

**Vermont Endangered Species Committee (ESC)  
1-20-2022 Meeting Minutes**

**Attendees**

**ANR Secretary:** Julie Moore

**ESC Members:** Allan Strong (Chair), Liz Thompson (Vice Chair), Bryan Pfeiffer, Alan Calfee, Paul Wieczoreck, Jim Shallow, Chris Herrick (Commissioner of FWD), Mark Scott (FWD Commissioner's designee), Cary Giguere (Secretary of Agriculture, Food, and Markets designee), Becca Washburn (FPR Commissioner's designee).

**Non-members:** Jim Andrews (Reptile and Amphibian SAG), Bill Kilpatrick (Mammal SAG), Kent McFarland (Invertebrate SAG), Rich Langdon (Fish SAG), Matt Peters (Flora SAG), Mark LaBarr (Bird SAG), Jon Kart (FWD Permit Administrator and WAP Coordinator), Roz Renfrew (FWD Wildlife Diversity Manager), Bob Popp (FWD Botanist), Catherine Gjessing (FWD General Counsel), David Burke (Engineer Associate, Burke Civil Associates [joined 12:50]), Art Gilman [joined 12:50].

**Scheduled ESC Meetings for 2022**

14 April 2022 9am – 2pm. National Life Davis Building in Montpelier, Catamount Conference Room (Note: will be remote or blended depending on Covid safety measures)

22 September 2022, 9am – 2pm. Mark Scott will reserve Catamount meeting Room at National Life.

**Call to Order**

Allan Strong opened the online Microsoft Teams meeting at 9:02 AM.

**Comments from the public**

None

**Additions, deletions, or changes to the agenda**

Matt Peters: Would like to announce a new member on a SAG

**Approval of minutes from the 16 Sept 2021 meeting**

**MOTION:** *By Bryan, seconded by Alan Calfee, to approve the 16 Sept 2021 minutes with suggested revisions. Motion approved.*

**ESC operations guidelines**

Allan Strong reviewed edits and comments he received from Catherine regarding the Vermont Open Meeting Law. Relates to warning and posting of meetings to abide by the law. Any comments? Alan Calfee says it looks good. Mark Scott notes that at least one person (can be any member) on the Committee is required to be at the physical location that is advertised, even if we remain virtual. All seem to agree that there is no need to change the language in the document.

Allan went through a proposed addition from Bryan Pfeiffer that had the intention of allowing the Chair to have separate conversations with the Secretary, but the language conflicts with the open meeting law. Bryan agrees that we therefore need to withdraw that addition. Moreover, meetings between Chair and Secretary should be allowable within current open meeting law. Mark is guarded against keeping written trail all the time due to FOIA, and agrees that the Chair and Secretary should be able to meet.

Jim Shallow asks what triggers open meeting law, how many people have to be meeting together for this to be a concern. Mark Scott says there are a lot of “what if” scenarios and it may be best to check in with Catherine Gjessing if there is any doubt. If a few of us meet as a subcommittee on this committee’s business, they would need to take and provide notes. However, you do not need to warn that kind of meeting. Jim Shallow also asks about SAGs, as they are not set up as legal entities; would they also be considered open meetings? Mark Scott says yes, technically anybody can join those meetings, just like any meetings that occur in the Wildlife Division. Mark encourages everyone to run questions and scenarios by Catherine.

In the chat from Catherine: “The SAGs are not public bodies and the meeting requirements do not apply to them although all correspondence received by the ESC and agency staff are public documents.”

Bryan Pfeiffer asked about this at the Secretary of State’s office: a quorum triggers Open Meetings Law and it does apply to the SAGs.

Mark Scott suggests we ask Catherine to double check.

Allan Strong asks whether we have to warn an ESC subcommittee meet. These would be under a quorum because there would only be 3 or fewer people from ESC.

Jim Shallow remembers same as Mark Scott. Deb Markowicz said that SAGs do not need to follow open meeting law nor Robert’s rules of order.

Cary Giguere provided statute link in the chat:  
<https://legislature.vermont.gov/statutes/section/01/005/00312>

Kent McFarland notes that SAGs are not subcommittees of the ESC.

Bryan Pfeiffer will forward the email he received, and suggests we let the lawyers get back to us.

