

AGENCY OF NATURAL RESOURCES  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
WATERSHED MANAGEMENT DIVISION  
ONE NATIONAL LIFE DRIVE, MAIN BUILDING, 2<sup>nd</sup> FLOOR  
MONTPELIER, VT 05620-3522

Permit No.: 3-0334  
PIN: EJ95-0419  
NPDES No.: VT0020877

**DRAFT**  
**DISCHARGE PERMIT**

In compliance with the provisions of the Vermont Water Pollution Control Act as amended (10 V.S.A. chapter 47), the Vermont Water Pollution Control Permit Regulations as amended, and the federal Clean Water Act as amended (33 U.S.C. §1251 *et seq.*),

Village of Swanton  
PO Box 279  
Swanton, Vermont 05488

(hereinafter referred to as the “Permittee”) is authorized by the Secretary of Natural Resources (Secretary) to discharge from a facility located at:

Swanton Water Treatment Facility  
211 Maquam Shore Road  
Swanton, Vermont

to Lake Champlain, Class B at the point of discharge in accordance with the following conditions.

This permit shall become effective on **April 1, 2019**

This permit and the authorization to discharge shall expire on **March 31, 2024**

Emily Boedecker, Commissioner  
Department of Environmental Conservation

By: \_\_\_\_\_ Date: \_\_\_\_\_

Mary Borg, Deputy Director  
Watershed Management Division

**I. SPECIAL CONDITIONS****A. EFFLUENT LIMITS**

1. During the term of this permit, the Permittee is authorized to discharge from outfall serial number S/N 001: filter backwash water from the Swanton Water Treatment Facility to Lake Champlain, an effluent for which the characteristics shall not exceed the values listed below:

Effluent Characteristics	Discharge Limitations			Monitoring Requirements	
	Annual Average	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
Flow		136,000 gpd		Daily	Total Flow
Turbidity <sup>1</sup>	10 NTU		Monitor Only	2 × monthly	Grab
Total Residual Chlorine			0.5 mg/L	2 × monthly	Grab
pH		Between 6.5 and 8.5 S.U.		2 × monthly	Grab

*Samples taken in compliance with the monitoring requirements specified above shall be taken from the lagoon outfall prior to discharge to Lake Champlain.*

<sup>1</sup> The turbidity limit is an annual average under dry weather base flow conditions. If a turbidity sample exceeds 10 NTU, then the Permittee shall immediately collect and analyze another sample of the discharge for turbidity.

**2. Special Conditions:**

- a. The discharge shall not cause or contribute to a violation of the water quality standards of the receiving water.
- b. The discharge shall not contain a visible sheen, foam, or floating solids, or cause a visible discoloration of the receiving water.
- c. Floor drains shall be used for disposing of small amounts of normal floor washing solutions only. Accidental spills shall be segregated and disposed of properly.
- d. The discharge of corrosion control products that contain priority pollutants or phosphorus is prohibited without written approval from the Agency.
- e. The accumulated sludge shall be removed from the lagoons as necessary to maintain compliance with the effluent limitations in Condition I.A.1. and managed in compliance with Condition II.A.8. of this permit. The dates and volumes removed shall be included on the appropriate Discharge Monitoring Report (DMR) form.

**B. REAPPLICATION**

If the Permittee desires to continue to discharge after the expiration of this permit, the Permittee shall reapply on the application forms then in use at least 180 days before this permit expires.

Reapply for a Discharge Permit by: **September 30, 2023**

**C. OPERATING FEES**

This discharge is subject to operating fees as required by 3 V.S.A. § 2822.

**D. MONITORING AND REPORTING****1. Sampling and Analysis**

The sampling, preservation, handling, and analytical methods used shall conform to the test procedures published in Title 40 of the Code of Federal Regulations (C.F.R.) Part 136.

The Permittee shall use sufficiently sensitive test procedures (i.e., methods) approved under 40 C.F.R. Part 136 for the analysis of the pollutants or pollutant parameters specified in Condition I.A above.

Samples shall be representative of the volume and quality of effluent discharged over the sampling and reporting period. All samples are to be taken during normal operating hours.

The Permittee shall identify the effluent sampling location used for each discharge. A description of the effluent sample location is included in Condition I.A.1.

## **2. Reporting**

The Permittee is required to submit monthly reports of monitoring results on Discharge Monitoring Report (DMR) form WR-43. Reports are due on the 15<sup>th</sup> day of each month, beginning with the month following the effective date of this permit.

The Permittee shall electronically submit its DMRs via Vermont's online electronic reporting system. The Permittee shall electronically submit additional compliance monitoring data and reports specified by the Secretary. When the Permittee submits DMRs using an electronic system designated by the Secretary, which requires attachment of scanned DMRs in pdf format, it is not required to submit hard copies of DMRs. The link below shall be used for electronic submittals:

<https://anronline.vermont.gov/>

If, in any reporting period, there has been no discharge, the Permittee must submit that information by the report due date.

All reports shall be signed:

- a) In the case of corporations, by a principal executive officer of at least the level of vice president, or his/her duly authorized representative, if such representative is responsible for the overall operation of the facility from which the discharge described in the permit form originates and the authorization is made in writing and submitted to the Secretary;
- b) In the case of a partnership, by a general partner;
- c) In the case of a sole proprietorship, by the proprietor; or
- d) In the case of a municipal, State, or other public facility, by either a principal executive officer, ranking elected official, or other duly authorized employee.

In addition to the monitoring and reporting requirements given above, daily monitoring of certain parameters for operational control shall be submitted to the Secretary on the DMR form WR-43. Operations reports shall be submitted monthly.

