

Mishaan, Jessica

From: London, Sarah
Sent: Wednesday, June 18, 2014 10:55 PM
To: 'ddeen@ctriver.org'
Subject: Your public records act request
Attachments: London to Deen Electronic 6-18-14.pdf; Deen PRA Documents 6-18-14.pdf

Dear David,

Attached please find a response to your public records act request. Feel free to contact me with any questions. If you would like, I am happy to send you paper copies of the attached tomorrow. Just let me know.

Thank you,
Sarah

Sarah London
Counsel to the Governor
802-828-3333
sarah.london@state.vt.us

PETER SHUMLIN
Governor



State of Vermont
OFFICE OF THE GOVERNOR

June 18, 2014

David Deen
Connecticut River Watershed Council
P.O. Box 206
Saxtons River, VT 05154

Re: Your public records act request

Dear David,

I write in response to your public records act request addressed to the Governor and dated June 13, 2014. Attached please find records in response to your request from the Governor's Office. To the extent you seek records from outside our office, you may wish to contact the relevant agencies or departments directly.

Regarding your request for records related to the expired or pending NPDES permit for the Vermont Yankee facility, additional potentially responsive records include weekly reports submitted by the Secretary of Natural Resources to the Governor and reviewed by the Governor's senior staff. These records are exempt from disclosure as executive privileged communications pursuant to 1 V.S.A. § 317(c)(1) and (c)(4).

Potentially responsive records also include communications between and among Secretary Markowitz, General Counsel Jon Groveman, the Governor's Chief of Staff Liz Miller, myself, Commissioner Recchia and General Counsel Geoff Commons, Commissioner Chen, General Counsel David Englander, and Radiological and Toxicological Sciences Program Chief William Irwin, Commissioner Peterson and Assistant Attorney General Molly Bachman, Director of Emergency Management Joe Flynn and Planning Section Chief Erica Bornemann, Chief of the Environmental Protection Division at the Attorney General's Office Scot Kline, Assistant Attorney General Kyle Landis-Marinello, and attorneys from WilmerHale acting as counsel for the State of Vermont. These records are exempt from disclosure as attorney client

communications pursuant to 1 V.S.A. § 317(c)(3) and (c)(4), and certain of these records are also exempt under the attorney work product doctrine pursuant to 1 V.S.A. § 317(c)(4).

Additional responsive communications involve some or all of the above-listed people plus Michael Twomney, Vice President of External Affairs for Entergy and counsel for Entergy. These communications were made in the course of negotiating the MOU filed in PSB Docket Number 7862 as well as settlement documents filed and related to federal litigation involving the State and Entergy, and are exempt from disclosure pursuant to 1 V.S.A. § 317(c)(15) and as settlement communications pursuant to 1 V.S.A. § 317(c)(1).

Regarding your request for records related to the creation, implementation, or interpretation of the MOU filed March 28, 2014, in Docket Number 7862 before the Public Service Board, additional potentially responsive records include communications among some or all of the above-listed people and are exempt from disclosure pursuant to the above-cited provisions. In addition, potentially responsive records include the press release available at: <http://governor.vermont.gov/newsroom-yankee-agreement-with-state>.

Regarding your request for records related to funds to be provided for decommissioning or to the State for economic development or for any other purpose outlined in the MOU filed in Docket Number 7862, please see the attached records, including a chart I provided to the House Ways and Means Committee, the Senate Finance Committee, and the Joint Fiscal Office in January 2014, and emails of Liz Miller. Additional potentially responsive records include communications involving some or all of the above-listed people and are exempt pursuant to the above-cited provisions. Further potentially responsive records include weekly reports from the Secretary of Commerce and Community Development to the Governor and reviewed by the Governor's senior staff, as well as communications between the Secretary and the Governor's Chief of Staff. These records are exempt from disclosure as executive privileged communications pursuant to 1 V.S.A. § 317(c)(1) and (c)(4).

If you feel any records have been withheld in error, you may appeal to the Chief of Staff.

I hope that the above information is helpful to you. Please feel free to contact me with any questions.

