

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 18-3449-PET

Petition of Salisbury AD 1, LLC for a certificate of public good, pursuant to 30 V.S.A. § 231, to own and operate a renewable natural gas facility in Salisbury, Vermont, and for <i>de minimis</i> regulation, and to address motions to transfer and amend the 30 V.S.A. § 248 CPG for the facility that was issued in Docket 8596	
--	--

Entered: 03/14/2019

**AMENDMENT TO CERTIFICATE OF PUBLIC GOOD (“CPG”)
ISSUED PURSUANT TO 30 V.S.A. SECTION 248**

IT IS HEREBY CERTIFIED that the Vermont Public Utility Commission (“Commission”) this day found and adjudged that an amendment to the CPG entered on April 4, 2016, in Docket 8596, authorizing construction and operation of a renewable natural gas facility (the “Amended Project”) by Salisbury AD 1, LLC (“CPG Holder”) at Shard Villa Road in Salisbury, Vermont, in accordance with the evidence and plans submitted in this proceeding, will promote the general good of the State. Accordingly, the CPG entered on April 4, 2016, in Docket 8596 is amended as follows:

1. Construction, operation, and maintenance of the Amended Project shall be in accordance with the plans and evidence submitted in this proceeding. Any material deviation from these plans or a substantial change to the Amended Project must be approved by the Commission. Failure to obtain advance approval from the Commission for a material deviation from the approved plans or a substantial change to the Amended Project may result in the assessment of a penalty pursuant to 30 V.S.A. §§ 30 and 247.

2. Prior to commencing site preparation or construction of the Amended Project, the CPG Holder shall obtain all other necessary permits and approvals. Construction, operation, and maintenance of the Amended Project shall be in accordance with such permits and approvals, and with all other applicable regulations, including those of the Vermont Agency of Natural Resources (“ANR”).

3. Prior to construction, the CPG Holder shall ensure that VGS has obtained all necessary permits and approvals for construction and operation of the metering and regulation interconnection station and the distribution line that will link the Amended Project and Vermont Gas's pipeline network, including:

- (a) an ANR wetlands permit;
- (b) a U.S. Army Corps of Engineers permit;
- (c) an ANR watershed management flood hazard/river corridor permit; and
- (d) a construction general permit.

4. Prior to commencing any blasting for the Amended Project, the CPG Holder shall file with the Commission a final blasting plan prepared by a licensed blasting contractor that conforms to the specifications of the draft blasting plan identified in the evidentiary record of this proceeding as exhibit SAD1-26 (Rev.), which incorporates ANR's Blasting Plan Guidance Document (June 2017) and ANR's Best Management Practices for Blasting to Avoid Environmental Contamination (December 2016). Parties shall have 14 days from the date the final blasting plan is filed to file any comments with the Commission. Provided the final blasting plan conforms to the specifications of the draft blasting plan, and no party files any comments on the plan, Commission approval shall not be required prior to implementation of the plan. All blasting associated with the Amended Project shall be performed in accordance with the final blasting plan.

5. Prior to commencing construction, the CPG Holder shall file with the Commission, the parties in this proceeding, and the Town of Salisbury a letter stating that it has fulfilled all pre-construction CPG conditions, that it intends to commence construction of the Amended Project, and that Vermont Gas intends to commence construction of the metering and regulation interconnection station and the associated distribution line.

6. The CPG Holder shall restrict construction activities and related deliveries to the hours between 7:00 A.M. and 7:00 P.M. Monday through Friday and between 8:00 A.M. and 5:00 P.M. on Saturdays. No construction activities shall occur on Sundays or state or federal holidays.

7. The CPG Holder shall restrict off-farm feedstock deliveries to the Amended Project to the hours between 8:00 A.M. and 5:00 P.M. Monday through Friday, and 9:00 A.M. to 1:00 P.M. on Saturday. No deliveries shall take place on Sundays or state or federal holidays.

8. The CPG Holder shall ensure that the sound output of the gas upgrade equipment rates at 65 dB at 10 meters or lower, that external loader operations are restricted to daytime hours (7:00 A.M. to 7:00 P.M.), and that the loader used at the facility is retrofitted with a low-impact back-up alarm to the extent allowed by law.

