

Vermont Department of Environmental Conservation  
Watershed Management Division  
1 National Life Drive, Davis 3  
Montpelier VT 05620-3522  
<http://dec.vermont.gov/watershed>

Agency of Natural Resources

00132

KALEITA TIMOTHY  
KALEITA PAIGE ERIKSON  
193 JOAN AVE  
RICHMOND, VT 05477

08/21/2024

Re: Stormwater Project 6116-9050, Southview Subdivision, Stormwater Permit Required  
  
Southview Drive  
  
Richmond

### Notice of Incomplete / Past Due Stormwater Permit Application - Action Required

KALEITA TIMOTHY

KALEITA PAIGE ERIKSON

You are receiving this letter as notification that your Initial Notice of Intent (NOI) application for permit coverage under General Permit 3-9050 is either incomplete or your Full Notice of Intent (NOI) application is past due. In some cases, where a municipality was listed as the only permittee on a previously issued stormwater permit, the municipality may have been previously notified of this requirement, however none of the individual property owners were notified at that time.

As you may be aware, Act 64 (the Vermont Clean Water Act), passed by the Legislature in 2015 and signed into law by then Governor Peter Shumlin, mandates the Agency of Natural Resources (Agency) to issue clean water regulations. These regulations require treating stormwater runoff from impervious surfaces – hard surfaces such as roof tops, roads, and parking areas – and preventing pollutants in runoff from entering our waters.

Specifically, Act 64 requires all developments with three or more acres of impervious surface ("3acre sites") AND all developments of impervious surface of less than three acres that were previously subject to a stormwater discharge permit designed to pre-2002 standards discharging to a stormwater-impaired water, to obtain a new stormwater permit under General Permit 3-9050, which went into effect on 12/1/20. The permit ensures stormwater runoff is appropriately managed to improve water quality in Vermont's lakes, rivers ponds, and streams.



The Agency is reaching out to you because (1) you applied under an Initial Notice of Intent (NOI) and the application is incomplete; or (2) you are past due for the submittal of your Full Notice of Intent (NOI) as identified in your most recently issued permit. All regulatory deadlines for application submittal have passed and cannot be extended.

**Failure to comply with this stormwater permit requirement may be subject to Agency enforcement action, and therefore, you are advised to complete your incomplete application which may include the submittal of a Full NOI application for coverage under General Permit 3-9050 immediately. If you have submitted your Full NOI application or have since completed your application by the time you have received this notice, you may disregard and continue to move forward with your permit application.**

Many people have questions about the stormwater permit regulations, so we're also offering some helpful information with this letter. If you have additional questions after reading this letter, please contact us so we can help you navigate the requirements. You'll find contact information at the end of this letter.

## **Stormwater General Permit 3-9050**

### **What does the General Permit require?**

Stormwater General Permit 3-9050 requires property owners in the following categories to obtain a new stormwater discharge permit:

- Property owners with development of three or more acres of impervious surface;
- Property owners that are part of a development with three or more acres of impervious surface, when the development, including multi-lot subdivisions, was previously subject to a stormwater permit designed to pre-2002 standards;
- Property owners with less than three acres of impervious surface that discharge to a stormwater-impaired water, when the parcel or multi-lot subdivision, was previously subject to a stormwater discharge permit designed to pre-2002 standards.

Stormwater General Permit 3-9050 will require property owners in these development categories to document any stormwater management measures already in place and to install additional practices, as needed, to comply with the terms and conditions of the permit. The permit is a critical piece of Vermont's overall framework for restoring water quality in local lakes, rivers, ponds and streams.

### **Where can I find information on General Permit 3-9050?**

Please refer to the Stormwater Program's website at: <https://dec.vermont.gov/watershed/stormwater/9050>

### **How do I obtain permit coverage?**

Application instructions are included in General Permit 3-9050 and on the Stormwater Program webpage. Projects obtain permit coverage by completing an application, referred to as a "Notice of Intent" or "NOI." The application is submitted to the Agency's Stormwater Program for review to ensure that the application is complete and the proposed stormwater design will satisfy regulatory requirements.

**If your property is part of a multi-lot subdivision, an owner's association or similar legal entity must apply for coverage. The application includes detailed engineering plans for the stormwater system that must be prepared by a professional**

engineer. A list of engineering firms that provide this service can be found at the Stormwater Program webpage here: <https://dec.vermont.gov/watershed/stormwater/9050>.

### Is there funding available?

The Agency is currently offering financial assistance for some property owners required to obtain coverage under Stormwater General Permit 3-9050, specifically sites with three or more acres of impervious surface, subject to eligibility (i.e., 3-acre sites).

- The Agency's primary assistance is the Permit Obtainment Assistance (POA) program, funded with American Rescue Plan Act (ARPA) dollars. This program provides financial assistance to support engineering design and permit obtainment costs for eligible 3-acre sites. This program is currently open and potential applicants are strongly encouraged to enroll before September 30, 2024 to receive funding. You do not need to apply for the applicable permit concurrent with the enrollment for funding assistance, however enrollment by that date will ensure that the funding will be available to you assist you with completing the permit application process. An informational webinar took place on February 5<sup>th</sup> and a recording of the webinar is available. For more information visit: <https://anr.vermont.gov/special-topics/arpa-vermont/treating-stormwater-runoff#POA>.
- An additional option for projects that do not qualify for POA or have expenses not fully met by POA is the State of Vermont's Clean Water State Revolving Fund which may provide low interest loans, with some subsidy available, for 3-Acre sites. For more information visit: <https://dec.vermont.gov/water-investment/water-financing/cwsrf>.
- The Green Schools Initiative program, funded with Lake Champlain Basin Program, ARPA, and State Clean Water Fund dollars, provides financial assistance to public schools subject to the 3-acre site requirements. This program is underway and most public school 3-Acre sites have already enrolled in the program. For more information visit: <https://www.greenprintpartners.com/vtgreenschools>.

