

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.: 3-1526  
PIN: NS00-0254.02  
NPDES No.: VT0001341

Expiration Date: **June 30, 2024**

**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 (Environmental Protection Rules, Chapter 13), and the federal Clean Water Act as amended (33 U.S.C. § 1251 *et seq.*), and implementing federal regulations,

Highland Fuels Delivery, LLC  
127 Roundhouse Road  
White River Junction, VT 05001

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

127 Roundhouse Road  
White River Junction, VT

to the White River in accordance with the following conditions.

This permit shall become effective on **July 1, 2019**.

Emily Boedecker, Commissioner  
Department of Environmental Conservation

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

Chris Gianfagna, Wastewater Program Manager  
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 (located at Latitude: 43.65301 and Longitude: -72.32894): treated runoff from a bulk petroleum storage facility to the White River, an effluent for which the characteristics shall not exceed the values listed below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS	MONITORING REQUIREMENTS	
	Maximum Day	Measurement Frequency	Sample Type
Flow (GPD)	See <sup>(1)</sup> below	Daily	None
Oil & Grease	15 mg/L	1 x monthly <sup>2</sup>	Grab
Total Petroleum Hydrocarbons	Monitor Only (mg/L)	1 x monthly <sup>2</sup>	Grab
Benzene	71 µg/L	1 x monthly <sup>2</sup>	Grab
Polynuclear Aromatic Hydrocarbons <sup>3</sup>	Monitor Only (µg/L)	2 x annually <sup>4</sup>	Grab
Total Suspended Solids	Monitor Only (mg/L)	2 x annually <sup>4</sup>	Grab
pH	Between 6.50 and 8.50 Standard Units	1 x monthly	Grab

Notes:

*Samples collected in compliance with the monitoring requirements specified above shall be collected at the discharge manhole of the oil-water separator.*

(1) All Discharges shall be noted on the Discharge Monitoring Report and flow shall not exceed the design treatment capacity of the oil-water separator (365 GPM).

(2) The minimum sampling frequency for Oil & Grease, Total Petroleum Hydrocarbons, and Benzene is once per month except in those months when no discharge occurs.

(3) The minimum level (ML) of reporting for PAH is 0.5 µg/L.

(4) Twice annual samples shall be collected during the months of May and September. If there is no discharge during the specified month, a sample shall be collected during the next month having a discharge.

**B. Special Conditions**

1. The pH of the discharge shall be between 6.50 and 8.50 standard units or fall within the background range of the receiving water if it exceeds these limitations. Due to pH variations in natural waters, an effluent sample within  $\pm 0.50$  S.U. of background shall be deemed acceptable. Background samples shall be collected upstream of the discharge point. All pH monitoring results shall be included on the monthly discharge Monitoring Report, including any upstream receiving water analyses.
2. The effluent shall not cause visible discoloration of the receiving waters.
3. This discharge shall not cause a violation of the water quality standards of the receiving water.
4. The permittee shall continue to implement the Best Management Plan (BMP) which includes a Spill Prevention, Control, and Countermeasure Plan developed for this facility pursuant to Section 311 of the Clean Water Act.

If this BMP plan proves ineffective in preventing the release of significant amounts of hazardous or toxic pollutants to waters of the State, then the Agency may reopen and amend the permit.

5. Tank Bottom Water (water which is drawn off the bottom of the storage tanks) is not authorized for discharge under the terms and conditions of this permit.
6. Any waste petroleum products generated or collected as the result of maintenance or spill control shall be managed in accordance with Vermont Hazardous Waste Management Regulations.

**C. 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: **December 31, 2023**

**D. OPERATING FEES**

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

## **E. 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 required under this Section.

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.

### **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 15th 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 on-line 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 (MDL) 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) of this subsection.

- c) For any non-compliance not covered under Condition II.A.2.b. 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.

#### **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.

For purposes of demonstrating compliance with the requirements of Condition II.A.3.a) of this permit regarding adequate laboratory controls and appropriate quality assurance procedures, the Permittee shall conduct and pass an annual laboratory proficiency test, via an accredited laboratory, for the analysis of all pollutant parameters performed within their facility laboratory and reported as required by this permit. This can be carried out as part of an EPA DMR-QA study. Results shall be submitted to the Secretary by **December 31, annually**. The first proficiency test results are due by December 31, 2019.

