

July 15, 2013

Colonel Charles Samaris  
Commander, District Engineer - New England District  
US Army Corps of Engineers  
696 Virginia Road  
Concord, MA 01742

**RE: Vermont Gas Sec. 404 Individual Wetland Permit Application**

Dear Colonel Samaris:

The Army Corps of Engineers should not grant a Section 404 individual wetland permit to Vermont Gas Systems for the Addison Natural Gas Project, as the project would have undue adverse impacts on aquatic resources. Vermont Gas has failed to meet the requirements for a Section 404 individual permit - avoidance of adverse impacts on the aquatic ecosystem, minimization of unavoidable impacts and, if needed, compensation to mitigate impacts.

Vermont Gas has not met the avoidance criterion – the proposed project fragments large forested wetlands, passing through at least 51 Class II wetlands deemed “significant” under the Vermont Wetland Rules. According to testimony submitted by Vermont Gas, the project would directly impact 5.29 acres of these Class II wetlands as well as an additional 6.22 acres of Class II wetland buffers. These wetlands encompass 12 major watersheds, relying in part on sections of the same right-of-way acquired for the Circ Highway project. At the end of 2010 the EPA told Colonel Feir of the Army Corps of Engineers that the Circ “will have a substantial and unacceptable impact on aquatic resources of national importance.” The pipeline extension would significantly degrade portions of those same vital aquatic resources in violation of the requirements of the Clean Water Act.

Not only has Vermont Gas failed to take adequate measures to avoid impacts, but it has also failed to minimize unavoidable adverse impacts or to arrive at the least harmful practicable alternative (LEDPA) required by federal law. Vermont Gas plans to use open cut trenching throughout most of the pipeline route, even though horizontal directional drilling is undoubtedly a less environmentally damaging practicable alternative with the additional benefit of decreasing landscape rehabilitation and maintenance costs. HDD is practicable since it is “available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.” 40 C.F.R. §230.10(a)(2).

Configurations submitted to the Vermont Department of Environmental Conservation indicate that there would be areas of disturbance up to 75 feet wide in spots where HDD is *not* being used. The Army Corps of Engineers risks violating 40 C.F.R. § 230.10(a) if it issues a permit for



a project that fails to minimize impacts by exclusively using HDD at all stream crossings and sensitive wetland areas.

Vermont Gas has not satisfied its burden of demonstrating that the pipeline's routing through the interior of forested wetlands avoids impacts to hydrology, nor has it shown that the use of open trenching or the width of the construction corridor through wetlands is the LEDPA. Because the company has not avoided impacts, minimized unavoidable impacts, or provided sufficient compensation to mitigate impacts, the project's impacts are undue and adverse. In accordance with federal law, the Army Corps of Engineers should not issue a Section 404 permit.

Respectfully submitted,

A handwritten signature in black ink that reads "Sandra Levine".

Sandra Levine  
Senior Attorney

A handwritten signature in black ink that reads "A. Rockland-Miller".

Ari Rockland-Miller  
Legal Intern

cc: Beth Alafat, EPA  
Kimberly K. Hayden, Esq.