Sincerely,

/s/ Sarah London

Sarah London
Counsel to the Governor

Mishaan, Jessica

Subject: FW: Administration Contacts

From: David Deen [<mailto:strictlytrout@vermontel.net>]
Sent: Sunday, June 08, 2014 10:48 AM
To: Miller, Elizabeth
Subject: Re: Administration Contacts

OK

Understood.

I will think about this while I am fishing this afternoon. Right now though I think a conversation with you might fill the bill but I will write you tomorrow.

thanks for getting back to me.

david

David L. Deen)><))))>
Vermont State Representative
5607 Westminster West Road
Westminster, VT 05346
P: 802-869-3116
F: 802-869-1103
strictlytrout@vermontel.net

----- Original Message -----

From: Miller, Elizabeth
To: [David Deen](#)
Cc: [Gray, Laura](#)
Sent: Sunday, June 08, 2014 10:44 AM
Subject: Re: Administration Contacts

I would be happy to discuss it with you further; we are very aware of the ANR status and letting it run its course. (FYI, as you probably already know, the biomass plant, as in news reports and mentioned in your prior email to me, is exceedingly unlikely to be able to be sited there/unlikely to be real, but regardless I know the Agency is aware of the possible precedent implication of its work (whether at that site or elsewhere in the state) - that is why they wanted to handle it outside of the settlement resolution, even though it is not likely to make much impact in Vernon given the impending closure.) The Gov can't do a meeting after either of the two signings this week; he mentioned to me that you and he chatted briefly (after shoreland bill? I can't remember) and we told him what your concern is, so he is aware of it. If you want to get in to see him on this, we can get it on schedule for a different day, but it can't be Mon or Tues. I'm really not sure it is needed because I know Sec Marko is handling this for us, and that is what Gov expects her to do; he is not in the weeds on it. Let me know if you want me to find another time that works - sorry that M/T do not...hope all is well on this beautiful Sunday. Liz

Elizabeth H. Miller
802-522-3090, cell
elizabeth.miller@state.vt.us

On Jun 8, 2014, at 10:24 AM, "David Deen" <strictlytrout@vermontel.net> wrote:

Hi Laura and Elizabeth

I am still hopeful that we can meet with the Governor about the Entergy NPDES permit Monday or Tuesday. Monday after the Middlesex bill signing back at his office or Tuesday after the Toxics bill signing. I will make myself available for either.

thanks

david

David L. Deen)><))))>
Vermont State Representative
5607 Westminster West Road
Westminster, VT 05346
P: 802-869-3116
F: 802-869-1103
strictlytrout@vermontel.net

Mishaan, Jessica

Subject: FW: On lake Champlain cleanup and energy transitions

From: David Deen [<mailto:strictlytrout@vermontel.net>]
Sent: Thursday, June 05, 2014 12:52 PM
To: Miller, Elizabeth
Subject: Re: On lake Champlain cleanup and energy transitions

Hi Elizabeth

Two things this email brings to mind for me.

This whole notion of some funding mechanism through energy projects that affect VT natural resources brings up our discussion we had back last year about the hydro dams on the mainstem of the CT River and the mitigation fund idea I asked you to consider contacting Gov. Hassen about.

The other item is that after the shoreland bill signing yesterday, I asked the Governor for a meeting about Entergy VY and their NPDES permit for next week if we can pull it off. He said get in touch with the team and since you are the team leader I want to make the request through you. We want to talk with him about supporting ANR as they finalize a draft permit and why he should do that.

Along with some of the other concerns we will bring to his attention, you can add that in the news today there is a story about a new biomass power plant being considered at the VY site. This means the VY permit will set precedent for any discharge permit the new plant would apply for so the concern of discharging hot water into the CT River goes on into the future.

Thanks

David

David L. Deen)><)))>
Vermont State Representative
5607 Westminster West Road
Westminster, VT 05346
P: 802-869-3116
F: 802-869-1103
strictlytrout@vermontel.net

Mishaan, Jessica

From: Miller, Elizabeth
Sent: Wednesday, June 18, 2014 10:57 AM
To: Mishaan, Jessica
Subject: FW: Thank you, and an observation.