## **3. Recording of Results**

The Permittee shall maintain records of all information resulting from any monitoring activities required, including:

- a) The exact place, date, and time of sampling or measurement;

- b) The individual(s) who performed the sampling or measurements;
- c) The dates and times the analyses were performed;
- d) The individual(s) who performed the analyses;
- e) The analytical techniques and methods used including sample collection handling and preservation techniques;
- f) The results of such analyses;
- g) The records of monitoring activities and results, including all instrumentation and calibration and maintenance records;
- h) The original calculation and data bench sheets of the operator who performed analysis of the influent or effluent pursuant to requirements of this permit; and
- i) For analyses performed by contract laboratories:
  - a. The detection level reported by the laboratory for each sample; and
  - b. The laboratory analytical report including documentation of the QA/QC and analytical procedures.

The results of monitoring requirements shall be reported (in the units specified) on the DMR form WR-43 or other forms approved by the Secretary.

When “non-detects” are recorded, the method detection limit shall be reported and used in calculating any time-period averaging for reporting on DMRs.

#### **4. Additional Monitoring**

If the Permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit, using approved analytical methods as specified above, the results of such monitoring shall be included in the calculation and reporting of the values required in the DMR form WR-43. Such increased frequency shall also be indicated.

## **II. GENERAL CONDITIONS**

### **A. MANAGEMENT REQUIREMENTS**

#### **1. Facility Modification / Change in Discharge**

All discharges authorized herein shall be consistent with the terms and conditions of this permit. The discharge of any pollutant more frequently than, or at a level in excess of, that identified and authorized by this permit shall constitute a violation of the terms and

conditions of this permit. Such a violation may result in the imposition of civil and/or criminal penalties pursuant to 10 V.S.A. chapters 47, 201, and/or 211. Any anticipated facility alterations or expansions or process modifications which will result in new, different, or increased discharges of any pollutants must be reported by submission of a new permit application or, if such changes will not violate the effluent limitations specified in this permit, by notice to the Secretary of such changes. Following such notice, the permit may be modified, pursuant to Condition II.B.4 of this permit, to specify and limit any pollutants not previously limited.

In addition, the Permittee, within 30 days of the of the date on which the Permittee is notified of such discharge, shall provide notice to the Secretary of the following:

- a) Any new introduction of pollutants into the treatment works from a source which would be a new source as defined in Section 306 of the Clean Water Act if such source were discharging pollutants;
- b) Except for such categories and classes of point sources or discharges specified by the Secretary, any new introduction of pollutants into the treatment works from a source which would be subject to Section 301 of the Clean Water Act if such source were discharging pollutants; and
- c) Any substantial change in volume or character of pollutants being introduced into the treatment works by a source introducing pollutants into such works at the time of issuance of the permit.

The notice shall include:

- i. The quality and quantity of the discharge to be introduced into the system, and
- ii. The anticipated impact of such change in the quality or quantity of the effluent to be discharged from the WWTF.

## **2. Noncompliance Notification**

- a) The Permittee shall give advance notice to the Secretary of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- b) In the event the Permittee is unable to comply with any of the conditions of this permit due, among other reasons, to:
  - i. Breakdown or maintenance of waste treatment equipment (biological and physical-chemical systems including all pipes, transfer pumps, compressors, collection ponds or tanks for the segregation of treated or untreated wastes, ion exchange columns, or carbon absorption units);
  - ii. Accidents caused by human error or negligence;

- iii. Any unanticipated bypass or upset which exceeds any effluent limitation in the permit;
- iv. Violation of a maximum day discharge limitation for any of the pollutants listed by the Secretary in this permit; or
- v. Other causes such as acts of nature,

the Permittee shall provide notice as specified in subdivisions (c) and (d) of this subsection.

c) Pursuant to 10 V.S.A. §1295, notice for “untreated discharges,” as defined.

- i. Public notice. For “untreated discharges” an operator of a WWTF or the operator’s delegate shall as soon as possible, but no longer than one hour from discovery of an untreated discharge from the WWTF, post on a publicly accessible electronic network, mobile application, or other electronic media designated by the Secretary an alert informing the public of the untreated discharge and its location, except that if the operator or his or her delegate does not have telephone or Internet service at the location where he or she is working to control or stop the untreated discharge, the operator or his or her delegate may delay posting the alert until the time that the untreated discharge is controlled or stopped, provided that the alert shall be posted no later than four hours from discovery of the untreated discharge.
- ii. Secretary notification. For “untreated discharges” an operator of a WWTF shall within 12 hours from discovery of an untreated discharge from the WWTF notify the Secretary and the local health officer of the municipality where the facility is located of the untreated discharge. The operator shall notify the Secretary through use of the Department of Environmental Conservation’s online event reporting system. If, for any reason, the online event reporting system is not operable, the operator shall notify the Secretary via telephone or e-mail. The notification shall include:
  - (1) The specific location of each untreated discharge, including the body of water affected. For combined sewer overflows, the specific location of each untreated discharge means each outfall that has discharges during the wet weather storm event.
  - (2) Except for discharges from a WWTF to a separate storm sewer system, the date and approximate time the untreated discharge began.
  - (3) The date and approximate time the untreated discharge ended. If the untreated discharge is still ongoing at the time of reporting, the entity reporting the untreated discharge shall amend the report with the date and approximate time the untreated discharge ended within three business days of the untreated discharge ending.