**MOTION:** *make amendments to ESC operations guidelines as shown in the marked-up document. Alan Calfee moved, Jim Shallow seconded. Motion passed.*

**The new Sharepoint site for ESC files** is replacing the Google Drive site. Allan Strong is checking in to make sure people can access it. It is exactly like Google Drive was in terms of the structure and where files are found. It is organized by year. It includes folders for each SAG, and Allan asks SAG chairs to look through the contact Excel file and update contact information, subcommittee membership.

## **Replacing Chairs who are retiring**

Allan Strong: we have not yet received word about a replacement for Liz Thompson. Jim Shallow asks about terms: his expires in February and he needs to step off, he has a couple of names in mind for replacement as fauna member. He is keeping in mind diversity in membership.

Allan reaches for his Kleenex!

Bryan Pfeiffer: Jim you will be missed! Agrees with need to diversify. He could replace Jim Shallow but then we would need 2 new Flora members.

Allan Strong: it makes sense to have another Flora person, lots more endangered plants than animals. Jim Shallow asks Liz Thompson what she thinks – who agrees that ultimately this is the ANR Secretary's decision.

Jim Andrews notes we have specific guidelines as to how many flora and fauna we're supposed to have. Allan Strong says we are currently lopsided. 2 ag, 2 flora, 2 fauna is what we want.

Bryan Pfeiffer's term also expires in Feb, at which point he would need to be reappointed. Allan Strong: the process slowed at the Commissioner's office, the Secretary has put appointment process to the office.

Liz Thompson says we should stick with the guidelines. We will need 2 flora people.

Bryan Pfeiffer: look to SAGs to push nominees instead of ESC coming up with names to avoid insularity and give more opportunity for diversifying. Jim Shallow agrees.

Jim Andrews: Steve Parren did a lot to find new members, would take ideas directly to Secretary. Bryan Pfeiffer suggests that Liz Thompson and Matt Peters forward names, and include Roz Renfrew and Mark Scott on that correspondence.

Matt Peters: is there guidance about SAG membership? There is a benefit to keeping people on SAGs who are not attending meetings any longer. Allan Strong responds that this happens often and that perhaps it would make sense to provide some guidelines around activity levels required to remain on the SAG. Liz Thompson says SAGs serve multiple purposes: advise ESC, but also have become to be a means for experts to share info, knowledge, resources, and a big tent is a good thing to facilitate/support those interactions. Matt Peters agrees that is a benefit. Allan Strong agrees with big tent idea.

## **Commissioner's Report – FWD Commissioner Chris Herrick**

Chris Herrick: my first ESC meeting, will give a brief report. To introduce himself: he lives in Grand Isle, former Director of Public Safety, Haz Mat Response Team. Grew up hunting, fishing, hiking kayaking, etc. Working on this side of F&W is new to him, and he looks forward to working with ESC.

Commissioner Herrick reports on rulings for species and critical habitat listings. LCAR approved the ruling on 13 Jan 2022, memo received 18 Jan 2022, Catherine Gjessing is working on filing within the

next week, and by statute it will become effective 15 days later. Commissioner Herrick reviewed the listing changes.

Allan Strong: this ruling was a long time coming. It is the first listing of Critical Habitat. Commissioner Herrick credits Catherine Gjessing for doing much of the work on behalf of the Department.

Jim Andrews welcomes the Commissioner, asks him if he has any particular goals or direction for Department. Commissioner says yes he wants to make sure that the public understands all that VFWD does; that it is much more than hook and bullet. He wants to emphasize land acquisition, habitat conservation, and the scientist staff that do not tend to get credit. He wants to emphasize that VFWD is based in science, and wants to decouple decisions from an emotional position. How that notion is applied will be tested in the legislative session. Actualizing this is a struggle, and he is wanting to allow VFWD do their job without attacks on their credibility. Jim Andrews says ESC is happy to help if the Commissioner has any questions. The Commissioner gave out his cell phone number.

### **Secretary's Report – ANR Secretary Julie Moore**

Sec. Moore sees her role as sharing high-level agency news: ARPA climate initiatives \$300 mil for projects that the governor is recommending to the legislature. Not available for broad application; it needs to benefit people such as weatherization projects or electric charging infrastructure. But a couple of projects align with this committees' work, such as urban tree planting. They will be planting 5000 large trees in municipal and private settings.

There are changes in the ANR base budget around wetland mapping with the goal of protecting and managing resources better, and proactively understand natural resources constraints. The wetlands programs over last 3-4 years has been looking to improve maps in an advisory capacity. Budget includes \$150k annually to maintain these maps.

