

**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.: 3-0395  
PIN: RU95-0193  
NPDES No.: VT0020770

Name of Applicant: Omya, Inc.  
P.O. Box 10  
Whipple Hollow Road  
Florence, VT 05744

Expiration Date: September 30, 2023

**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, Omya, Inc. (hereinafter referred to as the "Permittee") is authorized by the Secretary of the Agency of Natural Resources (Agency) to discharge from the facility located at Whipple Hollow Road, Florence, Vermont to Otter Creek and the unnamed tributary to Smith Pond in accordance with the following conditions.

This permit shall become effective on October 1, 2018.

Emily Boedecker, Commissioner  
Department of Environmental Conservation

By: 

Date: September 27, 2018

Jessica Bulova, Wastewater Program Manager  
Watershed Management Division

Table of Contents

I. SUMMARY OF DELIVERABLES .....4

II. FACILITY SPECIFIC CONDITIONS .....4

    A. EFFLUENT LIMITATIONS and MONITORING REQUIREMENTS .....4

        1. Outfall S/N 001 .....4

        2. Outfall S/N 002.....5

        3. Special Conditions: .....6

    B. REAPPLICATION.....7

    C. OPERATING FEES .....7

    D. TOXICITY TESTING.....7

        1. Whole Effluent Toxicity (WET) Testing.....7

        2. Toxic Pollutant Scan.....7

    E. MONITORING AND REPORTING.....8

        1. Sampling and Analysis .....8

        2. Reporting .....8

        3. Recording of Results.....9

        4. Additional Monitoring .....10

III. GENERAL CONDITIONS ..... 11

    A. MANAGEMENT REQUIREMENTS .....11

        1. Facility Modification / Change in Discharge.....11

        2. Noncompliance Notification.....11

        3. Operation and Maintenance .....12

        4. Quality Control .....12

        5. Bypass.....13

        6. Duty to Mitigate.....13

        7. Records Retention.....13

        8. Solids Management .....13

        9. Emergency Pollution Permits .....14

        10. Power Failure.....14

    B. RESPONSIBILITIES ..... 15

        1. Right of Entry .....15

        2. Transfer of Ownership or Control .....15

        3. Confidentiality .....16

        4. Permit Modification, Suspension, and Revocation.....16

5.	Toxic Effluent Standards .....	17
6.	Oil and Hazardous Substance Liability .....	17
7.	Other Materials .....	17
8.	Navigable Waters.....	18
9.	Civil and Criminal Liability.....	18
10.	State Laws.....	18
11.	Property Rights .....	18
12.	Other Information .....	18
13.	Severability .....	19
14.	Authority.....	19
15.	Definitions .....	19
IV.	ATTACHMENTS.....	22

**I. SUMMARY OF DELIVERABLES**

Deliverable	Submission Schedule
Discharge Monitoring Report	By the 15th of each month
Weekly Flow Checks	By the 15th of each month
Laboratory Proficiency Test	Annually by Oct 31
Whole Effluent Toxicity Test (WET)	Annually by Oct 31
Toxic Pollutant Scan	By Dec 31, 2022
Permit Re-application	March 31, 2022
Volume Totals for Biocides and Process Chemicals	Annually by Oct 31
New Biocide or Process Chemical MSDS	Prior to use
Noncompliance Notification	Notification within 24 hours, Write-up within 5 days

**II. FACILITY SPECIFIC CONDITIONS**

**A. EFFLUENT LIMITATIONS and MONITORING REQUIREMENTS**

**1. Outfall S/N 001**

During the term of this permit, the Permittee is authorized to discharge from outfall number S/N 001 to Otter Creek: calcium carbonate processing wastewater. Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations	Monitoring Requirements	
	Daily Maximum	Frequency	Sample Type
Flow	0.300 mgd	Continuous	Total Daily Flow
Total Suspended Solids (a)	17 mg/l	1 X Month	Grab
Turbidity (a,d)	25 NTU	1 X Month	Grab
pH	6.5 to 8.5 S.U.	1 X Month	Grab
Whole Effluent Toxicity (e,f)	Monitor only	1 X year	Grab

- a. Samples taken in compliance with the monitoring requirements specified above shall be taken at the outfall from the lower settling basin prior to entering the swale which conveys the wastewater to Otter Creek.
- b. A PIQ Discharge is defined as the period during which the water is pumped from the “Pittsford Italian Quarry” (PIQ) to the settling basins.
- c. Each Discharge Event from the “Pittsford Italian Quarry” to the settling basin shall be

measured and reported on the Discharge Monitoring Report.

