

**STATE OF VERMONT
PUBLIC SERVICE BOARD**

In re: 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)
new distribution mainlines in Addison County,)
together with three new gate stations in)
Williston, New Haven, and Middlebury,)
Vermont.)

Docket No. 7970

**AGENCY OF AGRICULTURE, FOOD AND MARKETS'
RESPONSE TO NATHAN B. PALMER'S
FIRST SET OF INFORMATION REQUESTS**

GENERAL OBJECTIONS

A. 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.

B. 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.

C. 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.

D. 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.

E. 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

Q. Palmer: AAFM 1.1

1. Page 9, lines 1-3 Ms Jensen states that after canvassing farmers in Franklin County, **"Weak production from compacted and disturbed soils from construction was the only concern relayed, although the soils' production eventually rebounded over time."** Do any of the farmers you canvassed in Franklin County farm organically?

A. Palmer: AAFM 1.1

The term "farm organically" is vague and ambiguous and the Agency objects on this basis. Subject to and without waiving this objection, the Agency responds as follows:

Farmers employ a variety of management practices on their farms, including practices specific to their operation that they may refer to as organic or that may meet the criteria for organic production, as that term is defined by the USDA. At the time I inquired, none of the farmers I talked to had farming operations presently certified or accredited under the terms and requirements defined in federal law by the United States Department of Agriculture for "certified organic."

Q. Palmer: AAFM 1.2

2. Are you aware of the letter from Northeast Organic Farming Association of Vermont dated April 23, 2013, written by Nichole Dehne regarding NOFA's concerns about this project's impacts on organic farms? And if you are aware of this letter, what actions are you taking to ensure that the status of any organic farms will not be compromised by this pipeline and the construction thereof? (Even though the product flowing through this pipeline is billed as "clean and natural" it isn't organic! We are talking about a tube of toxic hazardous material here.)

A. Palmer: AAFM 1.2

The form of the request contains statements inappropriate for an information request, seeks information not relevant to the Agency's role, and the Agency objects. Subject to and without waiving these objections, the Agency responds as follows:

No. The Agency did consider herbicide use with respect to conserved farmland in the path of the proposed pipeline on which it co-holds an easement. The Agency expressly included a "no herbicide use" provision for vegetation maintenance within the pipeline right-of-way as an express condition should a conserved farm owner seek approval under the terms of the conservation easement to voluntarily grant an easement to Vermont Gas.

Q. Palmer: AAFM 1.3

3. In your analysis, did you consider the ratio of impacted land in relationship to total useable land on the farm?

A. Palmer: AAFM 1.3

The terms "impacted land" and "total useable land" are vague and ambiguous and the Agency objects on this basis. Subject to and without waiving this objection, the Agency responds as follows:

No. The Agency considered the site specific impacts and the nature of those impacts on the conserved farmland resource itself, not on the current business model or farming practices used by the farm operators of the conserved farmland parcels in the path of the proposed pipeline on which the Agency holds a legal interest.

Q. Palmer: AAFM 1.4

4. In your analysis, did you consider only dairy operations or did you consider the consequences it would have on a Community Supported Agriculture (CSA) or other small scale possibly organic vegetable grower?

A. Palmer: AAFM 1.4

The Agency's analysis focused on the proposed site specific impacts of construction, operation, and maintenance of the pipeline upon the conserved farmland resource itself in light of the overall purposes of the farmland conservation easements which run in perpetuity with the land. It did not take any particular existing or future business model for farm operations into account.

Q. Palmer: AAFM 1.5

5. You state on line 14 page 9 "**Farmers can also be compensated for poor yield if disturbed soils are slow to recover.**" Who would determine the cause of poor crop yield and rate of compensation, and would this be a simple process or would it involve hiring an attorney? Would loss of customers be a factor in this compensation you are referring to?

A. Palmer: AAFM 1.5

Compensation to landowners who voluntarily grant utility easements is negotiated between the land owner and the utility. Compensation can also become part of a condemnation proceeding. The Agency always suggests that farmers consult with private legal and other professional service providers for farm business-related matters.

