

STATE OF VERMONT

PUBLIC SERVICE BOARD

Petition of Entergy Nuclear Vermont Yankee,)	
LLC and Entergy Nuclear Operations, Inc., for a)	
certificate of public good, pursuant to 30 V.S.A.)	
§ 248 and 10 V.S.A. § 6522, authorizing the)	
construction of a second independent spent fuel)	Docket No. 8300
storage installation storage pad and related)	
improvements, including installation of a new)	
diesel generator with an electrical rating of)	
approximately 200 kW, at the Vermont Yankee)	
Nuclear Power Station in the Town of Vernon,)	
Vermont)	

**RESPONSES OF THE AGENCY OF NATURAL RESOURCES TO ENTERGY
NUCLEAR VERMONT YANKEE, LLC, AND ENTERGY NUCLEAR OPERATIONS,
INC.'S FIRST SET OF INFORMATION REQUESTS**

This is the response of the Agency of Natural Resources (“ANR” or “Agency”) to Entergy Nuclear Vermont Yankee, LLC (“ENVY”), and Entergy Nuclear Operations, Inc.’s (“ENO”) First Set of Information Requests (“Requests”). ENVY and ENO will be referred to collectively as “Entergy VY”. The ANR is filing one complete copy of its responses with the Board, with two copies served on ENVY and one copy served on each other party of record.

GENERAL OBJECTIONS

- A. The Agency objects to the Requests on the grounds and to the extent that they seek responses that are subject to any or all of the following privileges: (i) the attorney-client privilege; (ii) trial preparation privilege; (iii) executive privilege, or that are otherwise privileged or protected from disclosure.
- B. The Agency objects to the Requests as overbroad and unduly burdensome on the grounds and to the extent they call for responses that are neither relevant to the subject matter of the pending action, nor reasonably calculated to lead to the discovery of admissible evidence.
- C. The Agency objects to the Requests’ Instructions and Definitions on the grounds and to the extent that they are overbroad, unduly burdensome and oppressive, purport to impose obligations on the Agency that are beyond the scope of the Public Service Board Rules or the Vermont Rules of Civil Procedure or other applicable law, cannot be produced without undue burden to the Agency and/or that require an unreasonable investigation on the part of the Agency in order to be produced, or purport to require the Agency to create documents responsive to any such Requests.

- D. The Agency objects to the Requests to the extent that they seek the production of documents and information already in the possession of, or publicly available to, or readily obtainable to the Petitioner and their counsel, on the ground that with respect to such production, Petitioner's Requests are thereby rendered unduly burdensome.
- E. The Agency objects to the Requests to the extent that they seek the production of documents and information in the possession, custody or control of entities other than the Agency, on the ground that such demanded production is beyond the scope of the Public Service Board Rules or the Vermont Rules of Civil Procedure and other applicable rules and law.
- F. The Agency expressly reserves the right to supplement, clarify, revise or correct any or all of the responses herein at any time. By making any response to the Requests, the Agency does not waive, and hereby expressly reserves, the right to assert any and all objections as to the admissibility of such responses into evidence at the time of trial of this action, or in any other proceeding, on any and all grounds, including but not limited to, competency, relevance, materiality and privilege. Further, the Agency provides the responses herein without in any manner express or implied admitting that the items in the Requests or in any response thereto are relevant or material to the subject matter of this proceeding.
- G. These General Objections are made in response to each of the below-referenced objections and responses as if the objections were fully set forth therein. The Agency does not waive any objections and reserves the right to later raise any additional, available objections.

Q.EN.ANR.1-CG-1: Identify, list and produce all exhibits to be introduced or used at hearing in support of Mr. Gianfagna's prefiled testimony in this proceeding.

A.EN.ANR.1-CG-1: Objection. B. Without waiving its objection, the Agency responds:

I am uncertain what exhibits I will introduce or use at the hearing. However, at this time I do not intend introduce or use any exhibits.

Person Responsible for Response: Chris Gianfagna
Title: Environmental Analyst
Date: September 30, 2015

Q.EN.ANR.1-CG-2: Identify, list and produce all documents, data compilations, workpapers, or other tangible things provided to, prepared by, reviewed by, relied upon or used by Mr. Gianfagna in developing his prefiled testimony, including the exhibits to his prefiled testimony.

A.EN.ANR.1-CG-2:

- General Permit 3-9020
- 4213-9020 Notice of Intent
- Appendix A
- Discharge Authorization #4213-9020
- Notice of Authorization for Discharge Authorization #4213-9020
- Environmental Protection Rules, Chapter 18: Stormwater Management Rule
- 4213-INDS Notice of Intent
- Discharge Authorization #4213-INDS.A.

See Attachment A.EN_ANR.1-CG-2

Person Responsible for Response: Chris Gianfagna
Title: Environmental Analyst
Date: September 30, 2015

Q.EN.ANR.1-RE-1: Identify, list and produce all exhibits to be introduced or used at hearing in support of Mr. Evans' prefiled testimony in this proceeding.

A.EN.ANR.1-RE-1: Objection. A. Without waiving this objection, the Agency responds:

I am uncertain what exhibits I will introduce or use at the hearing. However, I may introduce or use the following documents at the hearing:

- Exhibit ANR-REE-2 to Prefiled Testimony of Rob Evans

Person Responsible for Response: Rob Evans

Title: State Floodplain Manager

Date: September 30, 2015

Q.EN.ANR.1-RE-2: Identify, list and produce all documents, data compilations, workpapers, or other tangible things provided to, prepared by, reviewed by, relied upon or used by Mr. Evans in developing his prefiled testimony, including the exhibits to his prefiled testimony.

A.EN.ANR.1-RE-2:

- Flood Hazard Area & River Corridor Protection Procedure
- Flood Hazard Area & River Corridor Rule
- Flood Hazard Area & River Corridor General Permit
- River Corridor Protection Guide and Technical Appendix
- Vermont Stream Geomorphic Assessment Protocol Handbooks also available at: http://watershedmanagement.vt.gov/rivers/htm/rv_geoassesspro.htm
- Vermont Regional Hydraulic Geometry Curves
- Windham County Flood Insurance Study
- Flood Study of the Connecticut River (GEI, Inc., 2009)
- Turners Falls Pool Fluvial Geomorphology Study - November 2007
- Excel spreadsheet used for channel width calculation
- Vermont Hydrography Dataset available at: <http://vcgi.vermont.gov/opendata>
- VCGI aerial orthoimagery at: <http://vcgi.vermont.gov/opendata>
- GIS shapefiles created and used in the delineation of the river corridor depicted on Exhibit ANR-REE-2
- ArcView 3.2 and ArcMap 10.2.1 mapping software (licensed and not provided)
- Email communications from Shannon Pytlik

See Attachment A.EN_ANR.1-RE-2

Person Responsible for Response: Rob Evans
Title: State Floodplain Manager
Date: September 30, 2015

Q.EN.ANR.1-RE-3: In reference to page 5, lines 18 through 20 of Mr. Evans's prefiled testimony, please explain whether the river map "created for the site" is based on a delineation of the river corridor adjacent to the VY Station site.

A.EN.ANR.1-RE-3: Yes, Exhibit ANR-REE-2 is the river corridor delineation at the VY Station site based on data readily available to the Agency.

Person Responsible for Response: Rob Evans
Title: State Floodplain Manager
Date: September 30, 2015

Q.EN.ANR.1-RE-4: State whether Mr. Evans has reviewed the Final Report, dated February 2009, on the Flood Study of the Connecticut River performed by Geotechnical Environmental and Water Resources Engineering for Entergy Nuclear Vermont Yankee in connection with Docket No. 7082 concerning the first ISFSI project. If the answer is yes, please identify the sections of the report, if any, that Mr. Evans considered in his evaluation of the river corridor for the section of the Connecticut River adjacent to the Vermont Yankee Nuclear Power Station.

A.EN.ANR.1-RE-4: I reviewed the 2009 Flood Study of the Connecticut River performed by GEI Consultants, Inc. The information in the report helped give me assurance that a sudden and catastrophic failure of the embankment sending dry casks into the river is unlikely. The objective of the 2009 study was to evaluate riverbank scouring from a single catastrophic flood event concurrent with a breach of the Vernon Neck and whether the proposed first ISFSI project would be at risk from flood related erosion.

Instead of a single event analysis, the river corridor development process defines the lateral space a river may occupy as a result of stable meander migration and the cumulative channel adjustments that occur over longer periods in an alluvial (depositional) setting. Section 2.3 of the 2009 study states that area of the existing and proposed dry cask storage pads sit on alluvial soils. The presence of alluvial soils confirms that the river has deposited material and has previously migrated through the area within the river corridor.

Person Responsible for Response: Rob Evans
Title: State Floodplain Manager
Date: September 30, 2015

Q.EN.ANR.1-SS-1: Identify, list and produce all exhibits to be introduced or used at hearing in support of Mr. Simoes' prefiled testimony in this proceeding.

A.EN.ANR.1-SS-1: Objection A. Without waiving its objection, the Agency responds:

I am uncertain what exhibits I will introduce or use at the hearing. However, I may introduce or use the following documents:

- DEC Environmental Fact Sheet; Managing Lead-Containing Paint Waste (rev. 2/2014)
- EPA Method 1311; Toxicity Characteristics Leaching Procedure
- Use of Total Waste Analysis in Toxicity Characteristic Determinations
- The Vermont Hazardous Waste Management Regulations, effective March 3, 2013 (hereinafter referred to as "VHWMR")
- May 18, 2015 RCRA Site Inspection Reports and Attachments

See Attachments:

A.EN_ANR.1-SS-1(a)
A.EN_ANR.1-SS-1(b)
A.EN_ANR.1-SS-1(c)
A.EN_ANR.1-SS-1(d)

Person providing response: Steve Simoes
Title: Environmental Analyst
Date: September 30, 2015

Q.EN.ANR.1-SS-2: Identify, list and produce all documents, data compilations, workpapers, or other tangible things provided to, prepared by, reviewed by, relied upon or used by Mr. Simoes in developing his prefiled testimony, including the exhibits to his prefiled testimony.

