

From: Shems, Ron

Sent: Thursday, January 26, 2012 6:34 AM

To: MacLean, Alex; Markowitz, Deb; Recchia, Chris; Mears, David; Groveman, Jon

Subject: CLF meeting re: permit process

Dear colleagues,

I met with Chris, Sandy, Anthony, Louis and Zack (the whole crew) yesterday at 1:30. They oppose changing full rights before the Court unless the "particularized interest" standard for party status is legislatively changed. Judge Durkin has issued some decisions applying "particularized interest" in a way that makes it harder to participate in the VT process than in federal court. CLF is willing to live to live with the federal standard. (And I fully agree that it should be no harder to participate before the District Commissions or E.Ct. than to appear in fed. ct.). I suggested strategic appeals to trim Durkin's decisions back to the federal standard (and the NRB is quietly working internally to that effect), but CLF is insistent on the buzz saw of having this issue address in the legislature if it to go along with H.513 (as it is to be revised).

Also, CLF firmly believes that the Lake Champlain Chamber is behind the on-the-record effort and its mention in the Budget Address. It went so far as to say that our report looks like the work of a chamber wish list/Douglas administration effort! In short, that perception persists among some.

Please note that CLF's perspective is very different from VNRC's substantive wishes. VNRC is looking for a for citizen-friendly forum. CLF is more geared to litigation and has not fared well before boards. That said, VNRC very much shares CLF's party status concerns.

Please let me know if you want to discuss the particularized interest question. I did tell CLF that I would raise it, and I assume that it will come up in continued discussions with VNRC.

We need to keep working with VNRC. I am having a BRIEF attorney meeting first thing this morning -- a first step that David Mears, Brian Shupe and I thought would be a helpful start. Discussions will have to continue.

Also, I chatted briefly with Tony Klein and David Deen after our 2:45 meeting. David will start work on redrafting and splitting H.513 this morning, and Tony will start rearranging his committee's schedule and hopes to start hearings in a week or so. I will be listening to several attorneys and others testifying before Ginny's committee this morning and I will testify as clean up at the end of the morning or tomorrow morning.

Please let me know if you have questions.

--Ron