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AGENCY OF NATURAL RESOURCES

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To: Senator Anne Watson
Chair, Senate Committee on Natural Resources and Energy

Representative Amy Sheldon
Chair, House Committee on Natural Resources

Representative Trevor Squirrell
Chair, Legislative Committee on Administrative Rules

Michael O'Grady
Office of Legislative Counsel

CC: Commissioner Misty Sinsigalli
Department of Environmental Conservation

Catherine Gjessing, General Counsel
Vermont Agency of Natural Resources

Date: April 27, 2026

Subject: ANR Proposed Amendments to Wetlands Statutes and Rules

Greetings,

I am writing in response to the letter from Legislative Counsel Michael O'Grady to Department of Environmental Conservation (DEC) Commissioner Misty Sinsigalli and Agency of Natural Resources (ANR) General Counsel Catherine Gjessing, dated April 17, 2026. The letter was received by email on April 20, 2026. Thank you for the opportunity to respond to the letter.

First, I want to set forth the context for ANR's amendments to the wetland rules and the Session law proposal. In 2025, the Vermont Agency of Commerce and Community Development (ACCD) published the Vermont Housing Needs Assessment. A link to the complete assessment report can be found here: https://accd.vermont.gov/housing/plans-data-rules/needs-assessment. The report outlines the severe impacts of the housing shortage on Vermonters, and includes the following findings:

- About half of all Vermont renters pay unacceptable portion of their income for housing, and about 25% pay more than 50% of their income on housing costs. Although options are most limited for low-income renters, renters at all income levels struggle to find an apartment.
- Vermont has the 2nd highest per capita rate of homelessness in the nation, that of 51 per 10,000 people.
- The rate of construction of new homes in Vermont was fewer than 1,500 homes statewide permitted each year in 2008-2012. Although the annual number of Vermont homes permitted has increased since then, it has not returned to pre-recession levels and growth of the housing supply is not meeting the demand for homes.
- The lack of affordable housing in Vermont has a direct impact on the economy in Vermont. Vermont is currently experiencing a housing crisis driven by high demand and low supply. At the same time, large areas of the state have lost significant numbers of housing units to flooding. Vermont needs more housing and housing best suited to withstand climate risks, as well as the right types of housing for different life stages. The housing status quo threatens the resilience of our economy, social well-being, health and health care system, education system, senior care, public safety, and tax base, among others.
- In order to meet the demand for 2025 to 2029, the pace of home building will need to increase to 24,000-36,000 additional year-round homes; necessary to normalize vacancy rates, house the homeless and replace homes lost from the stock through flooding and other causes.

More recently, the Vermont Futures Project Competitiveness Dashboard found that Vermont is the only state in the country to experience both natural population loss and negative net migration. In general, they found that domestic migration is away from high cost of living areas and that housing is the major driver in most places with a high cost of living. Only three states in the country (Alaska, North Dakota and Wyoming) issued fewer housing permits in 2024 than Vermont. Specifically, statewide Vermont issued building permits for 2,654 units of housing development in 2024 while more than 7,500 new units are needed annually to meet long-term housing demand.

The seriousness and impact of the housing shortage in Vermont has been discussed and acknowledged by the legislature on occasion for several years now.

On September 17, 2025, in response to the increasingly dire housing crisis in Vermont, Governor Scott issued Executive Order 06-25 (EO 06-25), directing ANR to engage in rulemaking to facilitate housing projects in growth areas. The relevant section of EO 06-25 is as follows:

3.1 Wetlands Modification For residential housing and mixed use projects that include a housing component in designated areas, such as Downtowns, Village Centers, New Town Centers, Growth Centers, Neighborhood Development areas, and Opportunity Zone areas served by public sewer, or with soils that are adequate for wastewater disposal, or extending to the terminus of the areas served by public sewer or water services if beyond area of the development district; areas that receive a Tier 1A or 1B designation under 10 V.S.A. §6033, and locations meeting the eligibility requirements established in 10 V.S.A § 6081(z) for an interim exemption from Act 250 permit or permit amendment requirements:

- Class II wetlands are limited to those features identified on the most current VSWI maps and no state wetland permits are required for impacts to unmapped Class II wetlands.
- Protective buffer zones around Class II wetlands are reduced to 25 feet.

Projects must comply with federal wetland requirements. Additionally, no later than February 1, 2026, the Agency of Natural Resources shall commence rulemaking to ensure that these wetland provisions are established in rule prior to the expiration of this Executive Order.