From: Miller, Elizabeth
Sent: Friday, May 16, 2014 1:41 PM
To: Chris Campany
Subject: Re: Thank you, and an observation.

Thank you!

Sent from my iPhone

On May 16, 2014, at 11:52 AM, "Chris Campany" <ccampany@sover.net> wrote:

Greetings Liz.

I want to again thank you for being generous with your time yesterday to discuss better communication between the region and the state on issues related to Vermont Yankee. I found it to be very helpful and reassuring, and I'll convey that to our Executive Board.

Also, I want to tell you that the young man handling the phones in your front office yesterday handled what was clearly a difficult constituent phone call with much professionalism, patience and grace. It's a great skill that you're giving him the opportunity to develop, and he represented the Governor's office well.

All the best.
Chris

Chris Campany, AICP
Executive Director
Windham Regional Commission
139 Main Street, Suite 505
Brattleboro, VT 05301
www.windhamregional.org
office (802) 257-4547 x106
cell (802) 380-3511
pager (802) 250-5115

<image004.jpg>

<image003.jpg> Find us on Facebook

Mishaan, Jessica

From: Miller, Elizabeth
Sent: Wednesday, June 18, 2014 10:57 AM
To: Mishaan, Jessica
Subject: FW: Public Hearing Notice - \$5.3 million for clean energy

From: Miller, Elizabeth
Sent: Thursday, May 08, 2014 3:05 PM
To: Chris Company
Subject: Fwd: Public Hearing Notice - \$5.3 million for clean energy

Notice just released FYI

Sent from my iPhone

Begin forwarded message:

From: "Perchlik, Andrew" <Andrew.Perchlik@state.vt.us>
Date: May 8, 2014 at 2:58:42 PM EDT
To: "<VtCleanEnergyDevelopmentFund@list.state.vt.us>"
<VtCleanEnergyDevelopmentFund@list.state.vt.us>
Subject: Public Hearing Notice - \$5.3 million for clean energy

CEDF Email list:

The Clean Energy Development Board will be holding a public hearing to receive comments regarding the \$2.6 million that the Clean Energy Development Fund (CEDF) received (see press release below) for clean energy development activities in or for the benefit of Windham County. The public is also welcome to provide comment on the deployment of the \$2.6 million to be spent state-wide by the CEDF and on the performance of the Clean Energy Development Fund Manager. Here are the details of the public hearing:

When: Wednesday, May 14 2014 at 5:30 PM

Where: Brattleboro Union High School. In the "multi-purpose" room

The hearing will start with a brief presentation on the CEDF, its goals and mission, and the types of clean energy projects it has supported in the past.

After the presentation the CED Board will take questions and comments.

Press Release
For Immediate Release
May 8, 2014

Contact: Susan Allen, Office of the Governor, 802-279-8493
Christopher Recchia, Commissioner, DPS, 802-522-5223

ENTERGY MAKES \$5.3 MILLION CLEAN ENERGY PAYMENT

Montpelier, VT – Gov. Peter Shumlin and Public Service Department Commissioner Christopher Recchia announced today the receipt of \$5.3 million from Entergy Vermont Yankee for the development of clean energy, and confirmation that Entergy has deposited \$10 million as its first payment into the Vermont Yankee Site Restoration Fund. Both payments were part of the Settlement Agreement and Memorandum of Understanding (MOU) between Entergy and the State signed in December 2013.

The \$5.3 million will be administered by the Public Service Department's Clean Energy Development Fund (CEDF) to aid in the development of renewable energy sources across Vermont. As required by the MOU, the CEDF will spend at least 50 percent of these funds for clean energy development activities in or for the benefit of Windham County. The Site Restoration Fund will be held in trust and grow over time until it is needed to help restore the Vernon site.

"We are pleased that with these deposits Entergy VY has completed its financial commitments for this year, all in accordance with the terms of the Agreements" said Recchia. "The Public Service Board's decision last week to uphold its earlier endorsement of the Agreement made moving forward with these payments possible."