### What if I don't comply?

Failure to comply with the requirements of Stormwater General Permit 3-9050 (Three-Acre General Permit), including failure to submit an application, constitutes a violation of state law and is subject to enforcement by the Agency. This could include financial penalties. Further, the absence of a current stormwater permit may present a title encumbrance to involved properties, which could affect a property transfer such as a purchase and sale.

Information on the general permit, application instructions, and additional information are available at <https://dec.vermont.gov/watershed/stormwater/9050>.

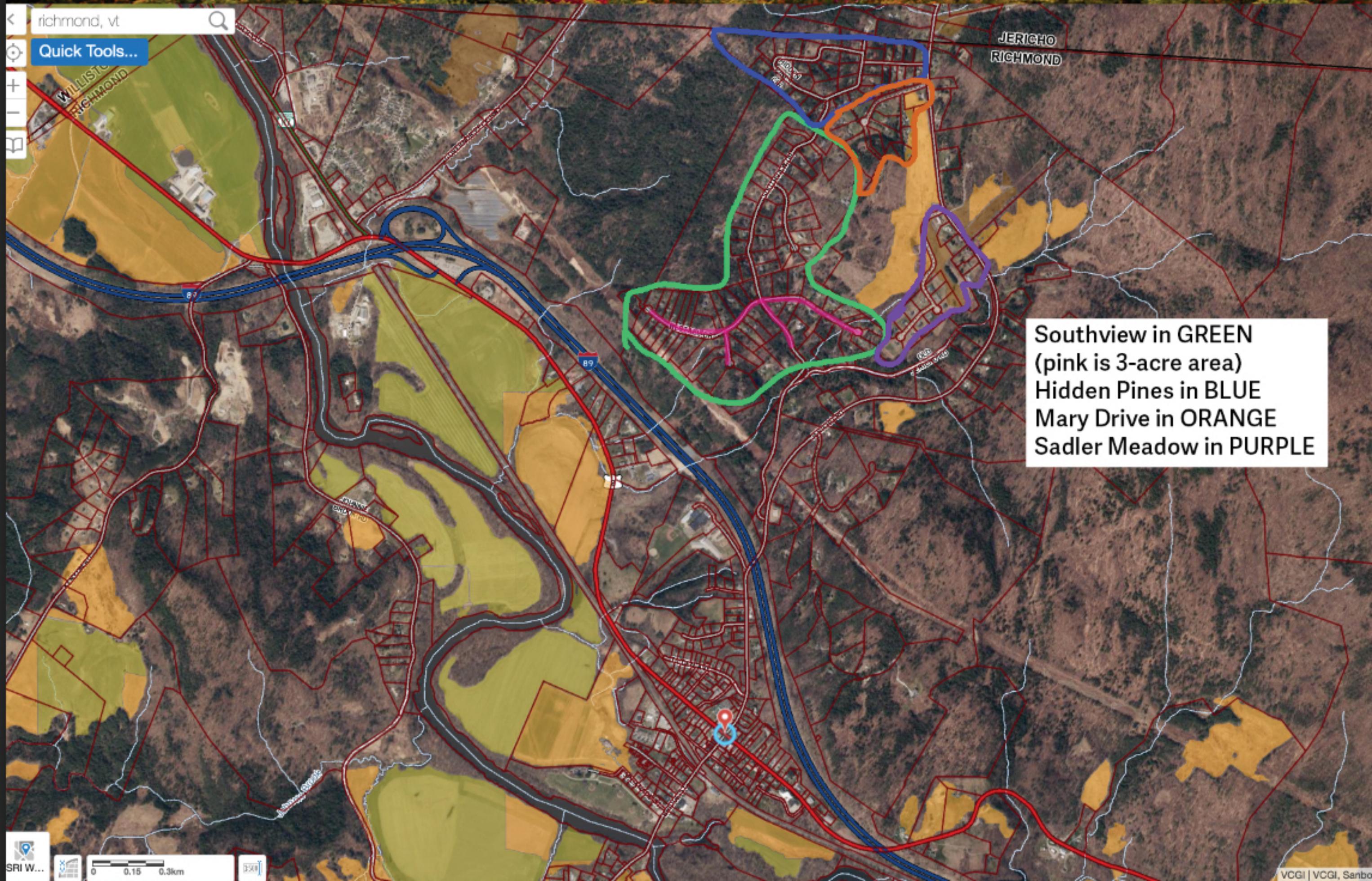
Sincerely,

Kevin Burke, Program Manager [[kevin.burke@vermont.gov](mailto:kevin.burke@vermont.gov)]

Vermont Department of Environmental Conservation

Stormwater Program





Southview in GREEN  
(pink is 3-acre area)  
Hidden Pines in BLUE  
Mary Drive in ORANGE  
Sadler Meadow in PURPLE