Bills in legislature: not sure which ones will gain traction. Pay attention to proposed changes to UVA program. There is also a biodiversity and community resilience bill to codify 30-30 climate goals. Another bill seeks to modernize Act 250 via changes in designated downtowns and also related to forest fragmentation.

Bill Kilpatrick says there are petitions around reclassification to change water quality standards for streams and lakes. ANR is responding to some of these petitions, for example, headwaters in Ripton and Maidstone Lake. Also a prohibition on septic systems designed to limit size - an A1 designation. This would affect state parks that cannot replace septics under the current law. There is broad support for this higher level of protection, but there are concerns over pragmatics of implementation.

Allan Strong asked about wetlands mapping: municipalities can definitely use the help, what does timeframe look like? Sec. Moore says this has been completed in Missisquoi, and that they are "chin deep" in an Otter Creek project. It takes 18-24 months to complete the work, once initiated.

Matt Peters asks about updates for replacing Liz Thompson. Sec. Moore defers to Commissioner Herrick. Some candidates have been put forward. Chris does not have the answer but it is in his notes and he will talk to staff. Allan Strong lets the Commissioner know about Jim Shallow stepping off soon

as well, and needing the process for new members to move along. Liz Thompson has been waiting for 2 years.

Jim Andrews is excited to hear about wetlands mapping. He has been working with VTrans on road crossings and wetlands maps have been problematic because they are not accurate enough. He tells Sec Moore that the Natural Heritage program needs help, they do not have enough capacity to do their required work. A specific endangered species staff person, for example, would be helpful.

Sec. Moore thanks the ESC for all its work on behalf of endangered species.

### **Sally Laughlin Award – call for nominations (Alan Calfee)**

Alan Calfee: he has some nominees from previous years and will soon put out a letter to SAGs asking for additional nominees. Allan Strong thought Dead Creek Wildlife Day was a good opportunity to present this award, and suggests it be used as a benchmark for the timeline in moving this process along. Alan Calfee mentions that Jim Andrews put out a note to encourage more press around this award and we should talk more about that later; Allan Strong agrees. Jim Andrews: speaking to what the Commissioner shared, this is one opportunity to show the non-hook and bullet work we are doing, and strengthen connections with that community.

### **SAG Annual Reports**

Birds (Mark LaBarr):

[EAME = Eastern Meadowlark; PEFA = Peregrine Falcon; COTE = Common Tern]

Met twice this year, April and October. David Sausville updated people on wetlands and acquisitions, Kevin Tolan updated on EAME work, Roz joined that meeting. Bald Eagle, EAME, COTE nesting islands rulings relevant to this SAG. Bald Eagle: working on post-listing monitoring plan with Doug Morin (VFWD bird biologist) to establish triggers in case it would need to be relisted. EAME blitz resulted in 40 breeding locations in Vermont. Will continue to work with Bob Zaino on Vermont Conservation Design as it pertains to meeting bird conservation needs. Loons, PEFA, osprey all doing well. VFWD biologist John Gobeille keeps an eye on osprey. Continued monitoring of the 60 nesting pairs of PEFA. There were 109 nesting pairs of loons. Bald Eagle: 45 pairs, at least 66 young – these measures continue to support delisting. Black Terns did well, 107 terns all at Missisquoi NWR; the staff at the Refuge conducts those surveys. COTE hammered by an adult PEFA hanging around the island in 2021. There were 160 pairs, but only 26 fledglings. PEFA takes birds and sits there to eat, uses the island as a day roost. Mark LaBarr is working with Doug Morin on COTE, rethinking its recovery plan to consider changes to goals. Grasshopper Sparrows: numbers low at Franklin Cty airport, only 1 singing male. Construction may have been a factor. Vermont Center for Ecostudies conducted Whip-poor-will surveys in Windham County: 0 found. More than 100 in West Haven / Fair Haven hotspot.

Roz asks clarification on EAME: 40 locations or 40 pairs? Mark LaBarr thought it was locations, Allan Strong thinks it was pairs; needs clarification.

Allan Strong is a vice chair in the bird SAG plus the ESC Chair – is this in compliance with the rules? Perhaps another question for the lawyers? Allan thinks his presence at SAG would not constitute a quorum, so not likely an issue.

Ideas are being floated about doing marshbird surveys using ARDs (automated recording devices).

