

**Vermont Endangered Species Committee (ESC)
4-14-2022 Meeting Minutes**

Attendees

ANR Secretary: Julie Moore

ESC Members: Allan Strong (Chair), Bryan Pfeiffer, Paul Wieczoreck, Mark Scott (FWD Commissioner's designee), Jim Shallow, Becca Washburn (FPR Commissioner designee).

Non-members: Jim Andrews (Reptile and Amphibian SAG), Bill Kilpatrick (Mammal SAG), Kent McFarland (Invertebrate SAG), Matt Peters (Flora SAG), Mark LaBarr (Bird SAG), Jim Deshler (Fish SAG sitting in for Rich Langdon). Jon Kart (FWD Permit Administrator and WAP Coordinator), Roz Renfrew (FWD Wildlife Diversity Manager), Bob Popp (FWD Botanist), Aaron Marcus (FWD), Dorothy Allard, Jason Batchelder (FWD Game Warden Colonel).

Scheduled ESC Meetings for 2022

22 September 2022, 9am – 2pm. National Life Davis Building in Montpelier, Catamount Conference Room. Mark Scott will reserve the room. Meeting will be remote or blended depending on Covid safety measures.

Call to Order

Allan Strong opened the online Microsoft Teams meeting at 9:04 AM.

We need to record video of these meetings for the public. Roz Renfrew starts recording at 9:09. We have 5 ESC members, enough for a quorum.

Comments from the public not related to the agenda

None

Additions, deletions, or changes to the agenda

None.

Approval of minutes from the 20 January 2022 meeting

MOTION: *By Bryan Pfeiffer, seconded by Paul Wieczoreck, to approve the 20 January 2022 minutes. Bob Popp requests one edit: under plant discussion of Colchester permit application, Canada frostweed is S2-S3, not Houghton's sedge. Motion approved with this suggested revision. Motion passes.*

Secretary's Report – ANR Secretary Julie Moore

Activities in the legislature - will highlight 3 bills:

H606 Passed house, asks ANR to prepare a plan to achieve 30 X 30 and 50 X 50 goals. Biggest concern is focus is exclusively on acquisition, hopeful they will update definition of conservation to be broader. Also does not add resources in order to develop and implement planning. She has shared this feedback to Senate Nat Resources Committee.

H697 - Changes to Use Value Appraisal program: creates opportunities for old forest to be incorporated into UVA. Keith Thompson and Mike Snyder have been very involved with testimony and working with SNR committee. 15 bills related to agency in front of them right now. Not certain which ones will cross the finish line. On the House side, environmental justice bill, reforms to Act 250.

S234 and other bills being discussed around that topic. S234 would include exemptions for development in downtown center and additional criteria that adds forest blocks/fragmentation. Governor has expressed interest in a “robust and comprehensive” bill.

Budget:

Anticipate 5% growth. Federal funds have been stagnant for more than a decade. Revenues from fees and licenses have lessened, overall trend to reduced federal funding anticipated in future years. Lake Champlain Basin funding and other sources have been key and have resulted in restored areas, wetlands in particular. Funding opportunities on Conservation Fish & Restoration initiative. Workforce challenges are ubiquitous in VT and probably nationally. Very high staff turnover and challenges refilling positions, lots of vacancies. Carrying out H606 for example challenging given this environment. Need to be protective of burnout.

Question about sound mitigation zone around Burlington Airport that has been cleared of housing via buyouts:

This is a sandy area that represents sandplain community, a rare community. Could this area be used to support plant species of this community? Sec Moore does not know about this land, could be held by the airport? Can look into it. Land is in S. Burlington but is managed by airport. Zoning changes proposed and many negotiations being made west of airport. Bob Popp says such a project may be quite involved, lots of removal of concrete.

Question about the nexus between workforce and budget challenges. Possibility for longer term more dedicated fund for F&W?

