waters and/or wetlands are ≤ 5000 SF.

NOTE: Construction mats of any area necessary to conduct activities do not count towards the 5,000 SF threshold and should be removed as soon as work is completed.

Pre-Construction Notification (PCN) Required

1. Work not eligible for SV.

NOTE: Construction mats of any area necessary to conduct activities do not count towards the 1 acre threshold and should be removed as soon as work is completed.

Note: Temporary stream crossings may be authorized under GP 18.

GP 21. AGRICULTURAL ACTIVITIES (Section 404) Discharges of dredged or fill material into waters of the U.S. for agricultural activities, including the construction of building pads for farm buildings. Authorized activities include: (a) installation, placement, or construction of drainage tiles, ditches, or levees; mechanized land clearing; land leveling; the relocation of existing serviceable drainage ditches; and similar activities; (b) discharges of dredged or fill material to relocate existing serviceable drainage ditches constructed in streams.

Not authorized under GP 21: (a) Permanent impacts >1 acre in non-Section 10 waterways and wetlands; (b) Work in Section 10 waterways; or (c) Construction of farm ponds in perennial streams.

Self-Verification (SV) Eligible	Pre-Construction Notification (PCN) Required
<p>1. For those activities subject to Corps jurisdiction, <5,000 SF of permanent and temporary impacts.</p>	<p>1. \geq5,000 SF to <1 acre of permanent and temporary impacts.</p> <p>2. Work involves stream channelization, relocation or loss of streambed including impoundments.</p>

APPENDIX B – GENERAL CONDITIONS

1. Other Permits. Permittees must obtain other Federal, State, or local authorizations required by law. Applicants are responsible for applying for and obtaining all required State or local approvals. Work that is not regulated by the State, but is subject to Corps jurisdiction, may be eligible for these General Permits (GPs).

2. Federal Jurisdictional Boundaries.

a. Applicability of these GPs shall be evaluated with reference to Federal jurisdictional boundaries. Activities shall be evaluated with reference to “waters of the U.S.” under the Clean Water Act (33 CFR 328) and “navigable waters of the U.S.” under §10 of the Rivers and Harbors Act of 1899 (33 CFR 329). Applicants are responsible for ensuring that the boundaries used satisfy the Federal criteria defined at 33 CFR 328-329. These sections prescribe the policy, practice and procedures to be used in determining the extent of the Corps’ jurisdiction. Note: Waters of the U.S. includes all waters pursuant to 33 CFR 328.3(a), and adjacent wetlands as that term is defined in 33 CFR 328.3(c).

b. Applicants shall identify all aquatic resources on the project site. They are all presumed to be waters of the U.S. unless an approved jurisdictional determination has been obtained from the Corps that determines otherwise. Wetlands shall be delineated in accordance with the Corps of Engineers Wetlands Delineation Manual and the most recent Northcentral/Northeast Regional Supplement.

3. Mitigation (Avoidance, Minimization, and Compensatory Mitigation).

a. Activities must be designed and constructed to avoid and minimize direct, indirect, secondary, and cumulative adverse effects, both temporary and permanent, to waters of the U.S. to the maximum extent practicable at the project site (i.e., on site). Consideration of mitigation (avoiding, minimizing, rectifying, reducing, or compensating) is required to the extent necessary to ensure that the adverse effects to the aquatic environment are no more than minimal.

b. Applicants should consider riparian/forested buffers for stormwater management and low impact development (LID) best management practices (BMPs) to reduce impervious cover and manage stormwater to minimize impacts to the maximum extent practicable.

c. Compensatory mitigation² for effects to waters of the U.S., including direct, secondary and temporal³, may be required for projects with permanent and temporary impacts that exceed the SV area limits to offset unavoidable impacts, which remain after all appropriate and practicable avoidance and minimization has been achieved, and to ensure that the adverse effects to the aquatic environment are no more than minimal. Proactive restoration projects or temporary impact work with no secondary effects may generally be excluded from this requirement.

4. Discretionary Authority. Notwithstanding compliance with the terms and conditions of this permit, the Corps retains discretionary authority to require an Individual Permit review based on concerns for the aquatic environment or for any other factor of the public interest (33 CFR 320.4(a)). This authority is invoked on a case-by-case basis whenever the Corps determines that the potential consequences of the proposal warrant Individual Permit review based on the concerns stated above. This authority may be invoked for projects with cumulative adverse environmental effects that are more than minimal, or if there is a special resource or concern associated with a particular project. Whenever the Corps notifies an applicant that an Individual Permit may be required, authorization under these GPs is voided and no

² Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR 332. Also reference the New England District Compensatory Mitigation Guidance at <http://www.nae.usace.army.mil/Missions/Regulatory/Mitigation.aspx>.

³ Temporal loss: The time lag between the losses of aquatic resource functions caused by the permitted impacts and the replacement of aquatic resource functions at the compensatory mitigation site(s) (33 CFR 332.2).

work may be conducted until a Corps Individual Permit is obtained or until the Corps notifies the applicant that further review has demonstrated that the work may be reviewed under these GPs.

