

**Coburn Pond – VTrans' Constructed Wetlands
Addendum to Enforcement Request – Concerns Regarding Deed Restrictions**

Memo to: Aaron Brondyke & Natural Resources Board
From: Parties Renée Carpenter & Ross Hazel
December 28, 2018

Addendum to Enforcement Request:

1. That NRB initiates communication to VTrans:

--VTrans must **postpone submission** of post-construction assessment report to **ACE and delay filing any deed restrictions until after the enforcement action is resolved, and including all court appeals; and**

2. That NRB initiates communication to ACE:

--Request that ACE **postpone acceptance of project until after the enforcement action is resolved, and including all court appeals.**

After receiving and reviewing the Final Assessment Report from McFarland Johnson, we realized two specific sets of concerns. This memo addresses our first, and most time-sensitive concern:

1. Despite having an Enforcement Action under review, VTrans' final assessment report, once accepted by the Army Corps of Engineers (COE), will trigger the thirty day period during which time VTrans will be required to file deed restrictions to finalize their permit obligations to the COE.

The Corps of Engineers' (COE) permit—which is not in compliance with the Act 250 Permit—requires VTrans to file a deed restriction on the “Thetford Gravel Pit Mitigation Site” within thirty days of the COE accepting the site. (pp. 24-25 of the *2018 Post Construction Assessment*)

The submission of the post-construction assessment is likely the last document needed for the COE to accept the site. The deed restriction will prohibit anyone from replacing the shoreline. We are concerned that the COE will approve the assessment report in the next week or two. Their letter to VTrans will compel VTrans to file the deed restriction on the property.

We are requesting that the NRB initiates communication:

To VTrans to:

-- Postpone submission of Final Post-construction Assessment report to ACE, and
-- Delay filing any deed restrictions until after the enforcement action is resolved, and including all court appeals.

To Army Corps of Engineers:

--Request that ACE postpone acceptance of project until after the enforcement action is resolved, and including all court appeals.