

RESPONSE SUMMARY FOR
DRAFT DISCHARGE PERMIT No. 3-1279
Proposed NPDES Municipal Discharge Permit
for the
City of St. Albans

This was the proposed renewal of an existing discharge permit which incorporated the requirements of the Lake Champlain TMDL for phosphorus and the requirements of the revisions to 10 V.S.A. Sections 1263 and 1278 which were promulgated in the 2006 legislative session.

Originally a draft permit for this discharge was placed on public comment from June 25, 2007 through July 25, 2007. Based upon comments received from interested persons and further consideration by the Agency, it was decided to revise the draft permit and place the revised draft permit on public notice for additional public comment.

Consequently, since the Agency revised this draft permit, it was placed on public comment from August 31, 2007 through September 30, 2007 to solicit additional comments.

Comments were received during the public notice period from Conservation Law Foundation and the City of St. Albans. The following is a summary of the relevant comments received on this draft Discharge Permit, and the Agency's responses to these comments.

Comment 1: 10 V.S.A Section 1263(d)(3) requires that a discharge permit contain an operation, management, and emergency response plan. By failing to immediately require such a plan pursuant to the specific timetable the law establishes and by failing to incorporate the plan as a part of the permit, the draft permit does not comply with the central requirements of the law.

Response 1: While the Agency disagrees with this comment, this issue has been superseded by events which render this comment no longer relevant.

Specifically, between the close of the public comment period on this draft permit (September 30, 2007), and the issuance of this final permit, the City of St. Albans submitted an Operation, Management and Emergency Response Plan for the components of the wastewater treatment facility, pump/ejector stations and stream crossings which the Agency reviewed and approved. Therefore Condition I.G.1 now reads:

“The permittee shall implement the Operation, Management and Emergency Response Plan for the wastewater treatment facility, sewage pump/ejector stations, and stream crossings approved by the Agency on **August 13, 2008.**”

In regards to the Operation, Management and Emergency Response Plan for the sewage collection system, Act 130 was promulgated by the legislature during the 2008 legislative session which modified 10 V.S.A. 1278 to require that Operation, Management and

Emergency Response Plan for the sewage collection systems be submitted by July 1, 2010.

Therefore to be consistent with 10 V.S.A. 1278, Condition I.G.2 has been modified and requires submission of an Operation, Management and Emergency Response Plan for the sewage collection systems, by July 1, 2010.

Comment 2: The permit violates the anti-backsliding provisions of the Clean Water Act (Section 402(o)) by replacing the 0.5 mg/l, monthly average, total phosphorus effluent limitation with a total phosphorus effluent limitations of 6089 total annual pounds, and 0.8 mg/l, monthly average.

Response 2: While the Agency continues to maintain that the phosphorus limitations in the draft permit does not violate the anti-backsliding provisions of the Clean Water Act, the Agency has retained the 0.5 mg/l, monthly average, phosphorus limitation to resolve the positions of various interested parties.

The original 0.5 mg/l, monthly average, effluent limitation was neither a water quality based effluent limitation or a technology based effluent limitation. This effluent limitation was a "Best Professional Judgment" limitation developed by the Agency at the time the St. Albans WWTF was upgraded in the mid-1980s. At that time the Agency was concerned about the degraded water quality in St. Albans Bay and attempted to set a limitation that could improve water quality andt was reliably achievable by the upgraded WWTF. There were no scientific studies or operational studies done to support this limitation.

The proposed annual phosphorus limitation of 6089 total pounds is a Water Quality Based Effluent Limitation that was derived during the development of the Lake Champlain Phosphorus TMDL. The Lake Champlain Phosphorus TMDL was approved and became effective on November 4, 2002. As part of the TMDL allocation process, 2.762 metric tons per year (6089 pounds per year) were allocated to the St. Albans WWTF discharge. All direct discharges containing phosphorus in the Lake Champlain basin and all non-point sources of phosphorus (such as agricultural runoff) were subject to the TMDL process and received an allocation of phosphorus. Compliance with all these allocations will ensure the water quality standards for phosphorus in Lake Champlain will be achieved.

However to reach a pragmatic solution that addresses the positions of several interested parties including the Agency, EPA, and the City of St. Albans, the 0.5 mg/l, monthly average, phosphorus limitation will be maintained.

Comment 3: Submittal of an Operation, Management and Emergency Response Plan by April 1, 2008 may not be realistic for a wastewater treatment facility the size of St. Albans and this deadline should be extended to July 1, 2008.

Response 3: As discussed in Response 1 above, this comment has been superseded by events and is no longer relevant since an Operation, Management and Emergency Response Plan for the wastewater treatment facility, pump stations/ejector stations, and stream crossings was submitted by the City and approved by the Agency.

Comment 4: The 0.5 mg/l annual average phosphorus limitation should not be included in the draft permit since the facility complies with both the mass limitation based on the TMDL and the 0.8 mg/l limitation based upon 10 V.S.A. 1266a.

Response 4: As stated in Response 3 above to reach a pragmatic solution that addresses the needs of several interested parties including the Agency, EPA, and the City of St. Albans, regarding the discharge from the St. Albans Wastewater Treatment Facility, the 0.5 mg/l, monthly average, phosphorus limitation will be retained in the final permit.