



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1
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May 9, 2011

OFFICE OF THE
REGIONAL ADMINISTRATOR

Colonel Philip T. Feir
Commander, New England District
U.S. Army Corps of Engineers
696 Virginia Road
Concord MA 01742-2751

Governor Peter Shumlin
109 State Street, Pavilion
Montpelier, VT 05609

Re: Vermont Agency of Transportation, Circ-Williston Highway Project (NAE-2004-2762)

Dear Colonel Feir and Governor Shumlin:

On November 15 and December 10, 2010, EPA Region I submitted comments to the New England District of the U.S. Army Corps of Engineers ("Corps") in response to the Corps' August 10, 2010 public notice (revised September 14, 2010) related to the Vermont Agency of Transportation's ("VTrans") Circ-Williston Transportation Project in Chittenden County, Vermont. In those comments, we stated the Region's position that the Circ A/B alternatives, including VTrans' preferred alternative (Alternative 17), do not satisfy the Clean Water Act ("CWA") § 404(b)(1) guidelines and that the Corps should deny VTrans' permit application. The comments focused particularly on the severity of the impacts to the aquatic ecosystem, concluding that Alternative 17/Circ A/B would cause or contribute to significant degradation of the waters of the United States, in violation of 40 C.F.R. § 230.10(c), and that VTrans' compensatory mitigation plan would not be sufficient to reduce the impacts below the level of significant degradation. The comments also explained the Region's concerns that Alternative 17/Circ A/B would cause or contribute to a violation of water quality standards, and discussed the basis for the Region's conclusion that Alternative 17/Circ A/B is not the least environmentally damaging practicable alternative (in violation of 40 C.F.R. §§ 230.10(b) and (a), respectively). In the four months that have passed since our last comments were submitted, we have seen no new information that alters our position regarding Alternative 17/Circ A/B.

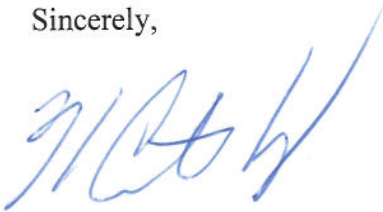
We understand that the Vermont Department of Environmental Conservation ("DEC") is in the process of conducting a new water quality certification evaluation of Alternative 17/Circ A/B, pursuant to § 401 of the CWA. We agree that a new § 401 evaluation is warranted, particularly given that the impacts to wetlands and other waters associated with Alternative 17/Circ A/B are now expected to be substantially greater than those that were identified at the time of DEC's 1989 § 401 water quality certification. The Region identified a number of concerns that are relevant to the State's § 401 review in the November 15, 2010 comment letter. Among those

concerns are increased phosphorus loadings to Lake Champlain (which is impaired due to excess phosphorus), with no demonstration that the load would be offset through reductions from other sources; the loss or alteration of an entire network of headwater streams that is an essential source of clean, cold water for Allen Brook, an impaired water; the failure to demonstrate that antidegradation requirements would be satisfied in light of the significant degradation of wetlands and other waters that would occur from this alternative; and likely violations of water quality criteria in affected streams during construction.

I believe that this is an appropriate time to convey that if the Corps notifies EPA of its intent to issue a permit for Alternative 17/Circ A/B based upon the existing record, I intend to initiate the § 404(c) process under the Clean Water Act. In light of the significant ecological damage that Alternative 17/Circ A/B would cause, I encourage the State to reconsider its support for this alternative, and I renew the recommendations I have made previously to the Corps that it deny the permit application. Ending this project would enable all of us to turn our collective energies toward developing an environmentally sound solution to the regional transportation needs within Chittenden County, an objective that my Agency is ready to help address.

Please contact me at 617-918-1012 if you wish to discuss this letter, or have your staff contact Matt Schweisberg, Chief of our Wetlands Program, at 617-918-1628.

Sincerely,



H. Curtis Spalding
Regional Administrator

cc: Ernest Blais, FHWA
Thomas Chapman, USFWS
Brian Searles, VTRANS
Deborah Markowitz, VT ANR
David Mears, VT DEC