

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.: 3-1149  
PIN: BR98-0391  
NPDES No.: VT0100901

Name of Applicant: Village of Johnson  
PO Box 603  
Johnson, Vermont 05656

Expiration Date: June 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, the Village of Johnson, Vermont (hereinafter referred to as the "Permittee") is authorized by the Secretary of the Agency of Natural Resources ("Secretary") to discharge from the Johnson Wastewater Treatment Facility (WWTF) to the Gihon River in accordance with the following conditions.

This permit shall become effective on August 1, 2018.

Emily Boedecker, Commissioner  
Department of Environmental Conservation

By: 

Date: July 29, 2018

Jessica Bulova, Wastewater Program Manager  
Watershed Management Division

**I. SPECIAL CONDITIONS**

**A. EFFLUENT LIMITS**

- During the term of this permit, the Permittee is authorized to discharge from outfall serial number S/N 001 of the Johnson Wastewater Treatment Facility (WWTF) to the Gihon River, an effluent for which the characteristics shall not exceed the values listed below:

| EFFLUENT CHARACTERISTICS | DISCHARGE LIMITATIONS |               |                 |                |             |                      |                |             |                       |
|--------------------------|-----------------------|---------------|-----------------|----------------|-------------|----------------------|----------------|-------------|-----------------------|
|                          | Annual Average        | Annual Limit  | Monthly Average | Weekly Average | Maximum Day | Monthly Average      | Weekly Average | Maximum Day | Instantaneous Maximum |
|                          |                       | Mass (lbs/yr) | Mass (lbs/day)  |                |             | Concentration (mg/L) |                |             |                       |

|   |          |     |              |     |              |                                |    |              |          |
|---|----------|-----|--------------|-----|--------------|--------------------------------|----|--------------|----------|
| Flow <sup>1</sup>   | 0.27 MGD |     | Monitor Only |     |              |                                |    |              |          |
| Biochemical Oxygen Demand (5-day, 20° C) (BOD <sub>5</sub> ) <sup>2</sup> |          |     | 68           | 101 |              | 30                             | 45 | 50           |          |
| Total Suspended Solids (TSS) <sup>2</sup>                                 |          |     | 68           | 101 |              | 30                             | 45 | 50           |          |
| Total Phosphorus (TP) <sup>2,3</sup>                                      |          | 493 | Monitor Only |     |              | 0.8                            |    | Monitor only |          |
| Total Nitrogen (TN) <sup>4</sup>  |          |     | Monitor Only |     |              |                                |    | Monitor only |          |
| Total Kjeldahl Nitrogen (TKN)   |          |     |              |     | Monitor Only |                                |    | Monitor only |          |
| Nitrate/Nitrite Nitrogen (NO <sub>x</sub> )                               |          |     |              |     | Monitor Only |                                |    | Monitor only |          |
| Total Ammonia <sup>5</sup>  |          |     | Monitor only |     |              |                                |    |              |          |
| Settleable Solids   |          |     |              |     |              |                                |    |              | 1 ml/L   |
| <i>Escherichia coli</i>   |          |     |              |     |              |                                |    |              | 77/100mL |
| pH  |          |     |              |     |              | Between 6.5-8.5 Standard Units |    |              |          |

<sup>1</sup> Monthly average flow calculated by summing daily effluent flow for each day in the given month and dividing the sum by the number of days of discharge in that month.

<sup>2</sup> The Permittee shall operate the facility to meet the concentration limitations or pounds limitation, whichever is more restrictive.

<sup>3</sup> Total Phosphorus shall be reported as Total Monthly Pounds, Running Total Annual Pounds, and Percentage of Running Total Annual Pounds to Annual Permit Limitation. See Condition I.B.5

<sup>4</sup> Total nitrogen (TN) shall be reported as pounds and calculated as:  $Average\ TN\ (mg/L) \times Total\ Daily\ Flow \times 8.34$ ; where,  $TN\ (mg/L) = TKN\ (mg/L) + NO_x\ (mg/L)$

<sup>5</sup> Total Ammonia shall be sampled monthly from June 1 – October 31.

2. The effluent shall not have concentrations or combinations of contaminants including oil, grease, scum, foam, or floating solids which would cause a violation of the Vermont Water Quality Standards.
3. The effluent shall not cause visible discoloration of the receiving waters.
4. The monthly average concentrations of Biochemical Oxygen Demand (BOD<sub>5</sub>) and Total Suspended Solids (TSS) in the effluent shall not exceed 15 percent of the monthly average concentrations of BOD<sub>5</sub> and TSS in the influent into the Permittee's WWTF. For the purposes of determining whether the Permittee is in compliance with this condition, samples from the effluent and the influent shall be taken with appropriate allowance for detention times.
5. If the effluent discharged for a period of 90 consecutive days exceeds 80 percent of the permitted flow limitation, the Permittee shall submit to the Secretary projected loadings and a program for maintaining satisfactory treatment levels consistent with approved water quality management plans.
6. Any action on the part of the Secretary in reviewing, commenting upon or approving plans and specifications for the construction of WWTFs shall not relieve the Permittee from the responsibility to achieve effluent limitations set forth in this permit and shall not constitute a waiver of, or act of estoppel against any remedy available to the Secretary, the State of Vermont or the federal government for failure to meet any requirement set forth in this permit or imposed by state or federal law.

## **B. TOTAL PHOSPHORUS**

### **1. Wasteload Allocation for Phosphorus**

This permit includes a total phosphorus (TP) water quality based effluent limitation of 493 lbs./yr., consistent with the waste load allocation (WLA) for TP of 0.224 metric tons per year, established by the U.S. Environmental Protection Agency (U.S. EPA) in the 2016 "Phosphorus TMDLs for Vermont Segments of Lake Champlain" (LC TMDL). The Secretary reserves the right to reopen and amend this permit, pursuant to Condition II.B.4 of this permit, to include an alternate TP limitation or additional monitoring requirements based on the monitoring data, the results of phosphorus optimization activities, or a reallocation of phosphorus wasteload allocations between the Permittee and another WWTF pursuant to the requirements of TMDL and Vermont's "Wasteload Allocation Process" Rule (Environmental Protection Rule, Chapter 17).

### **2. Phosphorus Optimization Plan**

- a) **Within 120 days of the permit issuance date**, the Permittee shall develop or update (as appropriate), and submit to the Secretary a Phosphorus Optimization Plan (POP) to increase the WWTF's phosphorus removal efficiency by implementing optimization techniques that achieve phosphorus reductions using primarily existing facilities and equipment. The POP shall:



- c) If the facility is not projected to exceed its WLA within the permit term, the WWTF shall reassess when it is projected to reach its WLA prior to permit renewal and submit that information with its next permit application.
- d) If the facility is projected to exceed its WLA during the permit term, the Permittee shall submit a Phosphorus Elimination/Reduction Plan (PERP) within 6 months from the date of submittal of the projection submitted under Condition I.B.3.b. The PERP shall be submitted to the Secretary to ensure the WWTF continues to comply with its WLA.
- e) The PERP shall be developed by qualified professionals in consultation with the WWTF.

The PERP shall include:

- i. An evaluation of alternatives to ensure the WWTF's compliance with its WLA.
- ii. An identification of the chosen alternative or alternatives to ensure the WWTF's compliance with its WLA;
- iii. A proposed schedule, including an engineer approved design and construction schedule and, if the chosen alternative or alternatives require a pilot study, a schedule for testing, that shall ensure the WWTF's compliance with its WLA as soon as possible; and
- iv. A financing plan that estimates the costs for implementing the PERP and describes a strategy for financing the project.

The PERP shall be treated as an application to amend the permit, and therefore, shall be subject to all public notice, hearing, and comment provisions, in place at the time the plan is submitted, that are applicable to permit amendments. The WWTF shall revise the PERP, if required by the Secretary.

#### **4. Running Total Annual Pounds Calculation**

Compliance with the annual TP limitation (presented in Condition I.A.1. and I.B.1.) will be evaluated each month, using the Running Total Annual Pounds Calculation. In order to calculate running annual TP loading relative to the TMDL WLA:

- a) Calculate the average of results for all TP monitoring events conducted in a month (Monthly Average TP Concentration). Units = mg/L
- b) For flow, use the average daily flow for the month as reported on the DMR. Units = MGD
- c) Calculate Total Monthly Pounds = (Monthly Average TP Concentration) × (average daily flow from DMR) × 8.34 × number of daily discharges in the month.