A.EN.ANR.1-SS-2: I reviewed and relied upon the following in developing my pre-filed testimony:

- DEC Environmental Fact Sheet; Managing Lead-Containing Paint Waste (rev. 2/2014)
- EPA Method 1311; Toxicity Characteristics Leaching Procedure
- Use of Total Waste Analysis in Toxicity Characteristic Determinations
- The Vermont Hazardous Waste Management Regulations
- Pre-filed Testimony and Exhibits of George Thomas
- ENVY Petition for a Certificate of Public Good, dated June 30, 2014
- Maine Yankee Atomic Power Company, New License #O-000159-HL-B-N
- Supplemental Pre-filed Testimony and Exhibits of George Thomas

See Attachments:

A.EN_ANR.1-SS-1(a)
A.EN_ANR.A-SS-1(b)
A.EN_ANR.1-SS-2

Person providing response: Steve Simoes
Title: Environmental Analyst
Date: September 30, 2015

Q.EN.ANR.1-SS-3: Referring to your prefiled testimony at page 3, lines 14-15, specify and identify the “requirements” for management and disposal of non-radiological hazardous waste, to which you refer, and provide the specific legal basis or other source for such requirements (including subsections).

A.EN.ANR.1-SS-3: Objection. The question calls for a legal conclusion. The question also calls for speculation as to which specific requirements and legal bases (subsections) will apply to non-radiological hazardous waste-related activities that have not yet occurred as a part of the proposed Project activities. Without waiving this objection, the Agency responds:

The referenced testimony refers generally to the requirement for management and disposal of any non-radiological hazardous waste generated during demolition and removal of the North Warehouse. The requirements for management and disposal of non-radiological hazardous wastes are included within the VHWMR, subchapters 3 and 7.

Person providing response: Steve Simoes
Title: Environmental Analyst
Date: September 30, 2015

Q.EN.ANR.1-SS-4: Referring to your prefiled testimony at page 3, lines 18-20, explain why your recommendations should not affect the timeline for any work by Petitioner on this project.

A.EN.ANR.1-SS-4: The recommendations made in A17 of my pre-filed testimony (page 11, lines 7-17) are based on existing applicable requirements of the VHWMR regarding the identification, management, and disposal of non-radiological hazardous wastes. As a generator of non-radiological hazardous waste, it is the obligation of ENVY to plan and coordinate compliance with applicable non-radiological hazardous waste regulations within its proposed Project construction sequence.

I do not anticipate that compliance with the applicable non-radiological hazardous waste regulations will affect the timeline of the overall proposed Project. Once representative samples of non-radiological hazardous wastes have been obtained, it is possible, within a few days to two weeks, to receive laboratories results of contaminant concentrations necessary to make a hazardous waste determination in accordance with VHWMR §§ 7-202 and 7-203. Once a hazardous waste determination is made, ENVY may utilize existing contractors to manage and transport non-radiological hazardous waste offsite to appropriate end facilities.

With the exception of the recommendation to conduct representative sampling of waste materials (e.g., wood, concrete) generated through demolition of the North Warehouse, the Agency does not include any timing requirements in its recommendations to the Board. Although ENVY may conduct the representative sampling of the North Warehouse debris concurrent with the demolition of the structure (as waste is generated), the Agency recommends that the Board require ENVY to conduct such sampling prior to the demolition of the North Warehouse to identify any non-radiological hazardous waste to be generated as a result of the demolition activities earlier in the construction sequence.. Making these determinations prior to demolition of the North Warehouse would enable ENVY to implement strategies to ensure that any non-radiological hazardous wastes generated by the demolition are segregated from other waste materials, therefore facilitating easier management and disposal of those non-radiological hazardous wastes.

Person providing response: Steve Simoes
Title: Environmental Analyst
Date: September 30, 2015

Q.EN.ANR.1-SS-5: Referring to your prefiled testimony at page 4, line 2, explain the limitations referenced in your statement that your “direct review of the proposed Project is limited,” and identify, list and produce all documents related to your response.

A.EN.ANR.1-SS-5: See A6 (page 4, lines 2-6) of my prefiled testimony. My review of the Project is limited to review of Petitioner testimony regarding the North Warehouse demolition and characterization and [sic] materials stored or managed in the North Warehouse. I have also performed a site inspection that included a limited evaluation of the North Warehouse, which is currently located where the proposed Project is to occur. See A6 (page 4) of my prefiled testimony.

Additionally, see:

- May 18, 2015 RCRA Site Inspection Reports and Attachments
- Pre-filed Testimony and Exhibits of George Thomas
- ENVY June 2014 Spent Fuel Management Plan
- ENVY Petition for a Certificate of Public Good, dated June 30, 2014
- Supplemental Pre-filed Testimony and Exhibits of George Thomas

See Attachments:

A.EN_ANR.1-SS-1(c)
A.EN_ANR.1-SS-1(d)
A.EN_ANR.1-SS-2

Person providing response: Steve Simoes
Title: Environmental Analyst
Date: September 30, 2015

Q.EN.ANR.1-SS-6: Referring to your prefiled testimony at page 4, lines 4-6, identify all records and documentation of the “site inspection that included a limited evaluation of the North Warehouse” performed by you, and list and provide all documents related to your response.

A.EN.ANR.1-SS-6: Objections B, D. Without waiving these objections, the Agency responds:

The records and documents of the “site inspection that included a limited evaluation of the North Warehouse” performed by me are listed below and produced herein:

- May 18, 2015 RCRA Site Inspection Reports and Attachments

See Attachments:

A.EN_ANR.1-SS-1(c)

A.EN_ANR.1-SS-1(d)

Person providing response: Steve Simoes

Title: Environmental Analyst

Date: September 30, 2015

Q.EN.ANR.1-SS-7:

- a. What are the criteria for determining what constitutes a “representative sample” of structural components that are coated with lead paint in the North Warehouse as referenced at p. 9, line 3 of your prefiled testimony?
- b. What is the legal and/or regulatory authority that establishes those criteria?
- c. Explain your understanding of how the “single ‘paint chip’” referenced in page 8, A 13 was obtained.
- d. Identify, list and produce all documents relied on to support ANR’s response to (a) – (c).

A.EN.ANR.1-SS-7:

- a. The Agency objects to the question as vague and ambiguous with regard to what is meant by “criteria”. Without waiving the objection, the Agency responds:
Please refer to A.11 (on page 7-8) and A.14 (on page 9), of my prefiled testimony.
- b. Objection to the extent the question seeks a legal conclusion. The Agency also objects to the question as vague and ambiguous with regard to what is meant by “criteria”. Without waiving the objection, the Agency responds:

Please refer to A.11 (on page 7-8), and A.14 (on page 9), of my prefiled testimony. Additionally, requirements for sampling, analytical and testing methodologies, including specific representative sampling methods, are outlined in VHWMR § 7-219 and authorities referenced therein.
- c. The Agency objects to the question as it is vague and ambiguous and calls for speculation of how the Petitioner obtained the paint chip. Without waiving the objection, the Agency responds:

My only understanding of how the single paint chip was obtained comes from the Endyne Laboratory Report submitted by ENVY. ENVY has not otherwise indicated how the paint chip was obtained.
- d. The documents relied on to support my responses are as follows:
 - Vermont Hazardous Waste Management Regulations
 - Steve Simoes Prefiled Testimony
 - Endyne Inc., Laboratory Report, Work Order 1506-12145

See Attachments:

A.EN_ANR.1-SS-1(b)

A.EN_ANR.1-SS-7

Person providing response: Steve Simoes

Title: Environmental Analyst

Date: September 30, 2015

Q.EN.ANR.1-SS-8: Identify, describe, list and produce all studies done by you to support the statement at page 8, lines 15-18 of your prefiled testimony that: "Based on the concentration of lead in the paint chip sample, a representative sample of the debris would potentially exceed the toxicity characteristic regulatory threshold for lead," Identify, list and produce all documents upon which you base the statement.

A.EN.ANR.1-SS-8: The Agency object to the question as it is vague and ambiguous with regard to what is meant by "studies." Without waiving the objection, the Agency responds:

My statement at page 8, lines 15-18, of my prefiled testimony is supported by the following:

- Vermont Hazardous Waste Management Regulations
- EPA Method 1311; Toxicity Characteristics Leaching Procedure
- Use of Total Waste Analysis in Toxicity Characteristic Determinations

See Attachments:

A.EN_ANR.1-SS-1(a)

A.EN_ANR.1-SS-1(b)

Person providing response: Steve Simoes

Title: Environmental Analyst

Date: September 30, 2015

Q.EN.ANR.1-SS-9: Referring to your prefiled testimony at page 8, lines 15-20, identify the source of the requirement that a “potential” exceedance requires a person to make a hazardous waste determination under Section 7-303 of the Vermont Hazardous Waste Management Regulations (“VHWMR”). Provide the specific legal basis or other source for the requirement (including subsections) that supports your statement. Identify, list and produce all documents upon which you base the statement.

A.EN.ANR.1-SS-9: Objection to the extent the question calls for a legal conclusion. The Agency also objects to the question as it mischaracterizes the testimony at page 8, lines 15-20, which is specifically related to the Petitioner’s project. Without waiving the objection, the Agency responds:

VHWMR § 7-303 requires that any person who generates a waste shall determine if that waste is a hazardous waste in accordance with VHWMR § 7-202. VHWMR § 7-202 requires that any person who generates or is in control of a waste must determine if that waste is a hazardous waste, and outlines procedures for making such a determination. In this matter, the only information provided by ENVY regarding the concentration of lead at the North Warehouse is from analysis of a single paint chip sample. The total concentration of lead in the single sample greatly exceeds the toxicity characteristic regulatory level for lead (see VHWMR § 7-208, Table 1). However, these results do not indicate the concentration of lead (due to lead paint) in the various types of debris that will be generated from demolition of the North Warehouse, nor how that debris will act when subjected to the Toxicity Characteristic Leaching Procedure (TCLP). Therefore, ENVY must evaluate debris contaminated with lead paint using either totals analysis (as outlined in the EPA RCRA Online document: *Use of Total Waste Analysis in Toxicity Characteristic Determinations*), or the TCLP, to determine if such debris in fact exhibits the toxicity characteristic for lead; as an alternative, ENVY may choose to manage all such debris as non-radiological hazardous waste.

Additionally, see:

- Vermont Hazardous Waste Management Regulations
- EPA Method 1311; Toxicity Characteristics Leaching Procedure
- Use of Total Waste Analysis in Toxicity Characteristic Determinations

See Attachments:

A.EN_ANR.1-SS-1(a)
A.EN_ANR.1-SS-1(b)

Person providing response: Steve Simoes
Title: Environmental Analyst
Date: September 30, 2015

Q.EN.ANR.1-SS-10: Referring to your prefiled testimony at page 5, lines 10-14, identify the source of the requirement that supports your statement that: “For any demolition waste and building debris identified as containing PCBs or lead, Petitioner must determine whether such wastes exhibit any of the characteristics of hazardous wastes (e.g., the characteristic of toxicity for lead) or meet the criterion for the Vermont VT01 hazardous waste listing for wastes containing PCBs in concentrations equal to or greater than 50 ppm.” Provide the specific legal basis or other source for the requirement (including subsections) that supports your statement. Identify, list and produce all documents upon which you base the statement.