- (4) Except for discharges from a WWTF to a separate storm sewer system, the approximate total volume of sewage and, if applicable, stormwater that was released. If the approximate total volume is unknown at the time of reporting, the entity reporting the untreated discharge shall amend the report with the approximate total volume within three business days.
  - (5) The cause of the untreated discharge and a brief description of the noncompliance, including the type of event and the type of sewer structure involved.
  - (6) The person reporting the untreated discharge.
- d) For any non-compliance not covered under Condition II.A.2.c. of this permit, an operator of a WWTF or the operator's delegate shall notify the Secretary within 24 hours of becoming aware of such condition and shall provide the Secretary with the following information, in writing, within five days:
- i. Cause of non-compliance;
  - ii. A description of the non-complying discharge including its impact upon the receiving water;
  - iii. Anticipated time the condition of non-compliance is expected to continue or, if such condition has been corrected, the duration of the period of non-compliance;
  - iv. Steps taken by the Permittee to reduce and eliminate the non-complying discharge; and
  - v. Steps to be taken by the Permittee to prevent recurrence of the condition of non-compliance.

### **3. Operation and Maintenance**

All waste collection, control, treatment, and disposal facilities shall be operated in a manner consistent with the following:

- a) The Permittee shall, at all times, maintain in good working order and operate as efficiently as possible all treatment and control facilities and systems (and related appurtenances) installed or used by the Permittee to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the Permittee only when the operation is necessary to achieve compliance with the conditions of this permit.



- b) The Permittee shall provide an adequate operating staff which is duly qualified to carry out the operation, maintenance, and testing functions required to ensure compliance with the conditions of this permit; and

#### **4. Quality Control**

The Permittee shall calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at regular intervals to ensure accuracy of measurements, or shall ensure that both activities will be conducted.

The Permittee shall keep records of these activities and shall provide such records upon request of the Secretary.

The Permittee shall analyze additional samples as may be required by the Agency of Natural Resources to ensure analytical and quality control.

#### **5. Bypass**

The bypass of facilities (including pump stations) is prohibited, except where authorized under the terms and conditions of an Emergency Pollution Permit issued pursuant to 10 V.S.A. § 1268. It shall not be a defense for the Permittee in an enforcement action that it would have been necessary to halt or reduce the activity in order to maintain compliance with the conditions of this permit.

#### **6. Duty to Mitigate**

The Permittee shall take all reasonable steps to minimize or prevent any adverse impact to waters of the State, the environment, or human health resulting from non-compliance with any condition specified in this permit, including accelerated or additional monitoring as necessary to determine the nature and impact of the non-complying discharge.

#### **7. Records Retention**

All records and information resulting from the monitoring activities required by this permit including all records of analyses performed, all calibration and maintenance of instrumentation records and all original chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit shall be retained for a minimum of three years, and shall be submitted to the Secretary upon request. This period shall be extended during the course of unresolved litigation regarding the discharge of pollutants or when requested by the Secretary.

#### **8. Solids Management**

Collected screenings, sludges, and other solids removed in the course of treatment and control of wastewaters shall be stored, treated, and disposed of in accordance with 10 V.S.A. chapter 159 and with the terms and conditions of any certification, interim or final,

transitional operation authorization, or order issued pursuant to 10 V.S.A. chapter 159 that is in effect on the issuance date of this permit or is issued during the term of this permit.

## **9. Emergency Pollution Permits**

Maintenance activities, or emergencies resulting from equipment failure or malfunction, including power outages, which result in an effluent which exceeds the effluent limitations specified herein, shall be considered a violation of the conditions of this permit, unless the Permittee's discharge is covered under an emergency pollution permit under the provisions of 10 V.S.A. § 1268. The Permittee shall notify the Secretary of the emergency situation by the next working day, unless notice is required sooner under Section II.A.2.

10 V.S.A. § Section 1268 reads as follows:

When a discharge permit holder finds that pollution abatement facilities require repairs, replacement or other corrective action in order for them to continue to meet standards specified in the permit, he may apply in the manner specified by the secretary for an emergency pollution permit for a term sufficient to effect repairs, replacements or other corrective action. The Secretary shall proceed in accordance with chapter 170 of this title. No emergency pollution permit shall be issued unless the applicant certifies and the secretary finds that:

- (1) there is no present, reasonable alternative means of disposing of the waste other than by discharging it into the waters of the state during the limited period of time of the emergency;
- (2) the denial of an emergency pollution permit would work an extreme hardship upon the applicant;
- (3) the granting of an emergency pollution permit will result in some public benefit;
- (4) the discharge will not be unreasonably harmful to the quality of the receiving waters;
- (5) the cause or reason for the emergency is not due to willful or intended acts or omissions of the applicant.

Application shall be made to the Secretary at the following address: Agency of Natural Resources, Department of Environmental Conservation, One National Life Drive, Main Building, 2<sup>nd</sup> Floor, Montpelier VT 05620-3522.

## **10. Power Failure**

In order to maintain compliance with the effluent limitations and prohibitions of this permit, the Permittee shall either:

- a. Provide an alternative power source sufficient to operate the wastewater control facilities, or if such alternative power source is not in existence,
- b. Halt, reduce or otherwise control production and/or all discharges upon the reduction, loss, or failure of the primary source of power to the wastewater control facilities.