- d) Sum the results for the immediately preceding 12 months to derive the Running Total Annual Pounds.

#### **5. Total Phosphorus Reporting**

Total Phosphorus shall be reported monthly, via electronic Discharge Monitoring Report, in the following ways:

- a) Monthly Average TP Concentration. See Condition I.B.4.a.
- b) Total Monthly Pounds, meaning the total monthly pounds of TP discharged during the month. See Condition I.B.4.c.
- c) Running Total Annual Pounds, meaning the 12-month running annual TP load, as specified by Condition I.B.4.d.
- d) Comparison (%) of Running Total Annual Pounds to Annual Permit Limitation, meaning the percentage of the Running Total Annual Pounds to the Annual TP Limitation. The comparison shall be calculated as:

$$\text{Percentage of Running Total Annual Pounds to Annual Permit Limitation, \%} = \text{Running Total Annual Pounds} / \text{Annual TP Permit Limit} \times 100$$

### **C. WASTE MANAGEMENT ZONE**

In accordance with 10 V.S.A. § 1252, this permit hereby establishes a waste management zone that extends from the outfall of the Johnson Wastewater Treatment Facility in the Gihon River, downstream to the confluence of the Lamoille River and further extends one mile downstream in the Lamoille River.

### **D. REAPPLICATION**

If the Permittee desires to continue to discharge after the expiration of this permit, the Permittee shall reapply on the application forms then in use at least 180 days before this permit expires.

Reapply for a Discharge Permit by: December 31, 2022

### **E. OPERATING FEES**

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

### **F. TOXICITY TESTING**

#### **1. WHOLE EFFLUENT TOXICITY (WET) TESTING.**

- a) During **August or September 2020**, 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 composite effluent sample collected from S/N 001. The results shall be submitted to the Secretary by **December 31, 2020**.

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).

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 that Toxicity Reduction Evaluation.

**G. MONITORING AND REPORTING**

**1. Sampling and Analysis**

The sampling, preservation, handling, and analytical methods used shall conform to the test procedures published in Title 40 of the Code of Federal Regulations (C.F.R.) Part 136.

The Permittee shall use sufficiently sensitive test procedures (i.e., methods) approved under 40 C.F.R. Part 136 for the analysis of the pollutants or pollutant parameters required under this Section.

Samples shall be representative of the volume and quality of effluent discharged over the sampling and reporting period. All samples are to be taken during normal operating hours. The Permittee shall identify the effluent sampling location used for each discharge. A description of the effluent sample location is included in Condition I.I.2.

**2. Effluent Monitoring**

During the term of this permit, the Permittee shall monitor and record the quality and quantity of discharge(s) at outfall serial number S/N 001 of the Johnson WWTF, according to the following schedule and other provisions:

| PARAMETER                                     | MINIMUM FREQUENCY OF ANALYSIS | SAMPLE TYPE             |
|---|-------------------------------|-------------------------|
| Flow  | Continuous                    | Daily Total, Max., Min. |
| Biochemical Oxygen Demand (BOD <sub>5</sub> ) | 1 × month                     | composite <sup>1</sup>  |

|   |             |                            |
|---|-------------|----------------------------|
| Total Suspended Solids (TSS)                | 1 × month   | composite <sup>1</sup>     |
| Total Phosphorus (TP)                       | 1 × month   | composite <sup>1</sup>     |
| Total Ammonia <sup>5</sup>                  | 1 x month   | grab                       |
| Total Nitrogen (TN)                         | 1 × quarter | [calculated <sup>2</sup> ] |
| Total Kjeldahl Nitrogen (TKN)               | 1 × quarter | composite <sup>1</sup>     |
| Nitrate/Nitrite Nitrogen (NO <sub>x</sub> ) | 1 × quarter | composite <sup>1</sup>     |
| Settleable Solids                           | 1 × day     | grab <sup>3</sup>          |
| <i>Escherichia coli</i>                     | 2 × month   | grab <sup>4, 6</sup>       |
| pH  | 1 × day     | grab                       |
| Temperature                                 | 1 x year    | grab                       |
| Dissolved Oxygen                            | 1 x year    | grab                       |
| Oil & Grease                                | 1 x year    | grab                       |
| Total Dissolved Solids (TDS)                | 1 x year    | composite <sup>1</sup>     |

*Samples collected in compliance with the monitoring requirements specified above shall be collected at a point after disinfection prior to discharge to the Gihon River.*

<sup>1</sup> Composite samples for BOD<sub>5</sub>, TSS, TP, TKN, TDS, and NO<sub>x</sub> shall be taken during the hours 6:00 AM to 6:00 PM, unless otherwise specified. Eight hours is the minimum period for the composite, 24 hours is the maximum for the composite.

<sup>2</sup> TN = TKN + NO<sub>x</sub>

<sup>3</sup> Settleable Solids samples shall be collected between 6:00 AM and 6:00 PM or during the period of peak flow.

<sup>4</sup> The *E. coli* sample shall be collected between the hours of 6:00 AM and 6:00 PM.

<sup>5</sup> Sample monthly from June 1 through October 31.

<sup>6</sup> Grab samples shall be collected in an alternating manner to be representative of each SBR cell discharge (for example, on Monday, the sample shall be collected as Cell #1 discharges; on Tuesday, the sample shall be collected as Cell #2 discharges; etc.).

### 3. Annual Constituent Monitoring

Annually, by December 31, the Permittee shall monitor S/N 001 and submit the results, including units of measurement, as an attachment to the DMR form WR-43 for the month in which the samples were taken for the following parameters:

Temperature  
Dissolved Oxygen  
Oil & Grease  
Total Dissolved Solids

Grab samples shall be used for Temperature, Dissolved Oxygen, and Oil & Grease; all other parameters shall be composite samples. Samples shall be representative of the seasonal variation in the discharge.



Collect annual constituent monitoring samples once per year. The season in which samples are collected shall change chronologically from year to year to represent the seasonal variation of effluent constituents. The sampling seasons are as follows: winter (January 1 – March 31), spring (April 1 – June 30), summer (July 1 – September 30), and fall (October 1 – December 31). The first samples under this permit should be taken during fall season. For easy reference regarding the season in which sampling is recommended, please refer to the “Guidance for Annual Constituent Monitoring.”

**4. Influent Monitoring**

During the term of this permit, the Permittee shall monitor the quality of the influent according to the following schedule and provisions:

| PARAMETER                                     | MINIMUM FREQUENCY OF ANALYSIS | SAMPLE TYPE            |
|---|-------------------------------|------------------------|
| Biochemical Oxygen Demand (BOD <sub>5</sub> ) | 1 × month                     | composite <sup>1</sup> |
| Total Suspended Solids (TSS)                  | 1 × month                     | composite <sup>1</sup> |

<sup>1</sup> Composite samples for BOD<sub>5</sub> TSS shall be taken during the hours 6:00 AM to 6:00 PM, unless otherwise specified. Eight hours is the minimum period for the composite, 24 hours is the maximum for a composite.

**5. 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, which requires attachment of scanned DMRs in pdf format, it is not required to submit hard copies of DMRs. The link below shall be used for electronic submittals:

<https://anronline.vermont.gov/>

If, in any reporting period, there has been no discharge, the Permittee must submit that information by the report due date.

All reports shall be signed:

- a) In the case of corporations, by a principal executive officer of at least the level of vice president, or his/her duly authorized representative, if such representative is responsible

for the overall operation of the facility from which the discharge described in the permit form originates and the authorization is made in writing and submitted to the Secretary;

- b) In the case of a partnership, by a general partner;
- c) In the case of a sole proprietorship, by the proprietor; or
- d) In the case of a municipal, State, or other public facility, by either a principal executive officer, ranking elected official, or other duly authorized employee.

In addition to the monitoring and reporting requirements given above, daily monitoring of certain parameters for operational control shall be submitted to the Secretary on the DMR form WR-43. Operations reports shall be submitted monthly.