- d. If a turbidity sample exceeds 25 NTU, the permittee shall immediately (i.e., the next business day there is a discharge) collect and analyze another sample of the discharge for turbidity.
- e. The sampling for Whole Effluent Toxicity (WET) test shall be taken the last day of a PIQ Discharge Event.
- f. Results of WET test are due annually on October 31.
- g. Based upon the results of these tests or any other WET tests conducted on this discharge, this permit may be amended to include additional WET testing, a WET limitation and monitoring, or require that a Toxicity Reduction Evaluation be conducted.

**2. Outfall S/N 002**

During the term of this permit, the permittee is authorized to discharge from outfall serial number S/N 002 to an unnamed tributary of Smith Pond: calcium carbonate processing wastewater. Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations	Monitoring Requirements	
	Daily Maximum	Measurement	Sample Type
Flow	0.350 mgd	Each discharge event	Total Daily Flow
Total Suspended Solids (a)	10 mg/l	1 X discharge event	Grab
Turbidity (a,b)	10 NTU	1 X discharge event	Grab
pH	6.5 to 8.5 S.U.	1 X discharge event	Grab
Whole Effluent Toxicity (NOEL – A) (e,d)	100% (No Observed Effect)	1 X year	Grab

- a. Samples taken in compliance with the monitoring requirements specified above shall be taken at the outlet pipe from the settling basin prior to entering the unnamed tributary of Smith Pond.
- b. A Discharge Event is defined as any discharge at this discharge point.
- c. If a turbidity sample exceeds 10 NTU, the permittee shall immediately (i.e., the next business day there is a discharge) collect and analyze another sample of the discharge for turbidity.
- d. The sample for Whole Effluent Toxicity (WET) test shall be taken to coincide with a Discharge Event.

- e. NOEL-A is the concentration of the effluent in a sample that causes No Observed (acute) Effect.
- f. Based upon the results of these tests or any other WET tests conducted on this discharge, this permit may be amended to include additional WET testing, a WET limitation and monitoring, or require that a Toxicity Reduction Evaluation be conducted.

### 3. Special Conditions:

- a. The permittee shall continue to implement the spill prevention and control plan (dated November 26, 2013) for handling of materials and product at the facilities (including loading and unloading areas) in order to prevent accidental discharges of materials into the wastewater treatment system collection system.
- b. These discharges shall not cause a violation of water quality standards in the receiving water.
- c. These discharges shall not have concentrations or combinations of contaminants including oil, grease, scum, foam, or floating solids that would cause a violation of water quality standards in the receiving water.
- d. These discharges shall not cause a visible discoloration of the receiving waters.
- e. Prior to using new or materially different biocides or other process chemicals on a regular basis, the permittee shall submit, at a minimum, the Material Safety Data Sheet (MSDS) and an estimate of the volume of chemical to be used on an annual basis to the Wastewater Management Division.
- f. A materially different biocide and/or other process chemical is defined as a product that is not currently listed on Attachment A. A change in chemical supplier, formulation name, or a change in concentrations of constituents in a chemical formulation does not constitute a materially different chemical.
- g. By December 31, 2022, the Permittee shall conduct an Toxic Pollutant Scan of S/N 001 for the pollutants included in Appendix J, Table 2 of 40 CFR Part 122 (see Attachment B) and submit the results to the Secretary.
- h. Based upon the results of this analysis or any other priority pollutant analysis conducted on this discharge, this permit may be amended to require additional effluent analysis or to establish additional effluent limitations.
- i. The permittee shall submit to the Agency a list and estimated volume of the biocides or other process chemicals used during the calendar year. The information shall be included as an attachment on the December Discharge Monitoring Report.