## B. RESPONSIBILITIES

### 1. Right of Entry

The Permittee shall allow the Secretary or authorized representative, upon the presentation of proper credentials:

- a) To enter upon the Permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- b) To have access to and copy, at reasonable times, any records required to be kept under the terms and conditions of this permit;
- c) To inspect, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- d) To sample or monitor, at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

### 2. Transfer of Ownership or Control

This permit is not transferable without prior written approval of the Secretary. All application and operating fees must be paid in full prior to transfer of this permit. In the event of any change in control or ownership of facilities from which the authorized discharges emanate, the Permittee shall provide a copy of this permit to the succeeding owner or controller and shall send written notification of the change in ownership or control to the Secretary **at least 30 days in advance of the proposed transfer date**. The notice to the Secretary shall include a written agreement between the existing and new Permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them. The Permittee shall also inform the prospective owner or operator of their responsibility to make an application for transfer of this permit.

This request for transfer application must include as a minimum:

- a) A properly completed application form provided by the Secretary and the applicable processing fee.
- b) A written statement from the prospective owner or operator certifying:

- i. The conditions of the operation that contribute to, or affect, the discharge will not be materially different under the new ownership;
  - ii. The prospective owner or operator has read and is familiar with the terms of the permit and agrees to comply with all terms and conditions of the permit; and
  - iii. The prospective owner or operator has adequate funding to operate and maintain the treatment system and remain in compliance with the terms and conditions of the permit.
- c) The date of the sale or transfer.

The Secretary may require additional information dependent upon the current status of the facility operation, maintenance, and permit compliance.

### **3. Confidentiality**

Pursuant to 10 V.S.A. § 1259(b):

Any records or information obtained under this permit program that constitutes trade secrets under 1 V.S.A. § 317(c)(9) shall be kept confidential, except that such records or information may be disclosed to authorized representatives of the State and the United States when relevant to any proceedings under this chapter.

Claims for confidentiality for the following information will be denied:

- a) The name and address of any permit applicant or Permittee.
- b) Permit applications, permits, and effluent data.
- c) Information required by application forms, including information submitted on the forms themselves and any attachments used to supply information required by the forms.

### **4. Permit Modification, Suspension, and Revocation**

After notice and opportunity for a hearing, this permit may be modified, suspended, or revoked in whole or in part during its term for cause including the following:

- a) Violation of any terms or conditions of this permit;
- b) Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts;
- c) Reallocation of WLA under the LC TMDL;
- d) Development of an integrated WWTF and stormwater runoff NPDES permit; or

- e) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

The filing of a request by the Permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance shall not stay any permit condition.

The Permittee shall provide to the Secretary, within a reasonable time, any information which the Secretary may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The Permittee shall also furnish to the Secretary upon request, copies of records required to be kept by this permit.

## **5. Toxic Effluent Standards**

If a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under section 307(a) of the Clean Water Act for a toxic pollutant which is present in the Permittee's discharge and such standard or prohibition is more stringent than any limitation upon such pollutant in this permit, then this permit shall be modified or revoked and reissued, pursuant to Condition II.B.4 of this permit, in accordance with the toxic effluent standard or prohibition and the Permittee so notified.

## **6. Oil and Hazardous Substance Liability**

Nothing in this permit shall be construed to preclude the institution of legal action or relieve the Permittee from any responsibilities, liabilities, or penalties to which the Permittee is or may be subject under 10 V.S.A. § 1281.

## **7. Other Materials**

Other materials ordinarily produced or used in the operation of this facility, which have been specifically identified in the application, may be discharged at the maximum frequency and maximum level identified in the application, provided:

- a) They are not:

- i. Designated as toxic or hazardous under provisions of Sections 307 and 311, respectively, of the Clean Water Act, or
- ii. Known to be hazardous or toxic by the Permittee,

except that such materials indicated in (i) and (ii) above may be discharged in certain limited amounts with the written approval of, and under special conditions established by, the Secretary or his/her designated representative, if the substances will not pose any imminent hazard to the public health or safety;

- b) The discharge of such materials will not violate the Vermont Water Quality Standards; and
- c) The Permittee is not notified by the Secretary to eliminate or reduce the quantity of such materials entering the water.

## **8. Navigable Waters**

This permit does not authorize or approve the construction of any onshore or offshore physical structures or facilities or the undertaking of any work in any navigable waters.

## **9. Civil and Criminal Liability**

The Permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. Except as provided in "Bypass" (Condition II.A.5) and "Emergency Pollution Permits" (Condition II.A.9), nothing in this permit shall be construed to relieve the Permittee from civil or criminal penalties for noncompliance. Civil and criminal penalties for non-compliance are provided for in 10 V.S.A. Chapters 47, 201, and 211.

## **10. State Laws**

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the Permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by Section 510 of the Clean Water Act.

## **11. Property Rights**

Issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.

## **12. Other Information**

If the Permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Secretary, it shall promptly submit such facts or information.

## **13. Severability**

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

#### 14. Authority

This permit is issued under authority of 10 V.S.A. §§1258 and 1259 of the Vermont Water Pollution Control Act, the Vermont Water Pollution Control Permit Regulation, and Section 402 of the Clean Water Act, as amended.

#### 15. Definitions

For purposes of this permit, the following definitions shall apply.

**Agency** – means the Vermont Agency of Natural Resources.

**Annual Average** - means the highest allowable average of daily discharges calculated as the sum of all daily discharges (mg/L, lbs or gallons) measured during a calendar year divided by the number of daily discharges measured during that year.

**Average** - means the arithmetic means of values taken at the frequency required for each parameter over the specified period.

**Bypass** – means the intentional diversion of waste streams from any portion of the treatment facility.

**The Clean Water Act** - means the federal Clean Water Act, as amended (33 U.S.C. § 1251, *et seq.*).

**Composite Sample** - means a sample consisting of a minimum of one grab sample per hour collected during a 24-hour period (or lesser period as specified in the section on Monitoring and Reporting) and combined proportionally to flow over that same time period.

