

**STATE OF VERMONT
PUBLIC SERVICE BOARD**

Petition of Vermont Gas Systems, Inc.,)
requesting a Certificate of Public Good pursuant)
to 30 V.S.A. § 248, authorizing the construction)
of the “**Addison Natural Gas Project**”)
consisting of approximately 43 miles of new)
natural gas transmission pipeline in Chittenden)
and Addison Counties, approximately 5 miles of) Docket No. 7970
new distribution mainline in Addison County,)
together with three new gate stations in)
Williston, New Haven, and Middlebury,)
Vermont)

**VERMONT AGENCY OF NATURAL RESOURCES' RESPONSE TO
TOWN OF MONKTON'S FIRST SET OF DISCOVERY REQUESTS**

GENERAL OBJECTIONS

- A. The Agency objects to the Requests as overbroad and unduly burdensome on the grounds and to the extent they call for responses that are neither relevant to the subject matter of the pending action, nor reasonably calculated to lead to the discovery of admissible evidence.
- B. The Agency objects to the Requests on the grounds and to the extent that they seek responses that are subject to any or all of the following privileges: (i) the attorney-client privilege; (ii) trial preparation privilege; (iii) executive privilege, or that are otherwise privileged or protected from disclosure.
- C. The Agency objects to the Requests' Instructions and Definitions on the grounds and to the extent that they are overbroad, unduly burdensome and oppressive, purport to impose obligations on the Agency that are beyond the scope of the Public Service Board Rules or the Vermont Rules of Civil Procedure or other applicable law, cannot be produced without undue burden to the Agency and/or that require an unreasonable investigation on the part of the Agency in order to be produced, or purport to require the Agency to create documents responsive to any

such Requests.

- D. The Agency objects to the Requests to the extent that they seek the production of documents and information already in the possession of, or publicly available to, or readily obtainable to the Petitioner and their counsel, on the ground that with respect to such production, Petitioner's Requests are thereby rendered unduly burdensome.
- E. The Agency objects to the Requests to the extent that they seek the production of documents and information in the possession, custody or control of entities other than the Agency, on the ground that such demanded production is beyond the scope of the Public Service Board Rules or the Vermont Rules of Civil Procedure and other applicable rules and law.
- F. The Agency expressly reserves the right to supplement, clarify, revise or correct any or all of the responses herein at any time. By making any response to the Requests, the Agency does not waive, and hereby expressly reserves, the right to assert any and all objections as to the admissibility of such responses into evidence at the time of trial of this action, or in any other proceeding, on any and all grounds, including but not limited to, competency, relevance, materiality and privilege. Further, the Agency provides the responses herein without in any manner express or implied admitting that the items in the Requests or in any response thereto are relevant or material to the subject matter of this proceeding.

These General Objections are made, to the extent applicable, in response to each of the Interrogatories and Requests for Production of Documents as if the objections were fully set forth therein.

RESPONSE

- 1. Please provide a copy of each of your responses, both narrative and documentary, to each discovery request propounded to you by a party other than Town of Monkton in this proceeding.

ANR has provided its responses to all discovery requests to all other parties in this docket.

2. Do you agree that the Town of Monkton's goal to have the Project placed more than three hundred (300) feet from residential homes is a reasonable request to address or mitigate concerns about safety related to the construction and/or operation of the Project? If your answer is not in the affirmative, please explain fully your reasons.

OBJECTION The question assumes facts to which the Agency is without sufficient information after reasonable inquiry to determine the truth or accuracy. Upon information and belief, the Town of Monkton had identified several goals including the avoidance of environmental impacts. The Agency of Natural Resources is not aware of Monkton's specific "concerns about safety related to the construction and/or operation of the Project."

3. Do you agree that the Town of Monkton's goal to have the Project placed more than three hundred (300) feet from wells is a reasonable request to address or mitigate concerns about the adverse impact to potable water quality resulting from the construction and/or operation of the Project? If your answer is not in the affirmative, please explain fully your reasons.

OBJECTION: The question assumes facts about the Town and its reasoning to which the Agency does not have an independent foundation.

The Agency has shared with VG its requests for additional information about blasting and its recommendation that VG implement best management practices and pre and post blasting monitoring on wells.

4. Do you agree that the Town of Monkton's goal to have the Project placed more than three hundred (300) feet from wells and residential homes is a reasonable request to address or mitigate concerns about the adverse impact upon residential property values resulting from the construction and/or operation of the Project within the Town of Monkton? If your answer is not in the affirmative, please explain fully your reasons.

OBJECTION: The question contains assumptions about the Town's goals and reasoning to which the Agency is not privy. The Agency is uncertain what if any effect the project would have on property values and whether the Town has identified avoidance of this impact as a goal. The Agency has provided the Board with evidence and recommendations regarding 248(b) (5) and has and will be providing information regarding the Agency permits required for the Project.