The directive related to wetlands was only one of the Governor's directives related to housing in EO 06-25. In February of 2026, ANR initiated the wetlands rule amendments in order to implement temporary allowed uses for housing infrastructure that exempt some wetland permitting requirements in designated growth centers.

For clarity, the Agency of Natural Resources' responses to the letter are set forth below in order of the questions and comments articulated in the letter. The headers and questions in the letter are in **bold** print.

A. Consistency with Statutory Authority; Timing of Proposed Session Law

Questions for the Agency: Please clarify the authority you assert for adoption of the allowed use for residential housing projects and linear utility projects. Specifically, if the Agency has existing authority to adopt the proposed rule amendments, why is the Agency proposing the session law amendments that purport to grant that authority? Does the Agency believe the session law amendments will control over the proposed rule changes.

As noted by Counsel O'Grady, Title 10 V.S.A. Chapter 37 sets forth statutory authority to adopt the Vermont Wetlands Rules under 10 V.S.A. § 905b(18) and 10 V.S.A. § 913(a). Both sections authorize ANR to promulgate wetlands rules. Section 913(a) provides clear and explicit authority for the Agency of Natural Resources' statutory authority to adopt allowed uses that are exempted from permitting by rule. The text of

section § 913(a) states: "[e]xcept for allowed uses adopted by the Department by rule, no person shall conduct or allow to be conducted an activity in a significant wetland or buffer zone of a significant wetland except in compliance with a permit, conditional use determination, or order issued by the Secretary." Section 913 is the primary authority for the allowed use amendments in the proposed wetland rules.

The intent of the Administration and ANR in proposing the session law was to provide the Legislature with information about ANR's rulemaking efforts and an opportunity to support temporary amendments to the wetland rules that facilitate housing projects in designated growth areas. This is in part because it has been apparent since the issuance of E.O. 06-25 that some legislators and environmental advocacy groups are adamantly opposed the E.O. directives related to the wetland rules. See Attachment A.

It is well established that statutes control over rules, in other words, a rule is not valid if it conflicts with a statute. The rule sections of the session law are entirely consistent with the proposed rule pending before the Legislative Committee on Administrative Rules (LCAR). The proposed rule amendments do, however, include more detail and guidance regarding certain sections of rules. In addition, the session law includes provisions related to general permits and certifications.

In addition, the Agency's proposed amendments to the Wetlands Rules would eliminate permitting for the construction of mixed-use housing in unmapped wetlands and allow construction of utility corridors in mapped Class II wetlands. As the wetlands rules are required to "only protect the values and functions sought" in the designation of a wetland, how are the proposed rules consistent with the statutory requirement to protect wetlands and the specific values and functions set forth in 10 V.S.A. § 905b(18)(A)?

The premise underlying this question – that the Vermont Wetland Rules require individualized protection of functions and values for every activity in every wetland – appears to misread the structure of the statutory and regulatory framework. The statute directs the Agency to adopt rules that protect the functions and values set forth in § 905b(18)(A). It does so through a tiered classification system that includes both permitted uses and categorical allowed uses.

Persons engaging in allowed uses have never been required to conduct wetland delineations or document protection of specific functions and values at the project level. That has been true since the Vermont Wetland Rules were first adopted in 1990. The growing of food and crops, recreation, utility maintenance, silviculture, and other activities are categorically exempt from permitting across all Class II wetlands statewide without any project-level function-and-value analysis. The proposed housing allowed use operates within that same established framework. The statutory requirement to protect wetland functions and values is broadly satisfied by the Agency's ongoing

implementation of the statute and wetland conservation rule; not the project level, for allowed uses.

The proposed allowed use for housing projects applies only to wetlands not shown on the current Vermont Significant Wetlands Inventory (VSWI) maps (with the exception of portions of the Class II wetland buffers and the outer associated and necessary linear utilities). The updated VSWI maps, using NWI Plus methodology, reflect the best available science for landscape-level wetland assessment and mapping. Furthermore, wetlands in designated growth areas are frequently degraded by existing development. The functions and values they typically provide are predominantly water quantity and quality functions – flood storage, runoff attenuation, filtration – which are at least partly and independently addressed through Vermont's stormwater permitting program, for most projects, and floodplain regulation. The more sensitive ecological functions – wildlife habitat, rare species, exemplary natural communities – are far less likely to be present in already-developed designated areas and, where present at a significant level, are more likely to be found in mapped wetlands that remain regulated. Additionally, Vermont's threatened and endangered species permitting requirements apply independently of wetland permitting and continue to operate regardless of allowed use status.