**Daily Discharge** - means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling.

For pollutants with limitations expressed in pounds the daily discharge is calculated as the total pounds of pollutants discharged over the day.

For pollutants with limitations expressed in mg/L the daily discharge is calculated as the average measurement of the pollutant over the day.

**Discharge** – means the placing, depositing, or emission of any wastes, directly or indirectly, into an injection well or into the waters of the State.

**Grab Sample** – means an individual sample collected in a period of less than 15 minutes.

**Incompatible Substance** – means any waste being discharged into the treatment works which interferes with, passes through without treatment, or is otherwise incompatible with

said works or would have a substantial adverse effect on the works or on water quality. This includes all pollutants required to be regulated under the Clean Water Act.

**Instantaneous Maximum** - means a value not to be exceeded in any grab sample.

**Major Contributing Industry** – means one that: (1) has a flow of 50,000 gallons or more per average work day; (2) has a flow greater than five percent of the flow carried by the municipal system receiving the waste; (3) has in its wastes a toxic pollutant in toxic amounts as defined in standards issued under Section 307(a) of the Clean Water Act; or (4) has a significant impact, either singly or in combination with other contributing industries, on a treatment works or on the quality of effluent from that treatment works.

**Maximum Day** (maximum daily discharge limitation) - The highest allowable “daily discharge” (mg/L, lbs or gallons).

**Mean** - is the arithmetic mean.

**Monthly Average** (average monthly discharge limitation) – means the highest allowable average of daily discharges (mg/L, lbs or gallons) over a calendar month, calculated as the sum of all daily discharges (mg/L, lbs or gallons) measured during a calendar month divided by the number of daily discharges measured during that month.

**NPDES** - The National Pollutant Discharge Elimination System.

**Secretary** – means the Secretary of the Agency of Natural Resources or the Secretary’s duly authorized representative.

**Septage** – means the liquid and solid material pumped from a septic tank, cesspool, or similar domestic sewage treatment system, or a holding tank when the system is cleaned or maintained.

**Untreated Discharge** – means (1) combined sewer overflows from a WWTF; (2) overflows from sanitary sewers and combined sewer systems that are part of a WWTF during dry weather flows, which result in a discharge to waters of the State; (3) upsets or bypasses around or within a WWTF during dry or wet weather conditions that are due to factors unrelated to a wet weather storm event and that result in a discharge of sewage that has not been fully treated to waters of the State; and (4) discharges from a WWTF to separate storm sewer systems.

**Waste** – means effluent, sewage or any substance or material, liquid, gaseous, solid, or radioactive, including heated liquids, whether or not harmful or deleterious to waters.

**Waste Management Zone** – A specific reach of Class B waters designated by a permit to accept the discharge of properly treated wastes that prior to treatment contained organisms pathogenic to human beings. Throughout the receiving waters, water quality criteria must be achieved but increased health risks exist in a waste management zone due to the authorized discharge.



**Waters** includes all rivers, streams, creeks, brooks, reservoirs, ponds, lakes, springs, and all bodies of surface waters, artificial or natural, which are contained within, flow through, or border upon the State or any portion of it.

**Weekly average** - (average weekly discharge limitation) – means the highest allowable average of daily discharges (mg/L, lbs or gallons) over a calendar week, calculated as the sum of all daily discharges (mg/L, lbs or gallons) measured during a calendar week divided by the number of daily discharges measured during that week.

**Whole Effluent Toxicity (WET)** – Means the aggregate toxic effect of an effluent measured directly by a toxicity test.

**WWTF or wastewater treatment facility** shall have the same meaning as “pollution abatement facilities,” as defined under 10 V.S.A. § 1251, which means municipal sewage treatment plants, pumping stations, interceptor and outfall sewers, and attendant facilities as prescribed by the Department to abate pollution of the waters of the State.

AGENCY OF NATURAL RESOURCES  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
WATERSHED MANAGEMENT DIVISION  
ONE NATIONAL LIFE DRIVE, MAIN BUILDING, 2<sup>ND</sup> FLOOR  
MONTPELIER, VT 05620-3522

**FACT SHEET FOR DRAFT PERMIT  
(February 2019)**

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT TO  
DISCHARGE TO WATERS OF THE STATE**

PERMIT NO: 3-0334  
PIN: EJ95-0419  
NPDES NO: VT0020877

**NAME AND ADDRESS OF APPLICANT:**

Village of Swanton  
PO Box 279  
Swanton, Vermont 05488

**NAME AND ADDRESS OF FACILITY WHERE DISCHARGE OCCURS:**

Swanton Water Treatment Facility  
211 Maquam Shore Road  
Swanton, Vermont

**RECEIVING WATER:** Lake Champlain

**CLASSIFICATION:** All uses Class B(2) with a waste management zone. Class B waters are suitable for swimming and other primary contact recreation; irrigation and agricultural uses; aquatic biota and aquatic habitat; good aesthetic value; boating, fishing, and other recreational uses; and suitable for public water source with filtration and disinfection or other required treatment. A waste management zone is a specific reach of Class B(1) or B(2) waters designated by a permit to accept the discharge of properly treated wastes that prior to treatment contained organisms pathogenic to human beings.