9. The CPG Holder shall ensure that the flaring equipment will be fully enclosed, with the flame concealed in a protective flare stack. The flare's ignition system will be electronic. The flaring capacity will be 99% of gas production (800 m³/h maximum/809 m³/h biogas production).

10. The CPG Holder shall operate the flares in accordance with the manufacturer's operation and maintenance recommendations. The CPG Holder shall register the flare air emissions with ANR annually in accordance with ANR's air pollution control laws.

11. The CPG Holder shall comply with the terms of the stipulation between the CPG Holder and the Vermont Division for Historic Preservation ("DHP"), identified in the evidentiary record as exhibit SAD1-18; and the terms of the stipulation among the CPG Holder, the Vermont Agency of Natural Resources ("ANR"), and the Vermont Agency of Agriculture, Food, and Markets ("AAFM"), identified in the evidentiary record as exhibit SAD1-25.

12. The CPG Holder, in conjunction with the DHP, shall identify as not-to-be-disturbed archaeological buffer zones the areas identified as archaeologically sensitive in the Archaeological Resources Assessment for the Amended Project, identified in the evidentiary record as exhibit SAD1-11.

13. Topsoil removal, grading, scraping, cutting, filling, stockpiling, logging, or any other type of ground disturbance is prohibited within the archaeological buffer zone prior to the completion of all relevant archaeological investigations. Agricultural cultivation consistent with past practice to facilitate the archaeological review shall not constitute ground disturbance.

14. All relevant archaeological studies to identify, evaluate, or mitigate impacts to archaeological sites shall be carried out by a qualified consulting archaeologist. All such studies and associated reports shall follow the DHP Guidelines for Conducting Archaeological Studies

in Vermont. A digital copy of the final report shall be submitted to the DHP. Any archaeological reports submitted to the Commission shall have specific archaeological site locational information redacted in accordance with 22 V.S.A. § 761(b) and 1 V.S.A. § 317(c)(20).

15. The Northeast Archaeological Research Center, Inc. (“NE ARC”) submitted a Phase I scope of work (“SOW”) dated October 31, 2018, to the DHP for review and approval on November 2, 2018. The DHP concurred with NE ARC’s SOW on December 6, 2018. The archaeological studies shall be scheduled so that mitigation measures, if any, that may be necessary can be satisfactorily planned and accomplished prior to construction within the identified archaeological sites. In the event the archaeological studies identify the need for mitigation measures, the identified archaeological sites shall not be disturbed until the DHP has reviewed and approved such mitigation measures, and they have been completed. Mitigation may include but is not limited to further site evaluation, data recovery, redesign of one or more proposed Amended Project components, or modifications of the buffer zone boundaries or the specific conditions that refer to the same.

16. Prior to commencing “digester operations” of the Amended Project,¹ the CPG Holder shall file with the Commission and the parties a letter confirming that it has fulfilled all pre-operation CPG conditions (other than those related to the gas pipeline, which are separately addressed in this CPG), and that it intends to commence operation of the Amended Project.

17. Prior to commencing site preparation or construction of the Amended Project, the CPG Holder shall obtain the following permits or approvals from ANR: (a) Solid Waste Certification from the VT Department of Environmental Conservation (“DEC”) Waste Management and Prevention Division; (b) Construction and Operating Permit from the DEC Air Quality and Climate Division; (c) Individual Construction Permit (INDC) from the DEC Watershed Management Division authorizing stormwater discharges associated with Amended Project construction activities; (d) Operational Stormwater Discharge Permit or General Permit authorization from the DEC Watershed Management Division authorizing stormwater discharges

¹ For purposes of this CPG, commencing “digester operations” shall mean the start of filling the Amended Project’s digesters with manure, food residuals, or any other feedstock. “Commissioning” or “commencement of commercial operation” shall mean the date upon which renewable natural gas flows from the Amended Project to the Vermont Gas distribution system for sale.

associated with the Amended Project infrastructure; (e) wetland permit from the DEC Watershed Management Division; and (f) amended DEC Wastewater System and Potable Water Supply Permit #WW-9-1927.5.

18. Prior to commencement of digester operations, the CPG Holder shall obtain, in addition to the stormwater discharge permits in Condition 17, above, authorization under the Multi-Sector Stormwater General Permit, or any other permit, if determined to be applicable by the DEC Watershed Management Division for the purpose of regulating discharges associated with the Amended Project.

