

April 11, 2024

To: Chair Amy Sheldon and Members of the House Committee on Environment & Energy

From: Conservation Law Foundation, Lake Champlain Committee, The Nature Conservancy in Vermont, and Vermont Natural Resources Council

Re: Proposed Changes to S.213 As Passed the Senate

The above organizations propose several minor changes to S.213.

All language suggestions are in red text.

### **River Corridors**

The Agency of Commerce and Community Development and the Regional Planning Commissions should be engaged to assist DEC in the base map amendment process, providing necessary expertise and perspective. This has also been suggested and supported by ANR.

Sec 3 MAPPING; EDUCATION AND OUTREACH (pg. 3)

(a) On or before January 1, 2026, the Department of Environmental Conservation, in consultation with the Agency of Commerce and Community Development and the Regional Planning Commissions, shall amend by procedure the statewide River Corridor Base Map to identify areas suitable for development that are located within existing settlements and that will not cause or contribute to increases in fluvial erosion hazards.

### **Wetlands**

Restoration projects that result in a net gain of wetlands or have temporary impacts that result in improvements should be an allowed use under the Wetlands Rule, which states: The following uses shall be allowed in a Class I or Class II wetland and in its buffer zone without a permit, provided that the configuration of the wetland's outlet or the flow of water into or out of the wetland is not altered and that no draining, dredging, filling, or grading occurs ...”

Sec 15 NET GAIN OF WETLANDS (pg. 25)

(c) At a minimum, the Wetlands Rules shall be revised to:

(1) Require an applicant for a wetland permit that authorizes adverse impacts to more than 5,000 square feet of wetlands to compensate for those impacts through restoration, enhancement, or creation of wetland resources. Wetland, river, and floodplain

restoration projects, including dam removal and temporary access, shall be an allowed use within a wetland under this rule.

## **Dam Safety**

Sec 18 DAM SAFETY (pg. 30)

§1081. JURISDICTION OF DEPARTMENT (pg. 33)

The transfer of high hazard dams from the PUC to DEC should be on an expedited timeline.

The Senate version of S.213 completes this transfer in 2028, we advocate that the four high hazard dams be transferred to DEC in 2025 due to the hazard level, and the remainder be transferred in 2028. (see Sec 24. TRANSITION, pg. 56)

§ 1106. UNSAFE DAM SAFETY REVOLVING LOAN FUND (pg. 44)

State funding should be used for emergency repairs for dams to protect health and property but use of public funds for nonemergency repairs should be under more stringent criteria. In these cases, the focus should be on possible dam removal, not repair of a private dam that has little or no public benefit and could threaten harm to the health and property of those downstream.

(b)(2) Nonemergency funding. For permanent safety or risk reduction projects such as repair, rehabilitation, or removal, including engineering, analyses, design, and construction. To be eligible for nonemergency funding, the dam must meet the following criteria:

(E) To be eligible for nonemergency funding, an alternatives analysis of dam repair, rehabilitation, and removal options that considers an evaluation of risk reduction, dam safety and ecological resilience and public benefits considerations, and costs shall be completed, pursuant to the rule adopted by the Department. [Loan subsidy is not available for non-emergency repair or rehabilitation, only for engineering, analysis, and design that leads to removal.](#)

(F) Under this subdivision (b)(2), only engineering, analysis, design, and construction [by DEC, DFW or a third-party contractor](#) that results in [acceptable risk reduction dam removal](#) are eligible for loan subsidy.