5. Single and Complete Project. The term “single and complete project” is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers. The GPs shall not be used for piecemeal work and shall be applied to single and complete projects.

a. For non-linear projects, a single and complete project must have independent utility. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.

b. Unless the Corps determines the activity has independent utility, all components of a single project and/or all planned phases of a multi-phased project (e.g., subdivisions should include all work such as roads, utilities, and lot development) shall be treated together as constituting one single and complete project.

c. For linear projects such as power lines or pipelines with multiple crossings, a “single and complete project” is all crossings of a single water of the U.S. (i.e. single waterbody) at a specific location. For linear projects crossing a single waterbody several times at separate and distant locations, each crossing is considered a single and complete project. However, individual channels in a braided stream or river, or individual arms of a large, irregularly-shaped wetland or lake, etc., are not separate waterbodies, and crossings of such features cannot be considered separately. If any crossing requires a PCN review or an Individual Permit review, then the entire linear project shall be reviewed as one project under PCN or the Individual Permit procedures.

6. Use of Multiple General Permits. When a single and complete project requires the use of multiple GPs, the acreage of impacts (loss) to waters of the U.S. cannot exceed the acreage limit as specified. For example, if a road crossing over waters is constructed under GP 18, with an associated utility line crossing authorized by GP 6, the maximum acreage loss of waters of the United States for the total project cannot exceed 1 acre.

7. Corps Property and Federal Projects.

a. In addition to any authorization under these GPs, proponents must contact the Corps Real Estate Division at (978) 318-8585 for work occurring on or potentially affecting Corps properties and/or Corps-controlled easements to initiate reviews and determine what real estate instruments are necessary to perform work. Permittees may not commence work on Corps properties and/or Corps-controlled easements until they have received any required Corps real estate documents evidencing site-specific permission to work.

b. Any proposed alteration, modification, or use of a Federal project (including but not limited to a levee, dike, floodwall, channel, anchorage, seawall, bulkhead, jetty, wharf, pier or other work built but not necessarily owned by the United States), which could obstruct or impair the usefulness of the Federal project in any manner or be injurious to the public interest is not eligible for SV and will also require review and approval by the Corps pursuant to 33 USC 408. Where Section 408 is applicable, a decision on a Department of the Army general permit application will not be rendered prior to the decision on a Section 408 request.

8. National Lands. For non-Federal permittees, activities that impinge upon the value of any National Wildlife Refuge, National Forest, or any area administered by the National Park Service (NPS), U.S. Fish and Wildlife Service (USFWS) or U.S. Forest Service (USFS) are not eligible for SV.

9. Wild and Scenic Rivers

a. The following activities in designated rivers of the National Wild and Scenic River (WSR) System, or in a river designated by Congress as a “study river” for possible inclusion in the system, require a PCN unless the National Park Service (NPS) has determined in writing to the proponent that the proposed work will not adversely affect the WSR designation or study status:

- i. Activities that occur in WSR segments, in and 0.25 miles up or downstream of WSR segments, or in tributaries within 0.25 miles of WSR segments;
- ii. Activities that occur in wetlands within 0.25 miles of WSR segments;
- iii. Activities that have the potential to alter free-flowing characteristics in WSR segments.

b. As of December 19, 2014, affected rivers in Vermont include: the Missisquoi River, from its headwaters at the Lowell/Westfield town line to the Canadian border in Troy (20.5 miles) and from the Canadian border in East Richford to Enosburgh Falls (14.6 miles); and the Trout River.

10. Historic Properties.

a. No undertaking shall cause effects (defined at 33 CFR 325 Appendix C and 36 CFR 800) on properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places⁴, including previously unknown historic properties within the permit area, unless the Corps or another Federal action agency has satisfied the consultation requirements of Section 106 of the National Historic Preservation Act (NHPA). The State Historic Preservation Officer (SHPO), Tribal Historic Preservation Officer (THPO) and the National Register of Historic Places can assist with locating information on: i) previously identified historic properties; and ii) areas with potential for the presence of historic resources, which may require identification and evaluation by qualified historic preservation and/or archaeological consultants in consultation with the Corps and the SHPO and/or THPO(s).

b. For activities eligible for SV, proponents must ensure and document that the activity will not cause effects as stated in 10(a).

c. Proponents must submit a PCN to the Corps as soon as possible if the authorized activity may cause effects as stated in 10(a) to notify the Corps of the potential effects and enable the Corps to fulfill the consultation requirements of Section 106 of NHPA.

d. If a project proponent discovers any previously unknown historic, cultural, or archeological remains or artifacts while accomplishing the activity authorized by this permit, they must immediately notify the District Engineer of what they have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The District Engineer will initiate the Federal, Tribal and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

11. Federal Threatened and Endangered Species.

a. No activity is authorized under any GP which: i) is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species; or ii) “may affect” a listed species or critical habitat, unless ESA section 7 consultation addressing the effects of the proposed activity has been completed; or iii) violates the ESA.

b. For listed species or critical habitat under USFWS jurisdiction, project proponents must check the USFWS IPaC website <http://ecos.fws.gov/ipac> and submit a PCN if any listed species or critical habitat