Allan asks: What do we do with a recovery plan when it seems like the goals will never be reached? Do we change the goal posts or do we accept that the goals will never be attained? Mark says he and Doug will work on that and present. Perhaps it could be a model for other SAGs / species. For EAME would the goal be # breeding locations/sites rather than # breeding pairs, for example?

Jim Andrews: given all of the ongoing threats, we will not be able to fully recover many species, and there will be more listed in the future. However, it is still important to keep them listed in terms of education and scientific ethics. Timber rattlesnakes for example: delisting would make it legal to shoot them. Unlike birds, there are no backup protections for snakes. Unless we have a different category for protection. Bill Kilpatrick agrees, citing that there are wide-ranging mammals that can never be recovered. There are examples with invertebrates too. Another example is in the delisting of wolves, allowing people to kill hundreds when the population was still endangered. Matt Peters says for flora we are really behind; there are no recovery plans, a lack of distribution and population information, and we need to catch up. There is no funding for the work, however. Rich Langdon says that for aquatics they have to consider habitat plus water quality. Plans that have been produced have not been carried out, with exception of Lake Sturgeon, large waters, Lake Champlain and its associated larger streams. What we really need are basin-wide changes, which complicates things.

Paul Wiczoreck asks about process that led to EAME listing. Mark LaBarr said perhaps we need to come back perhaps to consider whether they will need to be uplisted to Endangered. Paul Wiczoreck asks about Rusty Blackbird status. Mark Labarr says no information lately on this species. Upland Sandpiper: still observed in 2 locations; possible breeding on Shelburne Farms, sightings at Highgate location.

[sidebar chat about Grasshopper Sparrows at Franklin County Airport; Mark Labarr will reach out to Doug Morin and Roz Renfrew for clarification around the work at Franklin County Airport. Not sure if there has been resolution].

Invertebrates (Kent McFarland):

Encourages people to look at the report for details. They have more members than ever before, 20 people, which is great. Need even more because of all of the species/groups. They did not do much in 2021 as a group but worked on a lot of projects separately. Gathering data for further work. Fourth year of ladybeetle atlas, with a focus on 5 SGCN species that were common decades ago but appear to be missing now. NY found a few populations in recent decades. Forest seep specialist dragonfly species that is regional SGCN needs more work to figure out status. Mussels: gathering data on Elktoe (Lamoille Rive in Fairfax), conservation concern elsewhere in the Northeast. Mark Ferguson discovered it back in 2000. They might come forward with listing recommendations in the future after more work is done. They are also digging into grasshoppers, crickets, data on other Orthoptera in order to rank them

with S ranks. This helps SAG to prioritize. The SAG members are helping Mark Ferguson and others on moths, bees, others.

Kent McFarland mentions other activities and projects on insects in VT: native bee atlas - Mark Ferguson is involved, sampling Sandbar WMA and has found 90 species. Insect collection moved to VT Tech College and getting collections into digital database scan that will allow access. Includes VT Forest Parks Rec specimens for example. Arrowwood Environmental doing surveys, working on zebra mussels and their effects on native species. There are projects in the VT Atlas of Life, and Bryan Pfeiffer's dragonflies and damselflies atlas. All of these efforts help SAG to know what to keep an eye on.

Allan Strong has a question/suggestion: if you are thinking about recommending a species for listing like Elktoe – also think about Critical Habitat designation at the same time if applicable. Kent McFarland agrees; in this case it would be a few miles of river. They are looking at potential CH designation recommendations for brook floater and tiger beetles.

DEC did surveys on West River for Brook Floater: despite high water conditions, it was the first survey since the 2007 Irene floods, and there was only one site where they were found. This year they will attempt more quantitative surveys if water levels allow.

Bill Kilpatrick: Is Elktoe found above or below the falls? Kent McFarland thinks above.

Jim Andrews: appreciates what the iSAG does. Roz Renfrew noted what a valuable resource Mark Ferguson is. Mark Scott discussed what habitat practices we can do to benefit invertebrates, and says that we can only do so much for wildlife if we do not have healthy soils. He brings up the issue around earthworms. Kent McFarland says we have broached that subject and have worked with UVM researchers. It is similar to climate change in terms of its broad effect and our lack of control at this point, also we do not know what exactly we can effectively do to combat it. The earthworms affect all terrestrial invertebrates. Mark Scott says yes this is what predecessors have said. Research suggests there may be ways to try to control them, but eliminating them is not an option unfortunately. Mark Scott brings up American Woodcock as a species that is directly affected.

