

**Fish and Wildlife Department**

Barre District Natural Resources Office  
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*Agency of Natural Resources*

**MEMORANDUM**

**To:** Sarah London, Governor's Legal Counsel  
**From:** Adam Miller, Fish Culture Operations Manager  
**Date:** December 24, 2015  
**RE:** Governor's Approval Needed for Two Land Acquisitions located in Shaftsbury.

Enclosed is an approval to be signed by Governor Shumlin for the acquisition of two separate parcels by the State of Vermont. These parcels of land are currently owned by the Hale Mountain Fish and Game Club (0.05 acres) and Bernstein Display (0.41 acres), which is also referred in deed language as TFB Realty, in the town of Shaftsbury. These parcels of land surround three separate ponds which the Vermont Fish and Wildlife Department (VFWD) currently operate in a cooperative effort with the Hale Mountain Fish and Game Club to raise trout for the State's fish stocking program. VFWD is also requesting approval for a minor encroachment that exists on the property which is planned to be remedied after closing through a boundary line adjustment.

Due to the current uncertainty of dealing with private landowners, the unanticipated reduced production capacity in the Vermont fish culture program, and the excellent water quality and rearing capabilities of the Shaftsbury ponds, a loss of lands surrounding the ponds would be detrimental to fish culture operations for the State of Vermont.

The acquisition of these parcels, which will be facilitated through a land gift from both organizations, will provide a solid future for the Vermont fish culture program. Ultimately, this acquisition will help the Department to provide recreational angling opportunities in the State of Vermont. The land will be donated and the total administrative costs for this project are estimated to be approximately \$5,000.

Funding for this acquisition will come from the Department's fish culture section annual operations budget. Included with the Governor's approval memo are a map of the properties, a copy of the review and approval by the Agency Land Acquisition Review Committee for both properties and a copy of the letter signed by the town of Shaftsbury stating town support for the acquisition of both parcels.

If you have any questions regarding this project, please contact me directly at 777-2852 or at [Adam.Miller@vermont.gov](mailto:Adam.Miller@vermont.gov). Thank you.

cc: Louis Porter, Commissioner  
Eric Palmer, Fisheries Division Director  
Jane Lazorchak, Land Acquisition Coordinator



Fish and Wildlife Department  
Commissioner's Office  
1 National Life Drive  
Davis 2  
Montpelier, VT 05620-3702

TO: Peter Shumlin, Governor

THROUGH: Deb Markowitz, Secretary, Agency of Natural Resources

FROM: Louis Porter, Commissioner, Fish and Wildlife Department

SUBJECT: Land gift of two separate parcels to ensure continued fish culture operations at the cooperative trout nursery ponds in Shaftsbury.

**Recommendation: That you approve the acquisition (through land gifts) of two parcels to ensure continued trout rearing at the Vermont Fish and Wildlife Department's (VTFWD) cooperative trout nursery ponds located in the town of Shaftsbury.**

Description

VTFWD is interested in acquiring two small parcels of land (less than ½ acre overall) in Shaftsbury. These parcels of land surround three separate ponds which VTFWD operates in a cooperative effort with the Hale Mountain Fish and Game Club. For reference a map delineating the two parcels is provided (Exhibit 1). Currently, the ponds annually yield about 10,000 (6,500lbs) brook and rainbow trout to "catchable" size for recreational angling opportunities. These ponds are supplied by a large volume spring (approximately 1,000 gallons per minute) which is known for its excellent water quality and temperature (approximately 50° F) suitable for trout culture. If successfully acquired the acreage would include the land surrounding the ponds and the driveway that goes to it. In addition, there is a small 6'x8' shed located on one parcel that is utilized for fish food storage. In addition to the ponds' trout rearing capabilities, the ponds serve as a key ecotourism destination. It is estimated that thousands of visitors travel to see the large fish in one of the ponds.