⁴ The majority of historic properties are not listed on the National Register of Historic Places and may require identification and evaluation by qualified historic preservation and/or archaeological consultants in consultation with the Corps and the SHPO and/or THPO.

may be impacted. An activity is eligible for SV if the IPaC website indicates that only the northern long-eared bat (NLEB) (*Myotis septentrionalis*) is present BUT the activity:

- i) will not remove trees ≥ 3 inches dbh; and
- ii) is not within the “buffer” of a NLEB hibernacula or maternity roost tree; and
- iii) does not involve work on bridges or existing riprap associated with dams.

c. Federal applicants should follow their own procedures for complying with the requirements of the ESA. Work may be eligible for SV if another Federal agency has satisfied the requirements of Section 7 of the ESA. Upon request, permittees must provide the Corps with the appropriate documentation to demonstrate compliance with those requirements.

12. Navigation.

a. Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the U.S.

b. Any structure or work that extends closer to the horizontal limits of any Corps Federal Navigation Project than a distance of three times the project's authorized depth shall be subject to removal at the owner's expense prior to any future Corps dredging or the performance of periodic hydrographic surveys. This is applicable to SV eligible and PCN activities.

c. There shall be no unreasonable interference with navigation by the existence or use of the activity authorized herein, and no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized herein.

d. The permittee understands and agrees that if future U.S. operations require the removal, relocation, or other alteration of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the U.S. No claim shall be made against the U.S. on account of any such removal or alteration.

e. An application to the Corps is required for all work in, over or under an FNP or its buffer zone unless otherwise indicated in Appendix A.

13. Federal Liability.

In issuing these GPs, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes;

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the U.S. in the public interest;

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit;

d. Design or construction deficiencies associated with the permitted work; or

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

14. Heavy Equipment in Wetlands. Operating heavy equipment (drill rigs, fixed cranes, etc.) within wetlands shall be minimized, and such equipment shall not be stored, maintained or repaired in wetlands, to the maximum extent practicable. Where construction requires heavy equipment operation in wetlands, the equipment shall: a) have low ground pressure (typically < 3 psi); b) be placed on swamp/construction/timber mats (herein referred to as “construction mats” or “mats”) that are adequate to support the equipment in such a way as to minimize disturbance of wetland soil and vegetation; or c) be operated on adequately dry or frozen wetlands such that shear pressure does not cause subsidence of

the wetlands immediately beneath equipment and upheaval of adjacent wetlands. Construction mats are to be placed in the wetland from the upland or from equipment positioned on swamp mats if working within a wetland. Construction mats should be carried, and not dragged, into position, where feasible. Other support structures that are capable of safely supporting equipment may be used with written Corps authorization. Similarly, the permittee may request written authorization from the Corps to waive use of mats during frozen or dry conditions. An adequate supply of spill containment equipment shall be maintained on site. Construction mats should be managed in accordance with the following construction mat best management practices:

- Mats should be in good condition to ensure proper installation, use and removal.
- Where feasible, mats should be carried and not dragged unless they are being used as a grading implement.
- Where feasible, place mats in a location that would minimize the amount needed for the wetland crossing.
- Minimize impacts to wetland areas during installation, use, and removal.
- Install adequate erosion and sediment controls at approaches to mats to promote a smooth transition to, and minimize sediment tracking onto, mats.
- In most cases, mats should be placed along the travel area so that the individual boards are resting perpendicular to the direction of traffic. No gaps should exist between mats. Mats should be placed far enough on either side of the resource area to rest on firm ground.

15. Temporary Fill.

a. Temporary fill, construction mats and corduroy roads shall be **entirely** removed as soon as they are no longer needed to construct the authorized work. Temporary fill shall be placed in its original location or disposed of at an upland site and suitably contained to prevent its subsequent erosion into waters of the U.S.

b. All temporary fill and disturbed soils shall be stabilized to prevent its eroding into waters of the U.S. where it is not authorized. Work shall include phased or staged development to ensure only areas under active development are exposed and to allow for stabilization practices as soon as practicable. Temporary fill must be placed in a manner that will prevent it from being eroded by expected high flows.

c. Unconfined temporary fill authorized for discharge into waters of the U.S. shall consist of material that minimizes impacts to water quality (e.g. washed stone, stone, etc.).

d. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable when temporary structures, work, and discharges of dredged or fill material, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Materials shall be placed in a location and manner that does not adversely impact surface or subsurface water flow into or out of the wetland. Temporary fill authorized for discharge into wetlands shall be placed on geotextile fabric or other appropriate material laid on the pre-construction wetland grade where practicable to minimize impacts and to facilitate restoration to the original grade. Construction mats are excluded from this requirement.

e. Construction debris and/or deteriorated materials shall not be located in waters of the U.S.