## 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: **March 31, 2023**

## C. OPERATING FEES

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

## D. TOXICITY TESTING

### 1. Whole Effluent Toxicity (WET) Testing

- a. S/N 001: The Permittee shall conduct a two-species (*Pimephales promelas* and *Ceriodaphnia dubia*) modified acute/chronic WET tests (48-hour acute endpoints within a 7-day chronic test) on a grab effluent sample collected from S/N 001 annually. The sampling will coincide with the last day of a PIQ discharge event. The results of the testing are due annually by October 31.
- b. S/N 002: The Permittee shall conduct a two-species (*Pimephales promelas* and *Ceriodaphnia dubia*) modified acute/chronic WET tests (48-hour acute endpoints within a 7-day chronic test) on a grab effluent sample collected from S/N 002 in the event of a discharge. The sampling will coincide with any discharge from S/N 002. The results of the testing are due annually by October 31.
- c. The WET tests shall be conducted according to the procedures and guidelines specified in “Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms” and “Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms” (both documents U.S. EPA October 2002 or, if a newer edition is available, the most recent edition).
- d. The results shall be submitted to the Secretary as an attachment to the appropriate Discharge Monitoring Report

### 2. Toxic Pollutant Scan

- a. The Permittee shall conduct one toxic pollutant scans of the effluent of S/N 001 for the pollutants included in Appendix J, Table 2 of 40 C.F.R. Part 122 (see Attachment B). The sampling for the Toxic Pollutant Scan shall coincide with the WET sampling. The

analyses shall be conducted by December 31, 2022. The results shall be submitted to the Secretary.

- b. Based upon the results of these tests or any other toxicity tests conducted, the Secretary reserves the right to reopen and amend this permit, pursuant to Condition II.B.4. of this permit, to require additional WET testing or a Toxicity Reduction Evaluation be conducted.

## **E. MONITORING AND REPORTING**

### **1. Sampling and Analysis**

The sampling, preservation, handling, and analytical methods used shall conform to the test procedures published in 40 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.

### **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 issuance 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, 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; and
- h. The original calculation and data bench sheets of the operator who performed analysis of the influent or effluent pursuant to requirements of Condition I.A. of this permit.
- i. For analyses performed by contract laboratories:
  - i. The detection level reported by the laboratory for each sample; and
  - ii. 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.

### **III. 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 criminal penalties pursuant to 10 V.S.A. Chapters 47, 201, and 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.

##### **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. The Permittee or the Permittee'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 demonstrate the accuracy of the effluent flow measurement device weekly and report the results on the monthly report forms. The acceptable limit of error is  $\pm 10\%$ .

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 an annual laboratory proficiency test (via a qualified laboratory or as part of an EPA DMR-QA study) for the analysis of all pollutant parameters performed within their facility laboratory and reported as required by this permit. Results shall be submitted to the Secretary by **December 31, annually**.

## **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. § 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:

- (a) 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;
- (b) the denial of an emergency pollution permit would work an extreme hardship upon the applicant;
- (c) the granting of an emergency pollution permit will result in some public benefit;
- (d) the discharge will not be unreasonably harmful to the quality of the receiving waters;
- (e) 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) – means 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 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** – means 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;

provided however, the term “sewage” as used in this permit shall not include the rinse or process water from a cheese manufacturing process.

**Waste Management Zone** – means 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. 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** include 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.

#### **IV. ATTACHMENTS**

##### **Attachment A**

M7338

M5050

M566

M1221

M1078

M918

M922

M980

M981

M987

M988

M989

ACD 82802-n or equivalent N-521

N-922 P-1

Polycryl M898/45A Phosphoric Acid

Sodium Hypochlorite and/or Bleach Stearic Acid

Super A-130 Flocculant Sodium Silicate M1182

M1167

Alcofix 269 M8167

NG 78 (expected use to begin on 10/01/12)

XM2420 (expected use to begin on 10/01/12)

**Attachment B**Metals (total recoverable), cyanide and total phenols:

Antimony  
 Arsenic  
 Beryllium  
 Cadmium  
 Copper  
 Lead  
 Mercury  
 Nickel  
 Selenium  
 Silver  
 Thallium  
 Zinc  
 Cyanide  
 Total phenolic compounds

Volatile organic compounds:

acrolein  
 acrylonitrile  
 benzene  
 bromoform  
 carbon tetrachloride  
 chlorobenzene  
 chlorodibromomethane  
 chloroethane  
 2-chloroethylvinyl ether  
 chloroform  
 dichlorobromomethane  
 1,1-dichloroethane  
 1,2-dichloroethane  
 Trans-1,2-dichloroethylene  
 1,1-dichloroethylene  
 1,2-dichloropropane  
 1,3-dichloropropylene  
 ethylbenzene  
 methyl bromide  
 methyl chloride  
 methylene chloride  
 1,1,2,2-tetrachloroethane  
 tetrachloroethylene  
 toluene  
 1,1,1-trichloroethane  
 1,1,2-trichloroethane  
 trichloroethylene  
 vinyl chloride