**I. Proposed Action, Type of Facility, and Discharge Location**

The Secretary of the Vermont Agency of Natural Resources (Secretary) received a renewal application for the permit to discharge into the designated receiving water from the above-named applicant on February 22, 2016. The facility's previous permit was issued with an effective date of October 1, 2011 and was amended on December 31, 2012. The previous permit (hereafter referred to as the "current permit") has been administratively continued, pursuant to 3 V.S.A. § 814, as the applicant filed a complete application for permit reissuance within the prescribed time

period as per the Vermont Water Pollution Control Permit Regulations (VWPCPR) § 13.5(b). At this time, the Secretary has made a tentative decision to reissue the discharge permit.

## **II. Description of Discharge**

The facility is engaged in the treatment of filter backwash. The water treatment facility supplies water to the Village and part of the Town of Swanton (the remaining part of the Town of Swanton receives water from private wells). The SCADA system and magnetic flow meters were installed as part of a facility upgrade in 2012.

Water from Lake Champlain enters a raw water pumping station and potassium permanganate is added. Water is then pumped through one of two 1 million-gallon filters and alum and polymer are added prior to water entering a clarifier. Water then passes through a UV system and sodium hydroxide, sodium fluoride, and sodium hypochlorite are added prior to water entering a clear well.

After the backwash water is pumped to the filters, it is discharged to one of three sludge lagoons. The sludge lagoons are arranged to operate two lagoons with one lagoon offline and are rotated on an annual basis. The sludge in the offline lagoon freezes in the winter, which allows a reduction in the total volume of sludge accumulated. The overflow from the lagoons are sampled prior to discharge to Lake Champlain. Although not a permit requirement, sludge is typically tested on an annual basis.

## **III. Limitations and Conditions**

The draft permit contains limitations for effluent flow, turbidity, total residual chlorine, and pH. The effluent limitations of the draft permit and the monitoring requirements may be found on the following pages of the draft permit:

Effluent Limitations:	Pages 2-3 of 17
Monitoring Requirements:	Page 2 of 17

## **IV. Statutory and Regulatory Authority**

### **A. Clean Water Act and NPDES Background**

Congress enacted the Clean Water Act (CWA or Act), “to restore and maintain the chemical, physical, and biological integrity of the Nation's waters.” CWA § 101(a). To achieve this objective, the CWA makes it unlawful for any person to discharge any pollutant into the waters of the United States from any point source, except as authorized by specified permitting sections of the Act, one of which is Section 402. CWA §§ 301(a), 402(a). Section 402 establishes one of the CWA's principal permitting programs, the National Pollutant Discharge Elimination System (NPDES). Under this section of the Act, the U.S. Environmental Protection Agency (EPA) may “issue a permit for the discharge of any pollutant, or combination of pollutants” in accordance with certain conditions. CWA § 402(a). The State of Vermont has been delegated by EPA to administer the NPDES Program in Vermont. NPDES permits generally contain discharge limitations and establish related monitoring and reporting requirements. CWA § 402(a)(1) - (2).

Section 301 of the CWA provides for two types of effluent limitations to be included in NPDES permits: “technology-based” limitations and “water quality-based” limitations. CWA §§ 301, 303, 304(b); 40 CFR Parts 122, 125, 131. Technology-based limitations, generally developed on an industry-by-industry basis, reflect a specified level of pollutant-reducing technology available and economically achievable for the type of facility being permitted. CWA § 301(b). As a class, WWTFs must meet performance-based requirements based on available wastewater treatment technology. CWA § 301(b)(1)(B). The performance level for WWTFs is referred to as “secondary treatment.” Secondary treatment is comprised of technology-based requirements expressed in terms of BOD5, TSS and pH; 40 C.F.R. Part 133.

Water quality-based effluent limits, on the other hand, are designed to ensure that state water quality standards are achieved, irrespective of the technological or economic considerations that inform technology-based limits. Under the CWA, states must develop water quality standards for all water bodies within the state. CWA § 303. These standards have three parts: (1) one or more “designated uses” for each water body or water body segment in the state; (2) water quality “criteria,” consisting of numerical concentration levels and/or narrative statements specifying the amounts of various pollutants that may be present in each water body without impairing the designated uses of that water body; and (3) an antidegradation provision, focused on protecting high quality waters and protecting and maintaining water quality necessary to protect existing uses. CWA § 303(c)(2)(A); 40 C.F.R. § 131.12. The applicable water quality standards for this permit are the 2016 Vermont Water Quality Standards (Environmental Protection Rule, Chapter 29a).

A permit must include limits for any pollutant or pollutant parameter (conventional, non-conventional, toxic, and whole effluent toxicity) that is or may be discharged at a level that causes or has “reasonable potential” to cause or contribute to an excursion above any water quality standard, including narrative water quality criteria. See 40 CFR §122.44(d)(1). An excursion occurs if the projected or actual in-stream concentration exceeds the applicable criterion. A NPDES permit must contain effluent limitations and conditions in order to ensure that the discharge does not cause or contribute to water quality standard violations.

Receiving stream requirements are established according to numerical and narrative standards adopted under state law for each stream classification. When using chemical-specific numeric criteria from the State's water quality standards to develop permit limits, both the acute and chronic aquatic life criteria are used and expressed in terms of maximum allowable in stream pollutant concentrations. Acute aquatic life criteria are generally implemented through maximum daily limits and chronic aquatic life criteria are generally implemented through average monthly limits.