16. Restoration of Wetland Areas.

a. Upon completion of construction, all disturbed wetland areas (the disturbance of these areas must be authorized) shall be stabilized with a wetland seed mix containing only plant species native to New England and shall not contain any species listed in the “Invasive and Other Unacceptable Plant Species” Appendix D in the “New England District Compensatory Mitigation Guidance” found at <http://www.nae.usace.army.mil/Missions/Regulatory/Mitigation.aspx>.

b. The introduction or spread of invasive plant species in disturbed areas shall be controlled. If construction mats are to be used, they shall be thoroughly cleaned before re-use.

c. In areas of authorized temporary disturbance, if trees are cut they shall be cut at or above ground level and not uprooted in order to prevent disruption to the wetland soil structure and to allow stump sprouts to revegetate the work area, unless otherwise authorized.

d. Wetland areas where permanent disturbance is not authorized shall be restored to their original condition and elevation, which under no circumstances shall be higher than the pre-construction elevation. Original condition means careful protection and/or removal of existing soil and vegetation, and replacement back to the original location such that the original soil layering and vegetation schemes are approximately the same, unless otherwise authorized.

17. Bank Stabilization. Projects involving construction or reconstruction/maintenance of bank stabilization structures within Corps jurisdiction should be designed to minimize environmental effects, effects to neighboring properties, scour, etc. to the maximum extent practicable. For example, vertical bulkheads should only be used in situations where reflected wave energy can be tolerated. This generally eliminates bodies of water where the reflected wave energy may interfere with or impact on harbors, marinas, or other developed shore areas. A revetment is sloped and is typically employed to absorb the direct impact of waves more effectively than a vertical seawall. It typically has a less adverse effect on the beach in front of it, abutting properties and wildlife.

18. Soil Erosion and Sediment Controls.

a. Appropriate soil erosion and sediment controls⁵ (hereinafter referred to as “controls”) must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark (OHW), must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the U.S. during periods of low-flow or no-flow. Areas of temporary fill and/or cofferdams must be included in total waterway/wetlands impacts to determine applicability of the GPs.

b. No dewatering shall occur with direct discharge to waters or wetlands. Excess water in isolated work areas shall be pumped or directed to a sedimentation basin, tank or other dewatering structures in an upland area adequately separated from waters or wetlands where suspended solids shall be removed prior to discharge back into waters or wetlands. All discharge points back into waters and wetlands shall use appropriate energy dissipaters and erosion and sedimentation control BMPs.

c. Controls shall be removed upon completion of work, but not until all exposed soil and other fills, as well as any work waterward of OHW, are permanently stabilized at the earliest practicable date. Sediment and debris collected by these devices shall be removed and placed at an upland location in a manner that will prevent its later erosion into a waterway or wetland. Controls may be left in place if they are biodegradable, and flows and aquatic life movements are not disrupted.

d. The material within sandbags shall not be released during their removal, and trenches must be backfilled as soon as practicable to reduce turbidity impact duration.

19. Aquatic Life Movements and Management of Water Flows.

a. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity’s primary purpose is to impound water. Unless otherwise stated, activities

⁵ Appropriate soil erosion, sediment and turbidity controls include cofferdams, bypass pumping around barriers immediately up and downstream of the work footprint (i.e., dam and pump), installation of sediment control barriers (i.e., silt fence, vegetated filter strips, geotextile silt fences, filter tubes, erosion control mixes, hay bales or other devices) downhill of all exposed areas, stream fords, retention of existing vegetated buffers, application of temporary mulching during construction, phased construction, and permanent seeding and stabilization, etc.

permanently impounding water in a stream require a PCN to ensure impacts to aquatic life species are avoided and minimized. All permanent and temporary crossings of waterbodies and wetlands shall be:

- i. Suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of aquatic species; and
- ii. Properly aligned and constructed to prevent bank erosion or streambed scour both adjacent to and inside the crossing.

b. To avoid adverse impacts on aquatic organisms, the low flow channel/thalweg shall remain unobstructed during periods of low flow, except when it is necessary to perform the authorized work.

c. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the preconstruction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

d. Activities that temporarily or permanently impact upstream or downstream flood conditions require a PCN.

20. Waterway/Wetland Work and Crossings.

a. All permanent crossings of rivers, streams, brooks, etc. (hereon referred to as “streams”) shall meet the following performance standards in order to qualify for SV:

- i. Design the structure to maintain a streambed composition and form throughout the culvert similar to and continuous with the adjacent reaches. To do this:
 - Design and install streambed material and bedforms if not adequately supplied and developed naturally,
 - Design profile and alignment through structure similar to those of adjacent stream reaches,
 - Design culvert elevation to remain embedded for the life of the structure and in consideration of future channel conditions.
- ii. Maintain velocities, turbulence and depths within the structure similar to those found in adjacent stream reaches across a range of desired flows.

b. The requirements to comply with the performance standards in GC 20a. above in order to proceed as a SV project do not apply to the following:

- i. Temporary crossings in place for less than 90 days. Temporary culverts must be embedded unless they're installed during low flow (Jul. 1 – Oct. 1) and it's placed on geotextile fabric laid on the stream bed to ensure restoration to the original grade.

c. Applicants proposing new crossings, or maintenance or replacement of serviceable crossings should refer to the Guidelines for the Design of Stream/Road Crossings for Passage of Aquatic Organisms in Vermont.

d. Applicants shall use the least intrusive and environmentally damaging method to construct the stream crossing, following this sequential minimization process: bridge spans, open bottom arches or embedded culverts.