Finally, as to the question about potential utility corridor impacts, the utility corridor allowed use in mapped Class II wetlands is conditioned on compliance with required BMPs directly addressing the functions and values most likely to be affected. The BMPs were included as an appendix to the rule package and are generally consistent with the Agency's requirements for permits.

B. Arbitrariness of Reliance on Vermont Significant Wetlands Inventory Maps

Question for the Agency: Under the Administrative Procedure Act, one of the ways that a rule is defined as "arbitrary" is that "[t]he decision made by the agency would not make sense to a reasonable person."[1] Could you explain how the Agency's decision to rely on Class II VSWI maps for the identification of a wetland for purposes of the allowed use for residential housing and related required utilities would make sense to a reasonable person when the Vermont Wetlands Rules themselves deem the maps to be unreliable?

The Agency's decision to rely on Class II VSWI maps for the identification of wetlands within the proposed residential housing allowed use in designated areas is reasonable, well-grounded in the existing regulatory framework, and would make sense to a reasonable person for the following reasons:

[1] See 3 V.S.A. § 801(13)(A)(iii).

Section 4.4 states that all wetlands shown on the VSWI maps are Class II wetlands, and Section 2.7 defines Class II wetlands by direct reference to VSWI map identification. The Rules have always relied on the maps as the foundation of the regulatory classification system and the primary regulatory trigger. The caveat in Section 4.4 of the Vermont Wetland Rules that the VSWI maps "should not be relied upon to provide precise information regarding the location or configuration of wetlands" was written to protect landowners and the resource in individual permitting contexts – where the exact location of a wetland boundary determines whether a specific activity requires a permit. This is a different regulatory question from designating a category of activities as allowed uses and reflects a historic concern about map quality.

The Agency has substantially invested in improving the quality and accuracy of its wetland maps, under legislative direction and with funds appropriated specifically for this purpose, and is now proposing to use those improved maps for a limited regulatory basis; this is both a rational and transparent approach.

Specifically, Section 14 of Act 121 of 2024 directed by “January 1, 2030, the Secretary of Natural Resources shall complete High Quality Wetlands Inventory (NWI) plus level mapping for all of the tactical basins in the State.” This work was already underway when Act 121 was passed, and over the past three years the Agency has invested $250,000 in a comprehensive statewide mapping update using the NWI Plus level methodology, the most rigorous available standard. The intention in making this significant improvement in mapped wetlands was to improve planning, permitting, and conservation and provide regulatory certainty and transparency for the regulated public. As of April 17, 2026, mapping for 45% of Vermont was completed and mapping for the entire state is expected to be completed by the end of 2026.

The proposed allowed use also removes a structural constraint that has slowed housing development in Vermont. Under the current framework, wetland delineations can only be reliably conducted during the growing season – approximately May through October. Because the Agency generally advises to “delineate then design” a housing developer can experience months of delay and associated cost before being able to obtain any of the necessary permits for their project. Tying the allowed use in designated areas to mapped wetlands provides regulatory certainty necessary for larger-scale design and planning and eliminates the seasonal constraint for the housing projects in state-designated growth areas where the State has expressly determined it wants to concentrate development.

It is important to maintain the perspective that the proposed allowed use for housing applies to the very small subset of lands within Vermont that are designated for concentrated growth – Neighborhood Development Areas, downtowns, village centers, new town centers, and growth centers. These designated areas represent approximately 3% of Vermont's total land area and are already characterized by existing

development and human activity. Applying a more permissive wetlands framework to the 3% of Vermont's land area the State has affirmatively designated for housing growth is a proportionate and reasoned regulatory choice that has carry-on benefits for other natural resource concerns.

Most notably, promoting development within designated areas helps reduce sprawl which, in turn, protects forest blocks and habitat and can reduce vehicle miles traveled and the associated greenhouse gas emissions – public policies the General Assembly has sought to drive forward through previous legislation including Act 59 (2023) and the Global Warming Solutions Act.

In summary, the Agency is applying updated, high-quality maps – produced under legislative mandate and representing the best available science – to accelerate the development of housing in the very places the State has already said it wants more housing. This is a targeted regulatory adjustment that reasonably balances important State policies to prioritize much needed housing in certain designated areas of Vermont.