Where a state has not established a numeric water quality criterion for a specific chemical pollutant that is present in the effluent in a concentration that causes or has a reasonable potential to cause a violation of narrative water quality standards, the permitting authority must establish effluent limits in one of three ways: based on a “calculated numeric criterion for the pollutant which the permitting authority demonstrates will attain and maintain applicable narrative water quality criteria and fully protect the designated use”; on a “case-by-case basis” using CWA Section 304(a) recommended water quality criteria, supplemented as necessary by other relevant information; or, in certain circumstances, based on an “indicator parameter.” 40 CFR §

122.44(d)(1)(vi)(A-C).

The state rules governing Vermont's NPDES permit program are found in the Vermont Water Pollution Control Permit Regulations (Environmental Protection Rule, Chapter 13).

### **1. Reasonable Potential Determination**

In determining whether this permit has the reasonable potential to cause or contribute to an impairment, Vermont has considered:

- 1) Existing controls on point and non-point sources of pollution as evidenced by the Vermont surface water assessment database;
- 2) Pollutant concentration and variability in the effluent as determined from the permit application materials, monthly discharge monitoring reports (DMRs), or other facility reports;
- 3) Receiving water quality based on targeted water quality and biological assessments of receiving waters, as applicable, or other State or Federal water quality reports;
- 4) Toxicity testing results based on the Vermont Toxics Control Discharge Strategy, and compelled as a condition of prior permits;
- 5) Available dilution of the effluent in the receiving water, expressed as the instream waste concentration. In accordance with the applicable Vermont Water Quality Standards, available dilution for rivers and streams is based on a known or estimated value of the lowest average flow which occurs for seven (7) consecutive days with a recurrence interval of once in ten (10) years (7Q10) for aquatic life and human health criteria for non-carcinogens, or at all flows for human health (carcinogens only) in the receiving water. For nutrients, available dilution for stream and river discharges is assessed using the low median monthly flow computed as the median flow of the month containing the lowest annual flow. Available dilution for lakes is based on mixing zones of no more than 200 feet in diameter, in any direction, from the effluent discharge point, including as applicable the length of a diffuser apparatus.
- 6) All effluent limitations, monitoring requirements, and other conditions of the proposed draft permit.

The Reasonable Potential Determination for this facility was waived and the decision is attached to this Fact Sheet.

### **B. Anti-Backsliding**

Section 402(o) of the CWA provides that certain effluent limitations of a renewed, reissued, or modified permit must be at least as stringent as the comparable effluent limitations in the current permit. EPA has also promulgated anti-backsliding regulations which are found at 40 C.F.R. § 122.44(l). Unless applicable anti-backsliding exemptions are met, the limits and conditions in the

reissued permit must be at least as stringent as those in the current permit.

## **V. Description of Receiving Water**

The receiving water for this discharge is Lake Champlain.

## **VI. Facility History and Background**

The Swanton Water Treatment Facility operates a water treatment plant. This permit authorizes the discharge of treated filter backwash to Lake Champlain. This backwash and discharge are necessary for plant operation.

## **VII. Permit Basis and Explanation of Effluent Limitation Derivation**

This permit was evaluated under the 2017 Vermont Water Quality Standards.

**A. Flow** – The draft permit maintains the monthly average flow limitation of 136,000 gallons per day. Monitoring remains at daily.

### **B. Conventional Pollutants**

- 1. Turbidity** – The turbidity limit of 10 NTU is an annual average under dry weather base flow conditions. Twice monthly monitoring is unchanged from the current permit.
- 2. Total Residual Chlorine** – The daily maximum total residual chlorine limit remains at 0.5 mg/L. The monitoring requirement remains at twice monthly.
- 3. pH** – The pH limitation remains at 6.5 - 8.5 Standard Units as specified in Section 3-01 B.9. in the Vermont Water Quality Standards. Monitoring remains at twice monthly.

### **C. Special Conditions**

- 1. Electronic Reporting** - The EPA recently promulgated a final rule to modernize the Clean Water Act reporting for municipalities, industries, and other facilities by converting to an electronic data reporting system. The final rule requires the inclusion of electronic reporting requirements in NPDES permits that become effective after December 21, 2015. The rule requires that NPDES regulated entities that are required to submit discharge monitoring reports (DMRs), including majors and nonmajors, individually permitted or covered by a general permit, must do so electronically after December 2016. The Secretary has created an electronic reporting system for DMRs and has recently trained facilities in its use. As of December 2020, these NPDES facilities will also be expected to submit additional information electronically as specified in Appendix A in 40 CFR part 127.
- 2. Reopener** - This draft permit includes a reopener whereby the Secretary reserves the right to reopen and amend the permit to implement an integrated plan to address multiple Clean Water

Act obligations.

**D. Reasonable Potential Analysis**

The Agency has waived a reasonable potential analysis. The decision to waive the determination was based the extremely small size of the Swanton Water Treatment Facility discharge and the large size of the receiving water (Lake Champlain). The decision is attached to this Fact Sheet.

**VIII. Procedures for Formulation of Final Determinations**

The public comment period for receiving comments on this draft permit is from **February 8, 2019 to March 11, 2019**, during which time interested persons may submit their written views on the draft permit. All written comments received by 4:30 PM on **March 11, 2019** will be retained by the Secretary and considered in the formulation of the final determination to issue, deny or modify the draft permit. The period of comment may be extended at the discretion of the Secretary.

Written comments should be sent to:

Agency of Natural Resources  
Department of Environmental Conservation  
Watershed Management Division  
One National Life Drive, Main Building, 2<sup>nd</sup> Floor  
Montpelier, VT 05620-3522

Comments may be submitted by e-mail to [ANR.WSMDWastewaterComments@vermont.gov](mailto:ANR.WSMDWastewaterComments@vermont.gov)

For additional information, contact Mary Borg at 802-828-1535.