The CEDF and its Clean Energy Development Board will be taking public comments to inform and aid in the creation of a plan for the deployment of the \$5.3 million. Specifically, in order to obtain comments directly from Windham County residents, the Clean Energy Development Board will be holding a public hearing in Brattleboro on Wednesday, May 14th at 5:30 at the Brattleboro Union High School, in the "multi-purpose" room.

The CEDF will be particularly interested in investing in the development of the distributed generation clean energy sector of the Vermont and Windham economies in coordination with State and regional economic development organizations. Andrew Perchlik, Fund Manager of the CEDF said: "These are the last funds the CEDF expect to receive from Entergy and we want to be sure to leverage these dollars to achieve maximum economic and clean energy benefit to the State and Windham County."

=====

You received this email because you are on the Clean Energy Development Fund's email list. If you want to be removed from the list send an email to andrew.perchlik@state.vt.us asking to be removed.

Andrew Perchlik
Vermont Public Service Department
Clean Energy Development Fund
andrew.perchlik@state.vt.us
802-828-4017

Mishaan, Jessica

From: Miller, Elizabeth
Sent: Wednesday, June 18, 2014 10:53 AM
To: Mishaan, Jessica
Subject: FW: Windham Regional Commission statement on PSB decision regarding VY.
Attachments: WRC Statement to VPR on PSB VY Decision.docx

From: Chris Campany [<mailto:ccampany@sover.net>]
Sent: Thursday, April 03, 2014 5:02 PM
To: Recchia, Chris; Miller, Lawrence; Miller, Elizabeth; Mears, David; Chen, Harry; Irwin, William; Nagy, Ross; Mackay, Noelle; Leriche, Lucy
Cc: 'Pat Moulton-Powden'
Subject: Windham Regional Commission statement on PSB decision regarding VY.

Dear State Colleagues:

I have been fielding many press inquiries about the Windham Regional Commission's position on the Public Service Board's decision concerning Vermont Yankee. Our statement is attached and pasted in below.

I trust there will be good communication among agencies, and that you will value and solicit regional input in processes, discussions and decisions going forward. We look forward to working with you.



Statement of the Windham Regional Commission on the Public Service Board's Issuance of a Certificate of Public Good for Entergy Vermont Yankee

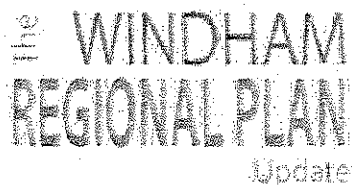
Now that the Public Service Board has rendered its decision and endorsed the memorandum of understanding arrived at between state agencies and Entergy Vermont Yankee, we need to look forward to what this means. The agreement promises resources that could jump start economic development and workforce initiatives in the region that in turn might blunt the economic impacts of the closure of the plant in late 2014. There is a framework in place, a regional comprehensive economic development strategy, to help guide how those resources might best be used to leverage the region's human resource and economic assets. We expect to be a part of this process.

But beyond the financial resources, the memorandum of understanding and the larger settlement agreement establish the basis for ongoing conversations between the state and Entergy about decommissioning, its costs, site restoration, and spent fuel management. A structure and process must be put in place to ensure the region and its municipalities have a meaningful place at the table in the discussions that are to follow in the days, weeks, months, and years ahead. This should be an immediate-term priority as the agreement calls for a

site assessment study of the costs and tasks of radiological decommissioning, spent nuclear fuel management, and site restoration of the Vermont Yankee station to be completed by December 31, 2014. Per the settlement agreement, Entergy is to review the results of this study with the Public Service Department, the Agency of Natural Resources, and the Vermont Department of Health, and we fully expect these agencies to engage with us in their review, decision making and actions. Early and effective participation by the region and its municipalities is essential.