Acid-extractable compounds:

p-chloro-m-cresol  
 2-chlorophenol  
 2,4-dichlorophenol  
 2,4-dimethylphenol  
 4,6-dinitro-o-cresol  
 2,4-dinitrophenol  
 2-nitrophenol  
 4-nitrophenol  
 pentachlorophenol

phenol  
 2,4,6-trichlorophenol

Base-neutral compounds:

acenaphthene  
 acenaphthylene  
 anthracene  
 benzidine  
 benzo(a)anthracene  
 benzo(a)pyrene  
 3,4-benzofluoranthene  
 benzo(ghi)perylene  
 benzo(k)fluoranthene  
 bis(2-chloroethoxy)methane  
 bis(2-chloroethyl)ether  
 bis(2-chloroisopropyl)ether  
 bis(2-ethylhexyl)phthalate  
 4-bromophenyl phenyl ether  
 butyl benzyl phthalate  
 2-chloronaphthalene  
 4-chlorophenyl phenyl ether  
 chrysene  
 di-n-butyl phthalate  
 di-n-octyl phthalate  
 dibenzo(a,h)anthracene  
 1,2-dichlorobenzene  
 1,3-dichlorobenzene  
 1,4-dichlorobenzene  
 3,3'-dichlorobenzidine  
 diethyl phthalate  
 dimethyl phthalate  
 2,4-dinitrotoluene  
 2,6-dinitrotoluene  
 1,2-diphenylhydrazine  
 fluoranthene  
 fluorene  
 hexachlorobenzene  
 hexachlorobutadiene  
 hexachlorocyclo-pentadiene  
 hexachloroethane  
 indeno(1,2,3-cd)pyrene  
 isophorone  
 naphthalene nitrobenzene  
 N-nitrosodi-n-propylamine  
 N-nitrosodimethylamine  
 N-nitrosodiphenylamine  
 phenanthrene  
 pyrene  
 1,2,4-trichlorobenzene

[65 FR 42469, August 4, 1999]

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**  
(August 2018)

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

**PERMIT NO:** 3-0395  
**PIN:** RU95-0193  
**NPDES NO:** VT0020770

**NAME AND ADDRESS OF APPLICANT:**

**OMYA Inc**  
**P.O. Box 10, Whipple Hollow Rd**  
**Florence, VT 05744**

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

**OMYA East and West Processing Facilities**  
**206 Whipple Hollow Rd.**  
**Florence, VT 05744**

**RECEIVING WATER: Otter Creek and an unnamed tributary of Smith Pond**

**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 **April 3, 2017**. The facility's previous permit was issued on **October 2, 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.

The facility is engaged in the processing of calcium carbonate.

## **II. Description of Discharge**

Calcium carbonate (marble) processing uses water in the crushing and grinding of the marble and in their final product which is often in the form of slurry. The recycling of wastewater back into the manufacturing process is maximized as part of water conservation and cost control measures.

Biocides are used in various locations in the manufacturing process to prevent microbial growth in the product. Flocculants and dispersants are also used in the manufacturing process to facilitate settling of products or to keep other products in suspension. The biocides, flocculants and dispersants that have been approved for use on a regular basis are specifically listed as Attachment A in the Discharge Permit.

S/N 001 - When necessary, wastewater from the Omya East facility can enter the “Pittsford-Italian” Quarry (PIQ) for treatment via settling and can be recycled back into either the Omya East facility or the Omya West facility for reuse or it can be discharged to Otter Creek.

S/N 002 - Process wastewater from the Omya West facility can be discharged to an unnamed tributary of Smith Pond if an overflow was to occur from the solids thickener. The overflow would be conveyed via swales, which also serve a part of the stormwater management system which handles the remaining stormwater, to a settling basin adjacent to the Omya West entrance. Normally this water is recycled via a pumping system back into the PIQ for reuse. However the water from this basin also could be discharged via a controlled outlet structure to an unnamed tributary of Smith Pond.

## **III. Limitations and Conditions**

The draft permit contains limitations for effluent flow, total suspended solids, turbidity, whole effluent toxicity, 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 4-7 of 22
Monitoring Requirements:	Pages 4-7 of 22

## **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 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 discharge S/N 001 is the Otter Creek, a designated Warm Water Fish Habitat.

The receiving water for discharge S/N 002 is Smith Pond, a designated Warm Water Fish Habitat.