Lands surrounding the ponds are owned by two groups: TFB Realty, also referred to as Bernstein Display, and the Hale Mountain Fish & Game Club. In both cases, the landowners are under contract to gift their parcels to VTFWD. VTFWD approached both landowners to solicit a land gift due to the fact that the water and ponds located on the properties are key pieces of fish rearing infrastructure to ensure continued fish production for the State. It is believed that the landowners are willing to gift the properties to the State because they 1.) may receive a tax benefit donating a parcel of property to the State and 2.) would be divesting themselves of a property which could pose significant liability implications (i.e. injuries by visitors to the property to see fish).

A minor encroachment exists on the property which VTFWD plans to remedy after closing through a boundary line adjustment. As such, VTFWD also seeks authorization through this approval for the future conveyance of a small piece of land from the acquired parcel through a boundary line adjustment to remedy the minor encroachment.

### Need and Cost

Currently TFB Realty owns approximately two-thirds of the land surrounding the Shaftsbury Ponds including the driveway to the ponds and the fish food storage shed. Additionally, economic pressures resulting from lawsuits filed against the Hale Mountain Fish and Game Club from an adjacent landowner on an unrelated piece of property that the Club owns have caused concern involving the long term future of the pond property owned by the Club. Both landowners view the property as an increased safety liability. Due to the current uncertainty of dealing with private landowners, the unanticipated reduced production capacity in the Vermont fish culture program, and the excellent water quality and rearing capabilities of the Shaftsbury ponds a loss of lands surrounding the ponds would be detrimental to fish culture operations for the State of Vermont. VTFWD would like to acquire these lands in order to maintain current and future fish culture production at the cooperative trout nursery ponds located on the two properties. This is important to the State of Vermont because fish that are currently distributed from these ponds to State waters are used to increase recreational angling opportunities in the State. This not only means connecting anglers with Vermont fisheries resources but also providing a significant economic benefit to the State. According to the U.S. Fish and Wildlife Service's 2011 National Survey of Hunting, Fishing, and Wildlife-Associated Recreation coupled with the 2010 Vermont Angler Survey, it is estimated that cultured fish in Vermont generate approximately \$31.6 million of economic benefit to the State annually through license, gear, fuel, lodging, and other fishing related purchases.

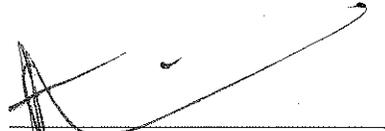
As mentioned earlier, VTFWD plans to acquire these properties through a land gift. As such, costs for the land acquisition are minimal. Anticipated costs are approximately \$5,000 and include a land survey, recording fees, and other associated closing costs. The funds used to pay for these expenses will come from the VTFWD's fish culture section annual operations budget.

Your approval of these acquisitions is required by 10 V.S.A. §4144, which states in part "the secretary, with approval of the governor, may exchange, sell or lease lands under the secretary's jurisdiction when, in his or her judgment, it is advantageous to the state to do so ..." This project has been reviewed and approved by the Agency's Land Acquisition Review Committee at their meeting in March 2013 and subsequently approved by the Secretary (Exhibit 2). In addition, the town supports these acquisitions as documented in the letter signed by the Shaftsbury Select Board (Exhibit 3).

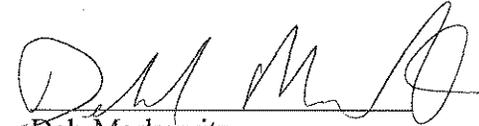
**APPROVAL FOR ACQUISITION OF LANDS**

We the undersigned, hereby approve the boundary adjustment and the acquisition of lands by the Agency of Natural Resources, Fish and Wildlife Department for two parcels totaling approximately 0.5 acres belonging to the Hale Mountain Fish and Game Club and TFB Realty (also known as Bernstein Display) in Shaftsbury, VT. These transactions will ensure current trout production for the future Vermont fish culture program, thus allowing for increased angling opportunities and enhanced fisheries in the State of Vermont. This approval is required by 10 V.S.A. §4144 of the Vermont Statutes Annotated.

