

From: London, Sarah [Sarah.London@vermont.gov]

Sent: Thursday, October 17, 2013 1:36 PM

To: Ross, Chuck; Seelig, G; 'Gil Livingston'

Subject: Easements

Attachments: Sarah London Chuck Ross Jan 2013.pdf; VHCB VLT Ag Easements Costs 10-18-12 FINAL.pdf

Hello Chuck, Gus and Gil, I hope all is well. I'm optimistic that our new system related to agricultural conservation easements appears to be working, but we look forward to receiving information referenced in the attached – please let me know if you will be in a position to provide an update before the end of FY. Otherwise I will advise GPS to expect report then.

I do need a bit more information in the cover memos than I am currently receiving. Many of the cover memos describe the farmer's contribution, either through direct payment or bargain sale. I've received another transaction that contains no such information. The last time this occurred, I was able to talk to Sylvia, who advised that there was a significant hardship situation and no ability on the part of the farmer to make such a contribution.

It will be most efficient if I can get that information right in the cover memo. Specifically I need: (1) amount of farmer's contribution and % that contribution is of easement value, or (2) explanation in the event there is no such contribution or if contribution is less than 1% of easement value.

I will be sending this most recent transaction (Sawyer Bay Farm, S. Hero) back and will let Sylvia know. It may very well be that I was not clear in speaking with Sylvia last time on this – and regardless, I should have been in touch with you all to confirm we are all on same page.

If you have any concerns, please let me know. Thanks very much,
Sarah

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

MEMORANDUM

TO: Sarah London, Counsel to the Governor; Chuck Ross, Secretary, Agency of Agriculture

Cc: Gil Livingston, President, Vermont Land Trust

FROM: Gus Seelig, Executive Director

DATE: January 30, 2013

RE: Follow Up on Recalibrating Farm Conservation Projects

The Vermont Housing & Conservation Board has been spending approximately \$500,000 annually for stewardship and staffing costs to conserve an average of 22 farms per year. The Governor has asked us to rethink this process and lower costs paid by VHCB.

I plan to recommend to the Board that we enter into a contract for services with VLT that will have a number of benchmarks. We will evaluate progress over the next two years. In addition, VLT has agreed to implement a new system by April 1 to track staff time that will provide better data for us to evaluate program performance cost and performance and stewardship costs next year.

What follows is consistent with the Agricultural Easement Cost Reduction plan agreed to by all parties this fall as a precondition to release of associated costs that had been withheld. Briefly, VHCB proposes that we reduce cost to VHCB for the farm development rights program by at least 25% utilizing the following mechanisms:

1. All farm deals that have cash donations or philanthropic support will utilize such funding to offset first transaction and then stewardship costs. We anticipate no less than 3-4 deals each year will include such support, lowering stewardship contributions by \$21-28,000 and staff and other costs by \$54,000-\$69,000.
2. Farmers will be asked to contribute 1% of easement value with a few hardship exceptions for new farmers with limited capital and an exiting seller with no motivation to contribute to stewardship. This will generate savings of \$30,000-45,000 per year further reducing VHCBs contribution for stewardship .

3. Third party transaction costs will be capped at \$4,000 per project to be paid by VHCB. VLT has implemented several steps to better manage and reduce legal costs as well.
4. Staff costs will be a part of Contract for Services for the development rights program VLT may request and the Board will separately consider a request to support VLT's Farmland Access Program. This will save approximately \$45,000 or close to \$2,000 per transaction from the current allocation and award of the purchase of development rights program.

Together the savings should approximate \$150 -165,000 annually even with room for hardship exceptions for stewardship donations or projects that have extremely high transaction costs due to federal requirements for appraisals. In short we anticipate that transaction and stewardship costs will average around \$16,000 rather than the current \$22,500. The Board will review stewardship and operating costs annually and determine whether further adjustments are necessary.

The Contracts for Services will require both productivity and accountability. The Board anticipates implementing all of these changes in time for its May funding round in which the Board will be allocating FY `14 funding for closings that will happen after July 1, 2013. Attached is a spreadsheet that illustrates the projected changes based upon 22 farm projects.

Agricultural Easement Cost Reduction Plan

The goal of this plan is to reduce the public costs, including public stewardship costs, associated with agricultural easements by 20 to 30 percent. This plan will be fully implemented by FY 2014 (July 2013).

- 1) VLT will develop and implement an information system to be operational April 1, 2013. The new system will then begin to track VLT's total costs of stewardship by easement, the cost of developing each project for board approval and each project's closing costs. The Board will review reports from that system in preparation of review and approval of annual performance contracts for the farm program.
- 2) The VHCB contribution for "standard closing costs" (title search, title insurance, recording fees) will be capped at \$4,000 per transaction going forward. Transaction costs will be limited to the cost of the easement acquisition and third party contractor costs such as title search, title insurance, recording fees, etc.
- 3) VHCB, VLT, UVLT would develop for Fiscal Year 2014 (July 2013) a performance contract for services to cover staff and overhead costs including mapping and Baseline Documentation Reports—

Contributions to VLT operational costs would not exceed 50% of the costs of the farm program.

Whenever fundraising proceeds are available they will be used to cover transaction costs with a goal of reducing the need for state expenditures in 10 - 20% of transactions.

VHCB may also provide direct assistance for outreach to the farm community, development of pre applications, management of the appraisal process or the farmland access program.

On projects where VLT fundraises to cover its overhead costs fundraising contributions will be shown as a line item in the budget. VLT may exceed the \$4000 cap when such fundraising covers the additional cost.

STEWARDSHIP

- 4) Beginning in FY '14, contributions to the stewardship endowment fund will be evaluated at least annually utilizing benchmarks including the number of new easements, the fund performance, avoiding easement violations, providing farmer technical assistance, evaluate responsiveness to landowner needs, and national accreditation requirements. The Governor will be advised of the total stewardship

contribution, in light of the benchmarks. In awarding stewardship funds the board will consider comparisons to other programs.

- 5) VHCB, VLT, and Secretary Ross will provide the Governor with a proposal for reducing the public stewardship contribution by January 2013, including by requiring farmers to pay for a portion of the stewardship contribution and/or by encouraging more bargain sales. VHCB, VLT, and Secretary Ross will also consider options that will allow farmers to make deferred stewardship payments over time based on ability to pay, expanding the use of conditional stewardship payments by farmers for complicated easement amendments, and increased private fundraising.
- 6) Landowners will continue to contribute to the stewardship fund when subdividing farmland and when costs of any requested approval review exceeds \$500 in a single year.
- 7) VHCB will work with the partners (VLT and the Agency of Agriculture) to review how stewardship approvals and amendments are made with the goal of improving the efficiency of that process.
- 8) VLT will conduct stewardship site visits and direct communication with farmers every other year where permitted.