19. Prior to commencing site preparation or construction, the CPG Holder shall demarcate all wetlands and wetland buffers at the Amended Project site with visible flagging and instruct all work crews to avoid those areas except as authorized by a wetland permit.

20. No later than six months in advance of the Amended Project's decommissioning, the CPG Holder shall complete and provide to the DEC Wetlands Program an updated wetlands assessment to determine if any of the Amended Project infrastructure is located within any Class II wetlands or their 50-foot buffers.

21. If, at the time of decommissioning, any Amended Project infrastructure is determined to be located within a Class II wetland or its 50-foot buffer zone, then the CPG Holder shall obtain from the DEC Wetlands Program a jurisdictional determination as to whether the decommissioning activities require a Vermont wetland permit, in which case the CPG Holder shall obtain such permit prior to performing any decommissioning activities and shall comply with its terms and conditions. If, at the time of decommissioning, any Amended Project infrastructure is determined to be located within a Class II wetland or its 50-foot buffer zone and a Vermont wetland permit is not required, the CPG Holder shall, sufficiently in advance of decommissioning, submit a wetlands restoration plan to the DEC Wetlands Program for review and approval as an allowed use under the Vermont Wetland Rules (see Section 6.23 of the Vermont Wetland Rules). The restoration plan shall address the removal of Amended Project infrastructure located in any wetland and shall, at a minimum, contain the following elements: (i) identification of phasing and staging areas; (ii) utilization of methods that prevent rutting in the wetland, including removal of structures during frozen or dry conditions, or use of construction mats or similar techniques to minimize soil disturbance; (iii) revegetation of all disturbed areas

within the wetland and buffer zone with appropriate conservation seed mix(es); and (iv) provisions for inspection by ANR prior to and following site restoration.

22. If any Amended Project infrastructure is located within a Class II wetland or its 50-foot buffer zone at the time of decommissioning, then decommissioning of the Amended Project shall not take place until ANR has issued a Vermont wetland permit or has approved the wetlands restoration plan as an allowed use under the Vermont Wetland Rules, whichever is applicable.

23. If Amended Project blasting will involve more than 5,000 cubic yards of bedrock, the CPG Holder shall submit to ANR, for review and approval, a Groundwater Monitoring Plan for Blasting Activities. No blasting shall take place until such groundwater monitoring plan, if applicable, is approved by ANR.

24. In the event the CPG Holder receives feedstock in the form of “food processing residuals” (i.e., non-sewage wastewater that requires a Vermont Indirect Discharge Permit), the CPG Holder may only receive such residuals if the facility has an Indirect Discharge Permit from the DEC Drinking Water and Groundwater Protection Division. All food residuals shall be accepted and managed by the CPG Holder in accordance with the Amended Project’s Solid Waste Certification.

25. The CPG Holder shall manage the buried debris (e.g., brick, Amended concrete, wood, asphalt, etc.) encountered during geotechnical explorations in the area where the Amended Project’s anaerobic digesters are to be located, and all other buried debris encountered during Amended Project construction, in accordance with the following: (a) the CPG Holder shall remove and dispose of all such debris at a facility that has a solid waste certification and is authorized to accept such waste; or (b) the CPG Holder shall obtain from the DEC Waste Management and Prevention Division, and comply with, an Insignificant Waste Management Event Approval.

26. The Amended Project’s two effluent storage tanks shall be designed and constructed to comply with the National Natural Resources Conservation Service (“NRCS”) 313 Code standard, including but not limited to NRCS-NEM, Part 536, Structural Engineering. The “for construction” drawings for the effluent storage tanks shall be stamped by a Vermont licensed professional engineer, filed with the Commission, and provided to the parties at least 30 days

prior to construction of the tanks. A flow meter shall be installed in the outlet of each tank to allow for remote monitoring of the amount of liquid leaving the tank. By February 15 of each year, the CPG Holder shall report to AAFM the volume of liquids removed from the tank, broken down on a monthly basis.

27. The CPG Holder shall keep its Spill Prevention and Control Plan (exhibit SAD1-12) updated (i.e., contact information, etc.) and shall keep a copy of the updated plan at the Amended Project site. The CPG Holder shall regularly brief all on-site employees and all suppliers and contractors who regularly access the Amended Project site on the plan's purpose and contents.

