

Monkton Select Board Meeting Minutes - Final
August 25, 2014 (Approved 9/22/14)
Monkton Town Hall

1. Call to Order: Chair S. Pilcher called the meeting to order at 7:03 PM.
2. Select Board (SB) Members Present: Henry Boisse, Anne Layn, John McNerney (7:45 PM arrival), Roger Parker, Jr., Stephen Pilcher

Others Present: Deborah Gaynor, John Howard-Lister, Ivor Hughes, Jane Palmer, Nate Palmer, Melany Peyser, Bernard Wisniowski-Lister, and Bill Joos

3. Announcements: None

4. Regular Business:

- a. **Approve Minutes**: The SB reviewed the meeting minutes of 8/11/14. A word appearing in item 5.c. was corrected, and an inaccurate phrase appearing in 5.c. was deleted. **H. Boisse moved to approve the 8/11 meeting minutes as amended. A. Layn seconded the motion. Voted and approved. R. Parker abstained.**

- b. The SB reviewed and approved the following **check warrants**:

- A/P#40811, 08/11/14, \$ 24,970.54
- A/P#40825, 08/25/14, \$ 23,588.10
- P/R#40825, 08/25/14, \$ 7,740.13

- c. The SB reviewed and approved the following **overweight permit**:

- Ben Waterman

- d. Public Comment: I. Hughes commented again on the \$27,000 in legal expenses spent by the Town related to the pipeline. I. Hughes commented that "it's a shame" for taxpayers to assume this burden, and recommended that the Town forward an invoice to the PSB for VGS to pay.

5. New Business:

- a. Town-wide Reappraisal Contract (Monkton Listers): J. Howard and B. Wisniowski appeared and presented information about their effort to secure an outside appraiser to conduct the town-wide reappraisal. The Listers selected Edgar Clodfelter of NEMRC. The projected cost is \$84,000, with work commencing in July 2015 and finishing in May 2017. The SB reviewed contract details, and asked several questions. **H. Boisse moved to approve the NEMRC reappraisal contract for 2015-17 as presented. R. Parker seconded the motion. Voted and approved.**

- b. Vermont Gas Systems (VGS) Testing Status: S. Pilcher commented on the testing process, and M. Peyser shared comments and concerns about the testing plan. J. Palmer inquired about the sequence of actions. M. Peyser mentioned that other landowners along the pipeline route are concerned as well, but VGS has refused to test. A report prepared by D. Gaynor of Phoenix Chemistry Services (PCS) was circulated to

the SB and audience (copy attached). D. Gaynor explained the report, and her reaction to VGS' response. The SB considered whether to include the PCS response in the Public Service Board (PSB) record. **J. McNerney moved to submit the PCS letter to the PSB after consultation with counsel on the most appropriate way to do so. A. Layn seconded the motion. Voted and approved.** The SB wants to request that the PSB direct VGS to submit its Addendum to the Soil Management Plan (dated 8/14/14) to the PSB and all interveners. S. Pilcher offered to share and discuss the addendum with Bill Ellis, Esq. who represents the Town. M. Peyser commented on recent pole and soil testing on property owned by Michael Hurlburt. **H. Boisse moved to empower S. Pilcher to discuss the VGS addendum with attorney Bill Ellis, and take whatever action may be necessary. J. McNerney seconded the motion. Voted and approved.**

- c. Vermont Utilities Working Group re: PCP: M. Peyser spoke about the proposed makeup of the working group, and asked if the Town might have an interest. S. Pilcher replied that he does not believe the Town has any particular interest. It was asked if the Town might wish to sponsor someone. J. McNerney inquired about VLCT's possible participation. D. Gaynor volunteered to serve on the working group, for which the SB expressed its appreciation. **H. Boisse moved that the Town send a letter to the PSB naming Deborah Gaynor as a qualified volunteer willing to serve on the working group. A. Layn seconded the motion. Voted and approved.**
- d. Letter from ANAC and Conservation Commission (copy attached): D. Gaynor presented a letter dated 8/21/14 signed by members of the Monkton Agricultural and Natural Areas Committee (ANAC) and the Monkton Conservation Commission who have joined together to express concern about the adverse impacts of "chemicals released from utility pole replacements and related maintenance activities." S. Pilcher read the letter aloud, and thanked the groups for their comments.