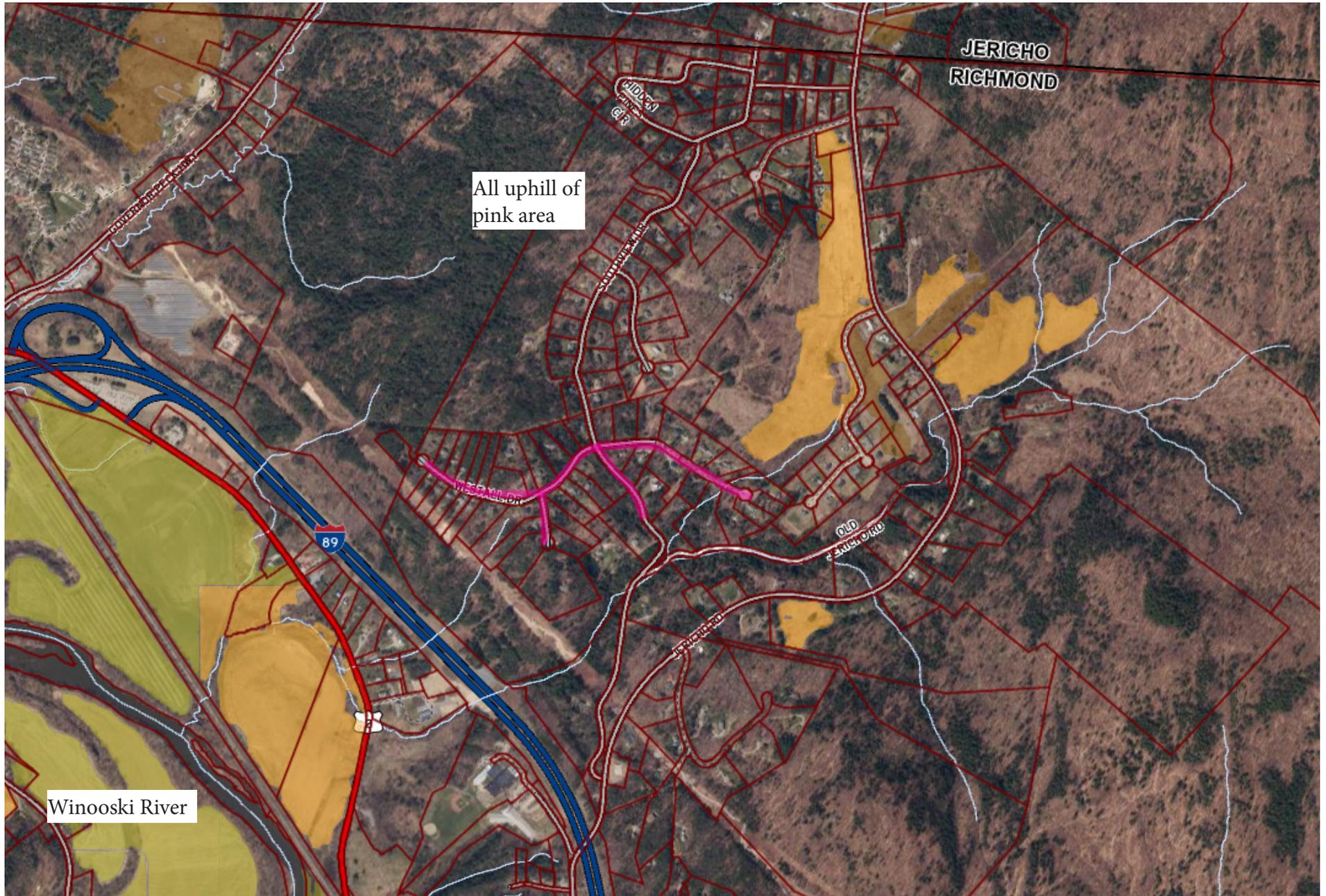
PINK is the Southview 3-acre site

Red lines are lots

As you go above the PINK area, all that land is UPHILL

Yellow and Green are agricultural lands

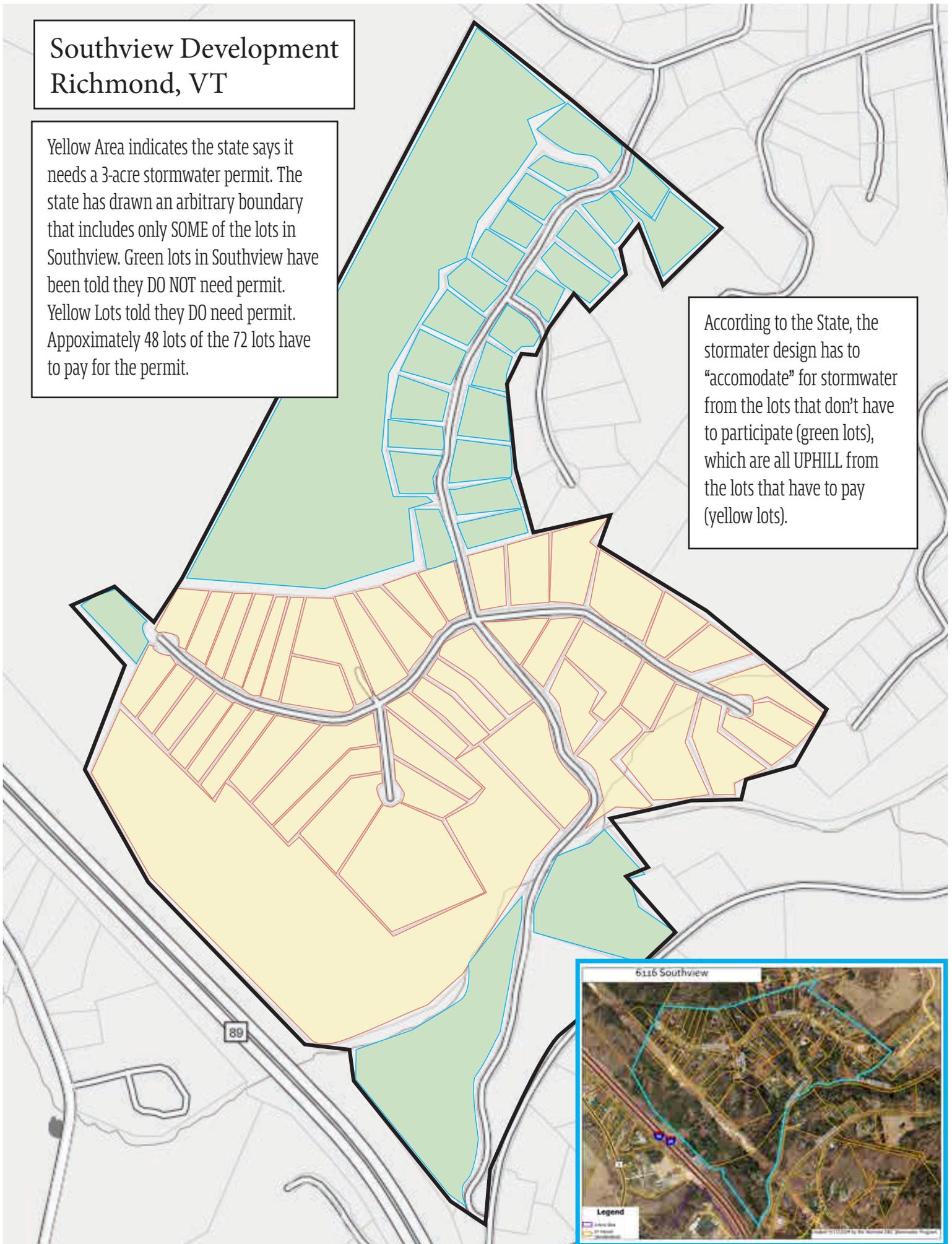
Dark Blue is I=89



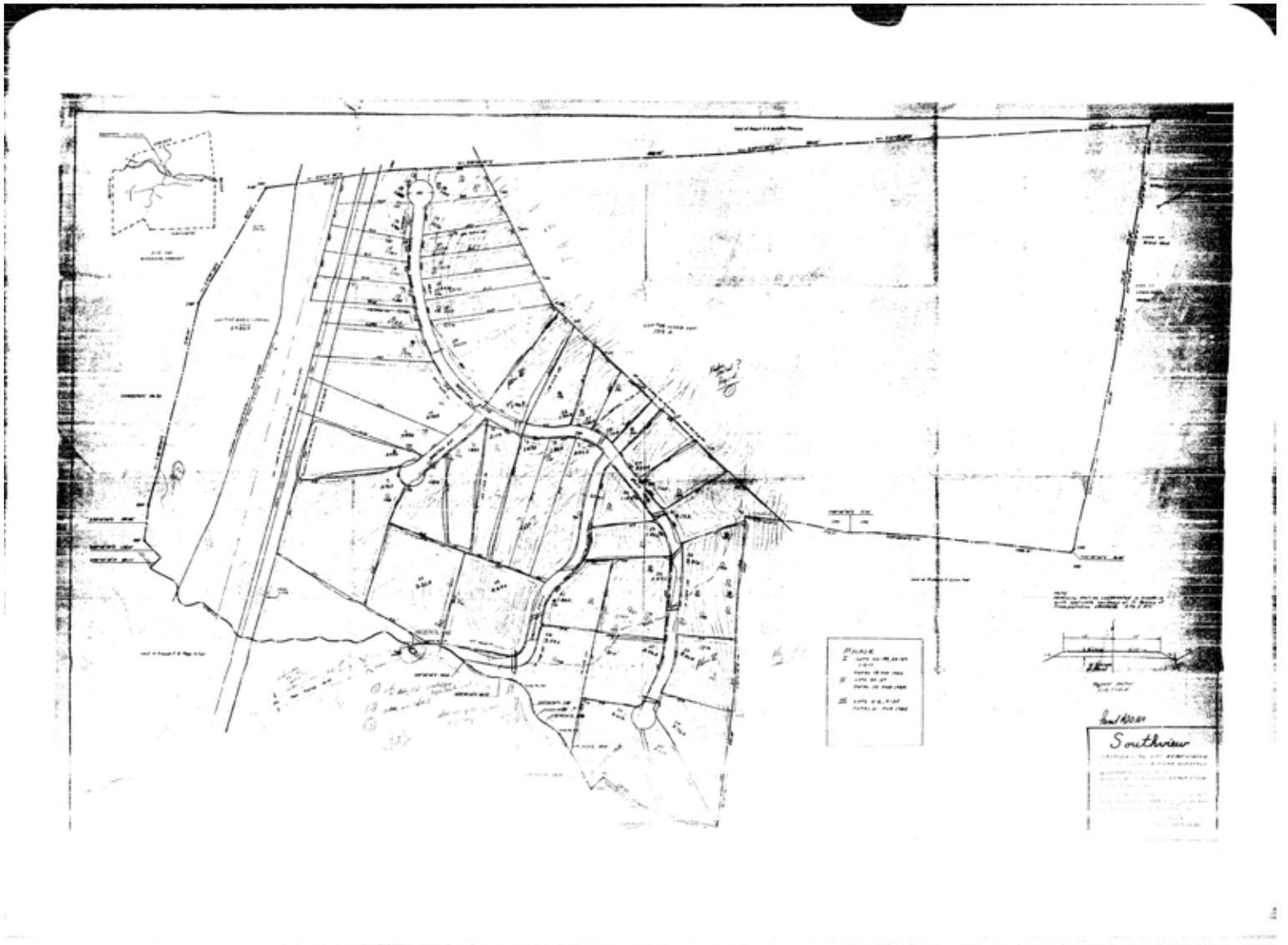
## Southview Development Richmond, VT

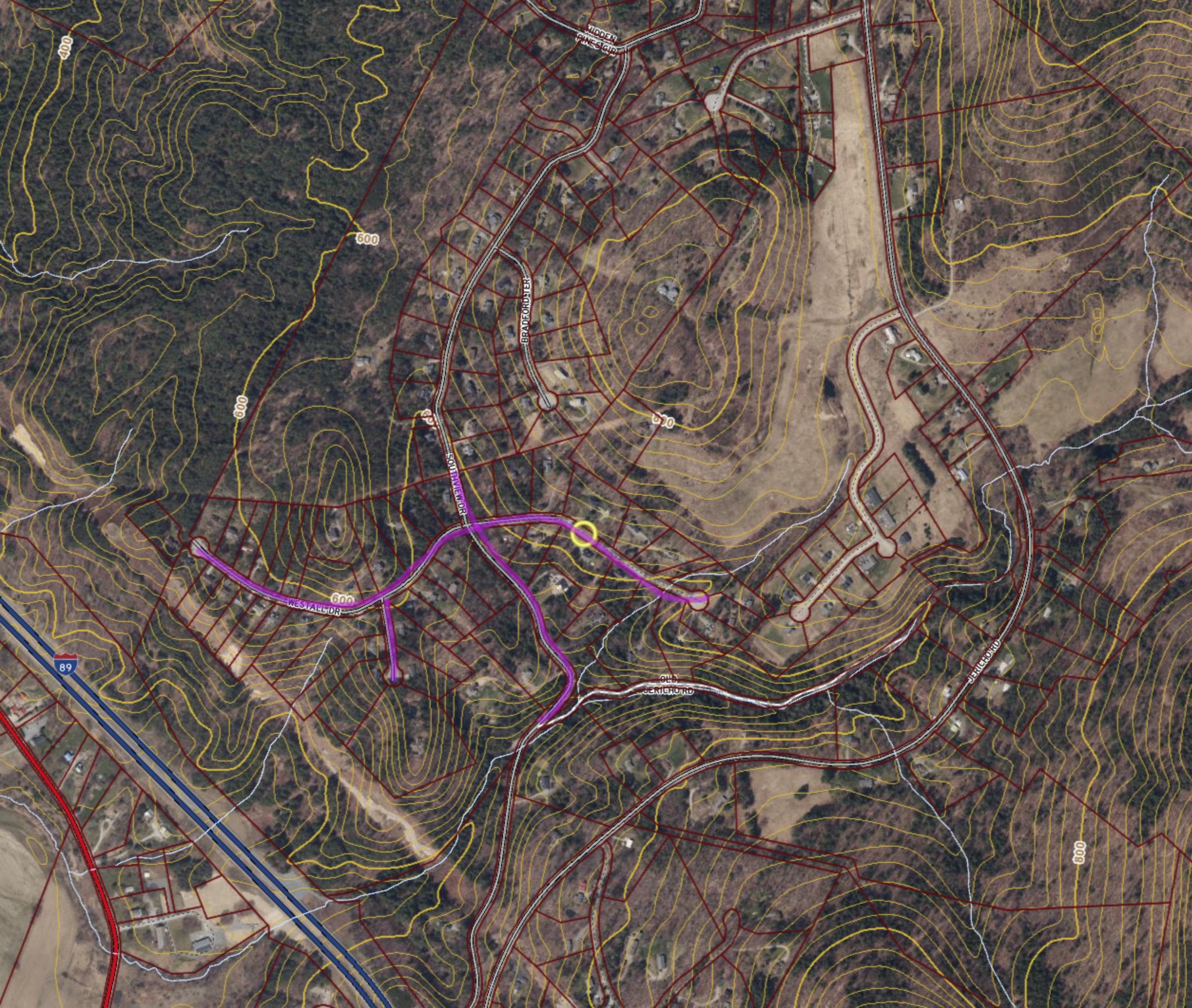
Yellow Area indicates the state says it needs a 3-acre stormwater permit. The state has drawn an arbitrary boundary that includes only SOME of the lots in Southview. Green lots in Southview have been told they DO NOT need permit. Yellow Lots told they DO need permit. Approximately 48 lots of the 72 lots have to pay for the permit.

According to the State, the stormwater design has to "accommodate" for stormwater from the lots that don't have to participate (green lots), which are all UPHILL from the lots that have to pay (yellow lots).