28. Prior to commencing digester operations, the CPG Holder shall enter into an agreement with one or more spill response and cleanup contractors. The contractor(s) shall have the equipment and personnel necessary for responding to spills that are beyond the capacity of the CPG Holder's on-site personnel to contain or cleanup. The CPG Holder's Spill Prevention and Control Plan shall identify and provide the contact information for the cleanup contractor(s).

29. The CPG Holder shall secure the outlet valves of the effluent storage tanks with physical locks and shall limit access to the lock key to only the CPG Holder and farm personnel who have adequate training and experience to utilize the outlet valves.

30. Prior to supplying the Goodrich Farm, or any other receiving farm(s), with effluent or nutrient cake produced by the Amended Project,² the CPG Holder shall obtain written verification (which may include e-mail) from the receiving farm(s) that it has: (i) a Nutrient Management Plan ("NMP") prepared by a Technical Service Provider ("TSP") registered with NRCS (or AAFM once AAFM's TSP certification program is established) that complies with the Required Agricultural Practices ("RAPs") for all effluent and nutrient cakes to be exported from the Amended Project onto the receiving farm(s); and (ii) any applicable farm operational permit or certification (e.g., Large Farm Operations ("LFO") Permit, Medium Farm Operations ("MFO") General Permit, Certified Small Farm Operations ("CSFO") Certification, or an individual permit) that permits the proposed import of effluent and nutrient cakes from the Amended Project. The written verification(s) shall be sent to AAFM and ANR upon receipt.

² For the purposes of this CPG, the term "receiving farm" means any farm that will receive nutrient cakes or effluent from the Amended Project, including but not limited to the Goodrich Farm.

31. The CPG Holder shall not commence digester operations until AAFM has issued any amendment(s) to the Goodrich Farm's LFO Permit that AAFM deems necessary under Title 6 of the Vermont Statutes Annotated relative to the interface between the Goodrich Farm and the Amended Project, and the CPG Holder has provided ANR with a copy of the amended LFO Permit and associated NMP. Thereafter during all years of Amended Project operation, copies of a current LFO Permit and NMP shall be provided annually to ANR by the CPG Holder within 45 days of the CPG Holder's receipt of the updated LFO Permit and NMP.

32. The CPG Holder shall submit records to AAFM and ANR by February 15th each year indicating the total gallons and nutrient content of liquid effluent exported to any receiving farm or other entity in the previous calendar year, broken out on a monthly basis, and specifying the number of gallons per farm or other entity. Nutrient content will be calculated based on an average of the sampling results per the LFO Permit and NMP requirements, and as outlined in exhibits SAD1-7 and SAD1-22. 20.

33. The CPG Holder shall submit records to AAFM and ANR by February 15th each year indicating the total tons and nutrient content of nutrient cake exported to any receiving farm, specifying the number of tons per receiving farm, and all other information specified in exhibit SAD1-22 (page 7). Nutrient content will be assessed based on an average of the results of the quarterly tests.

34. Each year during Amended Project operation, the CPG Holder shall by February 15th or two weeks after issuance of any applicable NMP, whichever occurs later, obtain written verification (which may include e-mail) from the receiving farm(s) that all liquid effluent and nutrient cake from the Amended Project to be received that year will be stored and applied in accordance with all agricultural water quality regulations, including any necessary permits and NMP(s), and shall by February 15th obtain written verification that all liquid effluent and nutrient cake from the Amended Project received the prior year was stored and applied in accordance with all agricultural water quality regulations, including any necessary permits and adequate NMPs. The written verifications shall be sent to AAFM and ANR within 30 days.

35. The CPG Holder shall retain its own TSP, who shall be registered with NRCS and AAFM (beginning once the State TSP certification program is in effect), during the life of the Amended Project. The CPG Holder's TSP will coordinate and oversee the sampling of the

incoming feedstocks, output of the digester, and output from the nutrient recovery system (liquid effluent and nutrient cake); assist in determining the phosphorus mass balance with respect to any receiving farms; and otherwise follow the CPG Holder's Digestate Management Plan (exhibit SAD1-22). The CPG Holder's TSP will also coordinate the digestate recipe and sampling with the receiving farm's TSP and NMP to optimize phosphorus removal. The CPG Holder shall provide ANR and AAFM with the name and contact information of the TSP and shall make the TSP available to ANR and AAFM for the purpose of the Amended Project's implementation and compliance with all CPG conditions.