A.EN.ANR.1-SS-10: Objection to the extent this question calls for a legal conclusion. Without waiving this objection, the Agency responds:

See VHWMR §§ 7-202, 7-303, 7-208 (hazardous waste characteristic of toxicity), and 7-211 (VT01 hazardous waste listing for waste containing PCBs in concentrations equal to or greater than 50ppm).

Additionally, see:

- Vermont Hazardous Waste Management Regulations
- EPA Method 1311; Toxicity Characteristics Leaching Procedure
- Use of Total Waste Analysis in Toxicity Characteristic Determinations

See Attachments:

A.EN_ANR.1-SS-1(a)

A.EN_ANR.1-SS-1(b)

Person providing response: Steve Simoes

Title: Environmental Analyst

Date: September 30, 2015

Q.EN.ANR.1-SS-11: Referring to your prefiled testimony at page 6, lines 5-6, identify the source of the requirement that supports your statement that: “Based on the properties of lead, any waste containing lead must be evaluated to determine if it exhibits the characteristic for toxicity.” Provide the specific legal basis or other source for the requirement (including subsections) that supports your statement. Identify, list and produce all documents upon which you base the statement.

A.EN.ANR.1-SS-11: Objection to the extent this question calls for a legal conclusion. Without waiving this objection, the Agency responds:

See VHWMR § 7-208 (hazardous waste characteristic of toxicity). In addition, the referenced statement must be read in the context of my overall testimony. An evaluation is required when, as here, the concentration of lead is either unknown or known to be present at a high total concentration relative to the regulatory threshold for lead as stated in VHWMR § 7-208. If the paint chip analysis had shown that the concentration of lead was below the regulatory threshold, ENVY could have determined that debris contaminated with the lead paint was non-radiological non-hazardous waste.

Additionally, see:

- Vermont Hazardous Waste Management Regulations
- EPA Method 1311; Toxicity Characteristics Leaching Procedure
- Use of Total Waste Analysis in Toxicity Characteristic Determinations

See Attachments:

A.EN_ANR.1-SS-1(a)

A.EN_ANR.1-SS-1(b)

Person providing response: Steve Simoes

Title: Environmental Analyst

Date: September 30, 2015

Q.EN.ANR.1-SS-12: Referring to your prefiled testimony at page 9, A14 and page 11, A17:

- a. Admit that the Vermont Hazardous Waste Management Regulations do not define “representative sample.”
- b. Admit that Exhibit ANR-SS-4 (EPA Test Method 1311) does not define “representative sample.”
- c. If any of (a) through (b) is denied, explain in detail the basis for denial and identify, list and produce all documents related to your response.
- d. If any of (a) through (b) cannot be admitted or denied, explain in detail why it cannot be admitted or denied and identify, list and produce all documents related to your response.

A.EN.ANR.1-SS-12:

- a., c. Objection to the extent that the question calls for a legal conclusion. Without waiving this objection, the Agency responds:

Deny. Pursuant to VHWMR § 7-103 (Definitions), all terms not defined in that section shall have the meaning given to them in 40 CFR Parts 260 through 266, 268, and 270. 40 CFR § 260.10 defines “representative sample” as “a sample of a universe or a whole (e.g., waste pile, lagoon, ground water) which can be expected to exhibit the average properties of the universe or the whole.”

See:

- Vermont Hazardous Waste Management Regulations
- 40 C.F.R. § 260.10

- b. Admit.

See Attachments:

A.EN_ANR.1-SS-1(b)
A.EN_ANR.1-SS-12

Person providing response: Steve Simoes
Title: Environmental Analyst
Date: September 30, 2015

Q.EN.ANR.1-SS-13: Referring to your prefiled testimony at page 11, lines 12-14, does your recommended condition have a time frame for when an evaluation of excavated or removed material should be completed? If so, please identify the proposed time frame and identify, list and produce all documents you rely upon in determining the time frame.

A.EN.ANR.1-SS-13: The Agency objects to the question as vague and ambiguous as to what is meant by "time frame". Without waiving the objection, the Agency responds:

My recommendation provided in the referenced testimony does not include a time frame. As stated above in **A.EN.ANR.1-SS-4**, the recommendations included in A17 of my pre-filed testimony are based on existing requirements of the VHWMR that require ENVY, during ENVY's proposed construction sequence, to comply with existing requirements regarding the identification, management, and disposal of non-radiological hazardous wastes that are generated as a result of the Project activities. The VHWMR require that, once generated, waste materials be evaluated to determine if they are hazardous waste.

See:

- Vermont Hazardous Waste Management Regulations

See Attachment:

A.EN_ANR.1-SS-1(b)

Person providing response: Steve Simoes

Title: Environmental Analyst

Date: September 30, 2015

Q.EN.ANR.1-SS-14: Referring to your prefiled testimony at page 11, you state that “The Agency recommends that conditions be added requiring that, prior to demolition of the North Warehouse, that [a] representative sampling of the North Warehouse structure be conducted to ensure that a proper non-radiological hazardous waste determination is made of demolition debris” and “a condition should be added to require that any materials (e.g., sheathed cable) that are excavated or removed as part of the Project activities must be evaluated to determine if they are subject to regulation as non-radiological hazardous waste.”

- a. Please describe in detail the representative sampling and evaluation that would be required of Entergy. When would Entergy VY have to do the sampling and evaluation?
- b. Would your recommended sampling and evaluation require Entergy VY to take any actions to remediate the site before radiological decommissioning of the site other than the proper storage and disposal of any excavated or removed material that is determined to be non-radiological hazardous waste? If so, what actions would Entergy VY have to take?

A.EN.ANR.1-SS-14:

- a. For the question “Please describe in detail the representative sampling and evaluation that would be required of Entergy”, the Agency responds as follows:

Please refer to A11 (page 7-8), and A14 (page 9), of my prefiled testimony, and **A.EN.ANR.1-SS-4** and **A.EN.ANR.1-SS-9**, above. A representative sample will need to be obtained and evaluated for each type of waste that is known to contain lead paint and is generated by the demolition of the North Warehouse unless ENVY chooses to manage all such waste as hazardous waste. It should be noted that any metal coated with lead paint is exempt from regulation as hazardous waste under VHWMR § 7-204(e) provided that such scrap metal is recycled.

For the question “When would Entergy VY have to do the sampling and evaluation”, the Agency responds as follows: VHWMR § 7-303 requires that waste materials be evaluated upon generation to determine if they are hazardous waste. In other words, with respect to waste material known to contain lead paint, ENVY would be required to conduct representative sampling and analysis of those waste materials upon generation (i.e., upon demolition of the building) to determine if such wastes are hazardous waste. However, if the recommendation is adopted by the Board as a part of a CPG issuance, representative sampling would be required prior to the actual demolition of the North Warehouse for the reasons stated in **A.EN.ANR.1-SS-4**, above.

- b. The Agency objects to the question as vague and ambiguous as to what is meant by “remediate”. Without waiving the objection, the Agency responds:

The recommendation does not require Entergy VY to take actions to remediate the site before radiological decommissioning other than the proper storage and disposal of any excavated or removed material that is determined to be non-radiological hazardous waste. Regarding any future requirements to remediate the site: I am not a part of the Sites Management Program, which is the division of the Waste Management and Prevention Section that is primarily responsible for the oversight of site investigation and remediation.

Person providing response: Steve Simoes
Title: Environmental Analyst
Date: September 30, 2015

Q.EN.ANR.1-SS-15: At page 2, A2 of Mr. Simoes' prefiled testimony he states his qualifications, including (at lines 11-15) that he has been "involved in all aspects of program implementation" for Vermont's Hazardous Waste Program.

- a. State in detail Mr. Simoes' familiarity and experience with the Vermont Hazardous Waste Management Regulations.

A.EN.ANR.1-SS-15: As an Environmental Analyst VII with the Vermont Hazardous Waste Program, I have been involved in the drafting and implementation of the VHWMR. I have been the staff person responsible for the revision and promulgation of the VHWMR and preparing program authorization applications for submission to the Environmental Protection Agency (EPA) since 1996. In that time, I have revised the regulations six times (2000, 2001, 2004, 2006, and 2013) to incorporate new federal Resource Conservation and Recovery Act (RCRA) regulations, new program policy, and "functionally equivalent" state requirements. I also worked collaboratively with EPA on drafting a Memorandum of Agreement between Vermont and EPA Region 1 regarding the implementation of the VHWMR.

I am also responsible for drafting hazardous waste program policy and interpretive documents to assist regulated entities in ensuring compliance with Vermont's regulations. These tasks require close collaboration with hazardous waste program staff and the Agency's Environmental Assistance Office to develop compliance assistance materials (e.g., fact sheets, newsletters, compliance guides), including Vermont's Conditionally Exempt Generator Handbook.

As lead program inspector for large quantity generators of hazardous waste and permitted hazardous waste storage facilities, I have experience in inspecting facilities for compliance with the VHWMR, and have been more recently been involved in training and mentoring other program staff in inspecting facilities.

Person providing response: Steve Simoes
Title: Environmental Analyst
Date: September 30, 2015

Q.EN.ANR.1-SS-16: At page 3, lines 18-20 of Mr. Simoes' testimony and page 3, lines 11-13 of Mr. Spiese's testimony, they state that the recommendations in their testimony are "not intended to and should not affect the timeline for any work on this project if the Board issues the Certificate of Public Good."

- a. State Mr. Simoes' opinion as to when the recommendations he makes (in A17) should be performed by Entergy VY.

A.EN.ANR.1-SS-16: See A.EN.ANR.1-SS-4 and A.EN.ANR.1-SS-14 above.

Person providing response: Steve Simoes
Title: Environmental Analyst VII, ANR Hazardous Waste Program
Date: September 30, 2015

Q.EN.ANR.1-RS-1: Identify, list and produce all exhibits to be introduced or used at hearing in support of Mr. Spiese's prefiled testimony in this proceeding.

