



Agency of Natural Resources

Testimony: SNRE/S.213

Secretary Julie Moore

January 30, 2024

Previous Testimony on S.213

- December 5, 2023: the Agency provided presentations on impacted ANR programs from the July 2023 flood events. This included:
 - Rivers Management and the National Flood Insurance Program
 - Geology (landslides)
 - Dam Safety
 - Vermont Emergency Management
 - Climate Action Office resilience efforts
- January 11 and 12, 2024: agency experts provided testimony on current practices, rulemaking, and programs the Agency is engaged in that support resilience efforts
- S.213, as drafted, is an extensive undertaking that duplicates efforts already underway within the Agency.
 - The Agency is proposing recommendations to re-scope and phase the work in a manner that reflects on-going efforts and recognizes finite (new) resources likely available to support this work

ANR Recommended Modifications to S.213: Wetlands

- The Agency aligns with the goal of net gain, and a net gain of wetlands is occurring at the landscape-scale as a result of (FWD-led) restoration efforts
- The Agency does not support changes to the wetlands permitting program right now

Important considerations:

1. Wetlands are a water resource – Water Resource Management includes wetlands.
2. Mapping efforts are ongoing, and the Agency supports that continued effort.
3. Our current noticing practices align with the standard notice practices in Title 10 Chapter 170
 - Newspaper and town clerk notice would require additional cost and efforts by program staff, for minimal benefit
4. The Wetlands Program provides the EPA annual data on their permitting efforts --> match any new reporting requirements to the existing cadence of reporting to EPA

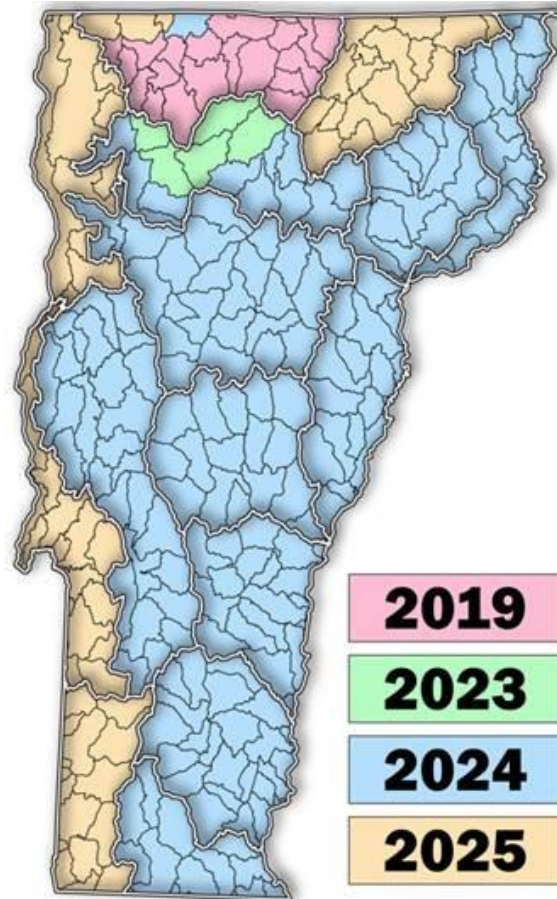
Mapping Timeline: Wetlands

State-wide updates by 2026

The National Wetlands Inventory updates will be completed by 2026. Once each area is approved by US Fish and Wildlife Service, the map will be screened for significant wetlands and transferred to the VSWI. Once the draft map is complete, it will be noticed for public comment before official adoption.

More Info:

<https://dec.vermont.gov/watershed/wetlands/maps>



Missisquoi River Basin Wetlands were updated for the VSWI in early 2023. Area updated: 603 square miles

(Partial) Lamoille River Basin Wetlands are awaiting USFWS approval. Area to be updated: 233

Over 30% of statewide NWI will be complete in July 2024

Nearly 80% of statewide NWI will be complete by 2025

Resources Necessary: Wetlands

To comply with S.213 as drafted by the Committee, the Agency would require:

- 2 additional FTEs for ongoing mapping and reporting obligations; and
- 3 additional FTEs to provide permitting and long-term compensation project oversight.

To comply with the reduced scope offered by ANR, the Agency would require:

- 1 additional FTE for ongoing mapping and reporting obligations
- *These efforts are a lower priority for the Agency than other components of S.213*

Public Service Announcement:

ANR Wetlands staff will be in the State House Card Room this Thursday (February 1) to celebrate World Wetland Day.

