VERMONT
AGENCY OF NATURAL RESOURCES

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Chair Jane Kitchel
Senate Appropriations
Room 5

Chair Ann Cummings
Senate Finance
Room 6

sent via email

Dear Chair Kitchel and Chair Cummings:

I am writing to share some concerns regarding S.213, *An act relating to flood safety (née An act relating to the regulation of wetlands, river corridor development, and dam safety)*, sponsored by Senator Bray and passed out of the Senate Natural Resources and Energy Committee (SNRE) earlier today.

I want to acknowledge the extensive testimony Chair Bray and his committee heard from environmental advocates as well as the Agency of Natural Resources (Agency) leadership and program staff, including discussion of conservation, restoration and resilience efforts related to river corridors, wetlands, and floodplains. Although the Agency supports the intent of the legislation, throughout the SNRE committee process we have continued to express serious concerns regarding unrealistic timelines and the significant new staff and contract resources required to fulfill the obligations created by the bill.

Chair Bray did request a fiscal note, which the Agency has not seen as of the date of this letter. However, the Agency has worked with our program staff to identify the resources necessary to implement the legislation as passed out of SNRE. Of greatest concern, all the resources provided in S.213 are one-time appropriations in the FY25 budget whereas the obligations created by the bill would be a going concern for the Agency. Specifically, of the $4.9M in appropriations identified in S.213, just $500,000 will actually be used for one-time expenses whereas $2.4M will be needed on an on-going (annual) basis to staff the programs the bill creates. In addition, $2M annually for a minimum of the next five years will be needed to capitalize the Dam Safety

Revolving Loan Fund envisioned by the bill, as S.213 significantly expands the scope and eligibility from the pilot program the Governor presented in his recommended FY25 budget.

I have included a table below, which was also shared with SNRE, that includes more detail on the planned use for these appropriations. Of note, the version of S.213 voted out of SNRE accelerated the implementation timeline for completing the mapping and rulemaking process related to river corridors (Sections 3-5 of the bill), requiring this work to be completed by 2028 as opposed to the 2030 timeline reflected in estimates provided in the the table. Given this, in addition to the appropriations currently contained in the bill, an additional $400,000/year through FY28 is needed to augment the base appropriation for contractual support equivalent to the "lost" staff capacity resulting from the accelerated schedule.

In addition, I am attaching two letters from the Agency's Environmental Justice (EJ) Unit that speak to the importance of community engagement in legislation as expansive as S.213. The concerns being raised by the EJ Unit echo concerns recently reported by the PUC in the *First Checkback Report on the Clean Heat Standard* – specifically that the expedited timelines are often in "…direct tension with Vermont's commitments to climate equity." Appreciating the sense of urgency to act so many clearly feel following this summer's devasting floods, I am concerned S.213 is driving action without leaving sufficient time for deliberation and thereby limiting our ability to support an inclusive and thoughtful approach in what is a truly significant change in public policy that will impact more than 45,000 parcels statewide.

In conclusion, as I have shared in both your committee as well as in SNRE, over the past five years the Agency has taken on a series of significant and on-going initiatives. These include:

- Managing hundreds of millions of dollars of investment opportunities made possible by ARPA, the Bipartisan Infrastructure Law and the Inflation Reduction Act.
- Leading on climate action, including supporting the Climate Council, on behalf of state agencies.
- Standing up an environmental justice unit and supporting the work needed to more fully integrate these important principles into our work.
- Actively engaged in the efforts directed by Act 59 to develop a statewide conservation plan that achieves 30 percent conserved land by 2030 and 50 percent by 2050.
- Leading PFAS monitoring and response efforts statewide.
- Initiating PCB testing in the more than 300 Vermont schools built prior to 1980.
- Expanding Vermont's outdoor recreation offerings, including support for the VOREC program, and welcoming more than 1 million visitors each year to our state parks.