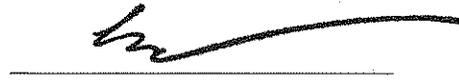
1/5/16  
Date

  
Peter Shumlin  
Governor  
State of Vermont

12-28-15  
Date

  
Deb Markowitz  
Secretary  
Agency of Natural Resources

12/24/15  
Date

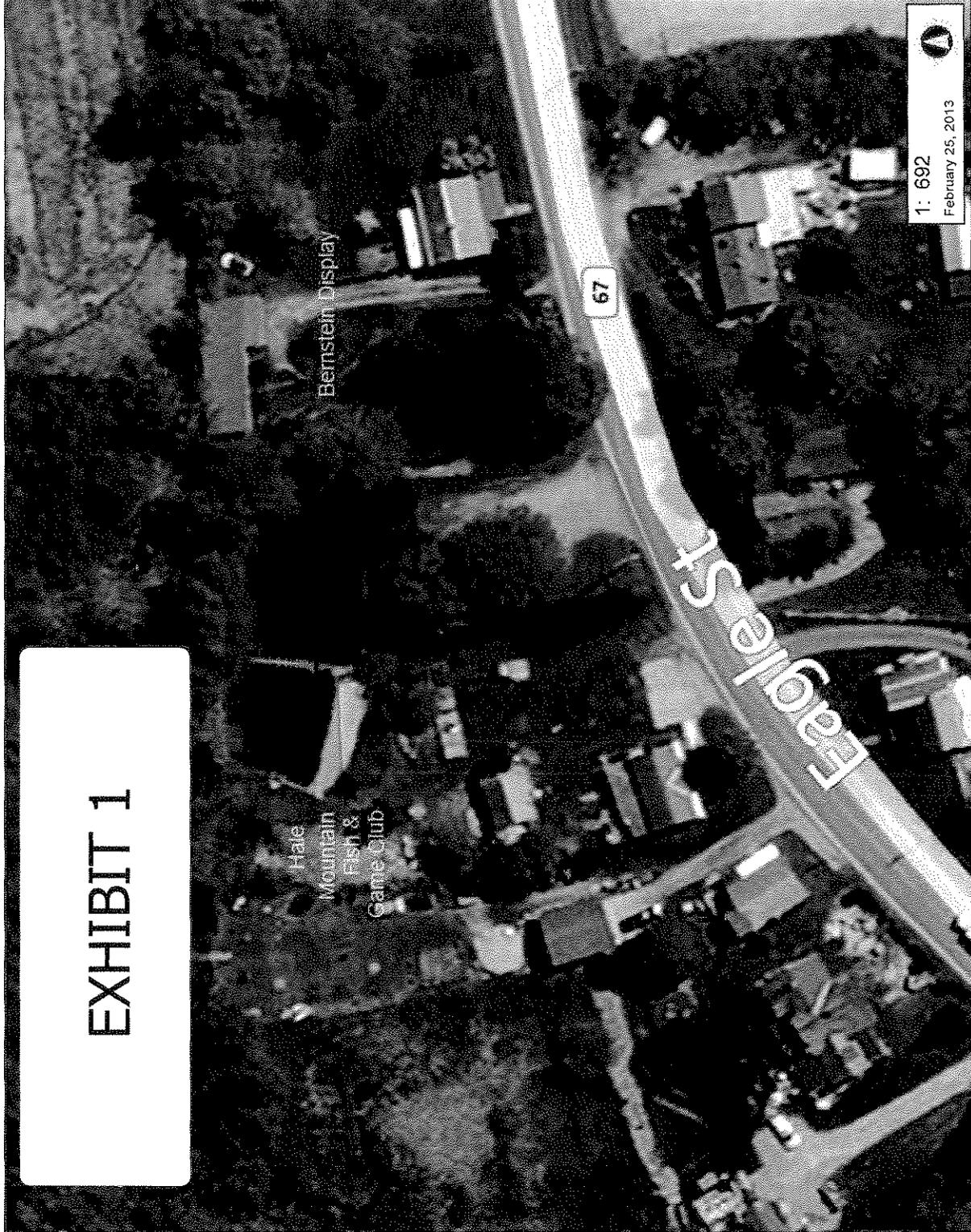
  
Louis Porter  
Commissioner  
Fish and Wildlife Department



Shaftsbury Ponds  
Vermont Agency of Natural Resources

vermont.gov

# EXHIBIT 1



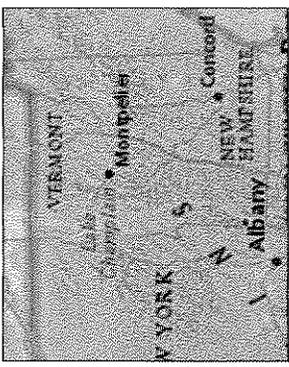
1: 692

February 25, 2013



35.0 18.00 35.0 Meters  
 0 18.00 35.0 Meters  
 WGS\_1984\_Web\_Mercator\_Auxiliary\_Sphere 1" = 58 Ft 1cm = 7 Meters  
 © Vermont Agency of Natural Resources THIS MAP IS NOT TO BE USED FOR NAVIGATION

DISCLAIMER: This map is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. ANR and the State of Vermont make no representations of any kind, including but not limited to, the warranties of merchantability, or fitness for a particular use, nor are any such warranties to be implied with respect to the data on this map.



## LEGEND

## NOTES

Map created using ANR's Natural Resources Atlas

# EXHIBIT 2

Case #: 1800

## Agency of Natural Resources Land Acquisition Review Committee Case Report

### Project Information

LARC Case #	1800	Project Name	Shaftsbury Ponds	Priority			
Previous LARC Case #							
Description	This acquisition opportunity includes 3 small fish-rearing ponds on two separate parcels in the Town of Shaftsbury. VFWD is currently involved in the operation in partnership with Hale Mountain Fish and Game Club. This acquisition is an important component of the department's fish culture operations. It currently appears that both parcels would be gifted to VFWD.						