Staff are there to talk about the program and the science of wetland management.

Stop by to learn more!

ANR Recommended Modifications to S.213: Statewide Flood Hazard Area Standards

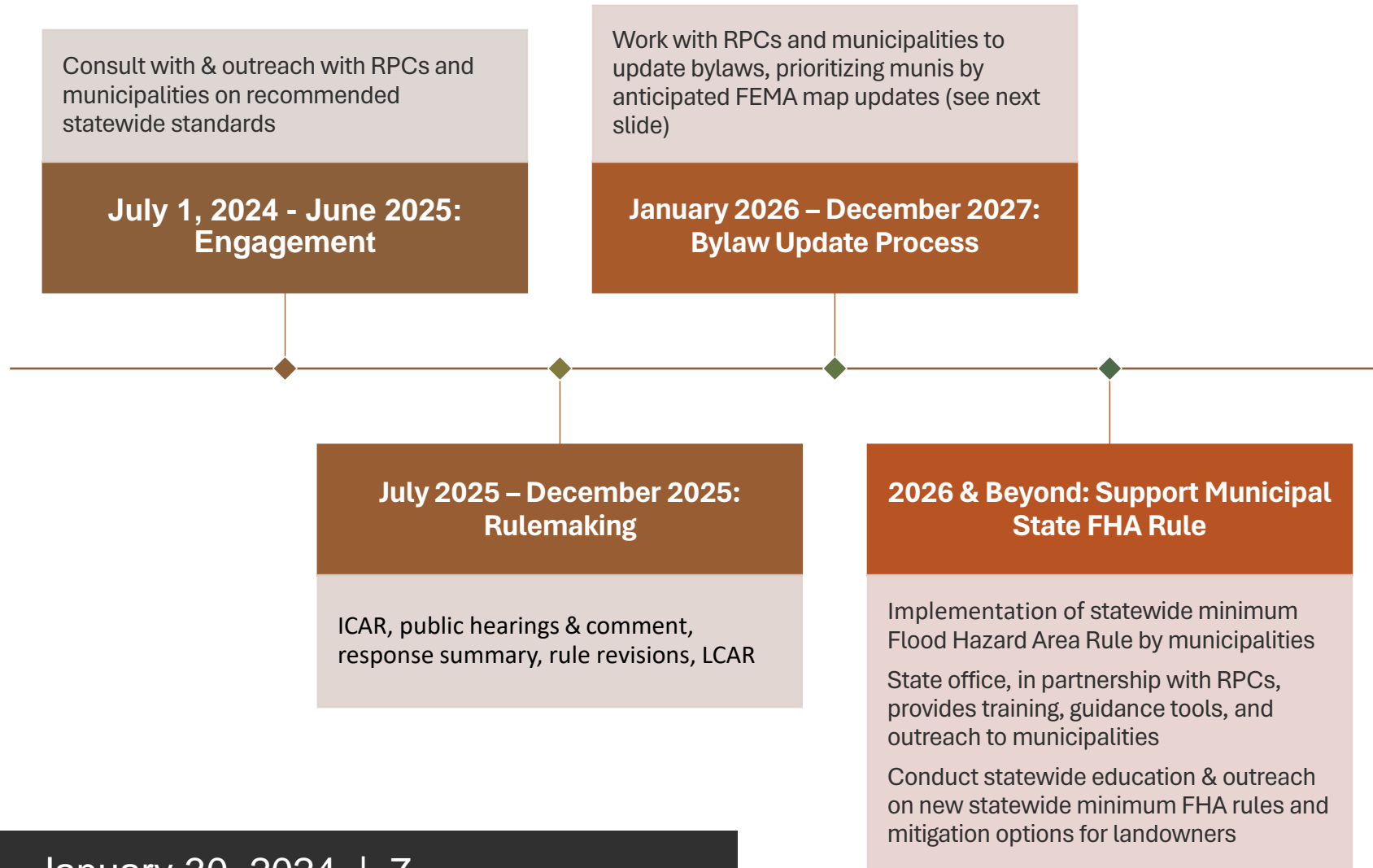
A Statewide Flood Hazard Area Standard to be adopted and implemented by the National Flood Insurance Program (NFIP)-participating communities will allow for more consistent and protective regulation of development in flood hazard areas.

- Will allow the Agency to provide better technical support to NFIP communities through training and administrative resources (permit templates, permit review guidance, etc.)