36. With respect to the sampling referenced in the Condition 35, above, the CPG Holder shall sample all of the following parameters: P₂O₅; total nitrogen (TN); available nitrogen; organic nitrogen; ammonium N; and K₂O, all in the respective forms of pounds/1000 gallons (if liquid) and pounds/tons (if solid).

37. Within 180 days of issuance of this CPG, the CPG Holder shall provide the Commission and the parties with a written update on the CPG Holder's efforts to identify a market to export nutrient cakes for commercial use. In the event the CPG Holder has secured markets for the nutrient cakes, it shall submit a nutrient cake export plan to ANR for review and approval, which shall not be unreasonably withheld. In the event the CPG Holder has not submitted such a plan by the commencement of commercial operations, it shall provide additional updates every 180 days thereafter unless and until it submits a plan for approval.

38. Until such time as the CPG Holder develops, and submits to ANR for review and approval, a nutrient cake export plan and obtains ANR's approval, the CPG Holder shall contract with a registered waste hauler to transport all nutrient cake not provided to the Goodrich Farm, or any other receiving farm, to a certified solid waste facility that is authorized to accept such waste. The CPG Holder shall contract with the hauler(s) prior to commencement of digester operations. All nutrient cakes shall be transported to the waste facilities in a manner that prevents their release into the environment (e.g., sealed roll-off container secured by a tarp on top).

39. In the event that the CPG Holder is formally notified by a receiving farm or AAFM that some or all of the liquid effluent or nutrient cake intended to be transferred from the Amended Project cannot be land-applied or stored by the receiving farm in accordance with

RAPs and the applicable NMP and LFO Permit (or MFO General Permit, CSFO Permit, or individual permit), the CPG Holder shall either: (i) transfer such excess liquid effluent or nutrient cake to a different receiving farm that can meet all applicable water quality regulations and permit/certification requirements or another entity that is certified to take the liquid effluent or nutrient cake, such as a wastewater treatment facility or landfill; or (ii) temporarily slow down or stop digestate production. The CPG Holder shall continue to take such action(s) until RAPs and the applicable NMP and LFO permit (or MFO General Permit, CSFO Permit, or individual permit) can be complied with to avoid water pollution from excess nutrient loading.

40. All nutrient cakes shall be stored in the nutrient management building or in on-site covered dumpsters prior to being exported from the Amended Project area.

41. Any nutrient cakes produced by the Amended Project, and the liquid effluent in the nutrient storage tanks, must be sampled after any significant adjustments to the Amended Project's inputs have been made. All sample results need to be included and used as part of the next recommendation of the nutrient application in any receiving farm's NMP.

42. The CPG Holder shall allow ANR and AAFM, through their authorized representatives, to enter upon and inspect the Amended Project's infrastructure, equipment, and operations upon reasonable notice, in a reasonable manner, and at reasonable times during ordinary business hours to determine compliance with the above conditions. This right of entry and inspection includes the right to collect samples of the Amended Project's feedstock, digestate (liquid and solid), and discharges, and the right to have access to and copy any non-proprietary records required to be kept pursuant to the above conditions.

43. The pipeline between the gas cleaning equipment and the Vermont Gas metering and regulation station shall meet the following specifications: (i) the pipe shall meet all transmission requirements per 49 Code of Federal Regulations ("CFR") Part 192 for design, testing, operations, and maintenance; (ii) the pipe shall not operate at greater than 50% specified minimum yield strength and shall be hydrostatically tested to at least 1.5 times the maximum allowable operating pressure or at least 330 pounds per square inch, whichever is greater; (iii) the pipe shall be considered as located in a high concentration area and as such shall meet all of the additional requirements of 40 CFR 192 Subpart O; because this transmission line operates below 30% specified minimum yield strength, the operator may use the reassessment method described

in 49 CFR § 192.941; (iv) the CPG Holder, in conjunction with Vermont Gas, shall be responsible for the testing, maintenance, and operation of the pipe pursuant to the applicable subparts of 49 CFR Part 192, including Subpart B (materials), Subpart C (pipe design), Subpart D (design of pipeline components), Subpart E (welding of steel in pipelines), Subpart G (general construction requirements), Subpart I (corrosion control), Subpart J (testing), Subpart L (operations), Subpart M (maintenance), and Subpart N (qualification of pipeline personnel); and (v) all of the applicable industry standards as referenced by the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration shall also be followed, using the edition or version as specified in 49 CFR Part 192.