6. Old Business:

- a. Josh Hurlburt Curb Cut Application: The SB reviewed this item briefly. Road Commissioner Wayne Preston, S. Pilcher, and H. Boisse visited the site. There are no sight line restrictions, but the land slopes steeply. **H. Boisse moved to approve the Hurlburt Curb Cut application as submitted with a condition(s) related to the slope encountered. R. Parker seconded the motion. Vote and approved.**
- b. Homestead Late Filing Penalty: The SB discussed briefly, and asked several questions. **A. Layn moved to waive for 2014 the late filing penalty as could be applied to taxpayers filing Homestead Declarations. H. Boisse seconded the motion. Voted and approved.** The SB will reconsider the waiver in 2015.
- c. Park and Ride Status: S. Pilcher advised that no design has been finalized. The Complete Streets 2013 Draft Report is available for review at Town Hall.
- d. Vermont Gas Right-of-Way (ROW) Permit: S. Pilcher advised that the SB would consider conditions to apply, or not, in consideration of the ROW applications submitted by VGS. I. Hughes commented that the SB should postpone signing the document, and

allow further discussion. I. Hughes also spoke about the financial viability of the project. J. Palmer shared her opinion that the SB should postpone action. The SB reviewed the numerous and varied conditions appearing on a document dated 8/22/14, and discussed at length the issues. The SB and audience asked many questions. S. Pilcher made detailed notes/edits to the listing. **H. Boisse moved to approve the VGS ROW permit application(s) with conditions as stipulated. R. Parker seconded the motion.** More lengthy discussion followed. With discussion finally concluded, the SB voted the question: in favor – 3 (Boisse, Layn, Parker); against – 2 (McNerney, Pilcher). **The motion was approved by a 3-2 vote.**

- e. Tax Sale Date: S. Pilcher left a voicemail message with attorney Jim Carroll. We are awaiting a reply.
- f. VELCO Well Contamination Update: As previously discussed at tonight's meeting.
- g. Juniper Lane Update: We are still awaiting final invoices from the contractor and town engineer. R. Parker called the town engineer to request an invoice.

7. Other Business: a) S. Pilcher wishes to represent the Town at the VLCT Annual Meeting on 10/9/14. **J. McNerney moved to name S. Pilcher as the Town's delegate to the VLCT Annual Meeting. H. Boisse seconded the motion. Voted and approved.** b) Determine time/date of next SB meeting: the SB will meet next at **Monkton Town Hall on Monday, September 8, 2014 at 7:00 PM** for its regular meeting.

8. Adjournment:
H. Boisse moved to adjourn at 9:34 PM; J. McNerney seconded the motion. Voted and approved.

Minutes submitted by Bill Joos

SBMinutes20140825

Attached:

ANACConsCommLtr-Poles 8-21-14

PCS Comments 8-22-14



Town of Monkton

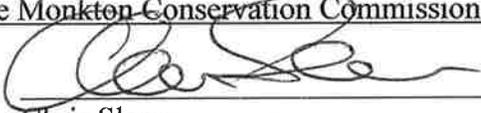
To: Members of the Monkton Select Board

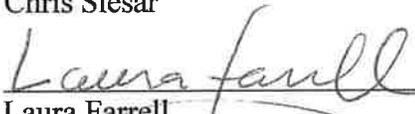
August 21, 2014

Monkton's wetlands could potentially be adversely impacted by chemicals released from utility pole replacements and related maintenance activities. There are a series of wetlands that are significant components of Monkton's landscape. Because of their significance as agricultural or natural areas, this series of wetlands is of great environmental, historical, and cultural importance to the Town of Monkton. The natural areas in these wetlands provide habitat for plant and animal species of statewide significance, including some Species of Greatest Conservation Need (SGCN), as identified by the State of Vermont. Therefore ANAC and the Monkton Conservation Commission are joined together in expressing our concern that even low-level contamination could have an adverse impact; any potential contamination of these areas should be prevented, or remediated if contamination has already occurred.