And this is to say nothing of the Agency's leading role in responding to this summer's floods and supporting the ongoing recovery efforts. I am unbelievably proud of how the Agency's staff and risen and risen and risen to meet the moment and serve Vermont and Vermonters. But, at this point, our capacity to take on new things – large or small – is completely exhausted. As you work towards the version of the bill you ultimately vote out of your committees, I implore you to do so with a clear understanding of the actual resources the General Assembly is prepared to commit to supporting the implementation of S.213, and that it matches the scope and timeline provided for the Agency to complete this work.

I would appreciate the opportunity to appear in front of your committees and answer any questions you may have about the concerns raised herein.

Sincerely,

Julia S. Moore, P.E.
Secretary

cc: Sen. Christopher Bray, Chair, SNRE
Sen. Phil Baruth, Pro Tem

Attachements: ANR EJ Perspective
EJ Recommendations

Projected Resources Required for Implementation – S.213

Section	Appropriation included Draft No. 6.1 – S.213	Appropriation required to implement S.213 (base and one-time indicated)	Gap between bill as drafted and resources necessary to implement S.213	Description	Other considerations
Sec 3 -5	2 FTEs (one-time) in FY25 budget ($300K) Per diem language included for study group	6 FTEs with **base** funding ($900K) $225K of one-time contractual support	S.213 allocates one-time funding for staff; the **Agency requires base funding for 6 FTEs in base budget** ($900K) in the Big Bill **$225K in one-time contractual support** (includes language access and translation)	Develop updated river corridor maps and conduct related community engagement around permitting requirements in mapped river corridors Undertake rulemaking Handle increased volume of technical assistance/permitting/ challenges to ANR mapped river corridors	If implementation timeline is accelerated from 2030 to 2028, and additional $400k/yr (total of $1.5-2m) will be needed for contractual support (essentially equivalent to "lost" staff capacity over the two years: $150k/yr x 6 FTEs x 2 years)

Sec. 6	2 FTEs (one-time) in FY25 budget ($300K)	2 FTEs with **base** funding ($300K) $225K of one-time contractual support	S.213 allocates one-time funding for staff; the **Agency requires base funding** in the Big Bill **$225K in one-time contractual support** (includes language access and translation)	Establishment of Statewide Flood Hazard Area Standards; community engagement necessary to communicate changes	
Sec. 12 - 17	2 FTEs (one-time) in FY25 budget ($300K)	2 FTEs with **base** funding ($300K) and $150K of contractual support	S.213 allocates one-time funding for staff; the **Agency requires base funding** in the Big Bill and contractual support	Wetlands mapping and rulemaking	Agency sees this work as a low priority as it does little more than codify our current practice
Sec. 18	3 FTEs (one-time) in FY25 budget ($350K)	6 FTEs with **base** funding ($900K) $2M-4M annually for 5 years to capitalize revolving loan fund	S.213 allocates one-time funding for staff; the **Agency requires base funding for 6 FTEs in base budget** ($900K) in the Big Bill **$2M-4M** annually for 5 years to capitalize revolving loan fund	Expanding Dam Safety authority for Vermont, moving regulatory authority from PUC to ANR for their dam portfolio, expanded revolving loan fund to support both emergency and non-emergency dam removal and repair, and rulemaking.	This work precedes phase II rulemaking due July 1, 2025.
Sec. 25	$0	1 FTE with **base** funding ($150K)	**1 FTE in base budget** ($150K) in the Big Bill	Basin Plan reclassification of waters and wetlands	
Sec. 26	$50,000 of one time funding for community education	$75K in contractual support		Prohibition of unencapsulated dock foam and rulemaking.	
Sec. 28	$0	$0		Study Committee of enrollment of mapped river corridors in UVA.	

—	$0	1 FTE with **base** funding ($150K) in the DEC Business Office	**1 FTE in base budget** ($150K) in the Big Bill	Necessary administrative support for 15 new employees and more than $20M in one-time funding	