C. Modification of Buffer Zones Inconsistent with Statutory Authority

Questions for the Agency: Considering the plain language of the statue, the plain language of the current Vermont Wetlands Rule, General Counsel's misstatement regarding the process and authority for modifying a buffer, and the Attorney General's Opinion, could you clarify the Agency's statutory or regulatory authority to modify the buffer zone of a Class II wetland as the Agency has proposed in the draft Vermont Wetlands Rules?

To be clear, the proposed wetland rules do not contemplate that the Secretary will modify the buffer for specific Class II wetlands on a case-by-case basis. Instead, the proposed amended rules specify that certain types of projects are allowed uses within portions of the fifty-foot buffer of a Class II wetland, as long as those projects meet the applicable requirements of the amended rules (such as location within designated areas). Without the amended allowed uses proposed in the rules, a permit would be required for housing infrastructure within any portion of a wetland buffer. As noted in the letter dated April 17, 2026, allowed uses are the exception to the requirement for a wetland permit for activities and projects within a wetland and its buffer.

D. Legislative Intent and Statutory Policy for Regulation of Wetlands

Questions for the Agency: How is the proposed rule allowing development in significant wetlands protecting, regulating, and restoring wetlands? How are the proposed amendments to the Vermont Wetlands Rules guided by science, as the proposed rules apply a categorical allowed use not based on science but on the proposed activities to be allowed?

The proposed amendments do not abandon wetland protection. Rather, they make targeted, time-limited adjustments to address evolving priorities in a narrow geographic area while simultaneously strengthening the overall protection framework in several respects.

The allowed uses are only applicable within the 3% of the Vermont that is part of a designated area and the small subset of wetlands located within these areas. Most Vermont's wetlands – including Class I wetlands and Class II wetlands located outside designated areas – remain protected under the existing rules. Even within designated areas, the proposed rule does not eliminate wetlands regulation. Specifically, Class I retain their highest level of protection regardless of location and impacts to mapped Class II wetlands require compensation for any permanent wetland loss exceeding 5,000 square feet at a minimum 2:1 ratio, consistent with Act 121 of 2024. The proposed rule also incorporates the State's goal of net gain of wetlands, consistent with Act 121, and adds specific factors for evaluating the adequacy of compensatory mitigation which strengthens the analytical framework that applies when compensation is required.

In addition, the proposed allowed use would sunset on January 1, 2030. This temporal limitation is itself a protective feature, ensuring that the accommodation for housing in designated growth areas is revisited and affirmatively reauthorized rather than becoming permanent, and allowing all parties to evaluate the ecological outcomes of the allowed use and make an informed decision about whether and how to extend it.

The question also seems to imply a binary and false choice between allowing development and protecting wetlands. The Agency's broader record demonstrates that these are not mutually exclusive. For example, in 2024, ANR issued approximately 200 permits for activities within wetlands or buffer zones. Construction starts in 2024, under all permits issued in the 5 prior year, including the 200, allowed only 0.82 acres of wetland loss statewide. During the same period, ANR itself undertook projects that conserved or restored 135 acres of wetlands – 164 times larger than the amount of wetlands impacted by permitted projects. This ratio reflects the Agency's active investment in wetland restoration and conservation at a scale that dwarfs the impacts it permits.

The second question rests on the premise that a categorical allowed use based on the nature of proposed activities, rather than site-specific ecological assessment, cannot be scientifically grounded. That premise mischaracterizes both the established nature of allowed uses under the Vermont Wetland Rules and the appropriate role of science in policy-based regulatory decisions.

The Vermont Wetland Rules have always contained categorical allowed uses – exemptions from permitting that apply based on the nature of the activity rather than site-specific scientific evaluation. The list of allowed uses in the current Vermont Wetland Rules were established because the Legislature and the Agency determined that certain activities, appropriately conducted, present acceptable impacts relative to the larger values they serve. For example, allowed uses include growing crops, recreation, education, and routine maintenance of existing utilities. These are policy judgments informed by science, not a rejection of it. The proposed housing allowed use follows the same logic and operates within this same established framework.