e. Permanent and temporary crossings of waterbodies and wetlands shall be installed in such a manner as to preserve hydraulic and ecological connectivity, on either side of the crossing. The permittee shall take necessary measures to correct wetland damage due to lack of hydraulic connectivity.

f. Projects using retrofit methods increasing flow velocity or slip lining (retrofitting an existing culvert by inserting a smaller diameter pipe) require a PCN, either as new or maintenance activities.

g. No projects involving open trench excavation in flowing waters, except riprap installation, are allowed under SV. Open trench excavation projects may qualify for SV provided (1) the work doesn't

occur in flowing waters (requires using management techniques such as temporary flume pipes, culverts, cofferdams, etc.) and (2) normal flows are maintained upstream and downstream of the project area.

h. For projects that otherwise meet the terms of SV, in-stream construction work shall be conducted only during the low flow period of July 1 to October 1 in any year. Projects that are conducted outside that time period require a PCN, regardless of the waterway and/or wetland impact area.

21. Discharge of Pollutants. All activities involving any discharge of pollutants into waters of the U.S. authorized under these GPs shall comply with applicable water quality standards, effluent limitations, standards of performance, prohibitions, and pretreatment standards and management practices established pursuant to the CWA (33 U.S.C. 1251), and applicable state and local laws. If applicable water quality standards, limitations, etc., are revised or modified during the term of this permit, the authorized work shall be modified to conform with these standards within 6 months of the effective date of such revision or modification, or within a longer period of time deemed reasonable by the District Engineer in consultation with the Regional Administrator of the EPA. Applicants may presume that State Water Quality Standards are met with the issuance of a 401 WQC or waiver (Applicable only to the Section 404 activity).

22. Spawning, Breeding, and Migratory Areas.

a. Jurisdictional activities and impacts such as excavations, discharges of dredged or fill material, and/or suspended sediment producing activities in jurisdictional waters that provide value as fish migratory areas, fish and shellfish spawning or nursery areas, or amphibian and migratory bird breeding areas, during spawning or breeding seasons shall be avoided and minimized to the maximum extent practicable.

b. Jurisdictional activities in waters of the U.S. that provide value as breeding areas for migratory birds must be avoided to the maximum extent practicable. The permittee is responsible for obtaining any “take” permits required under the USFWS’s regulations governing compliance with the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act. The permittee should contact the appropriate local office of the USFWS to determine if such “take” permits are required for a particular activity.

23. Floodplains and Floodways.

a. Appropriate measures must be taken to minimize flooding to the maximum extent practicable.

b. The permittee is responsible for complying with applicable Federal Emergency Management Agency (FEMA)-approved State and/or local floodplain management permitting requirements for projects located within the 100-Year Floodplain.

24. Storage of Seasonal Structures. Seasonal or recreational structures such as pier sections, floats, etc., that are removed from the waterway for a portion of the year shall be stored in an upland location, located above OHW and not in wetlands.

25. Vernal Pools.

a. On projects requiring a PCN, vernal pools must be identified on the plan showing aquatic resource delineations.

b. A PCN is required if a discharge of dredged or fill material is proposed in a vernal pool located within Federal jurisdictional boundaries.

c. Adverse impacts to vernal pools, vernal pool envelopes, and critical terrestrial habitats should be avoided and minimized to the maximum extent practicable.

d. GC 25(b) and (c) do not apply to projects that are within a municipality that meets the provisions of a Corps-approved VP Special Area Management Plan (VP SAMP) and are otherwise eligible for self-verification, and the applicant meets the requirements to utilize the VP SAMP.

26. Environmental Functions and Values. The permittee shall make every reasonable effort to carry out the construction or operation of the work authorized herein in a manner that minimizes any adverse impacts on existing fish, wildlife, and the environmental functions to the extent practicable. The permittee will discourage the establishment or spread of plant species identified as non-native invasive species by any Federal or State agency.

27. Invasive Species. The introduction, spread, or the increased risk of invasion of invasive plant or animal species on the project site, into new or disturbed areas, or areas adjacent to the project site caused by the site work shall be avoided. Hence, swamp and timber mats shall be thoroughly cleaned before reuse.

28. Permit/Authorization Letter On-Site. For PCN projects, the permittee shall ensure that a copy of these GPs and the accompanying authorization letter are at the work site (and the project office) whenever work is being performed, and that all personnel with operational control of the site ensure that all appropriate personnel performing work are fully aware of its terms and conditions. The entire permit authorization shall be made a part of any and all contracts and sub-contracts for work that affect areas of Corps jurisdiction at the site of the work authorized by these GPs. This shall be achieved by including the entire permit authorization in the specifications for work. The term “entire permit authorization” means these GPs, including general conditions and the authorization letter (including its drawings, plans, appendices and other attachments), and also includes permit modifications. If the authorization letter is issued after the construction specifications, but before receipt of bids or quotes, the entire permit authorization shall be included as an addendum to the specifications. If the authorization letter is issued after receipt of bids or quotes, the entire permit authorization shall be included in the contract or sub-contract as a change order. Although the permittee may assign various aspects of the work to different contractors or sub-contractors, all contractors and sub-contractors shall be obligated by contract to comply with all environmental protection provisions contained within the entire authorization letter, and no contract or sub-contract shall require or allow unauthorized work in areas of Corps jurisdiction.