Important considerations:

1. Municipalities that participate in the NFIP are currently issuing permits regulating development in flood hazard areas. The Agency does not have the capacity to assume permitting authority over a regulatory program currently being implemented by 274 communities.
2. Through the adoption of a State Flood Hazard Area Standard rule, the Agency can provide a clear set of standards to be implemented across the State in every NFIP-participating community. The Agency can also provide more comprehensive technical assistance if municipalities are all implementing uniform standards.

Timeline: Statewide Flood Hazard Area Standards



July 2024 – June 2025– partner engagement and standards development: Develop and socialize a package of minimum flood hazard area standards with municipal, RPC and professional planning partners

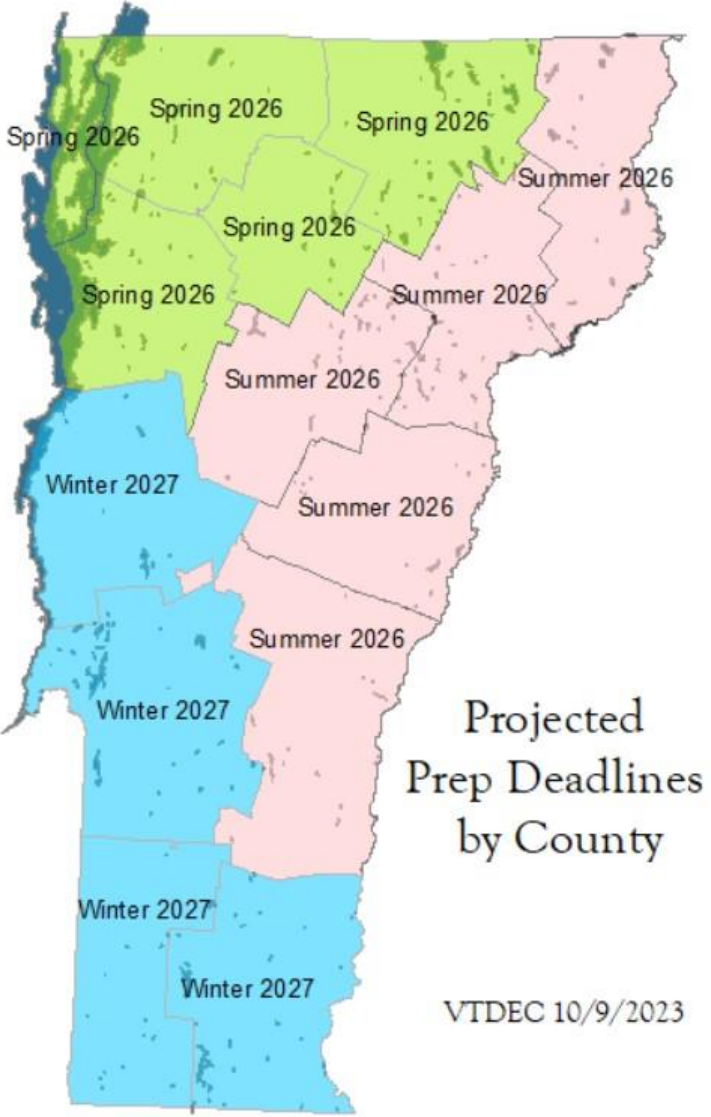
July 2025 – December 2025 – formal rulemaking process: ICAR, public hearings/comment, response summary, rule revisions, LCAR

January 2026 & Beyond: Work with RPCs and Towns to adopt bylaws that are compliant with NFIP and new State Standards ahead of new FEMA maps becoming effective

Timeline: Statewide Flood Hazard Area Standards

Get Ready for New FEMA Maps

<https://floodtraining.vermont.gov/protection-tools/get-ready-new-fema-flood-insurance-rate-maps#status>



ANR Recommended Modifications to S.213: Expanded River Corridor Regulation

The Agency recognizes the critical importance of protecting river corridors and has statewide mapping of river corridor available. Expanding permitting jurisdiction over river corridors necessitates significant, upfront public engagement and a longer-term effort.

Important considerations:

- As drafted, S.213 proposes that ANR regulate mapped river corridors.
- This is about 5,600 miles of riparian areas along of the larger rivers and streams around the state, or over 209,000 acres of land.
- This is 5 times the land area regulated by the Lake Shoreland Encroachment program (42,000 acres) – which is currently staffed by a team of four.