Respectfully submitted,

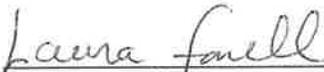
for the Monkton Conservation Commission:


Chris Slesar
8/21/14
Date


Laura Farrell
8/21/14
Date


Barbara Deal
8/21/14
Date

for the Monkton Agricultural and Natural Areas Committee (ANAC):


Laura Farrell, Chair
8/21/14
Date


Sam Burr, Vice Chair
8/24/14
Date


Rachel Schattman, Secretary
8/21/14
Date


Deborah Gaynor, Member at-large
8/25/14
Date


Corine Farewell, Member at-large
8/25/14
Date

Phoenix Chemistry Services

The following comments are being submitted to the Public Service Board as a response to, and correction of, misstatements and factual errors in the "Vermont Gas Systems, Inc. Response to Comments on the Soil Management Plan" filed on Aug. 18, 2014.

1. It has already been established that pentachlorophenol (PCP) and creosote, the wood preservatives used in the VELCO utility pole structures, were mobilized for a distance of at least 50 feet at the time of the replacement work performed by VELCO in February, 2014.

Over a month later, in a sample taken on April 22, 2014, PCP and one of the creosote components (2-methylnaphthalene) were measured well above (7-fold higher for PCP and 3-fold higher for 2-methylnaphthalene) the Vermont Groundwater Enforcement Standard in a drinking water source spring at a distance of approximately 50 feet from pole structure 190. A sample of surface water taken even further away (approximately 57 feet from the pole structure) five months after the work was performed still contained measurable levels of PCP.

2. The reregistration decision allowing use of PCP and creosote P1/P13 in utility poles rested on the assumption that PCP presented "no unreasonable adverse risks to humans or the environment," and there was no expected "dietary or drinking water exposures based on the registered use patterns." Yet PCP and components of creosote were found above allowable concentrations by federal and state law in a drinking water source, and were found in a fragile wetland ecosystem many months after the initial release. Therefore the assumptions underlying the reregistration decision have been shown to be flawed and not relevant to this situation, and no further reliance should be placed on them.

3. PCP cannot be detected by use of a photoionization detector. PCP does not evaporate like most liquids, and photoionization detectors (PID) require that materials must be in the air phase to react in the detector. These instruments can be used to detect high concentrations of the hydrocarbon-based carrier oils and creosote, which are present in the vapor phase over contaminated soils. Our previous comments clearly made this point, yet VGS has mis-construed our statements and re-presented them in such a way to cast doubt on their clarity and factuality. This does not contribute to civil discourse, or to a reasoned discussion of complex technical issues.

4. The PID is not the appropriate instrument for this situation. It simply cannot be used demonstrate definitively that the contaminants of concern are not present in the environment at distances of 50 feet (or more) from the pole structures. VGS asserts that validation of the PID for detection of creosote and carrier oils in the field was demonstrated by bringing the PID into "close proximity" to the area surrounding a utility pole. This does NOT validate the PID as the appropriate instrument to detect *low-level* contamination, possibly sub-surface, at sufficient distances from the pole structures where minor soil staining may be difficult to detect. PIDs are NOT sufficiently sensitive to register a signal from low-level contamination such as measured in the McGuinness spring. Concentrations of hydrocarbons (creosote, carrier oils, and various fuels) below about 40 parts per *million* (ppm) CANNOT be detected by a PID, yet soil screening levels (whether federal or state) for these classes of materials are typically in the range of parts per *billion* (ppb). If the PID is used as the principal instrument for detection, it is highly likely (unless a leaking storage tank is encountered) that no detections will occur. This does nothing to confirm that contaminants are not present at concentrations below the instrument's detection limit.