#### **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.

## **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 the 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.

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

**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.

**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.

**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.

**Wastewater Treatment Facility (WWTF)** – means a treatment plant, collection system, pump station, and attendant facilities permitted by the Secretary for the purpose of treating domestic, commercial, or industrial wastewater.

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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**  
(April 2019)

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

**PERMIT NO:** 3-1526  
**PIN:** NS00-0254.02  
**NPDES NO:** VT0001341

**NAME AND ADDRESS OF APPLICANT:**

Highland Fuels Delivery, LLC  
127 Roundhouse Road  
White River Junction, VT 05001

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

127 Roundhouse Road  
White River Junction, VT

**RECEIVING WATER: White River**

**CLASSIFICATION:** All uses Class B(2). 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.

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

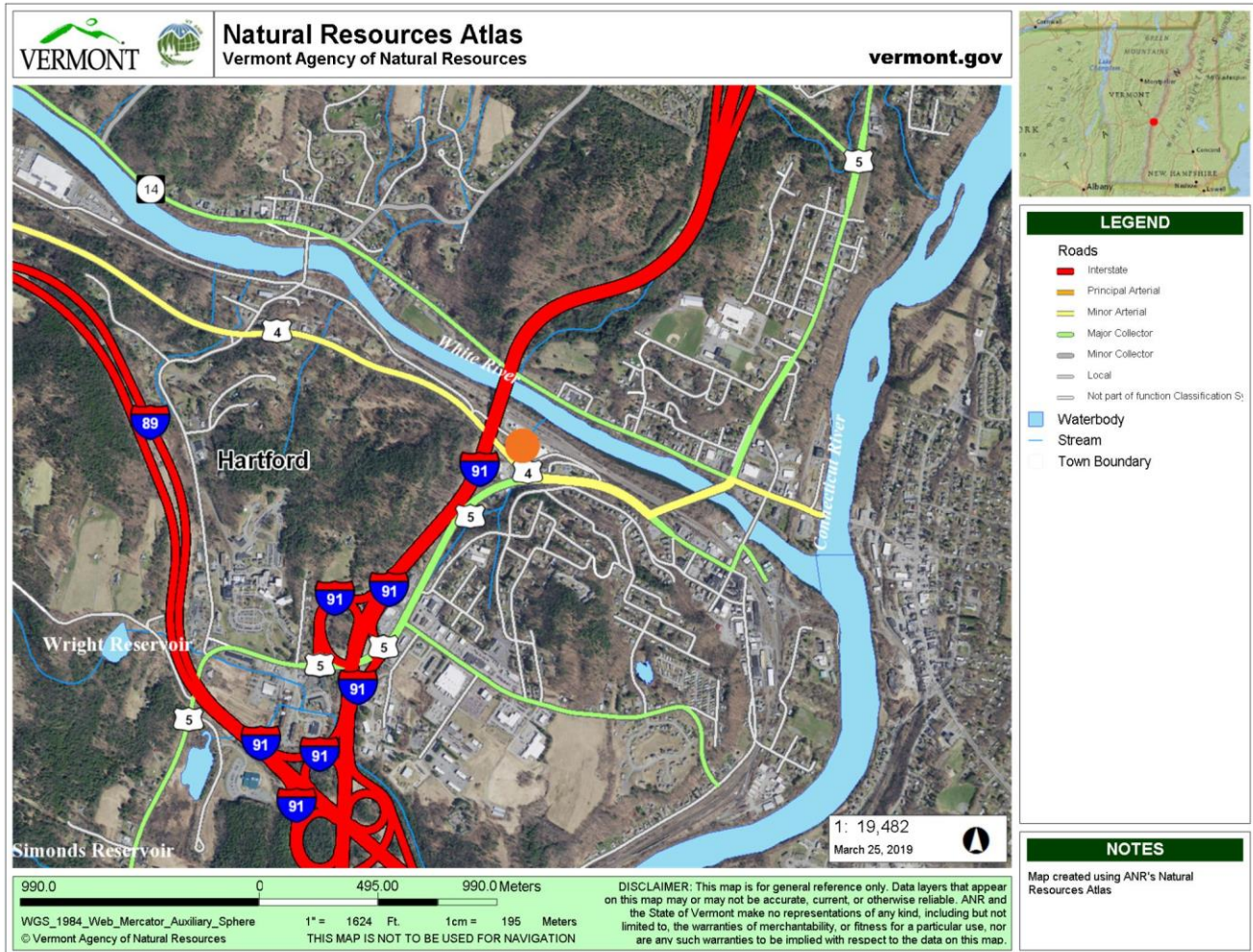
The Secretary of the Vermont Agency of Natural Resources (Secretary) received a renewal application for the permit to discharge into the designated receiving water from the above-named applicant on **June 28, 2018**. The facility's previous permit was issued on **October 23, 2013**. The previous permit (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.