Secretary Moore agrees, growth in general fund in last couple of years but prior to that growth in government was 5% per year while growth in funding was 3% per year, and that trend is likely to resume after FY24 after completion of all of the projects with Covid and infrastructure federal funds. Budget needs growth is in non-negotiables like salary and benefits.

Question about the possibility of drawing more from UVM student body or graduates?

Secretary Moore agrees this is a good idea, although minimum qualifications can eliminate students' ability to be considered. UVM could be tailoring program to help meet ANR needs. Allan Strong and Secretary Moore agree to discuss further.

Question - given predictions about FY24, are alternative funding sources being looked at?

ANR now serves a broader community. Tax on goods etc. being looked at? Secretary Moore says Habitat Stamp is good example of this, most (90+%) purchased by hunters and anglers. There had been a proposal to make the stamp a requirement for anyone parking at a WMA, but did not have enough support. Could make another similar attempt? Gas tax not likely an option. State match comes from hunting and fishing licenses.

Request for an update on the Global Warming Solutions Act.

There are 8-10 bills connected to the Climate Action Plan. Clean Heat Standard – cap and invest program. Clean heat credits for heat pumps, weatherization etc. Adopting Clean Car Clean Truck standards to phase out older cars, follows CA standards, this is in rulemaking. Result will be more electric vehicles in 2025-26. Conservation goals in Plan – smart growth, forest protections mentioned earlier. UVA bill speaks to Climate Action Plan. Favored approach in Plan is incentive-based instead of command and control via ANR. Emissions inventory, positive impact of Covid on gas emissions, but offsetting increases in home heating.

FWD Commissioner’s Report – Mark Scott, FWD Wildlife Division Director

Mark Scott reported in lieu of Commissioner Herrick.

Avian influenza a major effort right now for F&W. Work with partners, rehabbers, coordination, response taking a lot of effort. Leghold trapping, governance, coyote and hound hunting bills to regulate those. Looking at putting BMPs into regulations. Wanton waste bill, worked with House to move forward, now in Senate. Addressing all views is a challenge. Kim Royar, furbearer biologist retiring in May, hoping to keep her on as seasonal to follow through with some of these issues in the coming year. Recruiting to replace state lands ecologist, vacancy in migratory waterfowl project leader. Land acquisition projects with EPA, Will Duane working on this, but swamped with the concerns that often arise from local residents about all kinds of topics. Recovery of America’s Wildlife Act is looking promising, we are doing some background planning, challenge will be how to administer and manage. Mark shares Secretary Moore’s concerns around long-term sustainability that will affect RTE species conservation.

Update on ESC membership

Mark Scott reports he does not yet have people to replace departing/ed ESC members. Two people were invited but declined, need to move on to next options. Mark has names into the Commissioner and reached out to staff for more names. Bryan Pfeiffer offered to switch to fauna from flora, but Mark thinks it is more important that we have an ESC able to work together and replacing a flora member has been challenging; he would be interested in keeping Bryan as flora representative. Important that people will work well with the group. Bryan is also at the end of his membership term, he would like to make sure we get replacements, we have 3 members who are not formally on the ESC, wants to make sure that is acceptable. Secretary Moore will check on numbers with expired status, but she shares Mark Scott’s understanding that until someone else is named, the existing member can continue to function as a full member of the Committee.

Discussion of Recovery Plans for semi-charismatic species (Kent McFarland and Allan Strong)

Lots of species that do not have recovery plans. For those we have plans for we have recovered, which speaks to their efficacy. However, they require time/capacity to develop and implement.

Could we group species, and/or have “mini” recovery plans for some species that are much simpler? Kent McFarland says we have a lot of inverts without plans. And, we must consider capacity and not overly burden anyone. Perhaps private-public partnerships to fund NGO staff time to develop the plans.

Keep the plans simpler. In statute it does not say you must have a recovery plan, yet we lose the meaningfulness of listing if we do not set and strive for goals.