## **6. Recording of Results**

The Permittee shall maintain records of all information resulting from any monitoring activities required, including:

- a) The exact place, date, and time of sampling or measurement;
- b) The individual(s) who performed the sampling or measurements;
- c) The dates and times the analyses were performed;
- d) The individual(s) who performed the analyses;
- e) The analytical techniques and methods used including sample collection handling and preservation techniques;
- f) The results of such analyses;
- g) The records of monitoring activities and results, including all instrumentation and calibration and maintenance records;
- h) The original calculation and data bench sheets of the operator who performed analysis of the influent or effluent pursuant to requirements of this permit; and
- i) For analyses performed by contract laboratories:
  - a. The detection level reported by the laboratory for each sample; and
  - b. The laboratory analytical report including documentation of the QA/QC and analytical procedures.

The results of monitoring requirements shall be reported (in the units specified) on the DMR form WR-43 or other forms approved by the Secretary.

When “non-detects” are recorded, the method detection limit shall be reported and used in calculating any time-period averaging for reporting on DMRs.

## **7. 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.

## **H. DRY WEATHER FLOWS**

Dry weather flows of untreated municipal wastewater from any sanitary or combined sewers are not authorized by this permit and are specifically prohibited by state and federal laws and regulations. If for any reason there is a discharge to waters of the State of dry weather flows of untreated municipal wastewater from any sanitary or combined sewer, the operator of the facility or the operator’s delegate shall comply with the notice requirements outlined in Condition II.A.2 of this permit.

## **I. OPERATION, MANAGEMENT, AND EMERGENCY RESPONSE PLANS**

1. The Permittee shall implement the Operation, Management, and Emergency Response Plan for the treatment facility, sewage pumping stations, and sewer line stream crossings as approved by the Secretary on March 26, 2009.
2. The Permittee shall implement the Operation, Management, and Emergency Response Plan for the sewage collection system as approved by the Secretary on March 26, 2009.

The Permittee shall revise these plans upon the Secretary’s request or on its own motion to reflect equipment or operational changes.

## **J. ENGINEERING EVALUATION/ASSET MANAGEMENT AND REPORT**

By December 31, 2019, the Permittee shall conduct an in-depth engineering inspection/evaluation of the wastewater treatment facility and shall submit a written report of the results to the Secretary. The evaluation can be combined with or part of an Asset Management Plan provided the Plan includes an inspection of the facility and collection system and it is conducted and prepared in accord with the following conditions:

A professional engineer with experience in the design and operation of municipal wastewater treatment facilities shall be hired to perform an in-depth inspection of the wastewater treatment facility, pump stations, collection system, and manholes. At the treatment facility, all components which are critical to the treatment process or which could adversely affect effluent quality in the event of their failure shall be inspected. Such components shall include: grit removal systems, comminutors, tank and partition integrity, biological systems, aeration systems, piping, clarifier drives and disinfection system, flow metering systems, all critical and necessary valves, and sludge handling equipment (digesters and appurtenances). In the pump stations, all components critical to the proper conveyance of sewage, the prevention of sewage bypass, and the supporting appurtenances shall be inspected. This includes pumps, alarms,

check valves, piping, motor controls, ventilators, dehumidifiers, and sumps pumps, if so equipped, and the station structure.

The inspection is to be comprised of visual observation of equipment operability and condition as well as a review of maintenance records to determine recurring equipment problems and to estimate future life. Calibration checks shall be performed on all flow meters.

The resulting written inspection report shall document the components inspected, their condition, and include recommendations for all currently needed repairs and replacements and the need for on-site spare parts. The projected date of replacement or major rehabilitation of each component and the anticipated cost shall be estimated. The Permittee shall determine how the future anticipated costs will be met and advise the Secretary in a letter transmitted with the written inspection report. The Secretary recommends an annual set-aside to a sinking fund so that funds are immediately available for the necessary rehabilitations or replacements.

Should the Secretary determine that certain critical components are in need of repair or replacement due to the results of the inspection report, this permit may be reopened and amended to include an implementation schedule for repair or replacement of those components.

#### **K. EMERGENCY ACTION - ELECTRIC POWER FAILURE**

The Permittee shall indicate in writing to the Secretary **within 90 days after the issuance date of this permit** that in the event the primary source of electric power to the WWTF (including pump stations) fails, the Permittee shall either provide an alternative source of power for the operation of its WWTF, or demonstrate that the treatment facility has the capacity to store the wastewater volume that would be generated over the duration of the longest power failure that would have affected the facility in the last five years, excluding catastrophic events.

The alternative power supply, whether from a generating unit located at the WWTF or purchased from an independent source of electricity, must be separate from the existing power source used to operate the WWTF. If a separate unit located at the WWTF is to be used, the Permittee shall certify in writing to the Secretary when the unit is completed and prepared to generate power.

The determination of treatment system storage capacity shall be submitted to the Secretary upon completion.

#### **L. SEWER ORDINANCE**

The Permittee shall have in effect a sewer use ordinance acceptable to the Secretary which, at a minimum, shall

1. Prohibit the introduction by any person into the Permittee's sewerage system or WWTF of any pollutant which:
  - a) Is a toxic pollutant in toxic amounts as defined in standards issued from time to time under Section 307(a) of the Clean Water Act;

- b) Creates a fire or explosion hazard in the Permittee's treatment works;
  - c) Causes corrosive structural damage to the Permittee's treatment works, including all wastes with a pH lower than 5.0;
  - d) Contains solid or viscous substances in amounts which would cause obstruction to the flow in sewers or other interference with proper operation of the Permittee's treatment works; or
  - e) In the case of a major contributing industry, as defined in this permit, contains an incompatible pollutant, as defined in this permit, in an amount or concentration in excess of that allowed under standards or guidelines issued from time to time pursuant to Sections 304, 306, and/or 307 of the Clean Water Act.
2. Require 45 days prior notification to the Permittee by any person or persons of a:
- a) Proposed substantial change in volume or character of pollutants over that being discharged into the Permittee's treatment works at the time of issuance of this permit;
  - b) Proposed new discharge into the Permittee's treatment works of pollutants from any source which would be a new source as defined in Section 306 of the Clean Water Act if such source were discharging pollutants; or
  - c) Proposed new discharge into the Permittee's treatment works of pollutants from any source which would be subject to Section 301 of the Clean Water Act if it were discharging such pollutants.
3. Require any industry discharging into the Permittee's treatment works to perform such monitoring of its discharge as the Permittee may reasonably require, including the installation, use, and maintenance of monitoring equipment and monitoring methods, keeping records of the results of such monitoring, and reporting the results of such monitoring to the Permittee. Such records shall be made available by the Permittee to the Secretary upon request.
4. Authorize the Permittee's authorized representatives to enter into, upon, or through the premises of any industry discharging into the Permittee's treatment works to have access to and copy any records, to inspect any monitoring equipment or method required under subsection 3 above, and to sample any discharge into the Permittee's treatment works.

## **II. GENERAL CONDITIONS**

### **A. MANAGEMENT REQUIREMENTS**

#### **1. Facility Modification / Change in Discharge**

All discharges authorized herein shall be consistent with the terms and conditions of this permit. The discharge of any pollutant more frequently than, or at a level in excess of, that

identified and authorized by this permit shall constitute a violation of the terms and conditions of this permit. Such a violation may result in the imposition of civil and/or criminal penalties pursuant to 10 V.S.A. chapters 47, 201, and/or 211. Any anticipated facility alterations or expansions or process modifications which will result in new, different, or increased discharges of any pollutants must be reported by submission of a new permit application or, if such changes will not violate the effluent limitations specified in this permit, by notice to the Secretary of such changes. Following such notice, the permit may be modified, pursuant to Condition II.B.4 of this permit, to specify and limit any pollutants not previously limited.

In addition, the Permittee, within 30 days of the of the date on which the Permittee is notified of such discharge, shall provide notice to the Secretary of the following:

- a) Any new introduction of pollutants into the treatment works from a source which would be a new source as defined in Section 306 of the Clean Water Act if such source were discharging pollutants;
- b) Except for such categories and classes of point sources or discharges specified by the Secretary, any new introduction of pollutants into the treatment works from a source which would be subject to Section 301 of the Clean Water Act if such source were discharging pollutants; and
- c) Any substantial change in volume or character of pollutants being introduced into the treatment works by a source introducing pollutants into such works at the time of issuance of the permit.

The notice shall include:

- i. The quality and quantity of the discharge to be introduced into the system, and
- ii. The anticipated impact of such change in the quality or quantity of the effluent to be discharged from the WWTF.

