

MEMORANDUM

To: Representative Mary Hooper, Chair, House Appropriations Committee
From: Julia S. Moore, P.E., Secretary, Agency of Natural Resources
Cc: Representative Amy Sheldon, Chair, House Natural Resources, Fish & Wildlife Committee
Date: February 26, 2021
Re: Response to Letter form House Natural Resources, Fish, & Wildlife Committee

The Agency of Natural Resources is grateful for the House's hard work on the Budget to date, understanding that much work continues to lie ahead. We appreciate the opportunity to provide feedback on the letter that House Natural (HNRFW) has provided to House Appropriations (HAC) on the Agency's FY22 budget request, and specifically highlight below areas that ANR would like to provide additional and clarifying information in response to the letter. The numbers and headings refer to specific sections in the letter from HNRFW.

1. FY 2022 Department of Environmental Conservation (DEC) Budget

In its letter, HNRFW seems to suggest that DEC is not prioritizing the important work the Department does on behalf of Vermonters, and inaccurately portrays the reclassification of positions and the positions that were proposed to be held vacant in the Governor's budget proposal. In FY21, DEC will transfer one vacant business analyst position to ANR CO to be reclassified to support the entire Agency's important civil rights and environmental justice work. In FY22, all DEC legal positions will be transferred to the ANR Central Office (CO), including one currently vacant position. HNRFW also incorrectly identifies two positions being eliminated from the DEC budget. Due to budget pressures in DEC's Watershed Management Division, we have not budgeted to fill three positions that are currently vacant. We agree that leaving those positions unfilled has operational impacts, but we have sought to minimize these impacts while being cognizant of our fiscal position. We will continue to shift position vacancies around to support identified priorities as vacancies develop due to retirements or turnover.

2. Environmental Contingency Fund, PCB Air Quality Testing of Schools

Until testing is completed and a better understanding of the problem is known, it is premature to set funding aside to remediate indoor air quality issues arising from PCB- contaminated legacy building materials in





Vermont schools. Once the testing work is completed, we will have a better sense of what resources will be necessary to mitigate the issues.

3. Waste Management Assistance Fund; Authorized Transfer to the Environmental Contingency Fund

The ability for DEC to transfer funds from the Solid Waste Management Assistance Fund (SWMAF) to the Environmental Contingency Fund (ECF) exists currently but is constrained to one of the nine available uses of the ECF. DEC is requesting this language change to provide flexibility in the use of the funds transferred. Regardless of the expanded authority being sought, we will continue to ensure that all needs in the SWMAF are met prior to any transfer is made.

Currently, if DEC exercises the transfer, which it has not done since 2014, the funds are restricted to superfund site work. The change would allow DEC to use the funds transferred to cover all expenditures allowable in the ECF. This transfer authority is not something that DEC exercises often, in fact it has only been used 5 times since 2007. DEC believes it is appropriate to keep this language in the budget since the ability to manage the fund is a budgetary matter.

4. Department of Forests, Parks, and Recreation (FPR); Vermont Outdoor Recreation Economic Collaborative (VOREC) and Trail Network

The VOREC Program grants funds to municipalities and their community partners to support community investment in outdoor recreation assets that drive economic development, health and wellness, and environmental stewardship. The long-term maintenance of these recreational resources is the responsibility of the entities that receive these funds.

ANR appreciates the committee's continued support of this program through its inclusion in H. 315, an Act related to COVID-19 relief.

5. The Department of Fish & Wildlife (F&W) PILOT Expense; Clean Water Fund

ANR proposed using \$5,653 of Clean Water Funds (CWF) for the PILOT payments for eight recent acquisitions. The reason this was proposed was that those lands were bought specifically to reduce nutrient and sediment pollution of Lake Champlain as part of Vermont's clean water effort. The funding to purchase this land came from federal money available to address phosphorus pollution in Lake Champlain. Given that ANR is purchasing, managing, and holding these properties in order to meet clean water goals, it seemed not only permissible but appropriate to use clean water funding to pay the PILOT payment for these lands.

The Agency has received additional Like Champlain Basin Program funds and will continue purchasing lands for clean water benefits. We plan to increase the utilization of



CWF for ongoing PILOT payments for these parcels. In lieu of CWF we would need a general funds appropriation.

Of note, the Agency currently utilizes dedicated funding sources to fund PILOT payments where it is appropriate. This is reflected in the \$421,500 transfer from F&W to the CO to help make PILOT payments to towns. Utilizing dedicated funds to cover PILOT payments is not a new practice for ANR.

6. Department of Fish and Wildlife; Act 250 Bill Back

The Agency currently has authority under statute to bill back for its work on projects before Act 250. However, the limitations and administrative difficulty created by how this bill back language is written renders it effectively unusable in current form. Consequently, the Department funds its work on Act 250 projects through other sources, such as license revenue and federal excise taxes on sporting goods and ammunition.

F&W is asking that the bill back language in statute be amended so that it works as intended for Fish & Wildlife. The HNRFW letter seems to suggest that this is properly part of a larger and more complicated discussion about issues in Act 250, and the Department remains supportive of having that larger conversation about Act 250. This change, however, is a narrow focus to ensure bill back authority currently in statute function as intended. This change will allow the Department to continue to support this work that reduces natural resource impacts and improves the projects being reviewed without requiring resources be diverted from other work.

7. Department of Fish and Wildlife; Unfilled Positions

The HNRFW Committee in its letter supports filling five positions in the Fish & Wildlife Department. The Department's budget relies on leaving three warden and two biological positions unfilled. As with DEC, these vacancies will have operational impacts, but we have sought to minimize the impacts while being cognizant of our fiscal position. Some of this budgetary pressure comes from unfunded mandates, including the lack of functional bill back language, as mentioned previously. In the absence of the ability to bill applicants for work on their projects, the Department must rely on funding from hunters, anglers and recreational shooters and simply does not have the resources available to fund the positions. Therefore, a decision to not correct the issues in the bill back provision directly contributes to the need to leave these positions unfilled.

8. Contaminants of Emerging Concern

The FY22 budget request does not include additional funding for the Contaminants of Emerging Concern Special Fund. At this time, we have not identified an additional need for resources. If and when the Agency identifies a public water system that needs resources, we will make an appropriate request to the legislature.