**Map provided by ANR to determine which lots within Southview should be in the 3-acre site**





**RESPONSE SUMMARY**  
**GENERAL PERMIT 3-9050 FOR OPERATIONAL STORMWATER PERMITTING**

**DRAFT GENERAL PERMIT 3-9050**

The Vermont Agency of Natural Resources, Department of Environmental Conservation (Department or DEC), proposes to issue General Permit 3-9050. The Department placed Draft General Permit 3-9050 on public notice from September 20, 2019 through December 2, 2019. The Department held three public meetings during the public comment period.

The Department received both verbal and written comments on draft General Permit 3-9050. The following is a summary of the public comments on the draft permit and the Department's responses to those comments. Comments have been paraphrased and combined where appropriate. Where comments during this public comment period were directed at the "Stormwater Rule," the Department presumes they were intended for draft General Permit 3-9050.

**page 27**

On the other hand, the Lake Champlain watershed in Vermont is over 8,000 square miles and includes over a hundred municipalities. Unlike in the Long Creek watershed where almost all owners of impervious surface are required to have stormwater permit coverage, in the Lake Champlain watershed the 700 or so "three-acre sites" include, very roughly, under 5% of landowners. In other words, the vast majority of property owners in Vermont are not "three-acre sites" and may lack a compelling reason to participate in any sort of collective approach to stormwater management. Addressing this issue—the potential lack of demand for broader collective solutions—is beyond the scope of both the General Permit and the Stormwater Permitting Rule.