## **2. Noncompliance Notification**

- a) The Permittee shall give advance notice to the Secretary of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- b) In the event the Permittee is unable to comply with any of the conditions of this permit due, among other reasons, to:
  - i. Breakdown or maintenance of waste treatment equipment (biological and physical-chemical systems including all pipes, transfer pumps, compressors, collection ponds or tanks for the segregation of treated or untreated wastes, ion exchange columns, or carbon absorption units);
  - ii. Accidents caused by human error or negligence;

- iii. Any unanticipated bypass or upset which exceeds any effluent limitation in the permit;
- iv. Violation of a maximum day discharge limitation for any of the pollutants listed by the Secretary in this permit; or
- v. Other causes such as acts of nature,

the Permittee shall provide notice as specified in subdivisions (c) and (d) of this subsection.

c) Pursuant to 10 V.S.A. §1295, notice for “untreated discharges,” as defined.

- i. Public notice. For “untreated discharges” an operator of a WWTF or the operator’s delegate shall as soon as possible, but no longer than one hour from discovery of an untreated discharge from the WWTF, post on a publicly accessible electronic network, mobile application, or other electronic media designated by the Secretary an alert informing the public of the untreated discharge and its location, except that if the operator or his or her delegate does not have telephone or Internet service at the location where he or she is working to control or stop the untreated discharge, the operator or his or her delegate may delay posting the alert until the time that the untreated discharge is controlled or stopped, provided that the alert shall be posted no later than four hours from discovery of the untreated discharge.
- ii. Secretary notification. For “untreated discharges” an operator of a WWTF shall within 12 hours from discovery of an untreated discharge from the WWTF notify the Secretary and the local health officer of the municipality where the facility is located of the untreated discharge. The operator shall notify the Secretary through use of the Department of Environmental Conservation’s online event reporting system. If, for any reason, the online event reporting system is not operable, the operator shall notify the Secretary via telephone or e-mail. The notification shall include:
  - (1) The specific location of each untreated discharge, including the body of water affected. For combined sewer overflows, the specific location of each untreated discharge means each outfall that has discharges during the wet weather storm event.
  - (2) Except for discharges from a WWTF to a separate storm sewer system, the date and approximate time the untreated discharge began.
  - (3) The date and approximate time the untreated discharge ended. If the untreated discharge is still ongoing at the time of reporting, the entity reporting the untreated discharge shall amend the report with the date and approximate time the untreated discharge ended within three business days of the untreated discharge ending.

- (4) Except for discharges from a WWTF to a separate storm sewer system, the approximate total volume of sewage and, if applicable, stormwater that was released. If the approximate total volume is unknown at the time of reporting, the entity reporting the untreated discharge shall amend the report with the approximate total volume within three business days.
  - (5) The cause of the untreated discharge and a brief description of the noncompliance, including the type of event and the type of sewer structure involved.
  - (6) The person reporting the untreated discharge.
- d) For any non-compliance not covered under Condition II.A.2.c. of this permit, an operator of a WWTF or the operator's delegate shall notify the Secretary within 24 hours of becoming aware of such condition and shall provide the Secretary with the following information, in writing, within five days:
- i. Cause of non-compliance;
  - ii. A description of the non-complying discharge including its impact upon the receiving water;
  - iii. Anticipated time the condition of non-compliance is expected to continue or, if such condition has been corrected, the duration of the period of non-compliance;
  - iv. Steps taken by the Permittee to reduce and eliminate the non-complying discharge; and
  - v. Steps to be taken by the Permittee to prevent recurrence of the condition of non-compliance.

### **3. Operation and Maintenance**

All waste collection, control, treatment, and disposal facilities shall be operated in a manner consistent with the following:

- a) The Permittee shall, at all times, maintain in good working order and operate as efficiently as possible all treatment and control facilities and systems (and related appurtenances) installed or used by the Permittee to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the Permittee only when the operation is necessary to achieve compliance with the conditions of this permit.



- b) The Permittee shall provide an adequate operating staff which is duly qualified to carry out the operation, maintenance, and testing functions required to ensure compliance with the conditions of this permit; and
- c) The operation and maintenance of this facility shall be performed only by qualified personnel who are licensed as required by Secretary and the Director of the Vermont Office of Professional Regulation.

#### **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 an accredited laboratory, for the analysis of all pollutant parameters performed within their facility laboratory and reported as required by this permit. This can be carried out as part of an EPA DMR-QA study. Results shall be submitted to the Secretary by **December 31, annually**.

#### **5. Bypass**

The bypass of facilities (including pump stations) is prohibited, except where authorized under the terms and conditions of an Emergency Pollution Permit issued pursuant to 10 V.S.A. § 1268. It shall not be a defense for the Permittee in an enforcement action that it would have been necessary to halt or reduce the activity in order to maintain compliance with the conditions of this permit.

#### **6. Duty to Mitigate**

The Permittee shall take all reasonable steps to minimize or prevent any adverse impact to waters of the State, the environment, or human health resulting from non-compliance with any condition specified in this permit, including accelerated or additional monitoring as necessary to determine the nature and impact of the non-complying discharge.

#### **7. Records Retention**

All records and information resulting from the monitoring activities required by this permit including all records of analyses performed, all calibration and maintenance of

instrumentation records and all original chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit shall be retained for a minimum of three years, and shall be submitted to the Secretary upon request. This period shall be extended during the course of unresolved litigation regarding the discharge of pollutants or when requested by the Secretary.

## **8. Solids Management**

Collected screenings, sludges, and other solids removed in the course of treatment and control of wastewaters shall be stored, treated, and disposed of in accordance with 10 V.S.A. chapter 159 and with the terms and conditions of any certification, interim or final, transitional operation authorization, or order issued pursuant to 10 V.S.A. chapter 159 that is in effect on the issuance date of this permit or is issued during the term of this permit.

## **9. Emergency Pollution Permits**

Maintenance activities, or emergencies resulting from equipment failure or malfunction, including power outages, which result in an effluent which exceeds the effluent limitations specified herein, shall be considered a violation of the conditions of this permit, unless the Permittee's discharge is covered under an emergency pollution permit under the provisions of 10 V.S.A. § 1268. The Permittee shall notify the Secretary of the emergency situation by the next working day, unless notice is required sooner under Section II.A.2.

10 V.S.A. § Section 1268 reads as follows:

When a discharge permit holder finds that pollution abatement facilities require repairs, replacement or other corrective action in order for them to continue to meet standards specified in the permit, he may apply in the manner specified by the secretary for an emergency pollution permit for a term sufficient to effect repairs, replacements or other corrective action. The Secretary shall proceed in accordance with chapter 170 of this title. No emergency pollution permit shall be issued unless the applicant certifies and the secretary finds that:

- (1) there is no present, reasonable alternative means of disposing of the waste other than by discharging it into the waters of the state during the limited period of time of the emergency;
- (2) the denial of an emergency pollution permit would work an extreme hardship upon the applicant;
- (3) the granting of an emergency pollution permit will result in some public benefit;
- (4) the discharge will not be unreasonably harmful to the quality of the receiving waters;
- (5) the cause or reason for the emergency is not due to willful or intended acts or omissions of the applicant.

Application shall be made to the Secretary at the following address: Agency of Natural Resources, Department of Environmental Conservation, One National Life Drive, Main Building, 2<sup>nd</sup> Floor, Montpelier VT 05620-3522.

## **B. RESPONSIBILITIES**

### **1. Right of Entry**

The Permittee shall allow the Secretary or authorized representative, upon the presentation of proper credentials:

- a) To enter upon the Permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- b) To have access to and copy, at reasonable times, any records required to be kept under the terms and conditions of this permit;
- c) To inspect, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- d) To sample or monitor, at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

### **2. Transfer of Ownership or Control**

This permit is not transferable without prior written approval of the Secretary. All application and operating fees must be paid in full prior to transfer of this permit. In the event of any change in control or ownership of facilities from which the authorized discharges emanate, the Permittee shall provide a copy of this permit to the succeeding owner or controller and shall send written notification of the change in ownership or control to the Secretary **at least 30 days in advance of the proposed transfer date**. The notice to the Secretary shall include a written agreement between the existing and new Permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them. The Permittee shall also inform the prospective owner or operator of their responsibility to make an application for transfer of this permit.