Mammals (Bill Kilpatrick):

Three new members added, bringing them up to 11 members, and this added more expertise. Who is representative to the mammals SAG? That needs to be updated to be Alan Calfee, not Paul Wiczoreck. Following Alyssa Bennett's recommendations, they revised criteria for information they want to see from applicants so they can receive pre-approval to avoid individual review for T&E takings. People can provide a recent bat survey, or a letter from an expert. They look for use of bat survey protocols regarding decontamination to prevent spread of WNS/reverse zoonotics SARS-Covid-2. Also included in recommendations are new survey techniques for small-footed bats which inhabit talus.

Allan Strong: concerns about mosquito control, the science cited by the ANR Secretary, and other issues to be further discussed. Little brown bats were most common before WNS, but at least now populations seem to have stabilized. Beta corona viruses in southern Mexico raise concerns about their occurrence in New World bats. Indiana bat continues to decline in NY where their largest hibernaculum is located.

Important roost trees on Lake Champlain islands are gone; of 9 surveyed 3 still have bats, cannot confirm they were Indiana. No martens were trapped in 2020; 2 were taken in 2021 in southern VT. Canada Lynx: no new sightings in last year.

Non-listed species reviewed:

Hoary bats: many killed by wind turbines. A 2016 genetic study shows populations are either stable or declining. A study in 2021 was inconclusive, with lots of variation in population estimates. SAG is concerned because of the lack of data, and they are concerned that by the time they have enough data they will have passed the tipping point.

Katy Gieder (VDFW) gave a presentation about levels of rodenticides in mammal populations. There are alarming levels in fisher. Trappers collect the data, other data come from roadkill.

Moose: Jed Murdoch (UVM) and Katy Gieder: average 30-40k ticks on adult moose. Calf survival 30%. Ticks and to lesser degree parasites are main causes. Health indices need to be considered, not just number of individuals dead.

Changes in species names based on genetic data that is splitting species.

Reverse zoonosis (Covid-19): some bats and rodents, but not all, are affected. Regarding those most associated with human dwellings, Big Brown Bats and House Mouse are not susceptible, but Deer Mouse is highly susceptible. We do not know if humans can be infected this way. White-tailed Deer: large number infected in the Northeast. Deer asymptomatic, felids and mustelids susceptible – mink have died, as have cats in zoos.

Allan Strong provided current timeline on the bat pesticide litigation.

Fish (Rich Langdon):

Surveys in 2021 yielded no particular issues. In 2021 there were no sea lamprey treatments so this group (which is focused on those treatments) did not meet.

Surveying for distribution on mottled sculpin (related to slimy sculpin but different habitat). Located 2 additional populations along Lake Champlain lakeshore. Where found, only 1-2 individuals were there. Will continue to try to sample. Jim Dessler and Rich Langdon doing surveys, will hope for Mark Ferguson to help out. Developing universal database for rare, threatened, and endangered (RTE) fish species to combine/coordinate the different existing databases. Want to establish complete single database just for the 20 T&E species to facilitate ESC-related work. Will review sea lamprey treatment reports this upcoming year when we receive applications.

Jim Shallow: For the Highgate dam relicensing, studies by applicants were considered substandard by some. Rich Langdon was not aware of that, but Jim Dessler from DEC probably is. An Eastern Sand Darter population is just below the dam.

Reptiles and Amphibians (Jim Andrews):



Met twice in the last year. Bob Zaino has been trying to corral them for input for VCD but this really needs to be in person. The purpose is to determine what species are or are not adequately protected by VCD design. Hoping to do this in Spring [same process as what Bird SAG is doing].

Surveys that were pushed back in 2021 should be happening in 2022. Telemetry work with translocated mudpuppies is slated for Spring 2022. Spiny softshell Critical Habitat nearly finalized. North American Racer: Luke Groff looked in Guilford but there are no records. But during these surveys a citizen scientist reported a Fowler's Toad. No new records for Boreal Chorus Frog. Assumed extirpated, but we do not know why. Canadian team looking at reintroduction, but some would hesitate to do the same given we do not know why they disappeared in the first place. Habitat enhancement for spiny softshell turtles. Common watersnake in CT River Valley formerly known only in Guilford, but recently picked up in Jamaica and Weathersfield. There was a first county record of Mink Frog in Addison County; this was the furthest west the species has ever been documented. Jim thinks it may have just been missed before, and there are now more people looking.