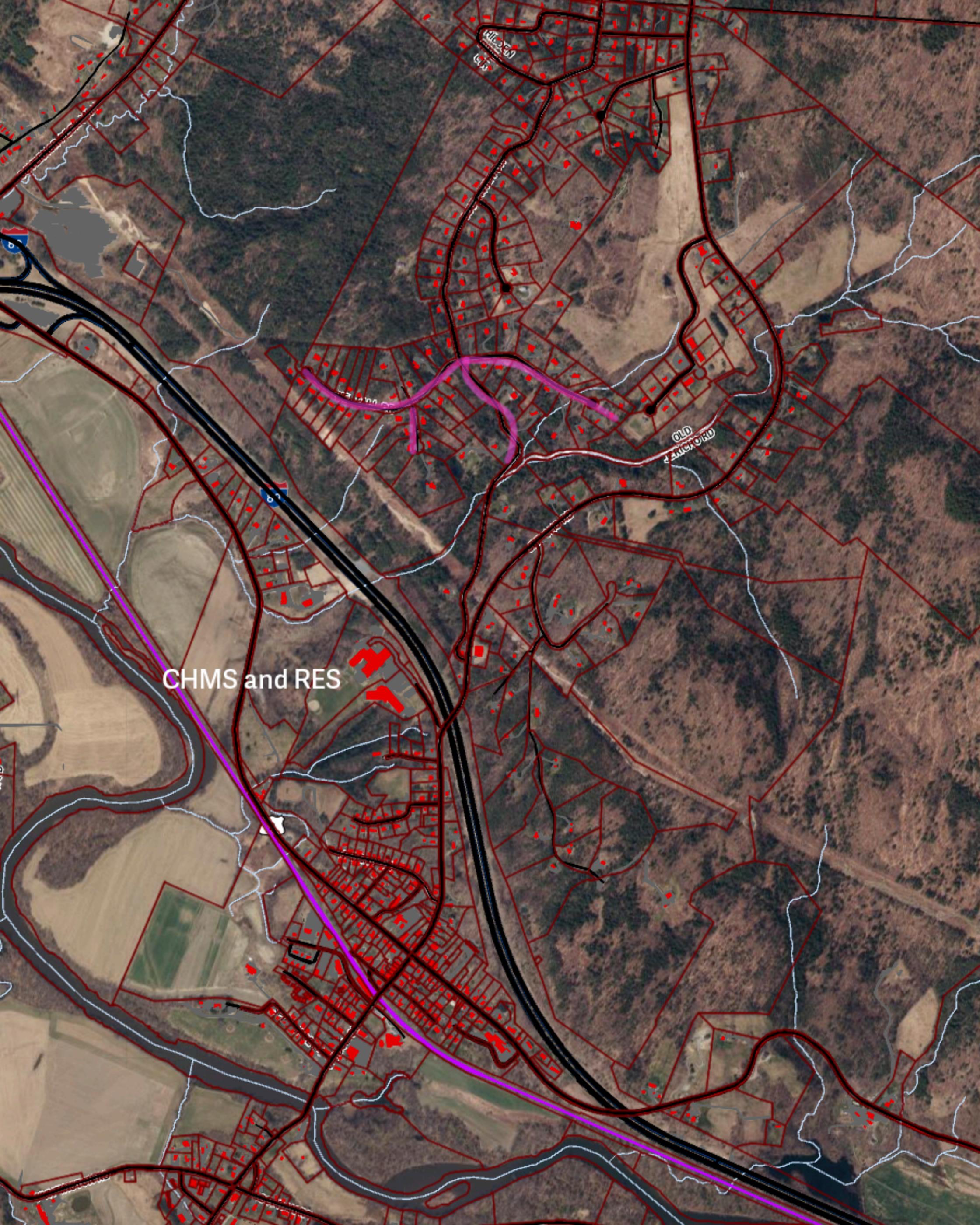
# Richmond Special Selectboard 9-23-2024

<https://www.youtube.com/watch?v=UDtGGqH12pk>

*"There is a pollution budget for the lake.... We determined that we did not need to regulate subdivisions that never had a stormwater permit in the past, regardless of how large they were, because just pulling in the previously permitted subdivisions, along with the other approximately 700 3-acre sites... we determined that that would be sufficient to meet our water quality goals... so we did not feel that it would be necessary to regulate other impervious surfaces... we restricted it to that definition." @ 48:48*

*"We have an obligation to see that these requirements are met, and we know not everybody likes them, but it often is what it is." – ANR employee @ 57:44*

*"There is an element of unfairness of this. I understand that, but there has to be some regulatory line." – ANR employee @ 1:20*



CHMS and RES

MILLERS CREEK

OLD SAUCY CREEK

SAUCY CREEK

SAUCY CREEK

# H.481 Under Fire: Lawmakers Urged to Amend Stormwater Bill and Confront Federal Failures

 [fyivt.com/be-informed/h-481-under-fire-lawmakers-urged-to-amend-stormwater-bill-and-confront-federal-failures](https://fyivt.com/be-informed/h-481-under-fire-lawmakers-urged-to-amend-stormwater-bill-and-confront-federal-failures)

April 1, 2025

As the Vermont Senate considers changes to [H.481](#), a bill designed to extend compliance deadlines under the state’s “[3-Acre Rule](#)” for stormwater management, farmers, small-town leaders, and property owners are raising broader concerns about the origin of the state’s phosphorus pollution problem—and who should be paying to fix it.