F&W needs to be involved, must provide “stamp of approval” on recovery plans. How does F&W staff be involved as is required without holding back planning efforts due to their limited capacity? It would help if we could begin with determining priorities to narrow the focus.

Can we cross-pollinate more across taxa/SAGs for co-occurring species, and group several species this way, or at least cross reference management activities?

Suggestion: develop list of priorities, identify what can be done short-term, low-hanging fruit.

Mammals as example: lynx probably does not have a resident population. Need to maintain as listed but a recovery plan is not appropriate. Bats: WNS and wind turbines drove the development of conservation plans, but they never got past an initial stage. WNS federal funds have driven those plans, things had to happen quickly. American marten: population changes have resulted in an outdated plan. Jim Shallow expresses support for idea of more brief documents with rapid planning, as long as they hold up to any regulatory requirements.

Allan sees 3 components of the plans: monitoring, management practices, and recovery goals. Sometimes the goals are just indices because we will not ever know the true population size. Mark Scott agrees with idea of mini plans, even though some species may still need individual attention (e.g., meadowlark due to complexities given the nexus with agriculture). He wants to ensure that this work is not subject to influence by non-experts.

Is the ESC comfortable with a species like Common Tern that has to be managed indefinitely to remain in VT?

Existing grassland birds plan serves as an example of grouped species with briefs on each species.

Perhaps a matrix is needed to help prioritize, with factors such as available money, accessibility of resources, and Vermont’s responsibility for a species.

SAGs could try to create a short plan with a species about which we have little information versus a species for which we have a lot of knowledge/data, to give us a sense of what the challenges would be under the two disparate scenarios.

Flora recovery plans: several regional plans have been created in the past by Native Plant Trust but there were no resources to move forward to address the goals. Many species are covered/conserved by broader landscape scale conservation activities. Could pull out species with particular stressors and also straightforward management measures and high level of certainty of success – e.g., wild lupine. But let’s be cautious about creating plans for which we do not have the resources to implement.

Important to think about public perception of what we do. Focusing on iconic species is beneficial for garnering support from public. Especially for land conservation. But still need a recovery goal which sets stage for success and that also garners interest and engagement. Piggybacking multiple taxa

whenever possible can be helpful, perhaps one factor to look at is what other species can be brought along and tackle from more of a natural community perspective.

Kent will take this back to the invertebrates SAG to discuss how best to prioritize. Reptile and Amphibian SAG has been working on a matrix that could be shared as an example. Flora and bird SAGs will also discuss. Bryan Pfeiffer will plug into flora SAG to help out.

Sally Laughlin Award – updates and call for nominations (Alan Calfee)

Alan Calfee was unable to attend today, Allan Strong is reporting on Alan's behalf. There are nominations from past years but Alan Calfee would like to see more. Challenge is that a high contender is in the mix and would be tough to surpass. Our next meet in Sept is not long before Dead Creek Wildlife Day so we may need to vote by email.

MOTION: *By Bryan Pfeiffer, Paul Wieczoreck seconds, that the high contender already nominated be approved as the recipient of the award. Mark Scott supports this given the award is based on work conducted outside of state-associated responsibilities, which is a rule for this award. Motion passes.*

Jim Andrews asks that we fully engage the press around this award, Allan Strong says we can work with FWD to do so.

Formation of a Bryophyte SAG (Dorothy Allard)

Discussions have been happening lately around reforming a Bryophyte SAG. VFWD funded some recovery plans in early 2000s and they updated the list. Dorothy mapped all of those species by town. Completed in 2004, not accepted by ESC at the time. Much more access to bryophyte data now. There is now bryophyte online page (<https://vtbryolist.org/vermont-bryophyte-list/>) created by Dorothy. See accompanying doc (link above) for details on the proposed composition and potential tasks of this SAG that Dorothy reviewed. Much more data now to inform ranking. Only 2 species listed right now. One at Smuggler's Notch, another may not be as rare as previously thought. New listings potentially limited by lack of experts who can identify species. Many threats. Logistics such as how often to meet not yet discussed.