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

Omya, Inc. owns and operates calcium carbonate (marble) processing facilities (Omya East and Omya West) in Florence, VT. Water is used in the crushing and grinding of the marble and in their final product which is often in the form of slurry. The recycling of wastewater back into the manufacturing process is maximized as part of water conservation and cost control measures. The wastewater generated from these two manufacturing facilities intermingles in the treatment system (quarries and tanks) and can be discharged to Otter Creek (S/N 001) or an unnamed tributary of Smith Pond (S/N 002).

Typically wastewater from the Omya East facility is discharged to “Tank 27” and recycled into the Omya West facility process water for reuse. In addition, when necessary, wastewater from the Omya East facility can enter the “Pittsford-Italian” Quarry (PIQ) for treatment via settling and can be recycled back into either the Omya East facility or the Omya West facility for reuse or it can be discharged to Otter Creek (S/N 001).

A tailings dewatering facility at Omya West removes solids from the wastewater and maximizes the recycling of the water back into the manufacturing process. Wastewater from Omya West is treated via a thickener then a press for dewatering and solids separation. The dewatered water from the press is returned to the process for reuse. The dewatered tailings (sludge) is moved to the adjacent lined Tailings Management Facility (TMF) or provided to other businesses. Process wastewater from the Omya West facility can be discharged to an unnamed tributary of Smith Pond if an overflow was to occur from the solids thickener. The overflow would be conveyed via swales, which also serve a part of the stormwater management system which handles the remaining stormwater, to a settling basin adjacent to the Omya West entrance. Normally this water is recycled via a pumping system back into the PIQ for reuse. However the water from this basin also could be discharged via a controlled outlet structure to an unnamed tributary of Smith Pond (S/N 002). A discharge at S/N 002 has not occurred in 10 years.

The West Settling Pond and the majority of the Dog Leg Quarry have been combined and lined and serve as the TMF. A leachate collection system has been installed within the TMF and the leachate is pumped from the TMF back into the process for reuse.

Wastewater from the floor/rail car wash area is conveyed to “Tank 27”, through a centrifuge system and is recycled back into the Omya West facility. The solids generated from the centrifuge are reused in the manufacturing process.

The former Kane & Drake Tailings Management Area (TMA) and Dolomite TMA are closed and have been capped and covered. Any surface water generated from these facilities is stormwater runoff. This water drains via gravity to a collection system and into the PIQ. From the PIQ, these waters can be extracted for reuse or can be discharged via S/N 001.

The majority of the stormwater runoff generated from within the manufacturing sites is directed to Johnson Quarries and is pumped to the PIQ and mixes with the manufacturing process wastewater. Since this runoff will comingle with process wastewater it is no longer considered stormwater and is deemed process wastewater for regulatory purposes. The water in the PIQ can be recycled into the manufacturing process or discharged via S/N 001.

When the volume of water entering the PIQ exceeds the recycled water demand in the manufacturing process and it becomes necessary to discharge to prevent water from overtopping the PIQ. During a discharge event, the wastewater from the PIQ is pumped to a series of settling basins for further treatment. The effluent is pumped to the “Upper Basin” and is discharged via a controlled outlet structure (stand pipe) to a smaller settling basin (“Lower Basin”). The effluent discharges from the Lower Basin into a swale which flows for several hundred yards through vegetated terrain and agricultural land and then enters Otter Creek (S/N 001).

It should be noted that a low volume discharge to Otter Creek via the Lower Basin occurs nearly year round. The discharge consists of stormwater runoff from natural terrain and the road collected via the Lower Basin and swale that is part of the treatment system for S/N 001. This stormwater has the opportunity to comingle with process wastewater and is deemed process wastewater for regulatory purposes.

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

This permit was evaluated under the 2017 Vermont Water Quality Standards

### **A. S/N 001 Otter Creek**

- 1. Flow** – The draft permit contains a flow limitation of 0.300 mgd Daily Maximum. This limitation is changed from the previous permit in monitoring location and value. The current permit has a flow limit on the pumped discharges from the Pittsford Italian Quarry (PIQ). This new limit applies to the flow at the final discharge point. This change is due to the discharge points year round daily flow and is no longer covered by Stormwater monitoring. The facility’s stormwater has the opportunity to comingle with process wastewater and is deemed process wastewater for regulatory purposes. The new flow limit is set to account for the combined flow of the stormwater and PIQ discharges.