29. Inspections. The permittee shall allow the Corps and VT ANR to make periodic inspections at any time deemed necessary in order to ensure that the work is being or has been performed in accordance with the terms and conditions of this permit. The Corps may also require post-construction engineering drawings for completed work or post-dredging survey drawings for any dredging work.

30. Maintenance. The permittee shall maintain the activity authorized by these GPs in good condition and in conformance with the terms and conditions of this permit. This does not include maintenance of dredging projects. Maintenance dredging is subject to the review thresholds in General Permit 7 in Appendix A, as well as any conditions included in a written Corps authorization. Maintenance dredging includes only those areas and depths previously authorized and dredged. Some maintenance activities may not be subject to regulation under Section 404 in accordance with 33 CFR 323.4(a)(2).

31. Property Rights. These GPs do not convey any property rights, either in real estate or material, or any exclusive privileges, nor does it authorize any injury to property or invasion of rights or any infringement of federal, state, or local laws or regulations.

32. Transfer of GP Verifications. If the structures or work authorized by these GPs are still in existence at the time the property is transferred, the terms and conditions, including any special conditions, will continue to be binding on the entity or individual who received the authorization, as well as the new owner(s) of the property. If the permittee sells or otherwise transfers the property associated with a GP authorization, the permittee may transfer the GP authorization to the new owner by submitting a letter to the Corps to validate the transfer. A copy of the GP authorization letter must be attached to the letter, and the letter must include the following statement: “The terms and conditions of these General Permits, including any special conditions, will continue to be binding on the new owner(s) of the property”. This letter should be signed by both the seller and new property owner(s).

33. Modification, Suspension, and Revocation. This permit and any individual authorizations issued thereof may be modified, suspended, or revoked in whole or in part pursuant to the policies and procedures of 33 CFR 325.7, and any such action shall not be the basis for any claim for damages against the United States.

34. Special Conditions. The Corps may impose other special conditions on a project authorized pursuant to these GPs that are determined necessary to minimize adverse navigational and/or environmental effects or based on any other factor of the public interest. These may be based on concerns from the Vermont Department of Environmental Conservation, SHPO, THPO or a Federal resource agency. Failure to comply with all conditions of the authorization, including special conditions, will constitute a permit violation and may subject the permittee to criminal, civil, or administrative penalties and/or restoration.

35. False or Incomplete Information. If the Corps makes a determination regarding the eligibility of a project under this permit and subsequently discovers that it has relied on false, incomplete, or inaccurate information provided by the permittee, the authorization will not be valid, and the U.S. government may institute appropriate legal proceedings.

36. Abandonment. If the permittee decides to abandon the activity authorized under this GP, unless such abandonment is merely the transfer of property to a third party, he/she may be required to restore the area to the satisfaction of the Corps.

37. Enforcement cases. These GPs do not apply to any existing or proposed activity in Corps jurisdiction associated with an ongoing Corps or EPA enforcement action, until such time as the enforcement action is resolved or the Corps determines that the activity may proceed independently without compromising the enforcement action.

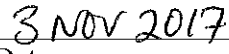
38. Duration of Authorization.

a. These GPs expire five years from the date issued as listed at the top of the cover sheet. Activities authorized by these GPs that have either commenced (i.e., are under construction) or are under contract to commence in reliance upon this authorization will have an additional year from the expiration date to complete the work. The permittee must be able to document to the Corps satisfaction that the project was under construction or under contract by the expiration date of these GPs. If work is not completed within the one year extended timeframe, the permittee must contact the Corps. The Corps may issue a new authorization, provided the project meets the terms and conditions of the Vermont GPs in effect at the time.

b. Activities authorized under these GPs will remain authorized until the GP expires, unless discretionary authority has been exercised on a case-by-case basis to modify, suspend, or revoke the authorization in accordance with 33 CFR 325.2(e)(2). Activities completed under the SV or PCN authorizations of these GPs will continue to be authorized after its expiration date.



Jennifer L. McCarthy
Chief, Regulatory Division



Date

APPENDIX C – CONTACTS FOR VERMONT GENERAL PERMIT

1. Federal

U.S. Army Corps of Engineers

New England District, Regulatory Division
Vermont Project Office
11 Lincoln Street, Room 210
Essex Junction, Vermont 05452
(802) 872-2893, (802) 879-7638 fax
www.nae.usace.army.mil/missions/regulatory

U.S. Environmental Protection Agency

5 Post Office Square, Suite 100
Boston, Massachusetts 02109
(617) 918-1692

U.S. Fish and Wildlife Service

70 Commercial Street, Suite 300
Concord, New Hampshire 03301-5087
(603) 223-2541

National Park Service

North Atlantic Region
15 State Street
Boston, Massachusetts 02109
(617) 223-5203

2. Historic Resources

State Historic Preservation Officer
Division for Historic Preservation
National Life Building
Drawer 20
Montpelier, Vermont 05620-0501
(802) 828-3211