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The principal and proper use for these instruments is to protect workers in the field from accidental exposure to high concentrations of dangerous materials, and secondarily for distinguishing the areas of highest concentration of hydrocarbons in a situation such as a leaking fuel storage tank. Its utilization for low levels of detection, as needed here, is a misapplication of the technology.

5. HAZWOPER training is not sufficient for personnel charged with the important task of identifying potential areas of PCP and creosote contamination. Our comments did not “take issue with” HAZWOPER training for field personnel; the issue is the misapplication of field personnel to tasks for which they may not be qualified. The SMP does detail the responsibilities of the OSHA-40-hour-HAZWOPER certified scientist in Section 2.4, and these responsibilities are “to be present to screen soils and ambient air for Volatile Organic Compounds (VOCs) with a PID.” This is the appropriate use of a PID, and of such personnel.

6. The training and qualifications of the On-Site Plan Coordinator (OSPC) are not sufficiently detailed in the SMP. In Section 2.3 (Additional Measures for Excavation Monitoring in Elevated Risk Areas), the SMP states: “During excavation and earthmoving within the elevated risk areas, the OSPC shall observe the work closely to pay particular attention to any signs of contamination, such as stained soil, odors, or a sheen on groundwater (if groundwater or seepage is encountered).” But training and experience requirements for the OSPC are not detailed either in the SMP or in the original application and attachments (construction notes and ESPC). In their Response, VGS states that, “ANR requires such work to be performed by professionals with experience investigating environmental contamination, as proposed in the SMP.” We cannot find this proposal in the SMP, and would like to see such a requirement incorporated and described in greater detail.

Section 3.1 of the SMP does state that “VGS will provide each OSPC with awareness training that [...includes...] Recognition of soils contamination through olfactory and visual techniques... and...Identification of groundwater, seasonal high water table indicators “e.g. soil mottling, and recognition of groundwater contamination indicators such as stained soil within the seasonal water table zone, or sheens on groundwater.” It is our belief that VGS does not in fact have any personnel qualified to provide such training, and that even if a qualified trainer is utilized, that inexperienced personnel should not be given such a responsibility. **We repeat that appropriate training, experience, and expertise should be a basic requirement for personnel charged with this important task.**

7. Our comments stated that, “Stockpiling of potentially contaminated soils *in a manner which leaves them exposed to potential leaching during weather events threatens the safety of humans, livestock, and wildlife which are dependent on groundwater*” [italics added]. This is not a rejection of stockpiling, but a request that VGS be required to protect any stockpiles of contaminated soils from weather events. The SMP does not adequately describe measures to prevent exposure to weather or to reduce the potential for unintended and uncontrolled releases from any such stockpiles.

8. The Town of Monkton has stated that it does not want contaminated soils to be reburied. This is the Town’s position; the following two statements are offered to ensure the clarity of this position:

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First, since the easements that VGS is asking landowners to sign include unconditional and permanent permission to dig at any pipeline location at any time, how does VGS intend to prevent dispersion of contaminated soils that have been reburied? It is easily conceivable that a need to dig up a section of the pipeline would be conducted under emergency conditions, without time for EPSC measures or review or investigation of contaminated soils that have been buried in the pipeline trench. There would be little opportunity for control over the dispersal of buried contaminants, most of which are classified as persistent organic pollutants (POPs) and are expected to remain near original concentrations if reburied at significant depths.