Jim Andrews made 3 points that he would like to bring forward to next ESC meeting:

1. The nongame rule does not protect reptiles and amphibians from takings. Researchers are required to get a permit for a species like wood turtle, but such species can still be legally hunted by anyone with a hunting license. This would need to be changed with legislation. Jim would like to see this group working on updated protection for nongame species that are not T&E and lack protections.
2. Regarding captive turtles, the Red-eared Slider is a potential concern. They live ~30 years in the wild and they are the most popular aquatic turtle in the pet trade. They are legal to keep, and legal to release. One has been documented laying eggs north of Burlington in 2021. The species has not been a concern in VT yet because temperatures are not yet high enough, but we are only one of 2-3 states where the species does not yet have viable populations/reproducing individuals. This species is a top invasive species worldwide, and illegal for import in EU. There are concerns around disease transfer (an issue with any species that was in the pet trade) and competition with native species. Data from the EU show they breed with native species that are closely related, but this is unlikely to happen here because the Red Slider is a different genus from our native species. Jim Andrews asks that the ESC considers treating it as an aquatic nuisance, and would like to see the species not be allowed to be purchased, sold or imported. He would also like to have it be illegal to keep as a pet, but he fears that if that change was made, many would be released. Also, we know for fact there is no place to put them all. Euthanizing is not popular with public.
3. Box turtles: we do not have the genetic information to know whether they are released pets or are truly native to Vermont. There is a volunteer who is using a detective dog to help find more turtles and gather more information.

The special concern group within Herp SAG needs to come up with better guidelines around what Special Concern species truly are. There is no standardized definition for SC species. Allan Strong notes

in the chat that the Bird SAG created SC criteria with two different tiers. Northern Map Turtle is an example.

Other activities of Herp SAG members:

The West Haven preserve is rich for T&E reptile and amphibians, but roadkill is high and they are looking for solutions.

Herp Atlas: Jim Andrews is continuing to coordinate/organize all the records and supporting documentation. Many targeted surveys are being conducted in streams to fill in gaps in citizen science data, visited 110 places in the last year. Ribbon snake found at Pond Brook WMA, farthest north record in recent decades, no longer in historical locations, may be up for status recommendation.

Paul Wieczorek asked about the success of Mudpuppy relocations. Jim Andrews says there are no data, but the habitat is in the same river, same water quality, so there is a reasonable chance it would work. The mudpuppies were not marked. Allan Strong says they were not there historically, and people agreed that we can assume those found would be those that were released. Mark Ferguson is going to put some transmitters on them in 2021 to determine what happens with those that are relocated this year. Bill Kilpatrick understands that there another population introduced above Lake Arrowhead.

Allan Strong asks regarding non-listed species protections and potential legislation to protect, should we expand this discussion to cover invertebrates as well. This would need to be a larger discussion. Jim Andrews recalls Gordon Nielson arguing against extending such protections for insects because much of their data come from citizen scientists who collect and pin insects for data collection.

**Lunch break 12:20 – 12:50**

**SAG Annual reports, continued**

Flora (Bob Popp, Matt Peters)

Flora SAG held 3 meetings in 2021. During a field day north of Swamp Road at Cornwall Swamp, people documented 8 RTE plants: 2 new occurrences, 2 of which not seen since 1990s, 4 uncommon species. There is a new potential member named Grace Glynn who is working as consultant. She has attended 2 meetings and the field trip to Cornwall swamp. There was unanimous approval accepting her membership nomination.

The Committee decided to vote on adding Grace Glynn to Flora SAG.

**MOTION:** *Approve Grace Glynn as a member of Flora SAG. Bryan motions, Liz seconds, motion approved.*

Matt Peters continued with Flora SAG updates...

There are no proposed listings at the moment. They are continuing to discuss potential delisting of 3 species, stay tuned. They have a short list to pick away at for field work, and that may result in listing recommendations in the future.

Takings permits: Hairlike Sedge occurs along Rte 2 in Danville. VTrans ditch cleaning was occurring at a site very close to where the species occurs, and road crew members did not have knowledge. This example illustrates the challenge within ROWs, even with a species' population we are aware of.

Permits issued:

1. amendment to marsh horsetail
2. Champlain beachgrass for restoration activities hopefully this spring
3. Greens rush

Other pending permitting issues to be discussed later:

- Bridgeman Quarry in Vernon. ESC recommended no permit, but a permit was issued.
- Hairy Wild Lettuce at a VELCO site.