This proposed rule also advances other important policy considerations based on a societal need for smart growth and housing. In particular, the Climate Action Plan (CAP), developed under the Global Warming Solutions Act (Act 153 of 2020), specifically directs the Climate Council to identify initiatives, programs, and strategies that encourage smart growth to reduce greenhouse gas emissions and promote climate resilience. In response, the CAP identifies the following concepts:

- Vermonters have stressed the importance and need for more compact development that provides resilience through thoughtful planning and siting of infrastructure in community centers that are surrounded by and buffered by surrounding natural and working lands that reduce climate impacts.
- One of the top 10 priorities of the CAP is increased investment in municipal infrastructure to support compact development, recognizing that compact settlement is necessary to reducing Vermonters' dependence on private vehicles and vehicle miles traveled

Sprawl fragments natural and working lands, increases vehicle miles traveled, and produces environmental consequences that are, on balance and in the long-term, anticipated to be more harmful than the targeted wetland impacts the proposed allowed use would permit. Concentrating housing in designated growth areas is itself a climate and land use science-informed approach to minimizing Vermont's overall development footprint and protecting the farms, forests, and rural landscapes that surround those centers.

E. Clarifications

1. **Question for the Agency: Can you provide the factual basis or criteria that would be used to determine what is "practicably unavoidable"? If not, can you explain how this provision is not arbitrary?**

The terms "practicable" and "practicably" are defined in 2.31 of the Vermont Wetland Rules as "available and capable of being done after taking into consideration logistics, existing technology, and cost in light of the overall project purpose." The terms

"avoidable" and "unavoidable" are used throughout the wetland rules, often in the context of avoidance and minimization, and has a commonly understood definition. The Oxford Dictionary for example, defines avoidable as: "not able to be avoided, prevented, or ignored; inevitable." Here is a link to an avoidance and minimization checklist developed by the Wetlands program:
https://dec.vermont.gov/sites/dec/files/wsm/wetlands/docs/WetlandAvoidanceAndMinimizationChecklist.pdf
Practicably unavoidable is a high standard and can be simply stated as - - "there is no other feasible alternative."

2. (6.26(d)(ii) **Question for the Agency: Can you provide the factual basis or criteria that would be used to determine what is "permanent impact cumulatively"? If not, can you explain how this provision is not arbitrary?**

A permanent impact is a consequence or effect that is long term. Permanent wetland impacts result in long lasting alterations to wetland characteristics such as vegetation, hydrology or soils. In contrast temporary impacts are areas that are promptly restored to preconstruction conditions within one growing season. A permanent impact may entail a structure or installation that is built to last, such as a building, road, or conversion of forested swamp to lawn. The intent here is to consider the cumulative impacts, in other words all of the potential impacts, of a project on a wetland.

3. Registration with ANR

Question for the Agency: Could you clarify what public notice, if any, would be provided prior to or after commencement of construction under the proposed allowed use for a residential housing project or linear access infrastructure? What opportunity will interested parties have to comment on or appeal construction under the allowed use? What role does the Agency play if the construction is allowed to commence 30 days prior to notification of the Secretary? If there is no public notice, no opportunity for interested parties to appeal, and no substantive review of the development by the Agency, how is the proposed allowed use consistent with the water resources management policy of the State to be "protected; regulated; and, where necessary, controlled under authority of the State in the public interest and to promote the general welfare"?[2]

The proposed allowed use for housing projects in designated areas follows the same framework as all other allowed uses under the Vermont Wetlands Rules. No individual public notice or project-level appeal rights attach to any allowed use under the proposed Wetland Rules revisions (though there likely would be public notification required under other applicable State or local/municipal rules); this has always been true of the

[2] 10 V.S.A. § 901(1).

categorical exemptions for growing crops, recreation, utility maintenance and others. The registration will, however, allow the Wetlands Program to track housing projects in sdesignated areas and ensure that those projects are built in compliance with the proposed wetland rules, and inform the Agency's evaluation of the allowed use when it sunsets in January 2030. Further, the registration requirement creates a documented record against which present and future compliance can be evaluated. Projects that do not qualify for the allowed use remain subject to full enforcement under the Vermont Wetland Rules.

The allowed use is itself an exercise of State authority in the public interest under 10 V.S.A. § 901. The State is not abdicating its regulatory role, but rather it is determining, through a public rulemaking process, that providing greater and expedited regulatory certainty related to wetlands for housing projects in designated growth areas serves the general welfare. The water resources management policy does not require individual adjudication of every wetland impact. It requires the State to exercise its authority in the public interest, which the Agency has done through a public rulemaking, the addition of the mandatory 2:1 compensation requirement and a net gain goal, registration and tracking, unchanged enforcement authority, and a sunset provision. Moreover, the general welfare the statute references is not limited to wetland protection in isolation. A reasonable interpretation of the Agency's obligation under its water resources management policy to act in the public interest encompasses both wetland protection and other important environmental benefits that accrue by reducing regulatory barriers to development in locations the State has already designated as appropriate for concentrated growth.

