



Vermont Department of Environmental Conservation

Agency of Natural Resources

Commissioner's Office

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To: Tim Ashe, Chair, Senate Finance Committee

From: David Mears, Commissioner, Department of Environmental Conservation

Date: April 20, 2015

Re: Department of Environmental Conservation SFY16 General Operating Fee Proposal

Lake and Ponds Program – Encroachment Fee Cap

- 1) *For non-structural and non-erosion encroachment projects, the fee is \$300 plus 1% of the construction costs. How are project construction costs calculated for these projects?*

The construction costs are based on the portion of the construction associated with encroachment. This is less than the total construction costs of a project because encroachment only includes the portion of the project that occurs below mean water level.

The applicant provides estimated construction costs as part of the encroachment permit application. Technical staff review these costs during permit application review to verify the amount of the fee.

Dam Safety Program

- 1) *Does ANR regulate manure pits as dams? Specifically, do you know anything about five hill farms in Bristol?*

Manure pits are considered agricultural dams and are regulated by the Natural Resources Conservation Districts, per 10 VSA §1083a. The fee structure as proposed does not include agricultural dams.

- 2) *Does anyone at the state look at replacing or maintaining beaver dams that are damaged from storms?*

The Department of Environmental Conservation does not look at looking at replacing or repairing failed beaver dams.

The Department of Fish and Wildlife (F&W) has a program where they will look at and access active beaver dams/ponds and install "beaver bafflers" to help control the water level of the beaver pond. A few years ago, a beaver dam upstream of a man-made dam in Calais partially failed. The conclusion was reached that the beavers would repair the breached section, and a beaver baffler was placed in the breach and the beavers built their new dam around it. The habitat was restored and the pond level was controlled.

There is also a best management practices for resolving human-beaver conflicts in Vermont put out by F&W and DEC.

Underground Injection Control Program

1) How are geothermal projects regulated under the UIC Rules? Will geothermal projects pay fees?

Most geothermal wells do not fall under the jurisdiction of the UIC program because they are "closed loop systems" and are not injection wells (there is no contact with groundwater). Open loop and standing column wells are injection wells and are subject to UIC permitting because of potential risks to groundwater. Currently, DEC does not regulate any geothermal wells under the UIC rules.

2) How do the new UIC rules and fees impact marble quarrying operations (ex. OMYA)?

Mining Waste and Mineral Processing Waste:

A fee would be assessed if the quarrying operation:

- involves some type of chemical or physical treatment to the rock that is quarried which poses a risk to groundwater
- generates "mining wastes" or "mineral processing wastes" that pose a risk to groundwater

Some activities generating a "mining waste" may qualify for an exemption if certain conditions are met which result in low risk to groundwater, or if they have received permits under another ANR program that would address the risk to groundwater (ex. stormwater, solid waste). OMYA has multiple stormwater and solid waste facility permits pertaining to tailings management areas and facilities. As the rule was recently amended (October 2014), no formal jurisdictional review has been performed to date. Based on a preliminary review, it appears OMYA would qualify for an exemption.