Second, VGS' 8/14/14 Addendum to the Soil Management Plan (submitted with the Response to Comments) provides instructions on how to differentiate between contaminated soils that must be sent to a hazardous waste disposal facility because of their extremely high levels of contaminants, from contaminated soils that may be sent to an ordinary landfill, or in some cases, used as backfill. This is not an appropriate screening level for residential and agricultural soils. We also note that no applicable and relevant or appropriate regulation (ARAR) is cited for the use of TCLP testing for soils in which pentachlorophenol is detected. Most of the Monkton section of the pipeline will go through residential or agricultural soils, or through sensitive wetlands. The *appropriate* screening levels for residential and agricultural soils are either the EPA-established residential soil screening levels:

http://www.epa.gov/reg3hwmd/risk/human/rb-concentration_table/Generic_Tables/index.htm, or for wetlands complexes, one of the more stringent ecologically-protective screening levels:

- USEPA Ecological Soil Screening Levels: <http://www.epa.gov/ecotox/ecossl/>;
- Oak Ridge National Laboratory ecotoxicological screening benchmarks: <http://www.ornl.gov/>; and/or
- Los Alamos National Laboratory ECORISK Database: <http://www.lant.gov/community-environment/environmental-stewardship/protection/eco-risk-assessment.php>.

9. VGS repeats in its rebuttal of the Hurlburts' comments that the McGuinness spring contamination event "occurred as a result of a disturbance *directly* at a treated utility pole." This spring is in fact 50 feet away from the pole structure, as is the approximate "Limit of Disturbance" (LOD) described in the SMP for large sections of the Project in Monkton. In fact, VGS now states in its Response to Comments that there will "generally be 30 to 50 feet from the Project Limit of Disturbance to VELCO utility poles." This is NOT different from the McGuinness property in Monkton; it exactly describes it: the pole replacements performed this winter have already dispersed contaminants into the LOD in this location. Furthermore, the SMP does not take into account details in the proposed construction and EPSC such as bank stabilization, or the fact that VGS has not actually conducted ground surveys at many of the locations of concern. No consideration has yet been given to these potential problem areas; in particular, the longest stretches of adjacent rights of way within Monkton are through or beside the Hurlburt property.

10. While Endyne is indeed a NELAC-accredited laboratory, it is not specifically accredited for all of the necessary tests. Details of accreditation need to be understood by all parties. NELAC accreditation is essentially a business license; it ensures that a laboratory has the appropriate equipment, personnel, and a quality system sufficient to perform environmental testing and analysis. Within that umbrella designation, the laboratory holds many specific accreditations by the combination of: compound/technology/matrix. To maintain accreditation, the laboratory must repeatedly prove (by twice-yearly performance testing and annual on-site assessments) that it can accurately measure each compound, by each technology (or "Method"),

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for each matrix (soil, water, air, etc.). Endyne clearly (and properly) states in its reports that it does not hold current accreditations for the following:

- Pentachlorophenol by EPA Method 8151A in soil;
- Phenanthrene by EPA Method 8270D in non-potable water;¹
- 2,6-dichlorophenol by EPA Method 8270D in soil;²
- C10 - C28 TPH-DRO by EPA Method 8015D in water.³

Notes:

1. Phenanthrene is a major component of creosote.
2. 2,6-dichlorophenol is a breakdown product of pentachlorophenol.
3. Diesel fuel, kerosene, and gasoline may all be analyzed by EPA Method 8015D, using two different preparation technologies. Two state hazardous waste sites have already been identified on the pipeline route, and there appears to be some concern that more leaking fuel storage tanks will be discovered during the course of the pipeline excavations. Diesel fuel, kerosene, and home heating oils comprise the analyte (target compound or compounds) indicated by the name "C10 - C28 TPH-DRO." This refers to total petroleum hydrocarbons (TPH) of molecular sizes ranging between a 10-carbon backbone (C10) and a 28-carbon backbone (C28), all of which is also called diesel range organics (DRO).

Respectfully submitted,

Deborah H.
Gaynor

Digitally signed by Deborah H. Gaynor
DN: cn=Deborah H. Gaynor, o=Phoenix
Chemistry Services, ou,
email=d.gaynor@phoenixchemistryservi
cs.com, c=US
Date: 2014.08.22 13:54:06 -0400

Deborah H. Gaynor, Ph.D.
Phoenix Chemistry Services