What would be the synergies be with Flora SAG? Bryophytes currently do not receive much attention at Flora. Support was voiced for this idea, anticipate low burden on VFWD for recovery plans, some places already protected. No vote today given we barely have a quorum, but there is a general sense of support. Will have a formal vote at next ESC meeting. We can use the "big tent" to help with prioritization etc. to add more expertise to discussions when needed.

What about lichens? Aaron Marcus (VFWD) is heading up efforts to put together a proposal for the next ESC meeting for a fungi/lichen SAG. Even less expertise available for this group, however.

Roz Renfrew expresses support for this idea but cautions about real limitations in VFWD staff time that is inevitably required whenever we add recover plans or SAGs. Not solution as to what could be dropped in order to make space for this added work.

[Protection for non-game, non-avian species \(Jim Andrews\)](#)

See link for proposal. For herps, you need permit to handle an individual, but if you want to shoot it, you need only a hunting license. No backup protections after delisting. Need a level of protection for non-listed, nongame vertebrates (similar to what exists for migratory birds). But Jim is not suggesting that we see a lot of intentional killing.

Technical question: how does “take” law apply for things like helping a frog across a road. Intention differs from that of intentionally killing or collecting. Law says “lethal take”.

Jason Batchelder supports this idea, wardens are interested in learning how to help.

Can this be placed in the broader statute context? May become complicated. Are there any interest groups (stakeholders) to include? What about invasive species? Language would say “native.” Long-lived species most threatened by take. SAG discussed what to do about leopard frogs used for bait or bullfrogs used for legs. Jon Kart writes permits for taking 25,000 leopard frogs per year for bait. Could write this so you can still get a permit, but you are not allowed to collect without one.

Suggestion to bring Catherine Gjessing into this conversation to see what language and complexities would look like. Mark Scott will seek input from VFWD.

Pond Slider – a new non-native species in Vermont (Jim Andrews)

[Reptile and Amphibian SAG recommendation to ESC](#)
[Invasive species worksheet](#)

See accompanying document. Sliders are popular pets and they outlive children’s interests. Invasive in most states. Vermont an outlier probably because of climate. The species can overwinter but eggs cannot successfully develop. Opportunity to be proactive given climate change may produce conditions that allow them to thrive. Jim Andrews / herp SAG proposes to designate the species a nuisance under the Aquatic Nuisance Control statute (10 V.S.A. § 1452(2)); and add all subspecies of Pond Sliders to the Fish & Wildlife Department’s Restricted Species List, so that a permit is required for sale or importation.

Red-eared is subspecies of Pond Sliders, but this covers all species of pond sliders.

The Herp SAG is looking for letter of support from ESC to propose these changes.

Discussion: if species expands northward, how do we address? This dilemma applies to many species that may move to VT over time with climate change.

Is this rulemaking? Restriction list: Commissioner can simply sign off on an addition of a species to the restriction list. To add it to invasive species list, it has to go through rulemaking. Define invasives by the species on the list. What do we do with turtles that are already here? Giveback program? Tried in MA but nowhere near enough capacity for housing all of the pet herps that people turned in.

Allan Strong will circle back after Mark Scott and Roz Renfrew have a chance to discuss within VFWD.

Are there other species we might want to consider for such listings while we are looking at this, in order to pursue several as a batch? Dragonfly nymphs used for mosquito control. These may be able to piggyback onto goby ruling which is in need of moving quickly.

Lunch break

New permit applications (Bob Popp and Jon Kart)

- [VTrans, 16-mile section of VT-22A in Fair Haven, Orwell and Benson](#). Potential incidental take of rattlesnakes and ratsnakes during patching and filling ruts and resurfacing pavement on 16-miles of Rt-22A.