The permit requires the measuring of any water (process wastewater or stormwater) passing through the flow meter located in the culvert downgradient of the lower basin.. **Continuous** flow monitoring is required. Permittee shall demonstrate the accuracy of the effluent flow measurement device weekly and report the results on the monthly report forms. The

acceptable limit of error is  $\pm 10\%$ . In addition, the reporting of each process wastewater “discharge event” from the PIQ is required.

## 2. Conventional Pollutants

- a. **Total Suspended Solids (TSS)** - The permit contains a TSS concentration limitation of 17 mg/l, Daily Maximum. This limitation is unchanged from the TSS limitation that was included in the previous permit. This limitation is based upon the Best Professional Judgment of the Agency regarding the proper operation of this type of treatment system. TSS monitoring is required Monthly.
- b. **Turbidity** - The draft permit contains a Turbidity limitation of 25 NTU Daily Maximum. This limitation is based on Section 29A-302(4) of the Vermont Water Quality Standards, effective January 15, 2017 and is unchanged from the previous permit. Turbidity monitoring is required Monthly.
- c. **pH** – The pH limitation remains at 6.5 - 8.5 Standard Units as specified in Section 29A-303(6) in the Vermont Water Quality Standards. Monitoring is required Monthly.

## 3. Non-Conventional and Toxics

- a. **Whole Effluent Toxicity Testing** – 40 CFR Part 122.44(d)(1) requires the Secretary to assess whether the discharge causes or has the reasonable potential to cause or contribute to an excursion above any narrative or numeric water quality criteria. Per these federal requirements, the Permittee shall conduct WET testing and toxic pollutant analyses according to the schedule outlined in Section I.D of the draft permit. If the results of these tests indicate a reasonable potential to cause an instream toxic impact, the Secretary may require additional WET testing, establish a WET limit, or require a Toxicity Reduction Evaluation.
- b. **Toxic Pollutant Scan** - The Permittee shall conduct at least one toxic pollutant scan of the effluent of S/N 001 for the pollutants included in Appendix J, Table 2 of 40 C.F.R. Part 122 (see Attachment B). The sampling for the Toxic Pollutant Scan shall coincide with the WET sampling.

## B. S/N 002 Smith Pond

1. **Flow** –The draft permit contains a flow limitation of 0.350 mgd, Daily Maximum. This limitation is unchanged from the limitation in the previous discharge permit. Since this discharge occurs infrequently, monitoring is required for each discharge event.

## 2. Conventional Pollutants

- a. **Total Suspended Solids (TSS)** - The draft permit contains a TSS concentration limitation of 10 mg/l Daily Maximum. This limitation is based upon the Best Professional Judgment of the Agency regarding the proper operation of this type of treatment system. This limitation is unchanged from the TSS limitation in previous discharge permit. TSS monitoring is required once per discharge event and is unchanged from the previous permit.

- b. **Turbidity** - The draft permit contains a Turbidity limitation of 10 NTU Daily Maximum. This limitation is based Section 29A-302(4) of the Vermont Water Quality Standards, effective January 15, 2017. This limitation is unchanged from the previous discharge permit. Turbidity monitoring is required once per discharge event and is unchanged from the previous permit.
- c. **pH** – The pH limitation remains at 6.5 - 8.5 Standard Units as specified in Section 29A-303(6) in the Vermont Water Quality Standards. Monitoring remains at daily.

d. **Non-Conventional and Toxics**

- a. **Whole Effluent Toxicity Testing** – 40 CFR Part 122.44(d)(1) requires the Secretary to assess whether the discharge causes or has the reasonable potential to cause or contribute to an excursion above any narrative or numeric water quality criteria. Per these federal requirements, the Permittee shall conduct WET testing and toxic pollutant analyses according to the schedule outlined in Section I.D of the draft permit. If the results of these tests indicate a reasonable potential to cause an instream toxic impact, the Secretary may require additional WET testing, establish a WET limit, or require a Toxicity Reduction Evaluation.

3. **Special Conditions**

- 1. **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.
- 2. **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.
- 3. **Noncompliance Notification** - As required by the passage of 10 V.S.A. §1295, promulgated in the 2016 legislative session, Condition II.A.2 has been included in the proposed permit. Section 1295 requires the Permittee to provide public notification of untreated discharges from wastewater facilities. The Permittee is required to post a public alert within one hour of discovery and submit to the Secretary specified information regarding the discharge within 12 hours of discovery.