5. In the pre-filed testimony of Alan Quackenbush, at p. 6, he states that “petitioner should reexamine areas where the line could be built parallel to existing roads.” With regard to this statement, please answer the following:

- a. Is Mr. Quackenbush recommending any re-routing of the Project within the Town of Monkton? If the response is in the affirmative, please provide a full description of the proposed re-routing and copies of maps reflecting such rerouting.

RESPONSE: I am recommending that Vermont Gas consider alternative routes that avoid wetland impacts. I am not recommending a specific reroute. The Agency has recommended to Petitioner that it consider alternative routes that do not cause wetland or other environmental impacts. See for example, March 6, 2013 correspondence from ANR Attorney Dillon to VG Attorney Hayden, attached at MONKTON-ANR.1-5

- b. Is such rerouting the Project within the Town of Monkton necessary to prevent undue, adverse impacts upon wetlands or other sensitive wetland areas of significance? If the answer is in the affirmative, please explain fully your reasons for the response.

RESPONSE: The purpose of the request is to avoid wetland impacts if possible.

- c. Will such rerouting come within 300' of any residential homes, wells, or other source of potable water? If so, please identify specifically which properties will be impacted and produce all maps showing the location of the proposed rerouting in relationship to the impacted properties identified herein.

RESPONSE: The Agency has not mapped nor plotted a specific reroute.

6. In the pre-filed testimony of Eric Sorenson, p. 18, he states that "impacts to the forested wetland complex could be avoided by moving the VTGas alignment as little as 200 feet to the east, beginning at Rotax Road and extending south to the point where it rejoins the VELCO right of way..." Is such a routing or realignment of the Project necessary to prevent undue, adverse impacts upon necessary wildlife habitat and/or endangered species within the Town of Monkton? If the answer is in the affirmative, please explain fully your reasons.

RESPONSE: Response: Until a site visit can be scheduled with the permission of the landowner it is difficult to make any definitive conclusion about what natural communities are present along the proposed VT Gas alignment and whether there will be adverse or undue adverse impacts to these natural communities. My recommendation for moving the pipeline alignment 200 feet to the east is based on the wetland mapping shown on the VT Gas Natural Resources series of plans and digital aerial photographs that I have viewed of the area. Confirmation of this suggested realignment would need to

be confirmed once a site visit can be scheduled to view the wetland and natural communities on the subject property.

7. Will such rerouting referenced in the discovery response above come within 300' of any residential homes, wells, or other potable water resource? If so, please identify specifically which properties will be impacted and produce all maps showing the location of the proposed rerouting in relationship to the impacted properties identified herein.

RESPONSE: I have no information available on the location of wells and potable water resources in the vicinity. However, it appears that the rerouting I suggested would not be within 300 feet of any residences (as mapped by E911) if the pipeline were to be located on the western side of the VELCO right-of-way. My suggested rerouting is based on a potential approach to avoid or minimize impacts to the potential Wet Clayplain Forest identified by Gilman and Briggs as part of their inventory work – both the presence of this natural community or other natural resources and any cultural features that preclude a realignment need to be identified based on field work.

8. In the prefiled testimony of Eric Sorenson, p. 18, he recommends that the Project be realigned to "...follow the VELCO right-of-way to approximately pole # 218, directly south behind the residences to Monkton Road, then west along Monkton Road to rejoin the VELCO right-of-way at pole # 228." Is such a rerouting or realignment of the

Project necessary to prevent undue, adverse impacts upon necessary wildlife habitat and/or endangered species within the Town of Monkton? If the answer is in the affirmative, please explain fully your reasons.

RESPONSE: The primary purpose for my suggestion to locate the VT Gas pipeline along Monkton Road is that it would completely avoid the HDD crossing of Mt. Florona Swamp, the disturbance associated with proposed alternate temporary workspace (ATWS) along the VELCO corridor, the need for long term vegetation management over the HDD section of the pipeline under the swamp, and the potential need to abandon or repair the pipeline installed by HDD under the swamp. The alignment along Monkton Road was also proposed by VT Gas originally (2012) and was what I reviewed during my October 25, 2012 site visit. My assessment at that time was that the Monkton Road alignment would not have an undue adverse effect on any rare and irreplaceable natural area or the natural environment.

9. Will such rerouting referenced in the discovery response above in # 8 come within 300' of any residential homes, wells, or other potable water resource? If so, please identify specifically which properties will be impacted and produce all maps showing the location of the proposed rerouting in relationship to the impacted properties identified herein.