The bill, which passed the House earlier this session, would give landowners and municipalities more time to comply with regulations requiring stormwater mitigation systems on properties with three or more acres of impervious surface. It also authorizes municipal impact fees for stormwater systems, maintains the Clean Water Surcharge on property transfers by removing its 2027 sunset date, and creates new grant programs for compliance and planning.

But as the Senate prepares to take up the bill, questions are emerging not only about its scope and cost, but also about the state’s willingness to challenge the federal policies that some argue helped create Vermont’s phosphorus problem in the first place.

## Focus Shifts to Root Causes

Several agricultural groups and environmental policy observers point to decades of federal farm and land management policy as major contributors to nutrient runoff in Vermont’s waterways.

[Redacted]

[Redacted]

The [Clean Water Act](#), administered by the Environmental Protection Agency (EPA), requires states to meet strict pollution thresholds. In 2016, the EPA imposed new phosphorus TMDLs (Total Maximum Daily Loads) for Lake Champlain, pushing Vermont to implement stricter rules on both agricultural and urban runoff.

The state responded by enacting Act 64, Vermont’s Clean Water Act, in 2015, which led to the 3-Acre Rule and a range of other regulatory tools. But while mandates have increased, funding from Washington has not kept pace, leaving Vermont taxpayers and landowners

responsible for meeting compliance costs that, in some cases, run into tens of thousands of dollars per property.

## Uneven Capacity Across Towns

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At a recent committee meeting, a Burlington city employee acknowledged that the city has the engineering staff and resources to meet 3-Acre Rule requirements. But most other municipalities do not.

“That really underscores the inequity in how this bill plays out on the ground,” said one local official from Rutland County. “Burlington can hire stormwater planners. Smaller towns can’t. That puts rural areas at a disadvantage, again.”

H.481 includes \$5 million in remaining American Rescue Plan Act (ARPA) funds to support stormwater compliance, but some critics argue those dollars would be better spent addressing phosphorus at its source—on Vermont’s farms. They point to practices like settling ponds, tile drain upgrades, and manure management systems as high-impact interventions that remain underfunded.

## Concerns Over Leadership and Conflicts

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Vermont’s Agency of Natural Resources (ANR) is responsible for implementing many of these water quality programs. But some lawmakers and policy advocates are beginning to question whether ANR Secretary Julie Moore has done enough to push back on federal mandates—or to advocate for more federal funding.

Moore, who previously served as water resources director under the Douglas and Shumlin administrations, has not publicly challenged the EPA’s phosphorus limits or sought federal cost-sharing through legal or legislative channels.

Her position is further complicated by her role as board chair of the Vermont Council on Rural Development (VCRD), a nonprofit that frequently collaborates with state agencies and advocacy organizations on environmental and infrastructure planning. Some observers have raised concerns that this dual role could present a conflict of interest, particularly when VCRD’s policy goals align with those of groups like the Conservation Law Foundation (CLF), which has repeatedly sued the state over water quality enforcement.

A spokesperson for ANR did not respond to a request for comment by press time.

## CLF Lawsuit Highlights Broader Frustration

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In September 2024, the Conservation Law Foundation again filed a notice of intent to sue Vermont over alleged failures in phosphorus enforcement and permitting. This comes after the EPA itself warned the state that its dual-agency oversight system—split between ANR

and the Agency of Agriculture—has led to enforcement gaps, especially in the oversight of large dairies.

But CLF’s lawsuits have drawn mixed reactions in Vermont. While some see them as a necessary push for environmental accountability, others view them as legal overreach that targets a state with limited resources.

“If CLF wanted to really solve the phosphorus crisis,” said a dairy farmer, “they’d be suing the federal agencies that wrote the playbook for the very practices they’re now calling pollution.”

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## **Lawmakers Face Pressure to Amend**

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As the Senate Natural Resources and Energy Committee reviews H.481, several stakeholders are calling for major amendments. Proposals include:

- Keeping only the timeline extensions,
- Removing provisions that allow new municipal fee structures,
- Striking the clause that makes the Clean Water Surcharge permanent, and
- Directing all remaining ARPA funds toward agricultural phosphorus mitigation.

Critics of the bill argue that the state is attempting to shift responsibility for stormwater compliance onto municipalities—many of which lack the staffing, funding, or technical capacity to manage complex permitting and infrastructure requirements—rather than taking on that responsibility at the state level.

Calls for amendment have also been fueled by reports that the rule has not been applied consistently across the state. Some properties with obvious impervious surface areas have not been flagged for compliance, while neighboring sites with similar characteristics have. This uneven application has led to frustration among landowners and municipal officials, who say the process lacks transparency and fairness.

Advocates are also calling on Vermont’s Attorney General Charity Clark to consider federal cost-recovery options through legal action, and for members of the state’s congressional delegation—Senators Bernie Sanders and Peter Welch, and Rep. Becca Balint—to push for phosphorus remediation funding at the federal level.

## **Looking Ahead**

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With the EPA mandates in place and legal pressure mounting, Vermont faces a difficult balancing act between environmental compliance, fiscal responsibility, and local capacity. But as Senate lawmakers shape the final version of H.481, many are watching to see whether

the state will continue to pass the cost onto landowners—or finally begin to push back on Washington.

“This is a chance for the Senate to draw a line,” said one policy analyst familiar with the bill. “They can either follow the mandates, or they can ask who created this problem in the first place—and demand they help fix it.”

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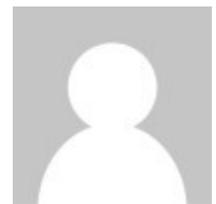
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# Ambitious new stormwater permit prompts cost concerns

[vtdigger.org/2019/11/08/ambitious-new-stormwater-permit-prompts-cost-concerns](https://vtdigger.org/2019/11/08/ambitious-new-stormwater-permit-prompts-cost-concerns)

Elizabeth Gribkoff, More by Elizabeth Gribkoff

November 8, 2019



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Parking areas at Killington Resort were underwater this spring, leaving one vehicle partly submerged.