This request for transfer application must include as a minimum:

- a) A properly completed application form provided by the Secretary and the applicable processing fee.
- b) A written statement from the prospective owner or operator certifying:
  - i. The conditions of the operation that contribute to, or affect, the discharge will not be materially different under the new ownership;

- ii. The prospective owner or operator has read and is familiar with the terms of the permit and agrees to comply with all terms and conditions of the permit; and
  - iii. The prospective owner or operator has adequate funding to operate and maintain the treatment system and remain in compliance with the terms and conditions of the permit.
- c) The date of the sale or transfer.

The Secretary may require additional information dependent upon the current status of the facility operation, maintenance, and permit compliance.

### **3. Confidentiality**

Pursuant to 10 V.S.A. § 1259(b):

Any records or information obtained under this permit program that constitutes trade secrets under 1 V.S.A. § 317(c)(9) shall be kept confidential, except that such records or information may be disclosed to authorized representatives of the State and the United States when relevant to any proceedings under this chapter.

Claims for confidentiality for the following information will be denied:

- a) The name and address of any permit applicant or Permittee.
- b) Permit applications, permits, and effluent data.
- c) Information required by application forms, including information submitted on the forms themselves and any attachments used to supply information required by the forms.

### **4. Permit Modification, Suspension, and Revocation**

After notice and opportunity for a hearing, this permit may be modified, suspended, or revoked in whole or in part during its term for cause including the following:

- a) Violation of any terms or conditions of this permit;
- b) Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts;
- c) Reallocation of WLA under the LC TMDL;
- d) Development of an integrated WWTF and stormwater runoff NPDES permit; or
- e) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

The filing of a request by the Permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance shall not stay any permit condition.

The Permittee shall provide to the Secretary, within a reasonable time, any information which the Secretary may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The Permittee shall also furnish to the Secretary upon request, copies of records required to be kept by this permit.

## **5. Toxic Effluent Standards**

If a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under section 307(a) of the Clean Water Act for a toxic pollutant which is present in the Permittee's discharge and such standard or prohibition is more stringent than any limitation upon such pollutant in this permit, then this permit shall be modified or revoked and reissued, pursuant to Condition II.B.4 of this permit, in accordance with the toxic effluent standard or prohibition and the Permittee so notified.

## **6. Oil and Hazardous Substance Liability**

Nothing in this permit shall be construed to preclude the institution of legal action or relieve the Permittee from any responsibilities, liabilities, or penalties to which the Permittee is or may be subject under 10 V.S.A. § 1281.

## **7. Other Materials**

Other materials ordinarily produced or used in the operation of this facility, which have been specifically identified in the application, may be discharged at the maximum frequency and maximum level identified in the application, provided:

a) They are not:

- i. Designated as toxic or hazardous under provisions of Sections 307 and 311, respectively, of the Clean Water Act, or
- ii. Known to be hazardous or toxic by the Permittee,

except that such materials indicated in (i) and (ii) above may be discharged in certain limited amounts with the written approval of, and under special conditions established by, the Secretary or his/her designated representative, if the substances will not pose any imminent hazard to the public health or safety;

b) The discharge of such materials will not violate the Vermont Water Quality Standards; and

- c) The Permittee is not notified by the Secretary to eliminate or reduce the quantity of such materials entering the water.

## **8. Navigable Waters**

This permit does not authorize or approve the construction of any onshore or offshore physical structures or facilities or the undertaking of any work in any navigable waters.

## **9. Civil and Criminal Liability**

The Permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. Except as provided in "Bypass" (Condition II.A.5) and "Emergency Pollution Permits" (Condition II.A.9), nothing in this permit shall be construed to relieve the Permittee from civil or criminal penalties for noncompliance. Civil and criminal penalties for non-compliance are provided for in 10 V.S.A. Chapters 47, 201, and 211.

## **10. State Laws**

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the Permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by Section 510 of the Clean Water Act.

## **11. Property Rights**

Issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.

## **12. Other Information**

If the Permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Secretary, it shall promptly submit such facts or information.

## **13. Severability**

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

## **14. Authority**

This permit is issued under authority of 10 V.S.A. §§1258 and 1259 of the Vermont Water Pollution Control Act, the Vermont Water Pollution Control Permit Regulation, and Section 402 of the Clean Water Act, as amended.

## 15. Definitions

For purposes of this permit, the following definitions shall apply.

**Agency** – means the Vermont Agency of Natural Resources.

**Annual Average** - means the highest allowable average of daily discharges calculated as the sum of all daily discharges (mg/L, lbs or gallons) measured during a calendar year divided by the number of daily discharges measured during that year.

**Average** - means the arithmetic means of values taken at the frequency required for each parameter over the specified period.

**Bypass** – means the intentional diversion of waste streams from any portion of the treatment facility.

**The Clean Water Act** - means the federal Clean Water Act, as amended (33 U.S.C. § 1251, *et seq.*).

**Composite Sample** - means a sample consisting of a minimum of one grab sample per hour collected during a 24-hour period (or lesser period as specified in the section on Monitoring and Reporting) and combined proportionally to 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) - The highest allowable “daily discharge” (mg/L, lbs or gallons).

**Mean** - is the arithmetic mean.

**Monthly Average** (average monthly discharge limitation) – means the highest allowable average of daily discharges (mg/L, lbs or gallons) over a calendar month, calculated as the sum of all daily discharges (mg/L, lbs or gallons) measured during a calendar month divided by the number of daily discharges measured during that month.

**NPDES** - The National Pollutant Discharge Elimination System.

**Secretary** – means the Secretary of the Agency of Natural Resources or the Secretary’s duly authorized representative.

**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.

**Waste Management Zone** – A specific reach of Class B 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** includes all rivers, streams, creeks, brooks, reservoirs, ponds, lakes, springs, and all bodies of surface waters, artificial or natural, which are contained within, flow through, or border upon the State or any portion of it.



**Weekly average** - (average weekly discharge limitation) – means the highest allowable average of daily discharges (mg/L, lbs or gallons) over a calendar week, calculated as the sum of all daily discharges (mg/L, lbs or gallons) measured during a calendar week divided by the number of daily discharges measured during that week.

**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.

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  
(March 2018)**

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

**PERMIT NO:** 3-1149  
**PIN:** BR98-0391  
**NPDES NO:** VT0100901

**NAME AND ADDRESS OF APPLICANT:**

Village of Johnson  
PO Box 603  
Johnson, VT 05656

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

Johnson Wastewater Treatment Facility  
112 Sewer Plant Road  
Johnson, Vermont

**RECEIVING WATER:** Gihon River

**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 September 23, 2008. The facility's previous permit was issued on April 1, 2004. 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 treatment of municipal wastewater.

A map showing the location of facility, outfalls and the receiving water is provided in the Reasonable Potential Determination (RPD) (see Attachment A).

## **II. Description of Discharge**

The facility is engaged in the treatment of municipal wastewater including domestic commercial, and industrial wastewaters. There are no pretreatment facilities permitted under the NPDES program discharging to the collection system. The wastewater treatment facility is a Sequential Biological Reactor (SBR). The design flow of the facility is 0.27 million gallons per day (MGD). The average flow to the facility over the last four years is about 0.123 MGD.

The WWTF maintains a constant discharge to the Gihon River.

## **III. Limitations and Conditions**

The draft permit contains limitations for effluent flow, biochemical oxygen demand, total suspended solids, total phosphorus, settleable solids, Escherichia coli, and pH. It also contains monitoring requirements for total nitrogen, Total Kjeldahl Nitrogen, nitrate/nitrite, and Total Ammonia Nitrogen. The effluent limitations of the draft permit and the monitoring requirements may be found on the following pages of the draft permit:

|                          |                  |
|--------------------------|------------------|
| Effluent Limitations:    | Pages 2-3 of 26  |
| Monitoring Requirements: | Pages 7-10 of 26 |

## **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 this discharge is the Gihon River, a designated Cold Water Fish Habitat. At the point of discharge, the river has a contributing drainage area of 62 square miles. The summer 7Q10 flow of the river is estimated to be 13.86 cubic feet per second (CFS) and the summer Low Median Monthly flow is estimated to be 33.64 CFS. The instream waste concentration at the summer 7Q10 flow is 0.029 (IWC>1%) and the instream waste concentration at the summer Low Median Monthly flow is 0.012 (IWC>1%).

