

AGENCY OF NATURAL RESOURCES  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
WATER QUALITY DIVISION  
103 SOUTH MAIN STREET  
WATERBURY, VERMONT 05671-0408

*FACT SHEET*

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

**NPDES Number: VTS0000108**

**Permit Number: 6216-INDC**

The below named applicant has applied for an individual discharge permit for stormwater runoff from construction sites pursuant to 10 V.S.A. §1258, §1259, §1263; the federal Clean Water Act, as amended, 33 U.S.C. §1251 et seq., including §1342(p); and U.S. Environmental Protection Agency regulations including 40 CFR 122.26 and 40 CFR 122.28. This application was received on November 15, 2010 and last revised January 21, 2011.

**Requiring an Individual Permit**

As per the risk scoring process in Appendix A of General Permit 3-9020 (Amended 2008) for Stormwater Runoff from Construction Sites, it has been determined that the stormwater discharges from the construction and construction related activities associated with this project requires an Individual Construction Stormwater Permit.

NAME AND ADDRESS OF APPLICANTS:

Green Mountain Power Corporation;  
Moose Mountain Forestry, LLC;  
Benjamin C. Wileman III;  
Peter B. Mygatt  
Wind Blown Energy, LLC;  
all c/o Charles Pughe  
Green Mountain Power Corporation  
163 Acorn Lane  
Colchester, VT 05446

and

Corrow<sup>1</sup>  
c/o Gary Dubuque  
5292 Noyestar Road  
East Hardwick, VT 05836-9824

<sup>1</sup>Corrow is owned by Nathan Corrow, Tucker Corrow, Douglas Corrow, Jeffrey Brown and Gary Dubuque as tenants in common.

RECEIVING WATERS: East Branch of the Missisquoi River (EBMR), unnamed wetlands and unnamed tributaries of the EBMR, unnamed wetlands and unnamed tributaries of Ace Brook, Truland Brook, Seaver Branch, Shalney Branch, Rogers Branch, and McCleary Brook.

CLASSIFICATION: Class B and Class A(1) Ecological Waters

I. Proposed Action, Discharge, and Location

This permit authorizes the discharge of stormwater runoff from the construction and construction related for the construction of the Kingdom Community Wind project located in Lowell, Vermont, discharging stormwater to the East Branch Missisquoi River (EBMR), to unnamed wetlands and unnamed tributaries of the EBMR, and to unnamed wetlands and unnamed tributaries of Ace Brook, Truland Brook, Seaver Branch, Shalney Branch, Rogers Branch, and McCleary Brook.

This permit does not include the Limited Duration Activities (LDA) provision in Section 2-03(B) of the Vermont Water Quality Standards (VWQS) which provides that short-term periods of non-conformance with the turbidity standards are allowed under the VWQS where an applicant can satisfy the conditions of the LDA provision. The LDA provision was recently formally disapproved by the U.S. Environmental Protection Agency and will no longer be used by the Department in its individual construction permits.

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

II. Description of Discharge

Stormwater runoff with pollutants associated with construction activities and construction related activities.

The construction and construction related activities will discharge to Class B waters and to Class A(1) ecological waters. Class B waters are managed to achieve and maintain a level of quality that fully supports the following designated uses: aquatic biota, wildlife, and aquatic habitat, aesthetics, public water supply, irrigation of crops and other agricultural uses, swimming and other primary contact recreation, boating, fishing and other recreational uses. (Vermont Water Quality Standards, Section 3-04 *Class B Waters: Management Objectives*). Class A(1) ecological waters are managed to achieve and maintain waters in a natural condition, compatible with the following designated uses: aquatic biota, wildlife, and aquatic habitat, aesthetics, swimming and other primary contact recreation, boating, fishing, and other recreational uses (Vermont Water Quality Standards, Section 3-02 *Class A(1) Ecological*

*Waters: Management Objectives).*

### III. Authority

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

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

### IV. Tentative Decision

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

The EPSC Plan has been prepared and will be implemented in conjunction with the general earthworks at the site. The EPSC Plan has been prepared to meet, at a minimum, the protection outlined in the Vermont Standards and Specifications for Erosion and Sediment Control. The objective of the EPSC Plan is to prevent erosion and the transport of sediments to surface waters.

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

Tentative determinations regarding effluent limitations and other conditions to be imposed in the pending Vermont permit have been made by the State of Vermont Agency of Natural Resources (VANR). The limitation imposed will assure that the Vermont Water Quality Standards, including but not limited to §1-03 (Anti-degradation Policy), and applicable provisions of the Federal Clean Water Act, PL 92-500, as amended, will be

met.

V. Procedure

Written public comments on the proposed permit are invited and must be received on or before 4:30 pm, **Thursday, March 3, 2011** by the:

**Agency of Natural Resources  
Department of Environmental Conservation  
Water Quality Division  
103 South Main Street, Building 10 North  
Waterbury, Vermont 05671-0408.**

Comments may also be faxed to (802) 241-3287 or e-mailed to [stormwater@state.vt.us](mailto:stormwater@state.vt.us). All comments received by the above date will be considered in the formulation of the final determination.

A public hearing will be held on **Wednesday, March 2, 2011 at 6:00 PM** at the Lowell Graded School, located at 52 Gelo Park Road in the Town of Lowell, Vermont. The public hearing is an opportunity for the public to provide comments in person on the draft permit. Written comments will still be accepted through the close of the public notice period as specified above.

At the conclusion of the public notice period and after consideration of additional information received during the public notice period, the VANR will make a final determination to issue or to deny the permit.

VI. Appeals

Renewable Energy Projects – Right to Appeal to Public Service Board

If this decision relates to a renewable energy plant for which a certificate of public good is required under 30 V.S.A. §248, any appeal of this decision must be filed with the Vermont Public Service Board pursuant to 10 V.S.A. §8506. This section does not apply to a facility that is subject to 10 V.S.A. §1004 (dams before the Federal Energy Regulatory Commission), 10 V.S.A. §1006 (certification of hydroelectric projects) or 10 V.S.A. Chapter 43 (dams). Any appeal under this section must be filed with the clerk of the Public Service Board within 30 days of the date of this decision. For further information, see the Public Service Board website at [www.psb.vermont.gov](http://www.psb.vermont.gov). The address for the Public Service Board is 112 State Street, Montpelier, Vermont (Tel. # 802-828-2358).

All Other Projects – Right to Appeal to Environmental Court

Pursuant to 10 V.S.A. Chapter 220, any appeal of this decision must be filed with the clerk of the Environmental Court within 30 days of the date of the decision. The Notice of Appeal must

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specify the parties taking the appeal and the statutory provision under which each party claims party status; must designate the act or decision appealed from; must name the Environmental Court; and must be signed by the appellant or their attorney. In addition, the appeal must give the address or location and description of the property, project or facility with which the appeal is concerned and the name of the applicant or any permit involved in the appeal. The appellant must also serve a copy of the Notice of Appeal in accordance with Rule 5(b)(4)(B) of the Vermont Rules for Environmental Court Proceedings. For further information, see the Vermont Rules for Environmental Court Proceedings, available on line at [www.vermontjudiciary.org](http://www.vermontjudiciary.org). The address for the Environmental Court is 2418 Airport Road, Suite 1, Barre, VT 05641 (Tel. # 802-828-1660).