4. **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.
  
5. **Biocide and Chemical Summary** - The permittee shall submit to the Agency a list and estimated volume of the biocides or other process chemicals used during the calendar year. The information shall be included as an attachment on the December Discharge Monitoring Report.

**A. Reasonable Potential Analysis**

The Secretary has conducted a reasonable potential analysis, which is attached to this Fact Sheet as Attachment A. Based on this analysis, the Secretary has determined that this discharge does not cause, have a reasonable potential to cause, or contribute to an instream toxic impact or instream excursion above the water quality criteria. As such, other than the effluent limitation for phosphorus, the development of WQBELs will not be necessary.

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

The public comment period for receiving comments on this draft permit was from **8/24/2018 through 9/24/2018**, during which time the Secretary received no comments.



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

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

**MEMORANDUM**

To: Shea Miller, Wastewater Program

From: Rick Levey, Monitoring, Assessment and Planning Program (MAPP) *Rick Levey 08/15/2018*

Cc: Pete LaFlamme, Director, (WSMD)  
Jessica Bulova, Manager, Wastewater Program

Date: August 15, 2018

Subject: Omya Discharge Permit – East and West Verpol Facility Reasonable Potential Determination Decision

---

***Facility:***

Omya Verpol Facility  
Permit No. 3-0395  
NPDES No. VT0020770

***Hydrology for Omya East and West Verpol Facility:***

Discharge Limitation S/N 001: 0.30 MGD  
Discharge Limitation S/N 002: 0.35 MGD

***Receiving Water:***

S/N 001: Otter Creek, Florence, VT  
S/N 002: Unnamed Tributary to Smith Pond

MAPP has evaluated the request to waive the Reasonable Potential Determination for the Omya East and West Verpol Facility which has a permit to discharge calcium carbonate processing wastewater and stormwater to Otter Creek and Unnamed Tributary to Smith Pond. MAPP has determined that a full determination is not necessary due to the small size and limited frequency of the discharge and the significant dilution available in the receiving water of Otter Creek.

The wastewater generated from the facilities (Omya East and Omya West) intermingles in the treatment system (quarries and tanks) and can be discharged to Otter Creek or an Unnamed Tributary to Smith Pond. Discharges are infrequent, discharges to Otter Creek only occur during a large runoff event, the same is true for discharges to Unnamed Tributary to Smith Pond. There have been no discharges to Unnamed Tributary to Smith Pond for more than 10 years.

***Flow Otter Creek S/N 001:***

There were (8) discharges to Otter Creek during the 2012-2017 period, the flow limitation is 0.30 MGD. The average flow was 0.024 MGD and maximum flow was 0.19 MGD.

***Flow Unnamed Tributary to Smith Pond S/N 002:***

There were no discharges to Unnamed Tributary to Smith Pond during the 2012 – 2017 period, there were also no discharges to this tributary during the previous permit cycle (2007-2012).

***Total Suspended Solids (TSS):***

Permit Limits for TSS for S/N 001 Otter Creek are 17 mg/L-TSS. The average TSS for 2012 – 2017 (n=8) was 0.24 and the maximum was 3.0 mg/L-TSS.

***Turbidity:***

Permit Limits for Turbidity for S/N 001 Otter Creek are 25 NTU. The average Turbidity for 2012–2017 (n=8) was 0.292 NTU and the maximum was 4.0 NTU.

***Whole Effluent Toxicity (WET):***

Due to the use of biocides at the facilities and to confirm that this discharge does not have the potential to cause or contribute to in-stream toxicity the permit requires a two-species acute Whole Effluent Toxicity (WET) test on a discharge once per year. Review of the (6) WET test conducted during 2012 – 2017 indicate that there was no toxicity (NOEC 100%).

***Summary:***

Review of monitoring records indicate that the permit limitations established for S/N 001 Otter Creek are being met, in fact monitoring indicates that Flow, TSS and Turbidity maximum values recorded during the 2012-2017 period are well below permit limitations. Additionally, the Otter Creek receiving water provides significant dilution; 325:1 at 7Q10 conditions. This also illustrates the de minimus impact other pollutants within this discharge would pose to receiving waters. Considering this factor, MAPP concurs with the Wastewater Program that Omya East and West Verpol facility and its discharge as currently operated and permitted, does not have the potential to cause measurable change in the receiving water.