Timeline: Expanded Rivers Corridor Regulation (Phasing)

2024 - 2026 – Mapping:

- Develop a process and map River Corridor infill areas for densely developed areas
- Develop a more robust river corridor map amendment/revision process

2026 - 2028 – Education/Outreach:

Conduct extensive statewide education/outreach to river corridor landowners to understand implications of river corridor regulation on their land.

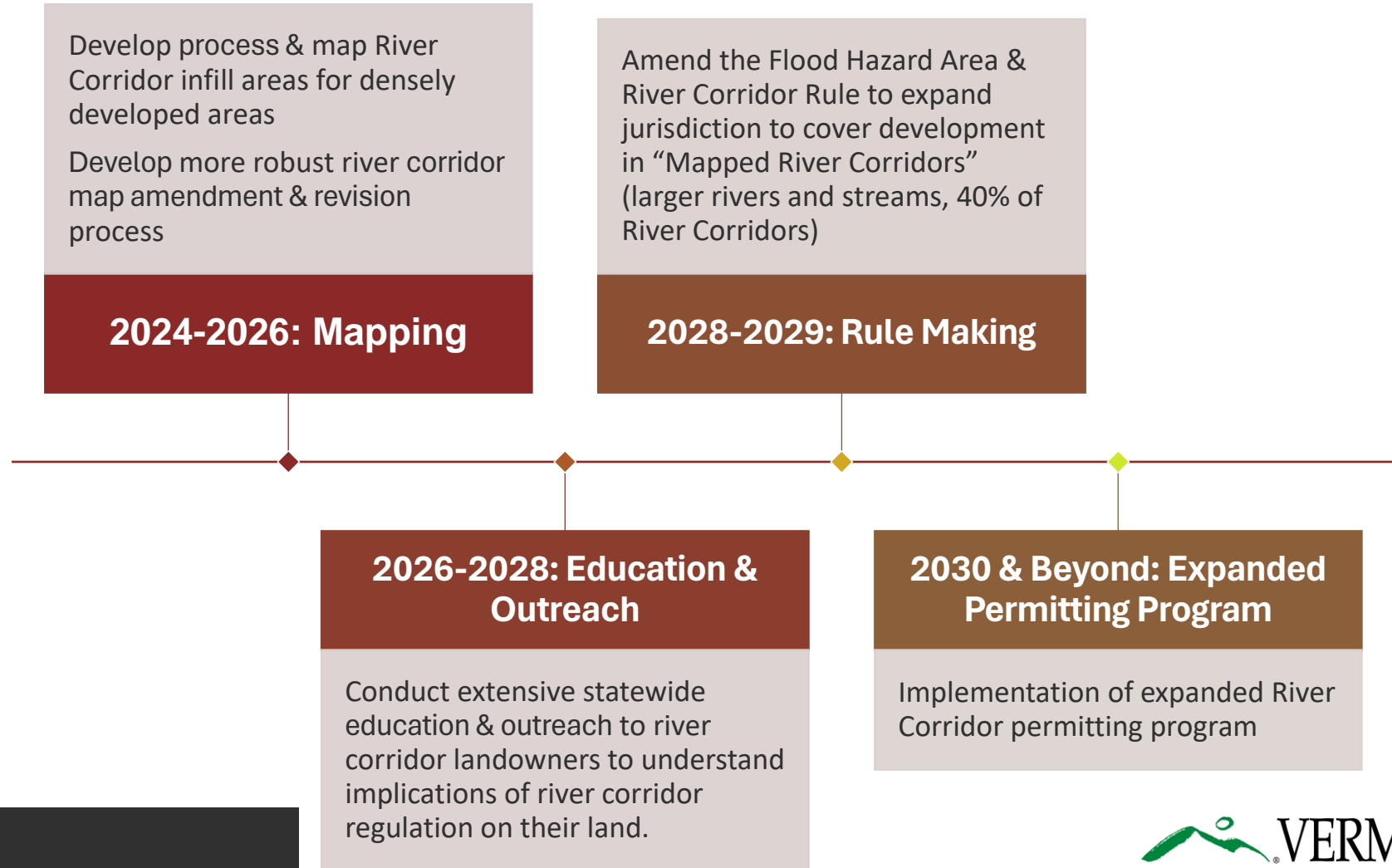
2028 - 2029 - Rulemaking:

Amend the Flood Hazard Area & River Corridor Rule to expand jurisdiction to cover development in “Mapped River Corridors” (larger rivers and streams, 40% of River Corridors)

2030 – expanded permitting program:

Implementation of expanded River Corridor permitting program

Timeline: Expanded River Corridor Expansion (Phasing)



Resources Necessary: Statewide Flood Hazard Area Standards and Expanded River Corridor Regulation

To comply with S.213 as drafted by the Committee, the Agency would require:

- Up to 20 additional FTE to assume responsibility for municipal land use regulation* in FEMA mapped Flood Hazard Areas (90% of VT towns)

** likely to raise significant concerns with municipalities/VLCT*

To implement the alternative approach suggested by ANR, the Agency would require:

- 2 additional FTE to support statewide flood hazard area standards, including community education and outreach, rulemaking, and technical support for municipalities.
- 2 additional FTEs to support and coordinate contract consultants and rulemaking to expand river corridor regulation
 - Anticipate 4 additional FTEs will be needed to support permitting program, once established

ANR Recommended Modifications to S.213: Dam Safety Program

DEC's Dam Safety Program is undergoing Phase II of the Dam Safety rulemaking process, to be adopted by July 1, 2025. It is the Agency's priority to complete that rulemaking process before legislating on anticipated outcomes included in the rule.

The Agency supports the formation of a revolving loan fund to provide critical funding for the reconstruction, repair, removal, breaching, draining of dams to reduce risk to public safety.

Important Considerations:

- Currently, there are funding resources available for dam removal; the Governor's FY25 Recommend includes funding to pilot a revolving loan program that includes dam repair and rehabilitation.
- S.213, as drafted, makes reference to DEC jurisdiction over PUC-regulated dams; transfer of jurisdiction needs to be clarified in statute to avoid having two entities (PUC and ANR) regulated the same portfolio
 - ANR is working with the PUC and agreed the transition is not tenable until **July 2028**.
- The Agency does not have a position on the section that addresses liability, as it does not impact ANR regulatory authority.

Timeline: Dam Safety Program

Department of Environmental Dam Safety Program Act 161 - Regulation of Dams DRAFT RULEMAKING SCHEDULE UPDATED 1/26/24																								
Task	Date																							
	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov
PHASE II (PROPOSED)																								
Outline and Draft Rules																								
(1) Interest Group Meeting																								
Further Rule Development																								
(2) Interest Group Meeting																								
July 2023 Flood Delay																								
Rulewriting Re-start																								
Internal State Meetings (Wastewater, Rivers)																								
Rule Development to Working Draft																								
Internal State Review (DMT)																								
Draft Rule Comments/Adjustments																								
(3) Interest Group Meeting																								
Draft Rule Comments/Adjustments																								
Draft Rule Peer Review (Formal)																								
Public Meeting (Consider virtual)																								
Update/Finalize Rules																								
File Rules (ICAR, Hearing, LCAR)																								
Adopt Rules																								
Submit Report to House Nat. Resources																								

Notes:
 -Phase II = Design Standards, siting, design, construction, removal, O&M, inspection, record keeping, reporting, application, EAPs
 -Interest Group = Dam owners, NGO's, Dam Task Force, dam safety consultants, etc.

Present – December 2024:
 Draft rulemaking and public comment and community engagement period on Phase II rules.

January 2025 – June 2025:
 Final rules and LCAR.

July 2025: Adopt rules.

Resources Necessary: Dam Safety Program

Included in the Governor's FY25 Recommend:

- \$1M to provide initial capital for Dam Safety Revolving Loan Fund
- Two limited-service FTEs to transition to permanent status

Rough cost ranges for dam assessment, design and permitting, and construction for closeout:

HIGH Hazard at 9 dams = \$2M to \$10M

SIGNIFICANT Hazard at 59 dams = \$17M to \$60M

TOTAL NEED = \$20M to \$70M

10-year basis: \$4.5M per year

20-year basis: \$2.25M/year

Resources Necessary: S.213

Programmatic Area	S.213, as drafted	w/ ANR changes
Wetlands	5 FTEs (\$750k, base)	1 FTE (\$150k, base)
Flood Hazard Areas	20 FTEs (\$3M, base) \$2M contracted support (one time)	2 FTEs (\$300k, base)
River Corridors		2 FTEs* (\$300k, base) \$750k contracted support (one-time)
Dam Safety	\$4.5M/year	\$2.25M/year
TOTAL	\$8.25M (base) \$2M (one-time)	\$3M (base) \$750k (one-time)

** anticipated to increase to 6 FTEs when permitting program comes on-line in 2030*

Thank you.

For further questions or clarification, please contact:

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