F. Separation of Powers Concerns

Question for the Agency: How are the proposed Vermont Wetlands Rules not a violation of the separation of powers? And, if you assert they are not, why are you seeking legislative authority to adopt the rules that you have already proposed?

As explained above, ANR offered the session law amendment as a vehicle for discussion with the legislature. The effort to engage in that discussion and the fact that explicit legislative approval of the rule would reduce the likelihood of an LCAR objection does not in any way constitute “evidence,” “acknowledgement,” or “concession” that the proposed rules are legally indefensible.

The Vermont Constitution states that “[t]he Legislative, Executive, and Judiciary departments, shall be separate and distinct, so that neither exercise the powers properly belonging to the others.” Vt. Const. CH II, § 5. “The Supreme Legislative power shall be exercised by a Senate and a House of Representatives.” Vt. Const. CH II, § 2. “The Supreme Executive power shall be exercised by a Governor…” Vt. Const. CH II, § 3.

The application of this constitutional provision requires an analysis of the powers of each branch and specifically "whether the power exercised so encroaches upon another branch's power as to usurp from that branch its constitutionally defined function." *In re D.L.*, 164 Vt. 223, 228 (1995)(judiciary participation in inquests does not violation the constitutional separation of powers doctrine) citing *United States v. Smith*, 686 F.Supp. 847, 854 (D.Colo.1988).

The Vermont Supreme Court has repeatedly acknowledged that the powers and activities of the three branches of government may overlap and that "an absolute division of authority among the three branches" is not required under the Constitution. *In re D.L.*, 164 Vt at 228-229, See also *Trybulski v. Bellows Falls Hydro–Elec. Corp*., 112 Vt. 1, 6–7 (1941); *Chioffi v. Winooski Zoning Board*., 151 Vt. 9, 11 (1989) (there is necessary overlap in the authority of different branches of government); *State v. Pierce*, 163 Vt. 192, 194-195 (1995); *INS v. Chadha*, 462 U.S. 919, 951(1983) (federal branches of government are not hermetically sealed from one another).

Here the legislature specifically and permissibly authorized ANR to promulgate rules in accordance with 3 V.S.A. Chapter 25 that set forth allowed uses which are exempt from wetland permitting. The plain language of 10 V.S.A. § 913 is clear and unequivocal. The Vermont Supreme Court has recognized the overlap in the powers of all branches of government. *Pierce*, 163 Vt. at 196-197 (upholding a statute that requires prosecutor consent for a sentencing option, acknowledging overlapping executive and judicial power).

The Court has affirmed the constitutionality of statutes that delegate discretion and authority for the executive branch to implement, administer and execute legislation. *Id.*; *State v. Hunter*, 177 Vt. 339 (2004)(upholding legislation allowing the Governor to reduce appropriations for programs when revenue shortfalls occur outside the legislative session). In *Hunter*, the court stated, "[w] have described our separation-of-powers requirement as "a relatively forgiving standard ..., tolerant of such overlapping institutional arrangements short of one branch virtually 'usurp[ing]' from another its constitutionally defined function." *Id.* at 350 *citing: State v. Nelson*,170 Vt. 125, 128, 742 A.2d 1248, 1250 (1999) (quoting *In re D.L*., 164 Vt. at 229, 669 A.2d at 1176); *North Dakota Council of School Adm'rs v. Sinner*, 458 N.W.2d 280, 285 (N.D.1990) (adopting "more relaxed" application of separation-of-powers doctrine to allow delegation in broad and general terms in a complex area).

In conclusion, there is no constitutional violation of separation of powers here. In plain language, the legislature explicitly delegated the authority to promulgate rules that set forth allowed uses in wetlands. Title 10, Chapter 37 lays out details such as, the purpose of the statute, the protected functions and values of wetlands, and provides for a net gain of significant wetlands. The proposed rules are consistent with the plain

language of § 913(a), and the proposed allowed uses for housing are narrowly applicable and expire in less than four years.

Please feel free to reach out to Commissioner Sinsigalli (Misty.Sinsigalli@vermont.gov) and Attorney Gjessing (Catherine.Gjessing@vermont.gov) with any further questions or concerns you may have.

Sincerely,

Julia Moore
Secretary, Agency of Natural Resources