In addition, the Gihon River drains into the Lamoille River which drains into Lake Champlain, which is impaired for phosphorus and is subject to a Total Maximum Daily Load (TMDL) for phosphorus. This is discussed further in Section VII.C.1. of this Fact Sheet.

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

The Village of Johnson owns and operates the Johnson WWTF and its collection system. The facility serves the community of Johnson which includes residential users, commercial users and light industrial users. The Northern University campus is also included in the treatment facility collection system.

The WWTF was built in 1967 and was upgraded in 1995 to its current SBR technology. Minor upgrades have been performed at the facility since the 1995 upgrade.

The current permit incorporates the newest language and requirements to support the State of Vermont's compliance with the Lake Champlain TMDL.

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

This permit was evaluated under the 2017 Vermont Water Quality Standards

**A. Flow** – The draft permit maintains the annual average flow limitation of 0.27 MGD. This facility maintains a constant discharge. Continuous flow monitoring is required.

### **B. Conventional Pollutants**

**1. Biochemical Oxygen Demand (BOD<sub>5</sub>)** – The effluent limitations for BOD<sub>5</sub> remain unchanged from the current permit. The monthly average (30 mg/L) and weekly average (45 mg/L) reflect the minimum level of effluent quality specified for secondary treatment in 40 CFR Part 133.102. In addition, the draft permit contains a 50 mg/L, maximum day, BOD<sub>5</sub> limitation. This is the Agency standard applied to all such discharges pursuant to 13.4 c. of the Vermont Water Pollution Control Permit Regulations. The Secretary implements the limit to supplement the federal technology-based limitations to prevent a gross one-day permit effluent violation to be offset by multiple weekly and monthly sampling events which would enable a discharger to comply with the weekly average and monthly average permit limitations. Mass limits (68 lbs/day, monthly average and 101 lbs/day, weekly average) are calculated using the concentration limits outlined above. The BOD<sub>5</sub> weekly monitoring requirement is unchanged from the current permit.

2. **Total Suspended Solids (TSS)** – The effluent limitations for TSS remain unchanged from the current permit. The monthly average (30 mg/L) and weekly average (45 mg/L) reflect the minimum level of effluent quality specified for secondary treatment in 40 CFR Part 133.102. In addition, the draft permit contains a 50 mg/L, maximum day, TSS limitation. This is the Agency standard applied to all such discharges pursuant to 13.4 c. of the Vermont Water Pollution Control Permit Regulations. The Secretary implements the limit to supplement the federal technology-based limitations to prevent a gross one-day permit effluent violation to be offset by multiple weekly and monthly sampling events which would enable a discharger to comply with the weekly average and monthly average permit limitations. Mass limits (68 lbs/day, monthly average and 101 lbs/day, weekly average) are calculated using the concentration limits outlined above. The TSS monthly monitoring requirement is unchanged from the current permit.
3. ***Escherichia coli*** – The E. coli limitation is 77/100ml, instantaneous maximum, based upon the limitation in the current permit and the anti-backsliding provisions of Section 402(o) of the CWA. As in the current permit, twice monthly monitoring is required.
4. **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.

### C. Non-Conventional and Toxics

#### 1. **Total Phosphorus (TP)**

##### *Background:*

Excess phosphorus entering Lake Champlain from a variety of sources has impaired the water quality of the lake. The Lake Champlain Total Maximum Daily Load (LC TMDL), places a cap on the maximum amount of phosphorus from point and non- point sources that is allowed to flow into the lake while still meeting Vermont's water quality standards. The EPA developed phosphorus TMDLs for the twelve Vermont segments of Lake Champlain in collaboration with the Vermont Agency of Natural Resources, Department of Environmental Conservation and the Vermont Agency of Agriculture, Food, and Markets, and released the document titled "Phosphorus TMDLs for Vermont Segments of Lake Champlain" (June 2016). The 2016 LC TMDL specifies allowable phosphorus loads, or waste load allocations (WLA), expressed as metric tons per year (mt/yr), for each of the 59 WWTFs that discharge to the Lake's watershed. Discharge (NPDES) permits will be issued by the Secretary in accordance with the permit issuance schedule in the Lake Champlain TMDL Phase 1 Implementation Plan (Chapter 3, page 46). The Secretary will follow this schedule unless special circumstances are raised by the facility that warrant the issuance of the permit sooner (e.g., planned facility upgrades), and the Program has sufficient staff capacity to handle the request.

Reductions in WLAs are targeted only to WWTFs in those lake segment watersheds where the currently permitted wastewater load represents a significant (defined as being 10% or greater) portion of the total phosphorus load to that segment from all sources (Main Lake, Shelburne Bay, Burlington Bay, St. Albans Bay) or where wastewater upgrades would meaningfully

reduce the phosphorus reduction burden placed on non-wastewater (non-point) sources (Missisquoi Bay). Therefore, WWTFs discharging to the Port Henry, Otter Creek, Mallets Bay, Northeast Arm, Isle LaMotte, and the South Lake A/B lake segments were not assigned a new waste load allocation. The EPA also determined that wastewater facilities with a design flow of < 0.1 MGD would be given the same allocations as in the 2002 TMDLs due their minor contribution of phosphorus loading.

The LC TMDL establishes new annual WLAs for WWTFs with a design flow capacity of above 0.1 million gallons per day (MGD) that discharge to the Main Lake, Shelburne Bay, Burlington Bay, St. Albans Bay, and Missisquoi Bay lake segments. Specifically, WWTFs with a design flow capacity of 0.1 to 0.2 MGD were assigned WLAs based on a 0.8 mg/L effluent phosphorus concentration at permitted flow while WWTFs with design capacity of > 0.2 MGD were assigned a WLA based on a 0.2 mg/L effluent phosphorus concentration at permitted flow.

In the LC TMDL, EPA acknowledged and supported the Secretary's commitment to employ flexible approaches to implementing the WWTF WLAs including "providing a period of time for optimization to be pursued and the corresponding load reduction results to be realized, and then commencement of the process to upgrade phosphorus treatment facilities will be required when actual phosphorus loads reach 80% of the LC TMDL limits." The Wastewater Management Program maintains a tracking system for phosphorus loading from Vermont WWTFs so facilities approaching or over the 80% threshold can be identified. The 80% phosphorus load threshold is calculated by comparing the individual WWTF phosphorus WLA established in the LC TMDL to the actual phosphorus discharge load from the WWTF over last 12 months:

#### **WWTF Annual TP Load / LC TMDL WLA x 100**

There are currently WWTFs in the Lake Champlain watershed with existing discharged loads of phosphorus already at, or above, 80% of allowable loads. To ensure facilities are operating as efficiently as possible, all reissued wastewater discharge (NPDES) permits under the LC TMDL will specify a period of 12-months for optimization to be pursued and the corresponding load reduction results to be realized, prior to evaluating where a facility ranks relative to the 80% trigger. Discharge permits will specify that after the optimization period, when an existing facility reaches 80% of its WLA for phosphorus (evaluated as a rolling, 12-month load), the permittee will have to develop and submit a projection of whether the facility will exceed its WLA during the permit term and if it is projected to do so, then the facility will be required to develop a Phosphorus Elimination/Reduction Plan (PERP) that will ensure the facility continues to comply with its WLA.

Effluent TP limits in permits are expressed as total annual mass loads for facilities that currently have an existing monthly effluent concentration limits for TP in their NPDES permit, as monthly effluent concentration limits.

#### *Phosphorus Limit in Draft Permit:*

The current discharge permit for this Facility includes a mass-based, effluent limit of 493 pounds of TP per year. This annual mass limitation was based on an allocation of 0.224 metric



tons established in the 2002 Lake Champlain Phosphorus TMDL. The current permit also contains an effluent TP concentration limit of 0.8 mg/L, monthly average.

This proposed draft permit contains a phosphorous effluent concentration limit of 0.8 mg/l, monthly average, and a mass effluent limit of 493 total pounds, annual limitation. The concentration effluent limitation is based on the requirements of 10 V.S.A. § 1266a and is unchanged from the current permit. The mass annual effluent limitation is based on the LC TMDLs. The LC TMDL allocated 0.224 metric tons per year or 493 pounds per year to the Johnson WWTF.

