



**AGENCY OF AGRICULTURE, FOOD & MARKETS**

116 State Street

Montpelier, VT 05620-2901

Vermontagriculture.com

To: Senator Flory, Chair, Senate Committee on Institutions

From: Agency of Agriculture, Food and Markets

Date: February 13, 2015

RE: Vermont Veterans Memorial Cemetery

Please find an explanation regarding the potential payment of an off-site mitigation fee for impacts to primary agricultural soils.

Project Review Summary under Act 250 Criterion 9(B) Primary Agricultural Soils

- The Agency reviewed application materials for Phase 1 of the 100 year Master Plan
- The Agency met with Tricia Harper of the Dept. of Buildings and General Services (BGS) and their Engineer (Ron Lyon, DuBois & King). All agreed that given the design of Phase 1, 6.44 acres of primary agricultural soils will be impacted
- Based on the 6.44 acres of impact, the total amount of mitigation required pursuant to 10 V.S.A. § 6093(a) is 15.21 acres:  
[4.66 acres (impact to “prime” soils in value group 3) x 2.5 (Stipulated multiplier)] + [1.78 acres (impact to “statewide” soils in value group 6 and 7) x 2 (Stipulated multiplier)] = 15.21 acres

Mitigation Requirements under Act 250

- If a project site contains soils meeting the definition of primary agricultural soils provided in 10 V.S.A. § 6001(15), Criterion 9(B) sub-criterion (iv) mandates that “suitable mitigation” be provided for “any reduction in the agricultural potential of primary agricultural soils.” 10 V.S.A. § 6086(a)(9)(B)(iv). Project parcels located outside of “certain designated areas” must provide mitigation for impacts “on site in order to preserve primary agricultural soils for present and future agricultural use, with special emphasis on preserving prime agricultural soils.” 10 V.S.A. § 6093(a)(2).
- There are insufficient soils remaining on the parcel due to proposed future development of the Master Plan. BGS is requesting that approximately 4 acres be preserved for on-site mitigation, and the remaining be covered through payment of an off-site mitigation fee.
- The Applicant must request that the Commission determine whether “appropriate circumstances” exist to authorize mitigation flexibility to satisfy the mitigation requirements, 10 V.S.A. § 6093(a)(3).
- The final decision regarding the form of mitigation rests with the District 3 Commission. The Commission has not yet reviewed the Application.
- For District 3, the total cost per acre for the period January 1 through June 30, 2015, is \$1,929/acre.
- If the Commission concludes the project meets appropriate circumstances for the use of off-site mitigation Total mitigation fee required may be ±\$21,624, pending decisions from the Commission.