From Chris Campany, Executive Director
April 1, 2014

Chris Campany, AICP
Executive Director
Windham Regional Commission
139 Main Street, Suite 505
Brattleboro, VT 05301
www.windhamregional.org
office (802) 257-4547 x106
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pager (802) 250-5115



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**Statement of the Windham Regional Commission on the Public Service Board's Issuance of a
Certificate of Public Good for Entergy Vermont Yankee**

Now that the Public Service Board has rendered its decision and endorsed the memorandum of understanding arrived at between state agencies and Entergy Vermont Yankee, we need to look forward to what this means. The agreement promises resources that could jump start economic development and workforce initiatives in the region that in turn might blunt the economic impacts of the closure of the plant in late 2014. There is a framework in place, a regional comprehensive economic development strategy, to help guide how those resources might best be used to leverage the region's human resource and economic assets. We expect to be a part of this process.

But beyond the financial resources, the memorandum of understanding and the larger settlement agreement establish the basis for ongoing conversations between the state and Entergy about decommissioning, its costs, site restoration, and spent fuel management. A structure and process must be put in place to ensure the region and its municipalities have a meaningful place at the table in the discussions that are to follow in the days, weeks, months, and years ahead. This should be an immediate-term priority as the agreement calls for a site assessment study of the costs and tasks of radiological decommissioning, spent nuclear fuel management, and site restoration of the Vermont Yankee station to be completed by December 31, 2014. Per the settlement agreement, Entergy is to review the results of this study with the Public Service Department, the Agency of Natural Resources, and the Vermont Department of Health, and we fully expect these agencies to engage with us in their review, decision making and actions. Early and effective participation by the region and its municipalities is essential.

From Chris Campany, Executive Director
April 1, 2014

Approximate VY Payments to SOV
2006 - 2012

| Fiscal Year | Electrical Energy Tax (General Fund) | Electric Generating Plant Education Property Tax | Clean Energy Development Fund Payments | Other Taxes: Payroll, Income, Sales & Use | Total | Radiological Emergency Response Plan Payments (RERP) | Total w/ RERP |
|-------------|---|---|---|--|---------|--|---------------|
| 2012 | \$1,400,000 | \$1,000,000 | \$3,151,000 | unknown | unknown | \$2,134,309 | \$7,685,309 |
| 2011 | \$2,900,000 | \$2,100,000 | \$4,085,000 | unknown | unknown | \$1,735,454 | \$10,820,454 |
| 2010 | \$2,900,000 | \$2,100,000 | \$7,126,936 | unknown | unknown | \$12,126,936 | \$13,839,407 |
| 2009 | \$2,828,133 | \$2,027,286 | \$6,800,404 | unknown | unknown | \$1,737,236 | \$13,393,065 |
| 2008 | \$2,719,186 | \$1,945,534 | \$7,036,256 | unknown | unknown | \$1,696,435 | \$13,397,411 |
| 2007 | \$2,631,403 | \$1,900,000 | \$4,252,287 | unknown | unknown | \$1,360,440 | \$10,144,130 |
| 2006 | \$2,600,000 | \$1,900,000 | \$1,450,000 | unknown | unknown | \$1,315,357 | \$7,265,357 |

Current: 2013 - 2014

| Fiscal Year | Generation Tax | RERP Payments | Approx Total | Total minus RERP |
|-----------------------|--------------------|---------------|---------------|------------------|
| 2014 (known payments) | 12M - 13M expected | 2.6M | 17.5M - 18.5M | 15M - 16M |
| 2013 | 12M - 13M expected | 2.3M | 17.5M - 18.5M | 15M - 16M |

Discharge Fee
\$210,000 annually

Settlement

| Calendar Year | Generation Tax | Transitional Tax Payment | Clean Energy Development Fund (50% to Windham County) | Economic Development Fund* to promote economic development in Windham County | Site Restoration Fund* |
|---------------|--------------------|--------------------------|---|--|------------------------|
| 2014 | 12M - 13M expected | | 5.2M (release escrow*) | 2M | 10M |
| 2015 | | 5M | | 2M | 5M |
| 2016 | | | | 2M | 5M |
| 2017 | | | | 2M | 5M |
| 2018 | | | | 2M | |

* Energy VY shall not seek reimbursement from the NDT for these payments.