A.EN.ANR.1-RS-1: Objection. A. Without waiving its objection, the Agency responds:

I am uncertain what exhibits I will introduce or use at the hearing. However, I may introduce or use the following documents:

- Radiation Safety & Control Services, Non Radiological Historical Site Assessment for the Vermont Yankee Nuclear Power Station (2014)
- Vermont Hazardous Waste Management Regulations
- Procedure for Conducting Hazardous Material Investigations and Remediation Activities Under 30 V.S.A. Section 248
- ECS 2005 Phase 1 & 2 Environmental Site Assessment Report dated (June 4, 2001)
- Site Assessment Study (October 2014)
- May 22, 2015 Meeting Memo from Richard Spiese to Steve Simoes
- Investigation and Remediation of Contaminated Properties Procedure, April, 2012

See Attachments A.EN_ANR.1-RS-1(a) – (g).

Person Providing Response: Richard Spiese
Title: Environmental Analyst
Date: September 30, 2015

Q.EN.ANR.1-RS-2: Identify, list and produce all documents, data compilations, workpapers, or other tangible things provided to, prepared by, reviewed by, relied upon or used by Mr. Spiese in developing his prefiled testimony, including the exhibits to his prefiled testimony.

A.EN.ANR.1-RS-2:

- Radiation Safety & Control Services, Non Radiological Historical Site Assessment for the Vermont Yankee Nuclear Power Station (2014)
- Vermont Hazardous Waste Management Regulations
- Procedure for Conducting Hazardous Material Investigations and Remediation Activities Under 30 V.S.A. Section 248
- ECS 2005 Phase 1 & 2 Environmental Site Assessment Report dated (June 4, 2001)
- Site Assessment Study (October 2014)
- May 22, 2015 Meeting Memo from Richard Spiese to Steve Simoes
- Investigation and Remediation of Contaminated Properties Procedure, April, 2012

See Attachments for A.EN.ANR.1-RS-1.

Person Responsible for Response: Richard Spiese
Title: Environmental Analyst
Date: September 30, 2015

Q.EN.ANR.1-RS-3: Referring to your prefiled testimony at page 3, line 19, identify, list and provide the “environmental reports” to which you refer.

A.EN.ANR.1-RS-3:

- ECS 2005 Phase 1 & 2 Environmental Site Assessment Report dated (June 4, 2001)
- Site Assessment Study (October 2014)

See Attachments A.EN_ANR.1-RS-1(c) and (g)

Person Responsible for Response: Richard Spiese

Title: Environmental Analyst

Date: September 30, 2015

Q.EN.ANR.1-RS-4: Referring to your prefiled testimony on page 3, lines 19-20, identify all records and documentation of the “site inspections of the North Warehouse” performed by you, and list and produce all documents related to your inspections and response.

A.EN.ANR.1-RS-4: Objection. A. Subject to and without waiving this objection, the Agency responds:

The Agency is producing all non-privileged documents related to the site inspection of the North Warehouse referenced on page 3, lines 19-20. *See* Attachments A.EN_ANR.1-RS-1(d) and A.EN_ANR.1-SS-1(c) and (d).

Person Responsible for Response: Richard Spiese
Title: Environmental Analyst
Date: September 30, 2015

Q.EN.ANR.1-RS-5: Referring to your prefiled testimony at page 3, line 17, explain the limitations referenced in your statement that your “direct review of the proposed Project is limited,” and identify, list and produce all documents related to your response.

A.EN.ANR.1-RS-5: My review of the project is limited to the dismantlement of the North Warehouse and disturbance of soils associated with the proposed Project; possible and/or actual releases of non-radiological hazardous materials in the North Warehouse area; the degree and extent of any non-radiological contamination in the North Warehouse area; and the need for any remediation of non-radiological contamination.

See Attachments to A.EN.ANR.1-RS-1

Person Responsible for Response: Richard Spiese
Title: Environmental Analyst
Date: September 30, 2015

Q.EN.ANR.1-RS-6:

- a. Admit that Entergy VY manages hazardous waste at a site as set forth in VHWMR at § 7-309(c)(1).
- b. If (a) is denied, explain in detail the basis for denial and identify, list and produce all documents related to your response.
- c. If (a) cannot be admitted or denied, explain in detail why it cannot be admitted or denied and identify, list and produce all documents related to your response.
- d. If (a) is admitted, or cannot be denied, explain why Entergy VY is subject to the closure requirements in Subchapter 3 of the VHWMR.
- e. If (a) is admitted, or cannot be denied, explain why Entergy is subject to the partial closure requirements in Subchapter 3 of the VHWMR.

A.EN.ANR.1-RS-6:

- a., c. Objection to the extent the question calls for a legal conclusion. Without waiving this objection, the Agency responds:

Neither admit nor deny. I am not part of the Hazardous Waste Management Program, which is the division of the Waste Management and Prevention Division that is primarily responsible for the oversight of hazardous waste management at the Entergy Vermont Yankee Plant.

- b. Not applicable
- d. Not applicable.
- e. Not applicable.

Person Responsible for Response: Richard Spiese
Title: Environmental Analyst
Date: September 30, 2015

Q.EN.ANR.1-RS-7:

- a. Admit that the term “closure activities” is not defined in the VHWMR.
- b. Admit that the term “partial closure plan” is not defined in the VHWMR.
- c. Admit that VHWMR § 7-309(c)(6) sets forth the requirements applicable to partial closure activities.
- d. Admit that VHWMR § 7-309(c)(6) does not state that notification of intent to commence partial closure activities must be provided to the Agency on a Pre-Closure Notification Form.
- e. Admit that VHWMR § 7-309(c)(6) does not state that notification of intent to commence partial closure activities must be provided to the Agency at least 90 days prior to the commencement of such activities.
- f. Admit that VHWMR § 7-309(c)(6) does not state that a generator conducting “partial closure” activities must submit a closure or partial closure plan.
- g. If any of (a) through (f) is denied, explain in detail the basis for denial and identify, list and produce all documents related to your response.
- h. If any of (a) through (f) cannot be admitted or denied, explain in detail why it cannot be admitted or denied and identify, list and produce all documents related to your response.

A.EN.ANR.1-RS-7:

- a.-f., h. Objection to the extent the question calls for a legal conclusion. Without waiving its objection, the Agency responds:

Neither admit nor deny. I am not part of the Hazardous Waste Management Program, which is the division of the Waste Management and Prevention Division that is primarily responsible for the oversight of hazardous waste management and at the Entergy Vermont Yankee Plant.

- g. Not applicable

Person Responsible for Response: Richard Spiese
Title: Environmental Analyst
Date: September 30, 2015

Q.EN.ANR.1-RS-9:

- a. Admit that the “Investigation and Remediation of Contaminated Properties Procedure” Effective April 2012 of the DEC Waste Management and Prevention Division (the “IROC”) applies to any person who is determined to be liable for the release or threatened release of a hazardous material as established in 10 V.S.A. Section 6615.
- b. Admit that under the Waste Management and Prevention Division’s “Procedure for Conducting Hazardous Material Investigation and Remediation Activities Under 30 V.S.A. § 248,” if any construction or decommissioning activities will involve disturbance of any areas where hazardous material (not involving radiological hazardous material) may be located now or in the past, or where such hazardous material may have been released into the environment, Entergy VY would be required to develop a site investigation work plan in accordance with the IROC to investigate the hazardous material locations (not involving radiological hazardous material) and potential releases in the areas to be disturbed.
- c. Admit that under the IROC a person responsible for developing a site investigation work plan is any person who may be liable for the release or threatened release of a hazardous material as established in Section 6615 [10 V.S.A. Section 6615].
- d. Admit that under 10 V.S.A. § 6615 liability is ascribed to any person who at the time of release or threatened release of any hazardous material (not involving radiological hazardous material) owned or operated any facility at which such hazardous materials were disposed of, among other specified persons.
- e. Admit that the IROC by its own terms in Section 1.1 applies to “any person who has knowledge of a release or a suspected release and who may be subject to liability for a release, as detailed in Section 6615” (e.g. owners or operators of a facility).
- f. Admit that a person responsible for release of hazardous material is defined as “any person who has knowledge of a release or a suspected release and who may be subject to liability for a release, as detailed in Section 6615 of this chapter.”
- g. Admit that the Remediation Process Flowchart in Chapter 1 of the IROC which includes the requirement of a site investigation under Chapter 2 of the IROC, specifies that the process begins with a “suspected or confirmed release”.
- h. If any of (a) through (g) is denied, explain in detail the basis for denial and identify, list and produce all documents related to your response.

- i. If any of (a) through (g) cannot be admitted or denied, explain in detail why it cannot be admitted or denied and identify, list and produce all documents related to your response.

A.EN.ANR.1-RS-9:

- a. Objection to the extent this question calls for a legal conclusion. Without waiving its objection, the Agency responds:

Admit only that the IROC has been developed by the Sites Management Section of the Waste Management and Prevention Division to provide guidance for the investigation and remediation of releases of hazardous materials.

- b. Objection to the extent this question calls for a legal conclusion. Without waiving its objection, the Agency responds:

Admit only that “[i]f any construction or decommissioning activities will involve disturbance of any areas where hazardous material may be located now or in the past, or where hazardous material may have been released into the environment, the Petitioner shall” take certain actions, including but not limited to “develop[ing] a site investigation work plan in accordance with the” IROC.

- c. Objection to the extent this question calls for a legal conclusion. Without waiving its objection, the Agency responds:

Admit only that the IROC states that “[a]ny person who may be liable for the release or threatened release of a hazardous material as established in Section 6615 must conduct site investigation work within the time frames established in Section 6615b Corrective Action Procedures.”

- d. Objection to the extent this question calls for a legal conclusion. Without waiving its objection, the Agency responds:

Admit only that 10 V.S.A. § 6615(a) states

“(a) Subject only to the defenses set forth in subsections (d) and (e) of this section:

- (1) the owner or operator of a facility, or both;
- (2) any person who at the time of release or threatened release of any hazardous material owned or operated any facility at which such hazardous materials were disposed of;

(3) any person who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous materials owned or possessed by such person, by any other person or entity, at any facility owned or operated by another person or entity and containing such hazardous materials; and

(4) any person who accepts or accepted any hazardous materials for transport to disposal or treatment facilities selected by such persons, from which there is a release, or a threatened release of hazardous materials shall be liable for:

(A) abating such release or threatened release; and

(B) costs of investigation, removal, and remedial actions incurred by the State which are necessary to protect the public health or the environment.”

- e. Objection to the extent this question calls for a legal conclusion. Without waiving its objection, the Agency responds:

Admit only that the IROC has been developed by the Sites Management Section of the Waste Management and Prevention Division to provide guidance for the investigation and remediation of releases of hazardous materials.

- f. Objection to the extent this question calls for a legal conclusion. Without waiving its objection, the Agency responds:

Deny.