The facility is engaged in the bulk storage of petroleum products.



A map showing the location of facility, outfalls and the receiving water is provided below.

Figure 1. Location of outfall (Orange dot) at the Highland Fuel Delivery LLC bulk petroleum storage station.



## II. Description of Discharge

The facility is engaged in the bulk storage of petroleum products. Stormwater runoff passes through an oil-water separator prior to discharge.

During rain events the facility discharges to the **White River**.

## III. Limitations and Conditions

The draft permit contains limitations for oil and grease, benzene, and pH. It also contains monitoring requirements for effluent flow, total petroleum hydrocarbons, polynuclear aromatic hydrocarbons, and total suspended solids. 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 15  
Monitoring Requirements: Pages 2-5 of 15

#### **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 approved by the 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 2017 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 Toxic Discharge Control 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 due to the size and nature of the discharge. The memorandum detailing this decision is attached to this Fact Sheet as Attachment A.

### **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 the White River, a designated Cold-Water Fish Habitat. At the point of discharge, the river has a contributing drainage area of 712 square miles and the summer 7Q10 flow of the White River at this point is estimated to be 98.04 cubic feet per second (CFS).

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

Highland Fuels Delivery, LLC owns and operates this bulk petroleum storage facility at 127 Roundhouse Road in White River Junction, Vermont. The facility stores heating oil and was previously owned by Irving Oil. The station has secondary containment around the storage tanks. In the summer months the facility receives 1-2 trucks of heating oil deliveries per day. During the winter this increases to 8-10 delivery trucks per day. The discharge is stormwater that is collected in rail pans (not used for oil deliveries since 2011) and a catch basin under the heating oil receiving pad where trucks unload. Secondary containment is mandatory during unloading and consists of a bucket and oil-absorbent pads. The facility only receives oil deliveries when the site is manned. All water flows to an Oil-Water Separator (OWS) prior to discharge. In the event of a large spill, a diversion valve is used to contain any discharge in a 30,000-gallon holding tank.

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

- A. **Flow** – The draft permit maintains the monitoring requirement to estimate the flow volume during each discharge event in GPD. Discharge flow shall not exceed 365 GPM, the design capacity of the Oil/Water Separator. The measurement frequency remains once per day.

### **B. Conventional Pollutants**

1. **Total Suspended Solids (TSS)** – The monitoring requirement for TSS remains unchanged from the current permit. The measurement frequency remains twice annually.
2. **pH** – The pH limitation remains at 6.50 - 8.50 Standard Units as specified in Section 29A-303(6) in the Vermont Water Quality Standards. Special condition I.B.1. was added to this permit to avoid pH exceedances due to the low pH of stormwater. This condition allows the facility to measure the pH of the receiving water upstream of the discharge point in order to compare the effluent to the background pH if an exceedance is measured. In this case, an effluent sample within  $\pm 0.50$  S.U. of background shall be deemed acceptable. The measurement frequency remains once monthly.

#### **C. Non-Conventional and Toxics**

1. **Oil & Grease** – The 15 mg/L Maximum Day limit in the current permit is retained. Monitoring remains at monthly.
2. **Total Petroleum Hydrocarbons** - The monitoring requirement for Total Petroleum Hydrocarbons remains unchanged from the current permit. The measurement frequency remains at monthly.
3. **Benzene** - The monitoring requirement for Benzene remains unchanged from the current permit. The measurement frequency remains twice annually.
4. **Polynuclear Aromatic Hydrocarbons** - The monitoring requirement for Polynuclear Aromatic Hydrocarbons (PAHs) remains unchanged from the current permit. The permit also includes the minimum level for reporting PAHs as a footnote to Table I.A.1. The Minimum Levels of reporting are changed from previous permits. The Minimum Level of 0.5  $\mu\text{g/L}$  for PAHs reflects the minimum level achieved by Endyne Labs of Williston, Vermont for EPA Method 625. The measurement frequency remains twice annually.

