

**Vermont Department of Environmental Conservation**

Watershed Management Division
Main Building, Second Floor
One National Life Drive
Montpelier, VT 05620-3522

Agency of Natural Resources

(phone) 802-828-1535

November 8, 2016

Marty Baslow Via email: baslowplumbing@live.com
65 Colonel Page Road
Essex Junction, VT 05452

Re: Warner Creek/Baslow Subdivision, Underhill,
 Stormwater Permit Status

Dear Marty,

In response to your request for a status update on the Warner Creek/Baslow Subdivision stormwater discharge permit, I offer the following. The original road and developed lots were permitted under discharge permit #1-0594, as the Pratt/Mallow development. As I understand, this permit expired in 1992 and the homeowners have refused to date to renew the applicable permit, nor has the municipality offered to take the permit over, likely because the road also covered by the permit is private.

In 2009 a separate stormwater discharge permit was issued in 2009 for an expansion of the existing subdivision, a 5-lot subdivision referenced as the Baslow Subdivision (#6154-9015). This permit was subsequently terminated prior to construction and a new permit was applied for and obtained later in 2015 by Saxon Oaks Co., Warren J. Palmer, and the Upper Warner Creek Association (#6154-9015.1) for a 5-lot subdivision, which included the expanded subdivision access road and four residential building lots. In the last year, it came to the attention of Stormwater Program that the subdivision was constructed and the Initial Statement of Compliance and the Annual Inspection report required under the stormwater discharge permit were not completed were not submitted to our Department as required.

After repeated correspondence with Warren J. Palmer, seeking voluntary corrective action, a Notice of Alleged Violation (NOAV) was issued to the permittee (attached). To date, Mr. Palmer, has missed the deadline established in the issued NOAV. Following issuance of the NOAV, I visited the site and confirmed that the project as constructed remained out of compliance with the permitted design. Identified non-compliance included:

- Failure to disconnect stormwater runoff from rooftops per the approved plans.
- Failure to route stormwater runoff from impervious surfaces to swales and dry detention basins per the approved plans.
- Failure to construct dry detention basins, including outlet control structures, per the approved plans.

Last correspondence from our office related to this project was with George N. McCain, Jr. of McCain Consulting, Inc. who was retained by Mr. Palmer to assess the condition of the stormwater system, identify corrective action, and amend the permit as necessary to address any design changes. To date, the Department has not received an amendment application and the project remains out of compliance with the

6154-9015.1

Warner Creek Subdivision, Underhill

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issued stormwater discharge permit. The Department may take further action to address the non-compliance.

As I understand, this continued non-compliance by Mr. Palmer may be interfering with your plans to pursue development of an adjacent parcel that has a right-of-way through the Upper Warner Creek Road. Particularly, there were noted issues from the Drinking Water and Groundwater Protection Division related to the wastewater system near your access point. In addition, the Stormwater Program identified a swale in this location that was not directing stormwater to the required dry detention basin. Access by you through this right-of-way should not be affected by their non-compliance, however changes in road grade or other changes to the swale location may impact the location of the access, or your ability to access your lot. It should also be noted that because the development of your lot is associated with phased development, your development project would be subject to stormwater discharge permit requirements prior to earth disturbance and prior to construction of impervious surfaces. You may also require local approval separate from applicable stormwater permits. If you or the Town of Underhill has further questions related to this project or permit, don't hesitate to contact me.

Sincerely,



Kevin Burke
Environmental Analyst
Stormwater Program

Cc: Cliff Peterson, Chair, Underhill Select Board (cpeterson@underhillvt.gov)



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CERTIFIED MAIL: RETURN RECEIPT REQUESTED
7013 0600 0001 3410 3544

May 19, 2016

Saxon Oaks Co. & Upper Warner Creek Association
Attn: Warren Palmer
122 Skunk Hollow Road
Jericho, VT 05465

NOTICE OF ALLEGED VIOLATION ("NOAV")

Dear Mr. Palmer,

You are hereby put on notice that the Watershed Management Division of the Vermont Department of Environmental Conservation believes that you are in violation of the following: The Vermont Water Pollution Control Act (10 V.S.A. Chapter 47).

Address of Alleged Violations:

Warner Creek Subdivision
Warner Creek Road, Underhill VT

Description of Alleged Violations:

Failure to complete the Initial Statement of Compliance in accordance with the requirements of State Stormwater Permit 6154-9015.1. The Department originally requested this documentation no later than April 15, 2016. The permittee was granted an extension via email until May 15, 2016. As of the date of this letter, the requested documentation still has not been submitted.

Directives:

1. **By no later than (1) day from receipt of this NOAV:** Provide verbal or written response to this NOAV to inform us of the action you intend to take to resolve these alleged violations.
2. **By no later than (5) days from receipt of this NOAV:** Provide a completed Initial Statement of Compliance to the Department.
3. **By no later than July 15, 2016:** Provide a completed Annual Inspection Report to the Department.

Potential Future Action by the Department:

In response to the alleged violation(s) the Department may issue an enforcement order pursuant to either 10 V.S.A. Section 1272 or 10 V.S.A. Section 8008 to require correction and/or remediation of the alleged violation(s) and require other measures as deemed appropriate. The Department may also initiate an action to assess penalties, if appropriate. The correction of the alleged violation(s) through the actions requested above or by other acceptable means may lessen the possibility or severity of any enforcement action which may be taken by the Department.

Please direct all correspondence, and any questions, to Jenna Calvi, Environmental Analyst, Stormwater Program. Our mailing address is at the top of this NOAV. Ms. Calvi can be reached at (802) 490-6166 or jenna.calvi@vermont.gov.

Sincerely,

A handwritten signature in cursive script that reads "Mary L. Borg". The signature is written in dark ink and is positioned above the typed name.

Mary L. Borg, Deputy Director
Watershed Management Division

CC: Jenna Calvi, Stormwater Program