Tribal Historic Preservation Officer
c/o Stockbridge-Munsee Community
65 1st Street
Troy, New York 12180
(518) 244-3164
Area of concern: Addison, Rutland and Bennington
Counties

3. Vermont Agency of Natural Resources

Department of Environmental Conservation

Wetlands Program
Watershed Management Division
1 National Life Drive, Main 2
Montpelier, VT 05620-3522

Department of Environmental Conservation

River Management Program
Watershed Management Division
1 National Life Drive, Main 2
Montpelier, VT 05620-3522

Department of Environmental Conservation

Lakes and Ponds Program
Watershed Management Division
1 National Life Drive, Main 2
Montpelier, VT 05620-3522

Department of Environmental Conservation

Dam Safety Program
Facilities Engineering Division
1 National Life Drive, Main 2
Montpelier, VT 05620-3522

Vermont Department of Fish and Wildlife

1 National Life Drive, Main 2
Montpelier, VT 05620-3522

State endangered species

Vermont Department of Fish and Wildlife

Nongame and Natural Heritage Program
1 National Life Drive, Main 2
Montpelier, VT 05620-3522

APPENDIX D – DEFINITIONS

Artificial Reef: A structure which is constructed or placed in waters for the purpose of enhancing fishery resources and commercial and recreational fishing opportunities.

Attendant Features: Occurring with or as a result of; accompanying.

Boating facilities: These provide, rent or sell mooring space, such as marinas, boat/yacht clubs, boat yards, dockminiums, town facilities, etc. Not classified as boating facilities are piers shared between two abutting properties or town mooring fields that charge an equitable user fee based on the actual costs incurred.

Construction mats: Construction, swamp and timber mats (herein referred to as “construction mats”) are generic terms used to describe structures that distribute equipment weight to prevent wetland damage while facilitating passage and providing work platforms for workers and equipment. They are comprised of sheets or mats made from a variety of materials in various sizes. A timber mat consists of large timbers bolted or cabled together.

Compensatory mitigation: The restoration (reestablishment or rehabilitation), establishment (creation), enhancement, and/or, in certain circumstances, preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

Currently serviceable: Useable as is or with some minor maintenance, but not so degraded as to essentially require reconstruction.

Direct effects: The loss of aquatic ecosystem within the footprint of the discharge of dredged or fill material. Direct effects are caused by the action and occur at the same time and place.

Dredged material & discharge of dredged material: These are defined at 33 CFR 323.2(c) and (d). The term “dredged material” means material that is excavated or dredged from waters of the United States.

Discharge: The term “discharge” means any discharge of dredged or fill material into waters of the United States.

Enhancement: The manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

Ephemeral stream: An ephemeral stream has flowing water only during, and for a short duration after, precipitation events in a typical year. Ephemeral stream beds are located above the water table year-round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow.

Establishment (creation): The manipulation of the physical, chemical or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area.

Expansions: Work that increases the footprint of fill, depth of basin or drainage feature, structures or floats, or slip capacity.

Fill material & discharge of fill material: These are defined at 33 CFR 323.2(e) and (f). The term fill material is defined as material placed in waters of the U.S. where the material has the effect of either replacing any portion of a water of the U.S. with dry land or changing the bottom elevation of any portion of a water of the U.S.

Federal navigation projects (FNPs): These areas are maintained by the Corps, authorized, constructed and maintained on the premise that they will be accessible and available to all on equal terms. They are comprised of Corps Federal anchorages, Federal channels and Federal turning basins. The following are

FNPs in VT, and more information, including the limits, is provided at www.nae.usace.army.mil/missions/navigation and www.nan.usace.army.mil/Missions/Civil-Works/

Navigation Projects:

- Burlington Harbor
- Channel Between the North and South Hero Islands
- Gordons Landing
- Narrows of Lake Champlain
- Otter Creek
- St. Albans Harbor
- Swanton Harbor

Historic Property: Any prehistoric or historic district, site (including archaeological site), building, structure, or other object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria (36 CFR 60).

Intermittent stream: An intermittent stream has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow.

Indirect effects: Effects that are caused by the activity and are later in time or farther removed in distance, but are still reasonably foreseeable.

Individual Permit: A Department of the Army authorization that is issued following a case-by-case evaluation of a specific structure or work in accordance with the procedures of 33 CFR 322, or a specific project involving the proposed discharge(s) in accordance with the procedures of 33 CFR 323, and in accordance with the procedures of 33 CFR 325 and a determination that the proposed discharge is in the public interest pursuant to 33 CFR 320.

Maintenance: Maintenance does not include any modification that changes the character, scope, or size of the original fill design.

Mechanized land clearing: As a general rule, mechanized land clearing is a regulated activity (see [Regulatory Guidance Letter 90-05](#)).