#### **D. Special Conditions**

1. **Minimum Sampling Frequency** – The minimum sampling frequency for Oil & Grease, Total Petroleum Hydrocarbons, and Benzene is once per month except in those months when no discharge occurs.
2. **Spill Prevention, Control, and Countermeasure Plan** – Condition I.B.4 requires the permittee to continue to implement the Best Management Plan for the facility which includes a Spill Prevention, Control, and Countermeasure Plan.
3. **Tank Bottom Water** – Condition I.B.5 prohibits discharge of water which is drawn off the bottom of the storage tanks.
4. **Waste Petroleum Products** – Condition I.B.6 requires any waste petroleum products generated or collected as the result of maintenance or spill control to be managed in accordance with Vermont Hazardous Waste Management Regulations.

- 5. Laboratory Proficiency Testing** - To ensure there are adequate laboratory controls and appropriate quality assurance procedures, the Permittee shall conduct an annual laboratory proficiency test for the analysis of all pollutant parameters performed within their facility laboratory and reported as required by their NPDES permit. Proficiency Test samples must be obtained from an accredited laboratory or as part of an EPA DMR-QA study. Results shall be submitted to the Secretary by December 31, annually.
- 6. 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.
- 7. 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.

#### **A. Reasonable Potential Analysis**

The Secretary has waived the RPD requirement due to the size and nature of the discharge. The memorandum detailing this decision is attached to this Fact Sheet as Attachment A.

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

The public comment period for receiving comments on this draft permit is from **May 3, 2019 through June 5, 2019** during which time interested persons may submit their written views on the draft permit. All written comments received by 4:30 PM on **June 5, 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.

Per Vermont Act 150, public comments concerning draft permits must be submitted via the Environmental Notice Bulletin (ENB) for all applications deemed administratively complete after January 1, 2018. In addition to providing a portal for submitting public comments, the ENB website presents details on the processing history, draft permit documents for review, and can be used to request public meetings. The ENB public site is <http://enb.vermont.gov> and the DEC ENB information page is <http://dec.vermont.gov/permits/enb>.

NPDES permits are considered Type 1 permits under Act 150 and are subject to a 30-day public comment period. All comments received within the period described above will be considered by the Department of Environmental Conservation in its final ruling to grant or deny authorization to discharge. Any person who has commented on the draft permit may, within 30 days of the final ruling by the Department of Environmental Conservation to grant or deny authorization to discharge, appeal the ruling to the Environmental Court pursuant to 10 V.S.A. Chapter 220.




# ATTACHMENT A

Agency of Natural Resources  
Department of Environmental Conservation  
Watershed Management Division  
1 National Life Drive 2 Main  
802-828-1535

## MEMORANDUM

To: Chris Gianfagna, Manager, Wastewater Program (WWP)

From: Amy Polaczyk, WWP 

Cc: Rick Levey, Monitoring, Assessment and Planning Program

Date: March 11, 2019

Subject: Highland Fuels Delivery, LLC Reasonable Potential Determination Decision

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### ***Facility:***

Highland Fuels Delivery, LLC  
Permit No. 3-1526  
NPDES No. VT0001341

### ***Hydrology for Highland Fuels Delivery, LLC used in this evaluation:***

Receiving Water: White River  
7Q10 flow = 98.04 CFS

The Reasonable Potential Determination for the Highland Fuels Delivery, LLC (previously Irving Oil) discharge and has been examined and it has been determined that a full assessment is not necessary due to the small discharge, limited frequency of discharge, history of monitoring and compliance, and the significant available dilution of the White River.

The system treats stormwater that passes through an oil-water separator. The discharge point joins an unnamed tributary to the White River approximately 5 feet before the tributary enters a culvert conveying flow for 0.10 miles to the White River. Highland Fuels Delivery, LLC has a monitoring requirement for flow and no flow meter to assess exact discharge. All discharge is driven by precipitation and precipitation-dependent events (i.e., rainfall and snow melt).

Monitoring data for Total Petroleum Hydrocarbons (TPHs), Benzene, and Polynuclear Aromatic Hydrocarbons (PAHs) for the years of 2014 through 2018 were all below detection limits and below the permit limit for benzene of 71 ug/L. The available dilution of the White River at critical 7Q10 flow of 98.04 CFS provides enough dilution to prevent any reasonable potential for exceedance of VWQS in the downstream receiving water.

Considering these factors, the Wastewater Program concludes this facility and its discharge as currently operated and permitted, does not have the potential to cause, or contribute to an instream toxic impact or instream excursion above the water quality criteria.