- g. Objection to the extent that this question calls for a legal conclusion. Without waiving its objection, the Agency responds:

Admit only that the Remediation Process Flowchart on page 5 of the IROC begins with “Suspected or confirmed release.”

- h. As to the denial to (f), the Agency responds:

Liability for a release of hazardous materials does not require knowledge of a release or a suspected release. A person liable for release or threatened release of hazardous material is defined in 10 V.S.A. § 6615(a).

See Attachments A.EN_ANR.1-RS-1(a) and (b).

i. Not applicable

Person Responsible for Response: Richard Spiese
Title: Environmental Analysts
Date: September 30, 2015

Q.EN.ANR.1-RS-10:

- a. Admit that the "Procedure for Conducting Hazardous Material Investigation and Remediation Activities Under 30 V.S.A. Section 248" does not require a preliminary investigation of records, a comprehensive visual inspection, or development of a site investigation work plan in all 30 V.S.A. Section 248 projects involving soil disturbance.
- b. If (a) is denied, explain in detail the basis for denial and identify, list and produce all documents related to your response.
- c. If (a) cannot be admitted or denied, explain in detail why it cannot be admitted or denied and identify, list and produce all documents related to your response.

A.EN.ANR.1-RS-10:

- a. Objection to the extent this question calls for a legal conclusion. Without waiving its objection, the Agency responds:

Admit.

- b. Not applicable
- c. Not applicable

Person Responsible for Response: Richard Spiese
Title: Environmental Analyst
Date: September 30, 2015

Q.EN.ANR.1-RS-11: Referring to your prefiled testimony at page 6, lines 9-10, and page 8, lines 8-10, what is the basis for the statement that the North Warehouse has been “the primary short-term non-radiological hazardous waste storage area for Entergy Nuclear Vermont Yankee Power Station for decades”? Identify, list and produce all documents related to and/or relied on to support your response.

A.EN.ANR.1-RS-11: Objection. A, B, C. Without waiving this objection, the Agency responds:

The Historical Site Assessment states that the North Warehouse area is a RCRA permitted hazardous waste storage area. Hazardous Waste Management Program records indicate that the North Warehouse has been used as a hazardous waste storage area for years.

The Agency is producing all non-privileged Hazardous Waste Management Program records documents in our files relating to non-radiological hazardous waste storage at the North Warehouse.

See Attachment A.EN_ANR.1-RS-11.

Person Responsible for Response: Richard Spiese
Title: Environmental Analyst
Date: September 30, 2015

Q.EN.ANR.1-RS-12: Referring to your prefiled testimony at page 6, lines 11-13, what is the basis for claiming non-radiological hazardous materials in the emissions from the boiler may have settled in the soils around the building? Identify, list and provide all analyses conducted by you to support your statement. Identify, list and produce all documents related to your response.

A.EN.ANR.1-RS-12: It is well-documented in environmental and scientific literature generally that hazardous materials in emissions from boilers may settle in soils around an emissions stack. In addition, one of the Vermont Yankee Plant employees interviewed as part of the Historical Site Assessment identified the area outside the North Warehouse and around the furnace stack as an area that may have contaminants of concern.

See Attachment A.EN_ANR.1-RS-1(d)

Person Responsible for Response: Richard Spiese
Title: Environmental Analyst
Date: September 30, 2015

Q.EN.ANR.1-RS-13: Referring to your prefiled testimony at page 7, line 2, what is the technical basis for including dioxin in the list of contaminants? Identify, list and produce all investigations, analyses, and documents that support your response.

A.EN.ANR.1-RS-13: It is well documented in environmental and scientific literature generally that the burning of polychlorinated biphenyl (PCBs) and other industrial waste may produce dioxins. I have not personally conducted any investigations or analyses related to the burning of PCBs.

Person Responsible for Response: Richard Spiese
Title: Environmental Analyst
Date: September 30, 2015

Q.EN.ANR.1-RS-14: Referring to your prefiled testimony at page 8, lines 8-14:

- a. Admit that ANR has no evidence that non-radiological hazardous waste materials have been released into the environment in the North Warehouse area.
- b. If (a) is denied, explain in detail the basis for denial and identify, list and produce all documents related to your response.
- c. If (a) cannot be admitted or denied, explain in detail why it cannot be admitted or denied and identify, list and produce all documents related to your response.

A.EN.ANR.1-RS-14:

- a., c. Objection to the extent this question calls for a legal conclusion. Without waiving its objection, the Agency responds:

Neither admit nor deny. The Agency does not currently have documents in its possession that document the release of non-radiological hazardous into the environment in the North Warehouse area. The Agency does have records that demonstrate that hazardous material may be located now or in the past in the North Warehouse area, and that hazardous material may have been released into the environment in the North Warehouse area.

See Attachments for A.EN.ANR.1-RS-1 and RS-11

- b. Not applicable.

Person Responsible for Response: Richard Spiese
Title: Environmental Analyst
Date: September 30, 2015

Q.EN.ANR.1-RS-15: Referring to your testimony at page 9, lines 10-12, identify and describe the specific “closure requirements” to which you refer. Provide the specific legal basis or other source for such requirements (including subsections).

A.EN.ANR.1-RS-15: Objection to the extent this question calls for a legal conclusion. Without waiving its objection, the Agency responds:

The closure requirements referred to at page 9, lines 10-12 are VHWMR § 7-309(c). The Agency is authorized by federal law to administer the VHWMR in lieu of a federal hazardous waste program under the federal Resource Conservation and Recovery Act Subtitle C hazardous waste regulations. The VHWMR are promulgated by the Secretary pursuant to the authority granted by 3 V.S.A. § 2853(5) and 10 V.S.A. chapter 159.

Person Responsible for Response: Richard Spiese
Title: Environmental Analyst
Date: September 30, 2015

Q.EN.ANR.1-RS-16: At pages 6-7 of Mr. Spiese's prefiled testimony, he states in (A10) that the North Warehouse area should be investigated for possible release of the RCRA Priority Metals, semi-volatile organic compounds, and dioxin, based on reports he reviewed. Identify, list and produce the reports referenced in the response as reviewed by Mr. Spiese, and that support his recommendation.

A.EN.ANR.1-RS-16:

- Radiation Safety & Control Services, Non Radiological Historical Site Assessment for the Vermont Yankee Nuclear Power Station (2014)
- UST Closure and Site Assessment Requirements (2010)
- ECS 2005 Phase 1 & 2 Environmental Site Assessment Report dated (June 4, 2001)
- Site Assessment Study (October 2014)
- Investigation and Remediation of Contaminated Properties Procedure, April, 2012

See Attachments A.EN_ANR.1-RS-1 and RS-16

Person Responsible for Response: Richard Spiese
Title: Environmental Analyst
Date: September 30, 2015

Q.EN.ANR.1-RS-17: Referring to your prefiled testimony at page 9, you recommend that “the Board should include a condition that Entergy submit a non-radiological waste site investigation work plan for the North Warehouse area.”

- a. Please describe in detail what this condition would require.
 - i. When would Entergy VY have to submit the plan?
 - ii. What are the boundaries of “the North Warehouse area” that would be included in the plan?
 - iii. What specific sampling protocols would be required under the work plan to determine whether there is non-radiological hazardous waste contamination of soil, both excavated and soil left in place below the ISFSI pad?
- b. Would the work plan require Entergy VY to take any actions to remediate the North Warehouse area before radiological decommissioning of the site other than the proper storage and disposal of any excavated or removed material that is determined to be non-radiological hazardous waste? If so, what actions would the work plan require Entergy VY to take?
- c. Would the work plan, require Entergy to develop a non-radiological hazardous waste closure plan for any other portion of the VY Station site before radiological decommissioning?

A.EN.ANR.1-RS-17:

- a. This condition would require Entergy to develop a non-radiological site investigation work plan in accordance with the “Investigation and Remediation of Contaminated Properties Procedure (IROC)”, which includes guidelines on the required elements of a site investigation work plan, and submit the plan to the Agency for review and approval.
 - (i) Entergy would be required to submit the non-radiological site investigation work plan as soon as possible, but in any event before the North Warehouse is dismantled and soils are disturbed.
 - (ii) The area that should be investigated include the building and areas where the soil will be disturbed (i.e. removed and stockpiled). As part of the site investigation work plan, Entergy’s consultant should propose the exact boundaries of the area to be investigated for the Agency to review and approve based upon the limits of this project.

- (iii) The IROC provides guidance on various sampling protocols. Entergy's consultant should review these sampling protocols and propose a sampling protocol for the Agency to review and approve.
- b. No. The site investigation work plan only requires Entergy to investigate and characterize whether and to what extent non-radiological hazardous materials have been released into the environment in the North Warehouse area.
- c. Objection. A. Without waiving its objection, the Agency responds:

A condition in any certificate of public good for the construction of the second independent spent fuel storage installation requiring a site investigation work plan for the North Warehouse area would not require Entergy to develop a closure plan for other areas of the Entergy Vermont Yankee Plant.

Person Responsible for Response: Richard Spiese
Title: Environmental Analyst
Date: September 30, 2015

Q.EN.ANR.1-RS-18: At page 2, A2 of Mr. Spiese's prefiled testimony, he states that he has worked "in Waste Management...for almost 28 years" and that he has "worked on the Agency of Natural Resource Vermont Hazardous Materials Response Team as a plume tracker for over 10 years."

- a. State in detail Mr. Spiese's familiarity and experience with the Vermont Hazardous Waste Management Regulations.

A.EN.ANR.1-RS-18: For the past almost 28 years, I have referred to the Vermont Hazardous Waste Management Regulations numerous times in various contexts including, but not limited to, the requirements outlined in Chapter One that pertain to Release Notification, Site Investigation, and Site Cleanup, as well as to assist in making waste determinations.

Person Responsible for Response: Richard Spiese
Title: Environmental Analyst
Date: September 30, 2015

Q.EN.ANR.1-RS-19: At page 3, lines 18-20 of Mr. Simoes' testimony and page 3, lines 11-13 of Mr. Spiese's testimony, they state that the recommendations in their testimony are "not intended to and should not affect the timeline for any work on this project if the Board issues the Certificate of Public Good."

- a. State Mr. Spiese's opinion as to when the recommendations he makes (in A14) should be performed by Entergy VY.

A.EN.ANR.1-RS-19: Entergy should begin performing these recommendations as soon as possible, but no later than at least 90 days prior to the dismantling of the North Warehouse.