This new annual limit is equivalent to setting the effluent TP limit at 0.6 mg/L at the design capacity of the WWTF (0.270 MGD). To convert units of the WLA from metric tons to pounds for the annual, mass-based TP permit limit, the following equation was used and the resulting WLA rounded down to the nearest pound:

$$(0.224 \text{ mt/yr}) (2204.62\text{lbs/mt}) = 493 \text{ lbs/yr}$$

The LC TMDL includes WLAs for WWTFs expressed as total annual mass loads. Compliance with the annual limit will be calculated each month using the Running Total Annual Pounds Calculation (Condition I.B.4. of the permit), rather than once at the end of the calendar year. The LC TMDL does not include monthly average concentration effluent limits for WWTFs. State law (10 V.S.A. 1266a) requires that, "No person directly discharging into the drainage basins of Lake Champlain or Lake Memphremagog shall discharge any waste that contains a phosphorus concentration in excess of 0.80 milligrams per liter on a monthly average basis." Therefore, in addition to the annual mass load effluent limitation required by the TMDL, the permit must also include a monthly average concentration limit for phosphorus. While the WLA in the TMDL was calculated based on a TP effluent concentration of 0.60 mg/L, the permit does not include 0.60 mg/L as the concentration effluent limitation because a permittee may not need to achieve 0.60 mg/L to ensure compliance with the WLA established in the TMDL. Rather the permit includes a monthly average concentration limit for phosphorus of 0.80 mg/L to ensure compliance with state law and to recognize seasonal variations in the facility's discharge. It is important to note that because the annual mass load and average monthly concentration limits are not mathematically consistent in the permit, meeting a 0.8 mg/L concentration limit at design flows will not result in meeting the annual mass limit.

The permittee must comply with both limitations and, as required by the permit, must operate the facility to meet the more restrictive limitation, which may vary depending upon discharge flows at the facility. If the facility is operating at design flows, the annual mass load limitation will be the more restrictive limitation. However, if the facility is operating at low flows, the monthly average concentration limit may be the more restrictive limitation.

Monthly sampling for total phosphorus is required.

Condition I.H.5 of this draft permit requires the submission of monitoring reports to the Secretary specific to tracking TP in the discharge. A report that documents the annual TP discharged from the facility, summarizes phosphorus removal optimization and efficiencies,

and tracks trends relative to the previous year shall be attached to the December WR-43 form. The annual and monthly TP loads discharged from the facility shall also be reported electronically with other required parameters.

*Analysis in Support of Phosphorus Limit:*

The Secretary is using the WLA from the LC TMDL<sup>1</sup> as the water quality based effluent limitation (WQBEL) for phosphorus for this permit. Because this is the first permit issued to this facility under the new LC TMDL and the TMDL is less than five years old<sup>2</sup>, an analysis of the assumptions underlying the TMDL is not required. *In re Montpelier WWTF Discharge Permit*, 2009 WL 4396740, 6, 9-10 (Vt. Env'tl. Ct. June 30, 2009) (stating that it “probably would have been meaningless to engage in further analysis” of the 2002 Lake Champlain TMDL a mere year and a half after its adoption, while also holding that when issuing a permit more than five years after the adoption of a TMDL, ANR must assess whether the past assumptions upon which the WLA was based upon “continue to have a basis of reliability”). Notwithstanding the fact that an analysis is not required, the Agency provides the following.

Using the WLA from the LC TMDL as the phosphorus WQBEL in the permit is appropriate because the State is making significant progress toward meeting the assumptions upon which the WLA is based.

First, the State has largely met the milestones in the LC TMDL Accountability Framework<sup>3</sup> and is actively working to meet those that are still outstanding. For 2016, EPA has already given Vermont an “excellent” report card for meeting milestones by December 30, 2016 (see below). For 2017, as outlined in the 2018 Vermont Lake Champlain Phosphorus Total Maximum Daily Loads Accountability Framework Report<sup>4</sup>, the State has completed a majority of the milestones in the LC TMDL Accountability Framework due by December 30, 2017 and is actively working to complete those that are still outstanding. While not every milestone was completed by December 30, 2017, this is not sufficient to undermine the assumption that reductions in other sectors will occur in the future. For example, while the “Developed Lands General Permit” has not yet been issued, the State is actively working to adopt the rules necessary to issue and implement this permit, and the date by which applicants must apply for coverage under the permit – October 1, 2023 – has not changed. Thus, despite a delay in issuance of this permit, it is still appropriate to assume that reductions will be achieved in this sector based upon the timeframe envisioned when the LC TMDL was issued.

Second, the EPA’s assessment of the State’s progress under the LC TMDL has found that the State is making satisfactory progress. EPA’s “overall assessment is that Vermont has made excellent progress in achieving the milestones in the [LC TMDL] Accountability Framework” through December 30, 2016.<sup>5</sup> EPA’s next “report card” is expected within a couple months. If EPA finds that the State’s progress is not satisfactory, EPA may, amongst other things, revise the TMDLs to reallocate additional load reductions from nonpoint to point sources (i.e. create more stringent WLAs). EPA has taken no such actions, but

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<sup>1</sup> Available at:

[https://ofmpub.epa.gov/waters10/attains\\_impaired\\_waters.show\\_tmdl\\_document?p\\_tmdl\\_doc\\_blobs\\_id=79000](https://ofmpub.epa.gov/waters10/attains_impaired_waters.show_tmdl_document?p_tmdl_doc_blobs_id=79000)

<sup>2</sup> The LC TMDL was issued June 17, 2016.

<sup>3</sup> For the Accountability Framework, see pages 54-59 of the LC TMDL.

<sup>4</sup> Submitted by the State to EPA on March 7, 2018; available at:

<http://dec.vermont.gov/sites/dec/files/wsm/erp/docs/2018VermontLakeChamplainPhosphorusTMDLAccountabilityFrameworkReport.pdf>

<sup>5</sup> Letter dated February 15, 2017 from EPA Acting Regional Administrator Deborah A. Szaro to Secretary of Natural Resources Julie Moore and Secretary of Agriculture, Food and Markets Anson Tebbetts.

rather, has thus far provided positive assessment of the State's compliance with the LC TMDL Accountability Framework. Therefore, the State has nothing from EPA indicating that the assumptions upon which the WLA was developed are no longer reliable.

With so little time having passed since adoption of the LC TMDL, with the State having completed or working to complete milestones, and with positive reports thus far from EPA, there is no reason to believe that the assumptions upon which the WLA was developed – including that discharges in other sectors will be reduced in the future – are no longer valid. Therefore, it is appropriate to establish the phosphorus WQBEL for this facility based upon its WLA in the LC TMDL.

*Phosphorus Optimization and Elimination/Reduction Plans:*

To ensure the facility is operating as efficiently as possible for purposes of phosphorus removal, Condition I.B.2 of the permit requires that within 120 days of permit issuance, the permittee shall develop or update (as appropriate), and submit to the Secretary, a Phosphorus Optimization Plan (POP) to increase the WWTF's phosphorus removal efficiency by implementing optimization techniques that achieve phosphorus reductions using primarily existing facilities and equipment. The techniques to be evaluated may include operational process changes to enhance biological and/or chemical phosphorous removal, incorporation of anaerobic/anoxic zones, septage receiving policies and procedures, and side stream management.

The facility shall have 12 months from the permit issuance date to optimize removal of total phosphorus. If, after the 12-month optimization period, the WWTF's actual TP loads reach or exceed 80% of the LC TMDL WLA for the WWTF, based on the WWTF's 12-month running annual load calculated using the Phosphorus Load Calculation (Condition I.B.4 of the permit) the permittee shall, within 90 days of reaching or exceeding 80% of the LC TMDL WLA for the WWTF, develop and submit to the Secretary a projection based on the WWTF's current operations and expected future loadings of whether it will exceed its WLA during the permit term.

If the facility is not projected to exceed its WLA within the permit term, the WWTF shall reassess when it is projected to reach its WLA prior to permit renewal and submit that information with its next permit application. If the facility is projected to exceed its WLA during the permit term, the permittee shall submit a Phosphorus Elimination/Reduction Plan (PERP) within 6 months to the Secretary to ensure the WWTF continues to comply with its WLA. The PERP shall be treated as an application to amend the permit, and therefore, shall be subject to all public notice, hearing, and comment provisions, in place at the time the plan is submitted, that are applicable to permit amendments. The WWTF shall revise the PERP, if required by the Secretary.