Photo by Mike Dougherty/VTDigger

Vermont is rolling out ambitious new stormwater requirements — and some businesses, towns and nonprofits are concerned about the costs of compliance.

The state Department of Environmental Conservation put out a draft stormwater permit earlier this year that will apply to development or redevelopment of one or more acres of impervious surface, extending to development of half an acre starting in 2022. The public comment period for the new requirements ends Nov. 25.

The landowners and developers poised to face the biggest costs are those who own properties with more than 3 acres of impervious surfaces, such as parking lots and roofs, that were either never permitted or permitted before 2002. Ski resorts, colleges, government entities, retail developments and industrial parks are the largest holders of impervious surfaces in Vermont.



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The new stormwater permit was required by the state's 2015 landmark clean water law, Act 64.

After the federal Environmental Protection Agency rejected Vermont's Lake Champlain cleanup plan in 2011, called a "TMDL," the state had to come up with a more ambitious plan to cut down on phosphorus going into the lake.

Runoff from developed lands contributes an estimated 18% of Vermont's portion of Lake Champlain phosphorus pollution. Although agriculture is the single biggest source of phosphorus to the lake, developed land actually contributes twice as much phosphorus per square mile as agriculture.

Padraic Monks, stormwater program manager for the state Department of Environmental Conservation, said the so-called "three acre permit" originated as a spitball idea. DEC staff had identified various ways to achieve the needed phosphorus reductions under the TMDL, including imposing new stormwater management requirements on owners of large property owners.

"We noted that we probably want to undergo further review to figure out precisely what permit thresholds we should establish," he said. Lawmakers then "essentially codified it before we took those next steps."

The state has reached out to owners of over 700 different parcels that appear from GIS data to contain more than 3 acres of impervious surface. And that's just in the Lake Champlain watershed and part of the Lake Memphremagog watershed.

Property owners could have to do anything from installing a rain garden to hiring an engineer to put in an underground stormwater infiltration system. Monks said the state has estimated that complying with the more stringent requirements for new development could cost around

\$50,000 per acre.

“As it stands, the 3 acre sites are looking at significant costs and the projects of less than 3 acres are not,” said Monk. “So there’s a fairness question: does it make sense to have this relatively limited subset of property owners incur these costs where most landowners would not incur any costs?... What’s the solution? It’s kind of infeasible to make everybody get a permit.”

Elena Mihaly, an attorney at Conservation Law Foundation — the nonprofit whose lawsuit prompted the EPA’s rejection of the state’s lake cleanup plan — said the new permit would make Vermont a national leader in terms of stormwater management. Vermont has been seeing more intense storms, which are overwhelming existing wastewater and stormwater infrastructure, due to climate change.

“There has to be changes to the way we do things to keep that Vermont we want in the future,” she said.

Austin Davis, government affairs manager for the Lake Champlain Chamber of Commerce, said that businesses are concerned about meeting the deadline for the new requirements. As it stands, some property owners could be required to apply under the permit by July 2020, though Monks said the state would likely push that date back due to the delayed rollout. Projects in the Champlain, Memphremagog and stormwater impaired watersheds will need to be permitted by 2023 while those in other parts of the state have until 2033.

“We’re the biggest proponents of cleaning up the lake of anybody ... but we also understand that we need to have a reasonable timeline and we need to adjust to things like this draft permit coming out late,” he said.

Davis stressed that the Chamber’s members understand the importance of cleaning up Lake Champlain, but have some concerns about the inflexibility of the permit. For instance, in more developed parts of the state, there could be multiple property owners with shared stormwater challenges each funding their own engineering studies and treatment options.

“It makes everybody pay it alone and creates this disconnected patchwork of people with their heads down trying to (achieve) an uncertain target for an uncertain price,” he said of the new stormwater permit.

Davis said the chamber prefers the approach taken under Act 76, passed last session, which will create new clean water utilities charged with selecting the most cost-effective projects to achieve non-mandated pollutant reductions.

In addition to landowners, certain municipalities in the Lake Champlain watershed are required to upgrade their stormwater treatment under a different municipal stormwater permit updated last year.

Dominic Cloud, St. Albans city manager, said that the city is looking at over \$10 million in upgrades to comply with that permit. So the city received a grant from the Lake Champlain Basin Program to explore opportunities for public and private collaboration to meet various stormwater mandates. The city is hoping to manage runoff from over 50 acres of impervious surface with a treatment system on Lower Welden Street. Private landowners would help pay for the cost of the project to treat some of their runoff.

“For us, it’s about community vitality,” he said. “Communities have to figure out a way to address the stormwater challenges and continue to grow.”

The Champlain Valley Exposition in Essex, which has just shy of 34 acres of impervious surface, installed a stormwater retention pond under an old stormwater permit, said executive director Tim Shea. He is working with an engineer to try to figure out what else the nonprofit, host to the annual Champlain Valley Fair, will have to put in to comply with the new permit — and how much it is going to cost.

“Everyone wants clean water, but the financial impact of it — there’s only so much you can charge for a fair ticket,” he said.

*Editor’s note: This article has been updated to reflect that the comment period on the new stormwater permit was extended from Nov. 8 to Nov. 25.*

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Neal Goswami, Acting Editor-in-Chief, VTDigger



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**Elizabeth Gribkoff**

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## 7 replies on “Ambitious new stormwater permit prompts cost concerns”

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