Person Responsible for Response: Richard Spiese
Title: Environmental Analyst
Date: September 30, 2015

Q.EN.ANR.1-1: With respect to the witnesses for whom prefiled testimony was submitted and who were identified as an expert in this proceeding, to the extent not already produced:

- (i) Produce a curriculum vitae or resume;
- (ii) Identify, list and produce all publications authored by the witness within the preceding ten years;
- (iii) Identify all matters in the last five years in which the witness has testified as an expert at hearing or trial, or by deposition, in the preceding five years, and identify, list and produce any transcripts, affidavits, testimony or other written statements by the witness in connection with such matters.

A.EN.ANR.1-1:

Chris Gianfagna

- (i) See Attachment A.EN_ANR.1(i)_CG
- (ii) Objection. B. The question is vague and ambiguous as it does not define "publications." The Agency also objects to the question to the extent that it seeks information that is not relevant to the proceedings. Without waiving its objection, the Agency responds:

Gianfagna, C.C. et al. "Watershed Area Ratio Accurately Predicts Daily Streamflow in Nested Catchments in the Catskill Park, NY". *Journal of Hydrology: Regional Studies*. 4(2015): 583-594.

Gianfagna, Chris, "Estimation of Solute Fluxes from Ungaged Headwater Catchments in the Catskill Park of New York State" (2012). *Civil and Environmental Engineering - Theses*. Paper 1.

See Attachments A.EN_ANR.1(ii)_CG

- (iii) Besides this matter, I have not testified as an expert at hearing or trial or by deposition in the preceding five years.

Person Responsible for Response: Chris Gianfagna
Title: Environmental Analyst
Date: September 30, 2015

Rob Evans

- (i) *See* Attachment A.EN_ANR.1-1(i)_RE
- (ii) Objection. B. The question is vague and ambiguous as it does not define "publications." The Agency also objects to the question to the extent that it seeks information that is not relevant to the proceedings. Without waiving its objection, the Agency responds:

I have not authored any publications in the preceding ten years.

- (iii) Public Service Board Docket 8400. The Agency does not have copies of the transcripts of this proceeding. *See* Attachment A.EN_ANR.1-1(iii)_RE for pre-filed testimony.

Person Responsible for Response: Rob Evans
Title: State Floodplain Manager
Date: September 30, 2015

Steve Simoes

- (i) I produced my resume with my prefiled testimony. *See* Exhibit ANR-SS-1.
- (ii) Objections B, C. The Agency also objects to the question as vague and ambiguous as it does not define "publications". Without waiving these objections, the Agency responds:

In addition to authoring, in whole or in part, numerous Vermont Hazardous Waste Program-related policies, guidance documents, technical reports, official correspondence, as well as revisions to the VHWMR, Mr. Simoes has been integrally involved in authoring the following:

ASTSWMO Position Paper, A New Regulatory Approach to Pharmaceutical Waste Management, adopted by the ASTSMWO Board of Directors on April 23, 2013.

Letter from P. Pettit, P.E., NEWMOA Vice Chair to Ms. Rudzinski, Director, Office of Resource Conservation and Recovery, US EPA re: regulation of RCRA pharmaceutical waste management, dated February 21, 2012.

Letter from G. Desch, NEWMOA Chair, to B. Johnson, Director, Office of Resource Conservation and Recovery, US EPA, re: Management of Evaporation Unites, dated March 31, 2014.

See Attachment A.EN_ANR.1-1(ii)

- (iii) I have not testified as an expert at hearing or trial or by deposition in the preceding five years.

Person Responsible for Response: Steve Simoes
Title: Environmental Analyst
Date: September 30, 2015

Q.EN.ANR.1-2:

- a. Do the regulations set forth in the "Procedure for Conducting Hazardous Material Investigation and Remediation Activities Under 30 V.S.A. Section 248" address materials which will be handled as Low-Level Mixed Waste (radiological and non-radiological) and disposed of at an approved facility?
- b. Explain the basis for your response and identify, list and produce all documents related to your response.

A.EN.ANR.1-2: Objection to the extent the question calls for a legal conclusion. The Agency also objects to this question because it is vague and ambiguous as it does not define "low-level mixed waste". In addition, the reference to "regulations" makes it unclear as to whether the Petitioner is asking whether the regulations in 40 C.F.R. Part 761 address materials which will be handled as Low-Level Mixed Waste or whether the *procedures* in the "Procedure for Conducting Hazardous Material Investigation and Remediation Activities Under 30 V.S.A. Section 248" address low-level mixed waste. Without waiving its objection, the Agency responds:

The "Procedure for Conducting Hazardous Material Investigation and Remediation Activities Under 30 V.S.A. Section 248" does not expressly address Low-Level Mixed Waste (radiological and non-radiological).

See Attachment A.EN_ANR.1-RS-1(a)

Person Responsible for Response: Richard Spiese
Title: Environmental Analyst
Date: September 30, 2015

Q.EN.ANR.1-3:

- a. Confirm that Mr. Simoes' recommendations at page 10, lines 18-20 of his prefiled testimony with respect to underground cable applies only to sheathed cable that is excavated and removed as part of the Project.
- b. If ANR's response to (a) does not confirm the understanding there stated, state in detail the extent to which Mr. Simoes' recommendations apply to sheathed cable in locations at the VY Station not affected by the Project.

A.EN.ANR.1-3:

- a. The Agency objects to this question to the extent that it characterizes the nature of the cited testimony as "recommendations". Without waiving the objection, the Agency responds:

The testimony at page 10, lines 18-20 of Steve Simoes' prefiled testimony applies to any sheathed cable that is excavated and removed as a part of the Project activities. The testimony does not address underground sheathed cable that is excavated and removed outside of the scope of the Project.
- b. Not Applicable.

Person Providing Response: Steve Simoes
Title: Environmental Analyst
Date: September 30, 2015

Q.EN.ANR.1-4: Referring to Mr. Spiese's prefiled testimony at page 4, A 6, provide a copy of the current, effective version by the Vermont DEC Waste Management Division of its "Vermont Hazardous Waste Generator and Facility Closure Guidance."

A.EN.ANR.1-4: *See* Attachment A.EN_ANR.1-4

Person Responsible for Response: Steve Simoes

Title: Environmental Analyst

Date: September 30, 2015

Q.EN.ANR.1-5: Referring to the prefiled testimony of Richard Spiese on page 6, Answers 9 and 10:

- a. Admit that the North Warehouse has been and continues to be controlled as a radiological control area.
- b. If (a) is denied, explain in detail the basis for denial and identify, list and produce all documents related to such response.
- c. If (a) cannot be admitted or denied, explain in detail why it cannot be admitted or denied and identify, list and produce all documents related to such response.

A.EN.ANR.1-5: Objection. The request to admit addresses an issue beyond the limited scope of Mr. Spiese's testimony. The Agency also objects to this question because it is vague and ambiguous as it does not define "radiological control area." Without waiving the objection, the Agency responds:

Neither admitted nor denied. The Agency is not charged with oversight of radiological activities at the Entergy Vermont Yankee Nuclear Plant and does not have sufficient knowledge to determine whether the North Warehouse has been and continues to be controlled as a radiological control area.

Person Responsible for Response: Richard Spiese
Title: Environmental Analyst
Date: September 30, 2015

Q.EN.ANR.1-6: Identify each individual by name, occupation, and title who participated in the creation of the river corridor map offered as Exhibit ANR-REE-2, including in your answer the following:

- a. the date and type of participation made by each individual;
- b. the total amount of time each spent working on the river corridor map;
- c. whether the Secretary of ANR reviewed and approved the river corridor map.
- d. For each individual identified in response to this request, please produce all documents considered, used, reviewed, or relied upon in connection with the creation of the river corridor map offered as Exhibit ANR-REE-2.

A.EN.ANR.1-6: Exhibit ANR-REE-2 was created by Shannon Pytlik, Regional River Scientist, and Rob Evans, State Floodplain Manager, both of the DEC Rivers Program.

- a. On August 12, 2015, Shannon Pytlik created the river corridor delineation and shapefile according to Flood Hazard Area & River Corridor Protection Procedure, the River Corridor Protection Guide, and Stream Geomorphic Assessment Protocols. On August 14, 2015 Rob Evans created Exhibit ANR-REE-2 using the river corridor shapefile created by Shannon Pytlik and ArcMap software.
- b. Shannon Pytlik spent approximately four hours mapping the river corridor at the Vermont Yankee site. Rob Evans spent approximately one hour creating Exhibit ANR-REE-2.
- c. No.
- d. See A.EN.ANR.1-RE-2 and related attachments.

Person Responsible for Response: Rob Evans
Title: State Floodplain Manager
Date: September 30, 2015

Q.EN.ANR.1-7: Explain in detail the methodology used to create the river corridor depicted on the map offered with Mr. Evans's testimony as Exhibit ANR-REE-2, and identify, list and produce all documents used, considered, or relied upon in creating the river corridor map, including, but not limited to, studies, communications, analyses, spreadsheets, databases, and photographs.

A.EN.ANR.1-7: The Vermont Flood Hazard Area and River Corridor Rule dictates that a river corridor shall be delineated by the Agency in accordance with river corridor protection procedures (10 V.S.A. § 1422(12) and §1427(b)). The Agency used the methodology established in Flood Hazard Area & River Corridor Protection Procedure Section 4.0, the River Corridor Protection Guide, and the Stream Geomorphic Assessment Protocols. The documents used, considered, or relied upon in creating the river corridor map are listed above in A.EN.ANR.1-RE-2 and related attachments.

Person Responsible for Response: Rob Evans
Title: State Floodplain Manager
Date: September 30, 2015

Q.EN.ANR.1-8: Identify, list and produce the sections of the Department of Environmental Conservation's, Flood Hazard Area and River Corridor Protection Procedure that were used or relied upon to create the river corridor depicted on the map offered as Exhibit ANR-REE-2.

A.EN.ANR.1-8: Section 4.0 of the Flood Hazard Area and River Corridor Protection Procedure is included in Attachment A.EN_ANR.1-RE-2

Person Responsible for Response: Rob Evans
Title: State Floodplain Manager
Date: September 30, 2015

Q.EN.ANR.1-9: What channel width was used to calculate the river corridor depicted on Exhibit ANR-REE-2?

A.EN.ANR.1-9: A channel width of 613 feet was used to calculate the river corridor depicted on Exhibit ANR-REE-2.

Person Responsible for Response: Rob Evans
Title: State Floodplain Manager
Date: September 30, 2015

Q.EN.ANR.1-10: Identify, list and produce the “source materials” referenced in the note at the bottom of Exhibit ANR-REE-2 and explain any “limit[at]ions] of the accuracy of th[ose] source materials.”