VTrans was eager to obtain a permit to start work in the summer, and Luke Groff and Jon Kart worked with them to get it farther along quickly and avoid upending the VTrans contracted work. Work is on existing footprint, no work on shoulders. This is a very small section doing spot work, resurfacing longer section for several weeks. More to come in the future, and we are hoping they will then be installing underpasses for herps. Obtained agreement on avoidance and minimization steps such as no staging within key herp areas. Luke will work with engineer to select staging areas to avoid snakes. Most of the potential conservation impacts are avoided via this aspect. After the project starts, if workers encounter snakes, they will avoid and work elsewhere, and send photos to Jim Andrews, Luke Groff, and Doug Blodgett. Also will do surveys for roadkill in case the roadwork attracts snakes to the road, but Luke thinks potential for this is low due to slower traffic during construction, plus other roads will be warmed up enough. Luke will train crew on snake ID so they have some sense. Warden and VTrans will be present to emphasize the importance of herp protection measures.

Question about permit conditions: will there be a biologist or someone trained on crew for identification? Do not anticipate need to be great enough to have a consulting biologist present. Photos will be sent regardless of species for determination.

Why are we requiring a permit here if it is only precautionary? Because there are opportunities to implement avoidance measures. Also, parts of road are $\frac{1}{4}$ - $\frac{1}{2}$ mile from known dens, and mortality has been documented on this stretch of road, so it is considered a sensitive area.

A search for herps each morning is required in the permit. But would snakes likely be there in morning? Depends on time of year. Rattlesnakes active on warm summer nights, otherwise mid-afternoon. Jon Kart says they can work on that.

MOTION: *Paul Wieczoreck motions that ANR Secretary issues permit for VTrans take. Bryan Pfeiffer seconds. Motion passed with friendly suggestion that searches take into account various times of days when different species may be active at different times of the year.*

- [Sheppard Colchester. Propose taking of 46 individuals of Houghton's flatsedge \(*Cyperus houghtonii*\)](#) to facilitate construction of a 28-unit housing development. This was discussed at the ESC Jan 2022 meeting, prior to obtaining input from Flora Advisory Group.

Flora SAG advice on this is the only new piece to discuss. Plowing of field disturbed seedbank and plants emerged. Company has done their best to minimize take, and they are going to take 40 plants and move them to a fenced conservation area with monitoring and control of invasive species. The company is unable to comply with setbacks, blocking sidewalks due to town ordinances. Flora is recommending a permit with the addition of a few more conditions (see document provided). Problem is that permits are valid for only 5 years but the signage needs to be maintained in perpetuity. Could renew the permit every 5 years or include the requirements in their Act250 permit. NPT seed bank should be used if plants decline. Needs periodic disturbance, open canopy. Also need to assign responsibility for long-term maintenance.

Q: How did this species get there? Natural disturbances perhaps, e.g., sand blowouts.

Suggestion to add to management plan: spell out conditions required by plant to persist so management remains consistent with needs of the plant. Ask that every resident gets information that gives them opportunity to buy into their role as caretaker of a rare plant species. What is the bark mulch and how applied? Are there trees that may shade? The mulch to be used prevents lichens that can come in, but Paul Wieczoreck points out the impact of the organic matter that results. But mulch idea is intended to be only a thin layer and may not be a problem. Permit says no more than 2 inches. Consultant involved knows this plant very well and understands the needs.

Challenge is how to make a sedge interesting to a homeowners association, especially in a sustained way? Suggestion to use art – a statue of a 10x sedge, weatherproof painting of sedge meadow. People are protective when they know they have something special.

MOTION: *by Paul Wieczoreck, Bryan Pfeiffer seconds: Recommend to ANR Secretary that she approve the permit with added condition that no trees to be planted that would shade the conservation area over time. Motion approved.*

ESC recommends we look into Act250 conditions to allow signage beyond period of permit.

