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Agency of Natural Resources  
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February 27, 2025

House Committee on Environment  
Attn.: Representative Sheldon, Chair  
115 State Street, Ethan Allen Room  
Montpelier, VT 05633

Dear Chair Sheldon and House Committee on Environment:

The Agency of Natural Resources (ANR) is providing additional information about your committee's draft budget letter to the House Committee on Appropriations, which we hope you find helpful.

#### Funding for Additional Positions

It is ANR's understanding that there will be funding for four positions included in this recommendation at \$125,000 per position, for a total of \$500,000. This includes two regulatory review positions and one GIS/mapping position for the Department of Fish and Wildlife and one regulatory review position for the ANR Secretary's Office to provide capacity for obligations created at ANR by the passage of Act 181. There are two items to note for this recommendation.

The first is that the \$125,000 per position is not adequate. Act 121 of 2024, the Flood Safety Act, budgeted \$150,000 per position based on the cost of the position plus benefits and the administrative overhead for laptops, equipment, internal service funds, business office support, etc. While the current job titles in the draft budget letter are generic working titles and do not correspond to a job code and pay chart in the State's compensation system, \$150,000 is reflective of the current average cost of a staff position at ANR.

The second is additional details on the GIS/mapping positions. GIS services are provided to ANR through the Agency of Digital Services (ADS). There are two staff at the ADS that manage a significant portion of ANR's GIS portfolio including projects such as the Natural Resource Atlas and Vermont Conservation Design. The additional position identified in the House Committee on the Environment's budget letter for Act 59 support, would be part of the Fish and Wildlife Department and would serve a different



need than the ADS staff. The Fish and Wildlife Department position would have GIS expertise and skills but would also be required to understand programmatic aspects of the Department's work and Act 59. This would be a hybrid position, more aligned with the State Lands Ecologist, than a traditional ADS-based GIS position.

### Act 122 - Climate Superfund Act

The Act 122 Feasibility Report, issued on January 15, 2025, identifies a series of recommendations for the Legislature that are connected to the Agency of Natural Resource's portion of the Act. These include:

- A one-time appropriation of \$500,000 for contracted support and a \$175,000 increase in the Agency's base appropriation for a new attorney position that can be dedicated to Climate Superfund work and related legal challenges.
- Removal of the requirement to adopt the Resilience Implementation Strategy (RIS) through a rulemaking process.
- A shared commitment from ANR and the Treasurer's Office to continue to explore approaches to assessing adaptation costs and provide a timeline and estimate of additional resources that will be necessary for the effort.

The request for a new attorney position in this recommendation is to provide dedicated legal services to the rulemaking and litigation associated with Act 122. As currently required by statute, ANR has significant obligations under Act 122 beginning in SFY26, including developing and filing required rules with ICAR pursuant to 10 V.S.A 599a(b)(1) and (b)(2) on or before July 1, 2026 and then adopting a final rule by January 1, 2027. If an adequate budget and staffing resources are not allocated, given the magnitude of other existing agency obligations, those timelines are simply not feasible.

Specifically, by July 1, 2026, ANR must develop and draft a rule for the liability formula, a process which involves extensive legal analysis and attorney time. Under Act 122, the rule must include a methodology to identify "responsible parties," determine whether "responsible parties" meet the legal test for a "constitutional nexus" with Vermont, and a liability formula to determine proportional liability—all of which requires attorney time and resources. The Office of General Counsel is also involved in the litigation that was filed against the Agency in December 2024 by the U.S. Chamber of Commerce and the American Petroleum Institute, which requires additional attorney time. If the rulemaking requirement for the RIS is not amended, the Office of General Counsel will also be involved in developing the draft rule.

### Background on ANR's Office of General Counsel and Legal Services

ANR's Office of General Counsel has 16 legal service positions embedded in the Secretary's Office. The position breakdown is 4 General Counsels, 11 staff attorneys, and 1 legal and planning coordinator. The Office of General Counsel provides legal assistance and services to the Secretary's Office; Department of Fish and Wildlife; Department of Forests, Parks and Recreation; and Department of Environmental Conservation. The range of legal services includes drafting and reviewing policies and



permits, rulemaking and providing general legal advice. The attorneys in the Enforcement and Litigation Section also represent the Agency in litigation before the Environmental Court and other administrative bodies such as the Public Utilities Commission, Act 250 proceedings, and enforcement matters. This team is at capacity and the significant rulemaking, legal work and aggressive timelines required of ANR by Act 122 necessitate additional resources.

Sincerely,

A handwritten signature in black ink, appearing to read "Julia S. Moore".

Julia S. Moore, P.E.  
Secretary