A.EN.ANR.1-10: The source material referenced is the aerial orthophoto imagery used as the base map for Exhibit ANR-REE-2. The imagery has accuracy limitations with respect to its age, as it may not depict all landscape/land use changes since the imagery was collected. In addition, there are horizontal accuracy limitations. The imagery and metadata regarding accuracy are available at <http://vcgi.vermont.gov/opensdata>.

Person Responsible for Response: Rob Evans
Title: State Floodplain Manager
Date: September 30, 2015

Q.EN.ANR.1-11: In reference to Mr. Evans's prefiled testimony at page 5, lines 5-9, explain in detail what is meant by "an appropriate" river corridor for the Vermont side of the Connecticut River.

A.EN.ANR.1-11: As discussed in my testimony, the Agency did not develop a Statewide River Corridor Map Layer for the Vermont side of the Connecticut River as part of developing a statewide river corridor map on the web-based ANR Natural Resources Atlas because most of the Connecticut River in Vermont flows in a unique geologic and geographic setting, and is influenced by numerous impoundments and thereby governed by erosion and depositional processes as seen in both river and reservoir environments.

The Flood Hazard Area and River Corridor (FHARC) Rule, which governs our permitting of the second storage area, dictates that a river corridor will be defined according to the FHARC Protection Procedures. Section 5(c)(1) of the Protection Procedures explain that, in the absence of statewide layer data, the "applicable map" will consist of best available stream geomorphic data developed pursuant to (in consideration of) meander belt and buffer delineations described in Section 4(b) of the Procedure. The river corridor map for the Entergy Vermont Yankee site was developed using this Procedure.

Due to the unique geologic and geographic setting of the Connecticut River in Vermont, along with the presence of numerous impoundments, a site-specific study of the fluvial geomorphic processes of the river is required to create a Statewide River Corridor Map Layer and/or further refine the river corridor for this area.

Person Responsible for Response: Rob Evans
Title: State Floodplain Manager
Date: September 30, 2015

Q.EN.ANR.1-12: In reference to Mr. Evans's prefiled testimony at page 5, lines 5-9, please explain in detail all actions taken to date by the Rivers Program to "create an appropriate river corridor" for the section of the Connecticut River adjacent to the VY Station.

A.EN.ANR.1-12: Objection. A. Without waiving this objection, the Agency responds:

The Agency has had preliminary and internal discussions about the possible components of the site-specific studies that would be required to create a Statewide River Corridor Map Layer for the section of the Connecticut River adjacent to the VY Station and whether resources are available to fund these studies.

Person Responsible for Response: Rob Evans
Title: State Floodplain Manager
Date: September 30, 2015

Q.EN.ANR.1-13: In reference to Mr. Evans's prefiled testimony at page 5, lines 5-9, please explain in detail the current status of the Rivers Program's work to "create an appropriate river corridor" for the section of the Connecticut River adjacent to the VY Station.

A.EN.ANR.1-13: Objection. A. Without waiving this objection, the Agency responds:

See A.EN.ANR.1-12.

Person Responsible for Response: Rob Evans
Title: State Floodplain Manager
Date: September 30, 2015

Q.EN.ANR.1-14: In reference to Mr. Evans's prefiled testimony at page 5, lines 5-9, on what date does the Rivers Program anticipate completing its analysis of the river corridor for the Vermont side of the Connecticut River?

A.EN.ANR.1-14: Objection. A. Without waiving this objection, the Agency responds:

The Rivers Program will continue to use best available stream geomorphic data to make site specific river corridor maps for the Vermont side of the Connecticut River. The Program currently has no anticipated date for completing an analysis of the entire river corridor for the Vermont side of the Connecticut River.

Person Responsible for Response: Rob Evans
Title: State Floodplain Manager
Date: September 30, 2015

Q.EN.ANR.1-15: In reference to Mr. Evans's prefiled testimony at page 5, lines 5-9, identify by name, occupation and title each individual involved in the Rivers Program's analysis of the appropriate river corridor for the Vermont side of the Connecticut River.

A.EN.ANR.1-15:

- Michael Kline, Manager, Department of Environmental Conservation Rivers Program
- Rob Evans, State Floodplain Manager, Department of Environmental Conservation Rivers Program
- Shannon Pytlik, Regional River Scientist, Department of Environmental Conservation Rivers Program

Person Responsible for Response: Rob Evans

Title: State Floodplain Manager

Date: September 30, 2015

Q.EN.ANR.1-16: In reference to Mr. Evans's prefiled testimony at page 5, lines 5-9, identify, list and produce all analyses, data, field notes, photographs, test results, and other documents that the Rivers Program performed, gathered, took, conducted, or prepared for the separate river corridor analysis for the Vermont side of the Connecticut River in the Wantastiquet Region.

A.EN.ANR.1-16: See A.EN.ANR.1-12. The Rivers Program is in the early planning stages with respect to conducting an analysis of the Vermont side of the Connecticut River in the Wantastiquet Region. Therefore, analyses, data, field notes, photographs, test results, and other documents have not been performed, gathered, taken, conducted, or prepared.

Person Responsible for Response: Rob Evans
Title: State Floodplain Manager
Date: September 30, 2015

Q.EN.ANR.1-17: In reference to Mr. Evans's prefiled testimony at page 5, lines 5-9, identify, list and produce all analyses, data, field notes, photographs, test results, and other documents that the Rivers Program performed, gathered, took, conducted, or prepared for the separate river corridor analysis for the Vermont side of the Connecticut River in the vicinity that includes the VY Station.

A.EN.ANR.1-17: See A.EN.ANR.1-16.

Person Responsible for Response: Rob Evans
Title: State Floodplain Manager
Date: September 30, 2015

Q.EN.ANR.1-18: Identify and list all minor and major updates by ANR to the Statewide River Corridor Map Layer shown in the Natural Resource Atlas published by the Agency of Natural Resources on its website as of August 25, 2015 (Attachment 1) and produce all documents related to those updates.

A.EN.ANR.1-18: Objection. A, B. This request is overbroad and unduly burdensome and is neither relevant to the subject matter of the pending action, nor reasonably calculated to lead to the discovery of admissible evidence. Further, the Agency is not able to determine whether the request seeks all updates to the Statewide River Corridor Map Layer for the entire state or the specific stretch of river identified in Attachment 1 to Entergy's discovery requests. Without waiving its objection, the Agency responds:

Since the Statewide River Corridor Map Layer was published on the ANR Natural Resources Atlas on January 2, 2015, there have been no updates relevant to the specific stretch of the Connecticut River shown in Attachment 1.

Person Responsible for Response: Rob Evans
Title: State Floodplain Manager
Date: September 30, 2015

Q.EN.ANR.1-19: State whether the river corridor map depicted on Exhibit ANR-REE-2 is based on:

- a. an assessment of the geomorphic condition and sensitivity of the portion of the Connecticut River shown in the exhibit;
- b. a final identification of where the sensitivity of the river poses a probable risk to life, property or infrastructure; and
- c. consultations by ANR with the legislative body or designee of affected municipalities and the regional planning commissions.

Explain the basis for ANR's answer.

A.EN.ANR.1-19:

- a. Yes, based on a Phase 1 level of assessment.
- b. No. The intent of the river corridor is not to depict where erosion will or will not occur; the river corridor defines the lateral space the river needs over time to be vertically stable and least erosive. Field data collected and analyzed in accordance with the Stream Geomorphic Assessment Handbooks may be used to refine the sensitivity. Use of the term "final determination" is problematic given the inherent variability of rivers. Exhibit ANR-REE-2 is our initial floodway determination to inform our pre-filed testimony on the project under Criterion 1D-floodways. See A.EN.ANR.1-11.
- c. No.

Person Responsible for Response: Rob Evans
Title: State Floodplain Manager
Date: September 30, 2015

Q.EN.ANR.1-20: Identify and list:

- a. all legislative bodies or designees of municipalities and regional planning commissions in the area shown on Exhibit ANR-REE-2 that ANR consulted with prior to and/or during the delineation of the river corridor shown on that exhibit;
- b. the date(s) of each such consultation;
- c. the name of each individual with whom such consultations were made;
- d. whether such consultations included providing a copy of Exhibit ANR-REE-2;
- e. all correspondence reflecting such consultations; and
- f. the substance of any non-written feedback provided to ANR in such consultations.

A.EN.ANR.1-20:

- a. None. Pursuant to Section 5(c)(3) of the Procedure, ANR consults with municipalities and regional planning commissions concerning map updates and administrative revisions, and the map at issue was not an update or revision to the Statewide River Corridor Map Layer.
- b. Not applicable.
- c. Not applicable.
- d. Not applicable.
- e. Not applicable.
- f. Not applicable.

Person Responsible for Response: Rob Evans
Title: State Floodplain Manager
Date: September 30, 2015

Q.EN.ANR.1-21: Explain whether ANR has issued, or will issue, a public notice of the river corridor map offered with Mr. Evans's testimony as Exhibit ANR-REE-2 in accordance with Section 5(c)(4)(D) of the Flood Hazard Area and River Corridor Protection Procedure.

- a. If the answer is yes, produce a copy of the notice and the dates of publication.
- b. If the answer is no, explain the basis for not providing such public notice.

A.EN.ANR.1-21: No. The "Map Update Process" is used when there are "minor" or "major updates" to an existing Statewide River Corridor Map Layer. When making a site-specific delineation where there is no existing map layer for the applicable section of river, notice processes are not required under the Procedure.

Person Responsible for Response: Rob Evans
Title: State Floodplain Manager
Date: September 30, 2015

Q.EN.ANR.1-22: Explain whether ANR has provided, or will provide, notice to Vermont Transco LLC/Vermont Electric Power Company, Inc. (VELCO) of the river corridor's coverage of the VELCO substation/switchyard adjacent to the VY Station.

- a. If the answer is yes, please provide copy of the notice, the date that it was provided, and any response thereto from VELCO.
- b. If the answer is no, explain the basis for not providing VELCO with such notice.

A.EN.ANR.1-22: Objection. B. The question is vague and ambiguous as to what "coverage of the VELCO substation/switchyard adjacent to the VY Station" means. Without waiving this objection, the Agency responds:

If the question asks whether the Agency will provide notice of the river corridor delineation in Exhibit ANR-REE-2 to VELCO, the answer is "no." As required by §29-506(c) and §29-601 of the Flood Hazard Area and River Corridor Rule, the Agency will provide general public notice of any application for an Individual Permit or authorization under the General Permit for Flood Hazard Areas & River Corridors for 10 business days and accept public comment during that time period.