- [VELCO St. George. Propose taking of up to 10 plants of hairy lettuce \(*Lactuca hirsuta*\) to facilitate pole replacement.](#)

ESC has not seen this case yet. See accompanying document. Steep location, there will be constraints getting their equipment into the site. Once plants fruit and flower (in their second year) they die, so only worthwhile to move first year plants. However, one cannot separate first year plants of this species from another lettuce species, so they have to move all from impacted areas. VELCO needs to know in advance of the work because they have to shut off power for hours or days. VELCO proposed moving the plants mid-August, Flora SAG wants them to wait until at least mid-Sept, cannot ID it until early Aug. Watering considerations. No plan on invasives yet. Waiting until Sept may not be possible for VELCO.

Another way to go about this could be to germinate seed collected from another population instead of trying to move existing ones when 1 of the 10 plants there may be the species of interest. Paul Wieczoreck knows a perennial flower grower in Essex who might be very happy to help out. Very

challenging to move a lettuce plant with a deep taproot in high summer. Give seed from existing population to NPT to develop seedlings from, as a back-up option? We have 1:1 mitigation practices. This would be more flexible for VELCO.

How to move forward? Paul Wiczoreck and Bob Popp will work together, and ESC could sign off via email vote? Flora SAG meeting is scheduled in May, can discuss this there. Bob Popp will coordinate with Jon Kart. ESC may need to vote electronically.

VELCO would still have to pay the fee for the taking, plus pay NPT to germinate the seed, and to plant seedlings.

- [Merrick Mt Horrid, Rochester](#). Amateur plant breeder proposes to collect seeds from roseroot (*Sedum rosea*) to germinate and grow them to determine whether they can be grown commercially as a medicinal source. This case warrants further discussion.

This is an unusual case. The plant species has a lot of herbal uses and there would be a lot of interest. The potential permittee wants to grow the plant and test it for medicinal uses. Perennial but dioecious. Collection is a threat, rock climbing a threat because they grow on cliffs. Heat and drought also threats because this population grows on south-facing slopes. We have never allowed planting of listed species for medicinal purposes before. Bob Popp offered to the person that they could buy seeds from elsewhere, and their response was that seeds on the market are a Siberian strain and he does not want to dilute the genotype of local populations. NPT has seeds and he could use those? Plant is not rare in Maine, so the person could go there, but their concern is whether the genes similar enough? Flora SAG opposed to collecting the permit, did not want to set this precedent of a Vermont-grown product which may stimulate a lot of search. NPT has seeds from this population.

How would the grower determine the medicinal compounds? No information on this.

Problem with denying on the basis that this is for commercial purposes if you play that out fully. Could growing the plant relieve pressure on native population? We allow collection of seeds for commercial purposes – housing is commercial use. This is a more benign case. It is a taking for propagation purposes. Although it is a commercial exploitation of the species. We value that the person came forward willingly and seems to be ultimately concerned for the species and preserving its genetic integrity. If we deny, what message does that send, will other people be dissuaded from asking in the future.

This will go back to Flora with a comment that ESC is not fully opposed to this and would like to see more details from them.

1:10 New Invertebrate SAG member: [Spencer Hardy](#) (Kent McFarland)

MOTION: by *Paul Wiczoreck*, *Bryan Pfeiffer* seconds, to approve adding *Spencer Hardy* as member of *Invertebrate SAG*. Motion passes.

Jim Andrews thanks Rebecca Chalmers for her years of service on Herp SAG.

Bill Kilpatrick: UVM Natural History Museum open house. May 1, 11am – 4pm, Blundell House, UVM Redstone campus.

Adjourn

The meeting adjourned at 2:05 PM

Minutes respectfully submitted: 4/16/2022, revised 4/17/2022.

Rosalind Renfrew
Fish & Wildlife Department

Approved:

Allan Strong, Chair Endangered Species Committee