Transaction Type	DONATION	Price		Interest to be Acq.	FEE-SIMPLE	Fund(s)	
Location:	Town	Shaftsbury	County	Bennington			
Owner	Hale Mountain Fish and Game Club	Bernstein Display					
# of Parcels	2	Total Acres	0.5				
Dept to Manage		Contact					

### LARC Review

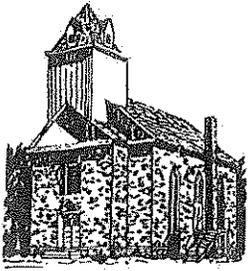
Date	3/7/2013
Recommendation	Acquire
Comments	Acquire with the condition that is be a donation and that we can divest later on if we no longer wish to use as a rearing pond. Also there is a concern that if this parcel is under private management there could be a risk of the spread of exotic diseases and species.

### Secretary Review

Date	3/25/2013
Disposition	ACQUIRE
Comments	

Notes

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TOWN OF SHAFTSBURY  
MUNICIPAL OFFICES AT COLE HALL

EXHIBIT 3

P. O. BOX 409  
61 BUCK HILL ROAD  
SHAFTSBURY, VT 05262-0409  
FAX 802-442-0955

Town of Shaftsbury  
Select Board

December 21, 2015

Dear Mr. Miller,

After reading your letter that summarized the Department of Fish and Wildlife's (DFW) involvement and discussing the project further at our Select Board meeting on December 21<sup>st</sup>, 2015, we are writing to offer our full support of the Department of Fish and Wildlife (DFW) in receiving the land gifts that compose the three ponds near the old Stanley Tools factory. More specifically, the town supports the DFW receiving the parcels to ensure current trout production for the future; thus, allowing for increased angling opportunities and enhanced fisheries in the State. Thank you for meeting with us.

Sincerely, ,

Tim Scoggins  
Chair of the Shaftsbury Select Board  
Town of Shaftsbury, Vermont