RESPONSE:

Response: I have no information available on the location of wells and potable water resources in the vicinity. However, it appears that the rerouting I suggested would likely place the pipeline within 300 feet of three residences (as mapped by E911) along Monkton Road.

10. Do you agree that the rerouting or realignment referenced in discovery request # 8 above would directly impact the pre-existing amphibian crossing within the Town of Monkton? If not, please fully explain your answer.

RESPONSE:

The amphibian crossing of Monkton Road between the uplands to the east and the wetlands to the west is highly significant and nothing should be done that compromises the effectiveness of this crossing. I believe that installing the VT Gas pipeline within a 25 foot right-of-way adjacent to Monkton Road could be accomplished in such a way that did not compromise the amphibian crossing. In order to maintain the effectiveness of the amphibian crossing: all pipeline construction activities would need to occur outside the season of amphibian migrations; the pipeline would need to be installed in such a manner as to avoid alteration or improve the effectiveness of the amphibian passage structures under Monkton Road; and the soil, substrate, and vegetation in the completed roadside pipeline corridor should be designed to be conducive to amphibian use. I believe that these issues and potentially others could be addressed both from the perspective of

amphibian movement needs by a qualified herpetologist and from a design and construction perspective by VT Gas and VHB engineers.

11. Is it ANR's position that a rerouting of the Project adjacent to the Parks Hurlburt Road in the Town of Monkton, as referenced in the prefiled testimony of Eric Sorenson at p. 21-22, is necessary to prevent undue, adverse impacts upon necessary wildlife habitat and/or endangered species within the Town of Monkton? If your answer is in the affirmative, please provide:

- a. A full explanation for your reasons as to why such a rerouting is necessary to prevent an undue, adverse impact.
 - b. Please describe fully such rerouting and produce maps reflecting such rerouting.
 - c. Would such rerouting come within 300' of any residential homes, wells, or other potable water resource? If so, please identify specifically which properties will be impacted and produce all maps showing the location of the proposed rerouting in relationship to the impacted properties identified herein.
- a. My suggestion to locate the VT Gas pipeline along Parks Hurlburt Road would completely avoid impacts to the state-significant Red/Silver Maple-Green Ash Swamp, including alteration of the wetland soils, clearing of wetland forest, and introduction of invasive species. Based on my site review on

October 25, 2012 when the Parks Hurlburt Road was the preferred alignment by VT Gas, my determination was that this alignment could be constructed without undue adverse impacts to the adjacent state-significant Mesic Maple-Ash-Hickory-Oak Forest or the natural environment in general, as the pipeline could be installed along the roadside within a 25 foot corridor.

Response: My suggestion to locate the VT Gas pipeline along Parks Hurlburt Road would completely avoid impacts to the state-significant Red/Silver Maple-Green Ash Swamp, including alteration of the wetland soils, clearing of wetland forest, and introduction of invasive species. Based on my site review on October 25, 2012 when the Parks Hurlburt Road was the preferred alignment by VT Gas, my determination was that this alignment could be constructed without undue adverse impacts to the adjacent state-significant Mesic Maple-Ash-Hickory-Oak Forest or the natural environment in general, as the pipeline could be installed along the roadside within a 25 foot corridor.

12. In the prefiled testimony of Robert Popp, at p. 9, he states that “we request avoidance and minimization of any direct impacts by re-routing...” Is Mr. Popp making any reference to re-routing in the Town of Monkton? If the answer is in the affirmative, please provide or answer the following:

- a. A full description of such rerouting and copies of maps reflecting such rerouting.
- b. Is such rerouting necessary to prevent undue, adverse impacts upon necessary wildlife habitat and/or endangered species within the Town of Monkton? If the answer is in the affirmative, please explain fully your reasons.
- c. Will such rerouting come within 300' of any residential homes or wells? If so, please identify specifically which properties will be impacted and produce all maps showing the location of the proposed rerouting in relationship to the impacted properties identified herein.

RESPONSE

The Rare Threatened and Endangered Plant Species and Significant Natural Community Impact Analysis, dated June 27th 2013 indicates that there are two R, T, and E plant species in Monkton. According to that report one of these, a state listed plant, will not be impacted by the proposed pipeline. The second, a rare to uncommon plant, will impact 5% of the population. What remains unclear is whether this 5% estimate includes that portion of the plant population that will be covered by mats. If the matting were to be in place for an extended period, this could result in a greater percentage of the population that is impacted. ANR typically requests some form of mitigation if greater than 20 % of a rare plant population is impacted.

13. Produce copies of all documents identified in the above set of interrogatories.

DATED at Montpelier, Vermont this 12th day of July, 2013.

VERMONT AGENCY OF
NATURAL RESOURCES

As to objections

By: _____
Judith L. Dillon