

1 TO THE HONORABLE SENATE:

2 The Committee on Natural Resources and Energy to which was referred
3 House Bill No. 595 entitled “An act relating to potable water supplies from
4 surface waters” respectfully reports that it has considered the same and
5 recommends that the Senate propose to the House that the bill be amended by
6 striking out Sec. 4 in its entirety and inserting in lieu thereof the following:

7 Sec. 4. 10 V.S.A. § 1283(b) is amended to read:

8 (b) Disbursements under this subsection may be made for emergency
9 purposes or to respond to other than emergency situations; provided, however,
10 that disbursements in response to an individual situation which is not an
11 emergency situation shall not exceed \$100,000.00 for costs attributable to each
12 of the subdivisions of this subsection, unless the Secretary has received the
13 approval of the General Assembly, or the Joint Fiscal Committee, in case the
14 General Assembly is not in session. Furthermore, the balance in the Fund shall
15 not be drawn below the amount of \$100,000.00, except in emergency
16 situations. If the balance of the Fund becomes insufficient to allow a proper
17 response to one or more emergencies that have occurred, the Secretary shall
18 appear before the Emergency Board, as soon as possible, and shall request that
19 necessary funds be provided. Within these limitations, disbursements from the
20 Fund may be made:

21 * * *

1 (1) grant the Secretary access, at all reasonable times, to any facility,
2 establishment, place, property, or location to inspect and copy all documents or
3 records relating to information that was related to the request; or

4 (2) copy and furnish to the Secretary all such documents or records, at
5 the option and expense of the person.

6 (c) The Secretary may require any person who has or may have knowledge
7 of any information listed in subdivisions (a)(1) through (3) of this section to
8 appear at the offices of the Secretary and may take testimony and require the
9 production of records that relate to a release or threatened release of a
10 hazardous material.

11 (d) Any request for access or information under this section shall be served
12 personally or by certified mail.

13 (e) As used in this section, “information” means any written or recorded
14 information, including all documents, records, photographs, recordings, e-mail,
15 or correspondence.

16 Sec. 6. 10 V.S.A. § 6615d is added to read:

17 § 6615d. NATURAL RESOURCE DAMAGES

18 The Secretary may assess damages to natural resources against any person
19 found to be liable under section 6615 of this title. The measure of damages
20 that may be assessed under this section include the cost of restoring injured
21 resources to their baseline condition, compensation for the interim loss of

1 injured resources pending recovery, and any reasonable costs of the Secretary
2 in determining the damage to a natural resource. As used in this section,
3 “natural resources” means public lands, fish, wildlife, biota, air, surface water,
4 groundwater, wetlands, and drinking water supplies.

5 Sec. 7. 10 V.S.A. § 8005(b) is amended to read:

6 (b) Access orders and information requests.

7 (1) A Superior Court judge shall issue an access order when access has
8 been refused and the investigator, by affidavit, describes the property to be
9 examined and identifies:

10 (A) a provision of a permit that authorizes the inspection; or

11 (B) the property as being scheduled for inspection in accordance with
12 a neutral inspection program adopted by the Secretary or the Natural Resources
13 Board; or

14 (C) facts providing reasonable grounds to believe that a violation
15 exists and that an examination of the specifically described property will be of
16 material aid in determining the existence of the violation.

17 (2) A Superior Court shall issue an order requiring compliance with an
18 information request submitted pursuant to section 6615c of this title when:

19 (A) the person served with the request fails to respond to the request
20 in the timeframe identified by the Secretary;

1 (B) the Secretary submits, by affidavit, facts providing reasonable
2 grounds that a release or threatened release has taken place; and

3 (C) the information will be of material aid in responding to the
4 release or threatened release.

5 (3) Issuance of an access order shall not negate the Secretary’s authority
6 to initiate criminal proceedings in the same matter by referring the matter to
7 the Office of the Attorney General or a State’s Attorney.

8 Sec. 8. EFFECTIVE DATE

9 This act shall take effect on passage.

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12 (Committee vote: _____)

13

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Senator _____

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FOR THE COMMITTEE