**Agency of Natural Resources  
Department of Environmental Conservation**

**Watershed Management Division  
1 National Life Drive 2 Main  
802-828-1535**

**MEMORANDUM**

To: Kathleen Parrish, Wastewater Program (WWP)

From: Rick Levey, Monitoring, Assessment and Planning Program (MAPP) *Rick Levey 11/8/2018*

Cc: Pete LaFlamme, Director, WSMD  
Jessica Bulova, Manager, WWP

Date: November 8, 2018

Subject: Swanton Water Treatment Facility Reasonable Potential Determination Decision

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***Facility:***

Swanton Water Treatment Facility  
Permit No. 3-0334  
NPDES No. VT0020877

***Hydrology for Swanton Water Facility used in this evaluation:***

***Design Flow:*** 0.136 MGD = 0.21 CFS

***Receiving Water:*** Lake Champlain

MAPP has evaluated the request to waive the Reasonable Potential Determination for the Swanton Water Treatment Facility (WTF) and has determined that it is not necessary due to the small size of the Swanton WTF discharge, and the large size of the receiving water which is Lake Champlain.

Specifically, Swanton WTF is permitted to discharge 136,000 GPD (0.21 CFS), from treated filter backwash from a water filtration system. The Waste Management Zone (WMZ) which is designated as a 200-foot radius around outfall would provide 1:225 dilution, were the facility to be operating at full design flow (0.136 MGD), and assuming a conservative lake depth of 10 feet.

Using the Total Residual Chlorine (TRC) permit limit of 0.5 mg/L at these conditions the calculated TRC concentration attributable to the discharge is 2.2 µg/L- TRC, less than the chronic criteria for TRC. This also illustrates the de minimus impact other pollutants within this discharge would pose to receiving waters, though it is not likely other pollutants would be present within this discharge. Considering this factor, MAPP concurs with the Wastewater Program that this facility and its discharge as currently operated and permitted, does not have the potential to cause measurable change in the receiving water.



AGENCY OF NATURAL RESOURCES  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
WATERSHED MANAGEMENT DIVISION  
1 NATIONAL LIFE DRIVE – MAIN 2  
MONTPELIER, VERMONT 05620-3522

NOTICE: DRAFT DISCHARGE PERMIT

PUBLIC NOTICE NUMBER: 3-0334

PUBLIC COMMENT PERIOD: February 8, 2019 to March 11, 2019

**PERMITTEE INFORMATION**

PERMITTEE NAME: Swanton Water Treatment Facility

PERMITTEE ADDRESS: PO Box 279  
Swanton, Vermont 05488

PERMIT NUMBER: 3-0334

PROJECT ID NUMBER: EJ95-0419

**DISCHARGE INFORMATION**

NATURE: Treated filter backwash from the Swanton Water Treatment Facility.

VOLUME: 136,000 GPD, daily maximum.

RECEIVING WATER: Lake Champlain

EXPIRATION DATE: March 31, 2024

DESCRIPTION: Draft discharge permit renewal proposed for issuance to the Village of Swanton for the discharge of treated filter backwash from the Swanton Water Treatment Facility to Lake Champlain.

**TENTATIVE DETERMINATIONS**

Tentative determinations regarding effluent limitations and other conditions to be imposed on the pending Vermont permit have been made by the State of Vermont Agency of Natural Resources. The limitations imposed will assure that the Vermont Water Quality Standards and applicable provisions of the Federal Clean Water Act, PL 92-500, as amended, will be met.

**FURTHER INFORMATION**

The complete application, proposed permit, and other information are on file and may be inspected by appointment on the 2<sup>nd</sup> floor of the Main Building at 1 National Life Drive, Montpelier, Vermont. Copies, obtained by calling 802-828-1535 from 7:45 AM to 4:30 PM Monday through Friday, will be made at a cost based upon the current Secretary of State Official Fee Schedule for Copying Public Records. The draft permit and fact sheet may also be viewed on the Wastewater Management Program's website at <http://dec.vermont.gov/watershed/wastewater>.

**PUBLIC COMMENTS**

Written public comments on the proposed permit are invited and must be received on or before the close of the business day (4:30 pm) on **March 11, 2019** to the Agency of Natural Resources, Department of Environmental Conservation, Watershed Management Division, 1 National Life Drive – Main 2, Vermont 05620-3522. Comments may also be submitted by e-mail to [ANR.WSMDWastewaterComments@vermont.gov](mailto:ANR.WSMDWastewaterComments@vermont.gov). All comments received by the above date will be considered in formulation of the final determinations.

**FINAL ACTION/RIGHTS TO APPEAL TO THE ENVIRONMENTAL COURT**

At the conclusion of the public notice period and after consideration of additional information received during the public notice period, VANR will make a final determination to issue or to deny the permit. 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 appellant must submit the Notice of Appeal and include the applicable filing fee, payable to the state of Vermont.

The Notice of Appeal must specify the parties taking the appeal and the statutory provision under which each party claims party status; must designate the act or decision appealed from; must name the Environmental Court; and must be signed by the appellant or their attorney. In addition, the appeal must give the address or location and the 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.

The address for the Vermont Environmental Court is: Vermont Superior Court, Environmental Division, 32 Cherry Street, 2<sup>nd</sup> Floor, Suite 303, Burlington VT 05401 (Tel. 802-951-1740). For further information see the Vermont Rules for Environmental Court Proceedings, available at [www.vermontjudiciary.org](http://www.vermontjudiciary.org).

Emily Boedecker, Commissioner  
Department of Environmental Conservation