The Agency's negotiated agreement with Vermont Gas, submitted as an Exhibit to my testimony, provides the minimum conditions upon which the Agency, as a co-holder of farmland conservation easements, could approve the voluntary grant of a utility easement by the land owner for the pipeline as proposed. The negotiated deed template does provide a method of determining compensation for crop damage after the easement is granted by using the price per bushel established by the Risk Management Agency of the USDA. See AAFM Exhibit, Appendix 1 at page 3. These minimum standards are not intended to dictate or interfere with either a landowner's negotiated compensation or a Court's determination of appropriate compensation within the context of a condemnation proceeding.

Q. Palmer: AAFM 1.6

6. In regards to question 5, will there be a pre-construction analysis of the soil quality and fertility of all farms in the path of this project (like is done with wetlands and other sensitive areas) so that there will be a baseline to compare post construction soil tests to and any damage can be documented? And will this be paid for by the petitioner? (as the farmer does not need an additional burden to this easement being forced upon them.)

A. Palmer: AAFM 1.6

See A. Palmer: AAFM 1.5, above. The Agency's agreement with Vermont Gas provides for soil reclamation that contemplates awareness of pre-construction soil horizons and post-construction ph testing after construction on the conserved farmland. See AAFM Exhibit and Appendix 4 at part 3. The minimum conditions contained in the Agency's negotiated agreement and its appendices submitted with my testimony are not intended to dictate or interfere with a landowner's negotiation with the utility of farm-specific costs.

Q. Palmer: AAFM 1.7

7. Are you aware that in counties in Pennsylvania which are noted for their abundant dairy farms, where a high concentration of Shale gas drilling is occurring, the average number of cows has decreased and the milk production has also decreased indicating that gas drilling and dairy farming do not go hand in hand?

<http://nyagainstfracking.org/an-open-letter-to-the-new-york-farm-bureau/>

A. Palmer: AAFM 1.7

The question is not relevant to this project, exceeds the scope of the Agency's testimony and exhibits, and calls for a legal conclusion and therefore Agency objects. Subject to and without waiving these objections, the Agency responds as follows:

Vermont law prohibits "fracking." 29 V.S.A. § 571.

Person Responsible for Responses AAFM 1.1 – AAFM 1.7
Sylvia Jensen
Land Use Administrator
Agency of Agriculture Food and Markets

As to objections:

DATED at Montpelier, Vermont, this 11th day of July, 2013

A handwritten signature in black ink, reading "Diane E. Zamos", written over a horizontal line.

Diane E. Zamos
Assistant Attorney General
Counsel to the *Agency of Agriculture, Food and Markets*
109 State Street
Montpelier, Vermont 05671

**STATE OF VERMONT
PUBLIC SERVICE BOARD**

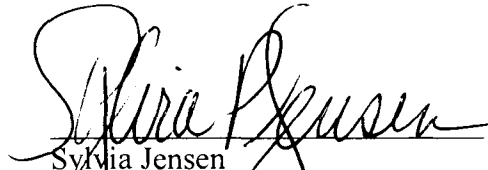
In Re: Petition of Vermont Gas Systems, Inc., requesting a)
Certificate of Public Good pursuant to 30 V.S.A. §248,)
authorizing the construction of the "Addison Natural Gas)
Project" consisting of approximately 43 miles of new)
natural gas transmission pipeline in Chittenden and)
Addison Counties, approximately 5 miles of new)
distribution mainlines in Addison County, together with)
three new gate stations in Williston, New Haven, and)
Middlebury, Vermont.)

Docket No. 7970

AFFIDAVIT

I, Sylvia Jensen, hereby state that the response of the Vermont Agency of Agriculture, Food and Markets to Nathan B. Palmer's first set of discovery requests in the above captioned docket for which I am named as the "Person Responsible for Response" was prepared by me or someone under my supervision and is true and accurate to the best of my knowledge, information and belief.


Date: July 11, 2013


Sylvia Jensen
Land Use Administrator
Agency of Agriculture, Food and Markets

State of Vermont
County of Washington, SS

On this 11th day of July 2013, personally appeared Sylvia Jensen known to me or satisfactorily proven to be the person who is signatory to the foregoing and made oath that the foregoing instrument subscribed by her is true.

Before me,



Notary Public

My Commission expires: 2/10/15