Person Responsible for Response: Rob Evans
Title: State Floodplain Manager
Date: September 30, 2015

Q.EN.ANR.1-23: Explain whether ANR has provided, or will provide, notice of the river corridor depicted in Exhibit ANR-REE-2 to other owners of electric transmission facilities located within the river corridor.

- a. If the answer is yes, produce a copy of the notice and the date that it was provided, and any responses thereto.
- b. If the answer is no, explain the basis for not providing such notice to such other owners.

A.EN.ANR.1-23: See A.EN.ANR.1-22.

Person Responsible for Response: Rob Evans
Title: State Floodplain Manager
Date: September 30, 2015

Q.EN.ANR.1-24: Explain whether ANR has provided, or will provide, notice of the river corridor depicted in Exhibit ANR-REE-2 to owners of electric generation facilities, including net-metered electric generation, located within the river corridor.

- a. If the answer is yes, produce a copy of the notice and the date that it was provided, and any responses thereto.
- b. If the answer is no, explain the basis for not providing such notice to such other owners.

A.EN.ANR.1-24: See A.EN.ANR.1-22.

Person Responsible for Response: Rob Evans
Title: State Floodplain Manager
Date: September 30, 2015

Q.EN.ANR.1-25: What consideration did the Agency give to the potential negative impact on property values and/or potential for increased insurance rates from delineating the Connecticut River corridor to cover existing development near the VY Station? Explain the basis for your answer.

A.EN.ANR.1-25: Objection. B. This question is vague, ambiguous, and calls for a response that is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence. Without waiving the objection, the Agency responds:

The Flood Hazard Area and River Corridor (FHARC) Rules and Protection Procedures and 10 V.S.A. §§ 752(11), 1422(12), and 1427 do not allow the Agency to consider property values and insurance rates when defining a river corridor.

Person Responsible for Response: Rob Evans
Title: State Floodplain Manager
Date: September 30, 2015

Q.EN.ANR.1-26: Explain in detail whether an appropriate river corridor delineation requires compliance with the Vermont Stream Geomorphic Assessment Phase II Handbook.

A.EN.ANR.1-26: Objection to the extent the question calls for a legal conclusion. Without waiving the objection, the Agency responds:

River corridor delineations are informed by the science and assessment methods described in the Phase II Handbook. The river corridor delineation process is described in the Agency of Natural Resources River Corridor Protection Guide.

See Attachment A.EN_ANR.1-RE-2

Person Responsible for Response: Rob Evans
Title: State Floodplain Manager
Date: September 30, 2015

Q.EN.ANR.1-27: Identify, list and produce all river corridor permit applications filed pursuant to ANR's Vermont Flood Hazard Area and River Corridor Rule for development within the same river corridor as the corridor depicted in Exhibit ANR-REE-2.

A.EN.ANR.1-27: Objection. B. The question calls for responses that are neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence. Without waiving the objection, the Agency responds:

As of 9/10/2015, the Agency has not received any FHARC permit applications for development within the same river corridor as the corridor depicted in Exhibit ANR-REE-2.

Person Responsible for Response: Rob Evans
Title: State Floodplain Manager
Date: September 30, 2015

Q.EN.ANR.1-28: Identify, list and produce all river corridor permits issued pursuant to the Agency's Vermont Flood Hazard Area and River Corridor Rule for development within the same river corridor as the corridor depicted in Exhibit ANR-REE-2.

A.EN.ANR.1-28: Objection. B. The question calls for responses that are neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence. Without waiving the objection, the Agency responds:

ANR has not issued any FHARC permits for development within the same river corridor as the corridor depicted in Exhibit ANR-REE-2.

Person Responsible for Response: Rob Evans
Title: State Floodplain Manager
Date: September 30, 2015

Q.EN.ANR.1-29:

- a. Admit that the project that is the subject of this docket will not cause the Connecticut River reach to depart from or further depart from the channel width, depth, meander pattern, and slope associated with natural stream processes and equilibrium conditions;
- b. Admit that the project that is the subject of this docket will not result in an immediate need or anticipated future need for stream channelization, solely as a result of the proposed development, that would increase flood elevations and velocities or alter the sediment regime triggering channel adjustments and erosion in adjacent and downstream locations; and
- c. Admit that because of existing and adjacent development within the corridor, the project will not cause or contribute to fluvial erosion hazards.
- d. If any of (a) through (c) is denied, explain in detail the basis for denial and identify, list and produce all documents related to such response.
- e. If any of (a) through (c) cannot be admitted or denied, explain in detail why it cannot be admitted or denied and identify, list and produce all documents related to such response.

A.EN.ANR.1-29:

- a. Admit.
- b. Admit.
- c. Admit.
- d. Not applicable.
- e. Not applicable.

Person Responsible for Response: Rob Evans
Title: State Floodplain Manager
Date: September 30, 2015

Q.EN.ANR.1-30

- a. Admit that the proposed second ISFSI project will not have an undue adverse impact on shorelines within the meaning of 30 V.S.A. § 248(b)(5) with due consideration having been given to 10 V.S.A. § 6086(a)(1)(F).
- b. Admit that the proposed second ISFSI project will not have an undue adverse impact on streams within the meaning of 30 V.S.A. § 248(b)(5) with due consideration having been given to 10 V.S.A. § 6086(a)(1)(E).
- c. Admit that the proposed second ISFSI project will not have an undue adverse impact on floodways within the meaning of 30 V.S.A. § 248(b)(5) with due consideration having been given to 10 V.S.A. § 6086(a)(1)(D).
- d. Admit that the proposed second ISFSI project will not have an undue adverse impact on the natural environment within the meaning of 30 V.S.A. § 248(b)(5).
- e. Admit that the proposed second ISFSI project will not result in undue adverse greenhouse gas impacts within the meaning of 30 V.S.A. § 248(b)(5).
- f. Admit that the proposed second ISFSI project will not result in an undue adverse use of natural resources within the meaning of 30 V.S.A. § 248(b)(5).
- g. If any of (a) through (f) is denied, explain in detail the basis for denial and identify, list and produce all documents related to such response.
- h. If any of (a) through (f) cannot be admitted or denied, explain in detail why it cannot be admitted or denied and identify, list and produce all documents related to your response.

A.EN.ANR.1-30:

- a.-f. Objection. This question calls for a legal conclusion.
- g. Not applicable
- h. Not applicable

Q.EN.ANR.1-31:

- a. Admit that Attachment 1 to these requests is a true and accurate representation of the river corridor for the portion of the Connecticut River adjacent to the VY Station that is shown in the Natural Resource Atlas published by the Agency of Natural Resources on its website as of August 25, 2015.
- b. Admit that the river corridor depicted on Exhibit ANR-REE-2 extends over the Vernon Dam and into the existing high-voltage Vernon Substation adjacent to the VY Station.
- c. If any of (a) through (b) is denied, explain in detail the basis for denial and identify, list and produce all documents related to such response.
- d. If any of (a) through (b) cannot be admitted or denied, explain in detail why it cannot be admitted or denied and identify, list and produce all documents related to such response.

A.EN.ANR.1-31:

- a. Objection. The request is vague, ambiguous, and could be read as two questions requiring distinct answers. Without waiving this objection, the Agency responds:

Denied.
- b. Admit.
- c. The Agency admits that Attachment 1 is a true and accurate representation of the Statewide River Corridor Map Layer in the Agency's web-based Natural Resources Atlas for the portion of the Connecticut River adjacent to the VY Station. As discussed in my response to Q.EN.ANR.1-11 and in pre-filed testimony, however, the Agency did not create a river corridor map for this portion of the Connecticut River when it published the statewide river corridor map due to the unique characteristics of the Vermont side of the Connecticut River. The Agency makes site specific river corridor maps and floodway determinations for this portion of the Connecticut River.
- d. Not applicable.

Person Responsible for Response: Rob Evans
Title: State Floodplain Manager
Date: September 30, 2015

Q.EN.ANR.1-32: Identify, list and produce all correspondence between ANR and the Connecticut River Joint Commissions regarding delineating the river corridor for the Vermont side of the Connecticut River in the Wantastiquet Region.

A.EN.ANR.1-32: In December 2014, the Rivers Program Manager, Mike Kline gave a presentation at a monthly meeting of the Connecticut River Joint Commission to introduce the recent work of the State of Vermont to adopt the Flood Hazard Area & River Corridor Rule, Protection Procedures, and Statewide Map. The presentation briefly mentioned that the State of Vermont would like to do more corridor mapping on the Vermont side of the Connecticut River main stem in the future.

See Attachment E.EN_ANR.1-32

Person Responsible for Response: Rob Evans
Title: State Floodplain Manager
Date: September 30, 2015

Q.EN.ANR.1-33: List and produce all documents relied upon or forming the basis for ANR's denial of any request to admit and any of ANR's interrogatory responses.

A.EN.ANR.1-33: Objection. A, B, D, F. This request is overly burdensome in that it requires listing repetitive information regarding numerous documents. Without waiving this objection, the Agency responds:

The Agency is producing the following non-privileged documents:

See all previous attachments and A.EN_ANR.1-33

Persons Responsible for Response: Rob Evans, Environmental Analyst; Chris Gianfagna, Environmental Analyst; Steve Simoes, Environmental Analyst; Richard Spiese, Environmental Analyst

Date: September 30, 2015

Q.EN.ANR.1-34: State whether the State of New Hampshire has approved the river corridor on the New Hampshire side of the Connecticut River that is depicted on the map offered as Exhibit ANR-REE-2 and explain the basis for your answer. Identify, list and produce all documents supporting your answer to the previous request.

A.EN.ANR.1-34: Objection. B. The question calls for a response that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Without waiving its objection, the Agency responds:

The Agency has not consulted with the State of New Hampshire about the river corridor map depicted in Exhibit ANR-REE-2.


Person Responsible for Response: Rob Evans
Title: State Floodplain Manager
Date: September 30, 2015

As to objections:

DATED at Montpelier, Vermont, September 30, 2015.

AGENCY OF NATURAL RESOURCES

Respectfully submitted:

By: 
Jennifer Duggan, Esq.
General Counsel
Agency of Natural Resources
1 National Life Drive, Davis 2
Montpelier, VT 05620

Jordan Gonda, Esq.
Associate General Counsel
Department of Environmental Conservation
Agency of Natural Resources
1 National Life Drive, Davis 2
Montpelier, VT 05620