44. The CPG Holder shall prepare and implement, in conjunction with Vermont Gas, a quality control program for installation and operation of the pipe. The plan shall specify: (i) how the pipe will be monitored and its quality controlled; (ii) the American Petroleum Institute standards that will be used; (iii) how welders will be qualified; and (iv) how gas quality will be monitored and controlled to ensure it meets minimum standards for moisture and other contaminants and prevents them from traveling down the pipe to the Vermont Gas metering and regulation station.

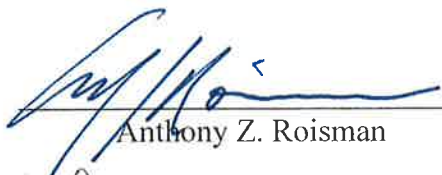
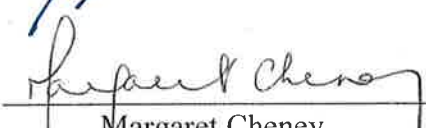
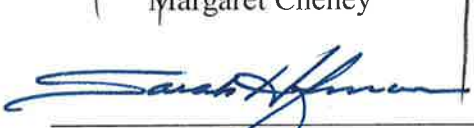
45. No later than two weeks prior to interconnection of the Amended Project with Vermont Gas's natural gas distribution pipeline, the CPG Holder shall file with the Commission and all parties a Quality Assurance Plan ("Plan") that identifies the fuel substrates in use and the associated potential gas contaminants. The Plan shall be subject to approval from the Vermont Department of Public Service ("Department"). The Plan shall also provide for notification to the Department and AAFM of any changes in fuel source usage.

46. No later than two weeks prior to interconnection of the Amended Project with the Vermont Gas system, the CPG Holder shall, in coordination with Vermont Gas, provide the Department with a copy of the Vermont Gas Gas Quality Plan.

47. This Amended CPG shall not be transferred without prior approval of the Commission.

This Amended CPG contains all relevant terms and conditions of the CPG entered on April 4, 2016, in Docket 8596, including both amended and unamended CPG conditions.

Dated at Montpelier, Vermont, this 14th day of March, 2019.

	)	
Anthony Z. Roisman	)	PUBLIC UTILITY
	)	
	)	
Margaret Cheney	)	COMMISSION
	)	
	)	
Sarah Hofmann	)	OF VERMONT

OFFICE OF THE CLERK

Filed: March 14, 2019

Attest: 
Clerk of the Commission

Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Commission (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: puc.clerk@vermont.gov)

PUC Case No. 18-3449-PET - SERVICE LIST

Parties:

Donald J. Einhorn, Esq. (for Vermont Agency of Natural Resources)
Vermont Agency of Natural Resources
1 National Life Drive, Davis 2
Montpelier, VT 05602-3901
donald.einhorn@vermont.gov

Andrew N. Raubvogel, Esq. (for Salisbury AD 1, LLC)
Dunkiel Saunders Elliott Raubvogel & Hand,
PLLC
91 College Street, P.O. Box 545
Burlington, VT 05402-0545
araubvogel@dunkielsaunders.com

*Alison Milbury Stone, Esq. (for Agency of Agriculture, Food & Markets)
Vermont Attorney General's Office
109 State Street
Montpelier, VT 05609-1001
alison.stone@vermont.gov

Victoria M. Westgate, Esq. (for Salisbury AD 1, LLC)
Dunkiel Saunders Elliott Raubvogel & Hand,
PLLC
91 College Street, P.O. Box 545
Burlington, VT 05402-0545
vwestgate@dunkielsaunders.com

Alexander Wing (for Vermont Department of Public Service)
Vermont Department of Public Service
112 State Street
Montpelier, VT 05620
alexander.wing@vermont.gov