## **2. Total Nitrogen (TN)**

To gather data on the amount of Total Nitrogen (TN) in this discharge and its potential impact on the receiving water, a quarterly "monitor only" requirement for Nitrate/Nitrite (NO<sub>x</sub>) and

Total Kjeldahl Nitrogen (TKN) has been included in this permit. TN is a calculated value based on the sum of NO<sub>x</sub> and TKN, and, shall be reported as pounds, calculated as:

$$\text{Average TN (mg/L)} \times \text{Total Daily Flow} \times 8.34$$

$$\text{where, TN (mg/L)} = \text{TKN (mg/L)} + \text{NO}_x \text{ (mg/L)}$$

Per EPA excess nitrogen (N) and phosphorus (P) are the leading cause of water quality degradation in the United States. Historically nutrient management focused on limiting a single nutrient—phosphorus or nitrogen—based on assumptions that production is usually phosphorus limited in freshwater and nitrogen limited in marine waters. Scientific research demonstrates this is an overly simplistic model. The evidence clearly indicates management of both phosphorus and nitrogen is necessary to protect water quality. The literature shows that aquatic flora and fauna have differing nutrient needs, some are P dependent, others N dependent and others are co-dependent on these two nutrients.

Like P, N promotes noxious aquatic plant and algal growth. High concentrations of P and N together cause greater growth of algae than P alone. The relative abundance of these nutrients also influences the type of species within the community. Furthermore, a high N-to-P ratio may exacerbate the growth of cyanobacteria, while elevated levels of nitrogen increase toxicity in some cyanobacteria species. Given the dynamic nature of all aquatic ecosystems, for the State to fully understand the degradation to water quality it is necessary to limit P and monitor bioavailable N (including nitrate, ammonium, and certain dissolved organic nitrogen compounds).

Facilities with design flow greater than 1 MGD will complete monthly monitoring unless more frequent sampling is already required by the permit. Facilities with design flows less than 1 MGD will complete quarterly, unless more frequent sampling is already required by the permit.

Total Nitrogen monitoring is proposed to be quarterly for this facility.

For more information, see:

<https://www.epa.gov/sites/production/files/documents/nandpfactsheet.pdf>.

3. **Settleable Solids** – The limitation of 1.0 mL/L instantaneous maximum and daily monitoring remain unchanged from the current permit. This numeric limit was established in support of the narrative standard in Section 29A-303(2) of the Vermont Water Quality Standards.
4. **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.F 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.

5. **Annual Monitoring** - For all facilities with a design flow of greater than 0.1 MGD, 40 CFR § 122.21(j) requires the submittal of effluent monitoring data for those parameters identified in Section I.G.3 of the draft permit. Samples must be collected once annually such that by the end of the term of the permit, all quarters have been sampled at least once, and the results will be submitted by December 31 of each year. Sampling in 2018 should be completed in **fall** (July 1 to September 30). For subsequent sampling, the “Guidance for Annual Constituent Monitoring” document should be referred to determine the season in which samples should be taken each year.

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

1. **Waste Management Zone (WMZ)** – As defined under 10 V.S.A. §1251(16), a WMZ is “a specific reach of Class B 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 due to the authorized discharge”.

The proposed permit retains the existing waste management zone (WMZ) that extends downstream from the outfall for approximately one mile in the Gihon and Lamoille Rivers.

2. **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.
3. **Operation, Management, and Emergency Response Plans** – As required by the revisions to 10 V.S.A. Section 1278, promulgated in the 2006 legislative session, Section I.J has been included in the draft permit. This condition requires that the Permittee implement the Operation, Management, and Emergency Response Plans for the WWTF, sewage pump/ejector stations, and stream crossings as approved by the Agency on March 26, 2009; and for the collection system as approved by the Agency on March 26, 2009.
4. **Engineering Evaluation** – An engineering evaluation condition is included in this permit. This condition requires the Permittee to conduct an in-depth inspection and report of the treatment facility to identify and repair equipment, processes, and other possible deficiencies which may adversely affect effluent quality or proper operation. This type of evaluation is required once every 20 years and per DEC records, one has not been completed since the upgrade in 1995.
5. **Electric Power Failure Plan** – To ensure the facility can continue operations even during the event of a power failure, within 90 days of the issuance date of the permit, the Permittee must submit to the Secretary updated documentation addressing how the discharge will be handled in the event of an electric power outage.

6. **Electronic Reporting** - The EPA recently promulgated a final rule to modernize the Clean Water Act reporting for municipalities, industries, and other facilities by converting to an electronic data reporting system. The final rule requires the inclusion of electronic reporting requirements in NPDES permits that become effective after December 21, 2015. The rule requires that NPDES regulated entities that are required to submit discharge monitoring reports (DMRs), including majors and nonmajors, individually permitted or covered by a general permit, must do so electronically after December 2016. The Secretary has created an electronic reporting system for DMRs and has recently trained facilities in its use. As of December 2020, these NPDES facilities will also be expected to submit additional information electronically as specified in Appendix A in 40 CFR part 127.
7. **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.
8. **Reopener** - This draft permit includes a reopener whereby the Secretary reserves the right to reopen and amend the permit to implement an integrated plan to address multiple Clean Water Act obligations.

**A. Reasonable Potential Analysis**

The Secretary has conducted a reasonable potential analysis, which is attached to this Fact Sheet as Attachment A. Based on this analysis, the Secretary has determined that the available data indicate 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**

A public comment period for receiving comments on this draft permit went from April 9, 2018 through May 30, 2018 during which time interested persons could submit their written views on the draft permit. In addition, the Secretary held a public meeting on May 22, 2018 at 5:30. Three comments were submitted from the Village of Johnson and are addressed in the Responsiveness Summary.

**RESPONSIVENESS SUMMARY**  
**for**  
**NPDES Discharge Permit #3-1149**  
**Village of Johnson, Johnson Wastewater Treatment Facility**

The above referenced permit was placed on public notice for comment from a period of April 9, 2018 through May 30, 2018. This is a renewal permit.

Comments on the draft permit were received during the public notice period. The following states the comment and the Agency's responses to those comments. A copy of any or all comments received can be obtained by contacting the Agency's Watershed Management Division at (802) 828-1535.

**COMMENT:**

From Village of Johnson: There appears to be a typographical error regarding the mailing address of the Village in the draft Permit and Fact Sheet. The Village's address is PO Box 603. However, the draft Permit and Fact Sheet references PO Box 383. This error should be corrected to ensure proper and timely communication between the Agency and the Village.

**RESPONSE:**

Agree. The change has been made.

**COMMENT:**

From Village of Johnson: Condition I.G.2 Effluent Monitoring requires Total Ammonia effluent monitoring once per month during June 1 through October 31 and also seasonally as specified by Condition I.G.3. - Annual Constituent Monitoring. The Village is requesting that Total Ammonia effluent monitoring be excluded from Condition I.G.3 - Annual Constituent Monitoring. Due to the instream waste concentration (IWC) of this discharge and the applicable instream ammonia criteria, it is not physically possible for this discharge to cause an exceedance of the instream ammonia criteria in the river during winter stream conditions since the effluent ammonia would have to greatly exceed the typical WWTF influent ammonia concentrations in normal domestic sewage (See Attachment 1), Also the treatment technology utilized by the WWTF (SBR) is very proficient in removing nitrogen compounds. Therefore since Total Ammonia is being monitored during the most critical stream conditions (late spring, summer, and early fall), there is no legal or scientific basis to require additional sampling of this parameter.

**RESPONSE:**

Agreed. The change has been made.

**COMMENT:**

From the Village of Johnson: Condition I.J. Engineering Evaluation/Asset Management and Report. In 2017 the Village received a grant from the Lake Champlain Basin program and the “Johnson Wastewater Treatment Facility Asset Management Plan”, dated November 2017, was conducted by MJ Engineering and Land Surveying P.C. to evaluate the condition of the treatment facility. It is the Village’s understanding that the Agency will accept the results of this report to fulfill this permit requirement. However, Village is requesting written confirmation from the Agency regarding the acceptability of this Plan with respect to complying with this Condition.

**RESPONSE:**

The condition in the permit clearly explains what the Asset Management Report must contain in order for the Asset Management Report to be considered the Engineering Evaluation. A letter in addition is not necessary.