Navigable waters of the United States: These are a subset of waters of the U.S., and are defined at 33 CFR 329. The jurisdictional limits (33 CFR 329.11) extend laterally to the entire water surface and bed of a navigable waterbody, which include all the land and waters below the ordinary high water mark. Jurisdiction thus extends to the edge (as determined above) of all such waterbodies, even though portions of the waterbody may be extremely shallow or obstructed by shoals, vegetation or other barriers. Marshlands and similar areas are thus considered navigable in law, but only so far as the area is subject to inundation by the ordinary high waters. In Vermont these waters are: the Connecticut River, Lake Champlain, Lake Memphremagog, Wallace Pond, Ompompanoosuc River (to mile 3.8), Waits River (to mile 0.9), the Black River (mouth to mile 25 in Craftsbury), the Battenkill River (to mile 50 in Manchester), the Lamoille River (mouth to mile 79 in Greensboro), the Missisquoi River (including the North Branch, from the mouth to mile 88.5 in Lowell), Otter Creek (mouth to mile 63.8 in Procter), Winooski River (mouth to Marshfield), Moose River (from Passumpsic River to the Victory Town Line), Nulhegan River (mouth to its source including the East Branch, the Black Branch and the Yellow Branch), Paul Stream (mouth to the source), East Branch of the Passumpsic River (from the confluence with the Passumpsic River to East Haven), Passumpsic River (mouth to confluence with the East Branch), White River (mouth to its source), Wells River (mouth to Groton Pond).

Ordinary High Water Mark (OHW): A line on the shore established by the fluctuations of water and indicated by physical characteristics, or by other appropriate means that consider the characteristics of the surrounding areas. See 33 CFR 328.3(e).

Perennial stream: A perennial stream has flowing water year-round during a typical year. The water table is located above the stream bed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow.

Practicable: Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

Permanent impacts: Permanent impacts means waters of the U.S. that are permanently affected by filling, flooding, excavation, or drainage because of the regulated activity. Permanent impacts include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody.

Preservation: The removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

Re-establishment: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Reestablishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area.

Rehabilitation: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

Restoration: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in an aquatic resource area, restoration is divided into two categories: reestablishment and rehabilitation.

Secondary effects: These are effects on an aquatic ecosystem that are associated with a discharge of dredged or fill materials, but do not result from the actual placement of the dredged or fill material. Information about secondary effects on aquatic ecosystems shall be considered prior to the time final Section 404 action is taken by permitting authorities. Some examples of secondary effects on an aquatic ecosystem are a) aquatic areas drained, flooded, fragmented, or mechanically cleared, b) fluctuating water levels in an impoundment and downstream associated with the operation of a dam, c) septic tank leaching and surface runoff from residential or commercial developments on fill, and d) leachate and runoff from a sanitary landfill located in waters of the U.S. See 40 CFR 230.11(h).

Special aquatic sites (SAS): These include inland wetlands, mud flats, vegetated shallows (submerged aquatic vegetation), and riffle and pool complexes. These are defined at 40 CFR 230.3 and listed in 40 CFR 230 Subpart E.

Streambed: The substrate of the stream channel between the OHW marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the streambed, but outside of the OHW marks, are not considered part of the streambed.

Stream channelization: The manipulation of a stream's course, condition, capacity, or location that causes more than minimal interruption of normal stream processes. A channelized stream remains a water of the United States.

Structure: An object that is arranged in a definite pattern of organization. Examples of structures include, without limitation, any pier, boat dock, boat ramp, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other manmade obstacle or obstruction.

Temporary impacts: Temporary impacts include, but are not limited to, waters of the U.S. that are temporarily filled, flooded, excavated, drained or mechanically cleared because of the regulated activity.

Utility Line: Any pipe or pipeline for the transportation of any gaseous, liquid, liquescent, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone, data, and telegraph messages, and radio and television communication. The term “utility line” does not include activities that drain a water of the U.S., such as drainage tile or French drains, but it does apply to pipes conveying drainage from another area.

Vegetated shallows: Permanently inundated areas that under normal circumstances support communities of rooted aquatic vegetation in rivers and lakes. Note: These areas are also commonly referred to as submerged aquatic vegetation (SAV).

Vernal pools (VPs): For the purposes of these GPs, VPs are depressional wetland basins that typically go dry in most years and may contain inlets or outlets, typically of intermittent flow. Vernal pools range in both size and depth depending upon landscape position and parent material(s). In most years, VPs support one or more of the following obligate indicator species: wood frog, spotted salamander, blue-spotted salamander, marbled salamander, Jefferson’s salamander and fairy shrimp. However, they should preclude sustainable populations of predatory fish.

Water diversions: Water diversions are activities such as bypass pumping (e.g., “dam and pump”) or water withdrawals. Temporary flume pipes, culverts or cofferdams where normal flows are maintained within the stream boundary’s confines aren’t water diversions. “Normal flows” are defined as no change in flow from pre-project conditions.

Weir: A barrier across a river designed to alter the flow characteristics. In most cases, weirs take the form of a barrier, smaller than most conventional dams, across a river that causes water to pool behind the structure (not unlike a dam) and allows water to flow over the top. Weirs are commonly used to alter the flow regime of the river, prevent flooding, measure discharge and help render a river navigable.

Waters of the United States: Waters of the United States are defined in 33 CFR 328.3. These waters include more than navigable waters of the U.S. and are the waters where permits are required for the discharge of dredged or fill material pursuant to Section 404 of the Clean Water Act. Waters of the U.S. include jurisdictional wetlands.