They reviewed Native Plant Trust seed collection activities. They worked through a web-based data collection system that is collaborative across New England and standardizes and streamlines the process for entry, and is in a format that allows for easier retrieval and use.

Flora SAG will be coming out with a new list of S ranks for rare species. Changes include historic species rediscovered and taxonomic changes. Aaron Marcus (VFWD) has done excellent work with this.

Art has been tracking additions to Vermont's flora, 140 changes with 50-60 new species or varieties added. This has been important source of information for ongoing SAG Flora work and decision-making.

A Champlain nursery was interested in propagating tulip trees for horticultural use which raises a host of questions and concerns. Seed sources and materials are propagated in natural settings even more so than gardens. Lots of discussion ensued, and nursery may not do it now. But this brings up a larger question about the propagation of species in general – e.g., ginseng. This can cause genetic pollution. Bob Popp adds that it goes beyond the nurseries; non-natives are even on VT Forest Parks and Recreation's selection guide. Becca Washburn says in chat: "Bob, let me know who you have been working with and I can follow up for more information".

### **Upcoming applications for takings permits (Bob Popp)**

Colchester permit application

Bob Popp reported on this application (in January meeting materials) and displayed the site design map. A Houghton's sedge population has been known for at least 2 decades but had been diminishing. Plowing of the field resulted in a release of >400 plants. Houghton's Flat Sedge at a Colchester subdivision. Proposal to take 46 of the plants. Agreed to remove two units from plan to avoid, shortened driveways, establish adjacent restoration area, will spread topsoil taken in restoration area, agreed to move another rare species that is not listed even though not required to do so. Suggested that there be a

larger restoration area, developer said that would not be economically feasible, this point was accepted. Bob went through other details about grandfathered septic easement that is open land. Art Gilman says it is difficult to know how successful the transplants will be. To maintain the population, a disturbance regime is needed. Endangered species permits are only for 5 years, but it needs to be more like 15 years for species that require disturbance. David Burke (Engineer Associate, Burke Civil Associates) says the applicant is amenable to that, and to annual monitoring. There will be split-rail fence around the restoration area.

Flora SAG was agreeable to the proposal, and had these few tweaks which the developer agreed to. Flora is likely to recommend approval with caveats to the management plan. They will ask for control of invasive plants in that plan.

Bryan Pfeiffer asks what happens when restoration area gets used - will split-rail fence be sufficient? But also, what would be the alternative. Art Gilman suggested signage. Canada frostweed is S2-S3, also present.

Art Gilman: at some point the homeowners association will be the long-term caretaker, so communications with them will be important. His sense is that they would be committed to undertaking management for plant species. Burke agrees, all you need is one person who does the internal policing.

David Burke says the septic is automatically an open space in theory, because people are not allowed on it.

Next, the Flora SAG will finalize the management plan and pass this along to ESC for approval now that they have had a chance to look at it for any red flags.

Allan Strong asks that Jon Kart keep track of the approval process, and send the Flora SAG-approved application to him.

### **Takings permits – continued conversation from September (Jon Kart)**

This follows on previous discussion / requests about SAGs having more and/or earlier input on permits.

Jon Kart went through slides he created about the process in place for permits, and what is required by statute, including 60 days to approve or deny.

3 discussion points:

- Should a permit be granted, yes or no
- If granted, are there conditions, restrictions to avoid, mitigate
- Are there other issues / concerns

Jon Kart summarized in more detail the concerns/needs people have expressed about wanting input earlier so that the permit conditions are not “already baked” by the time ESC members see it. The ESC also wants copies of approved permits. Allan Strong added that there is a concern regarding how to make sure that there is an iterative process once monitoring is in effect, to allow for feedback after the

project occurs and to ensure the planned strategies are occurring. Jon Kart notes that these projects often go on for years, so that will be a long-term commitment.

Jon Kart laid out the steps in the process in a slide, and asked for input on how to build a time frame within 60 days that satisfies ESC needs. Public comment is 30 days, leaving 30 days for everything else: SAG review, ESC review, permit drafting, and revision after public comment. The public comment process is rarely triggered however.

Bill Kilpatrick requested this but he has left this meeting. Allan Strong says it is helpful to have a central person like Jon Kart who has seen a lot of what ESC does. He does not think a SAG needs to come up with permit conditions from scratch for every case. The idea is for ESC to know how well the conditions are working.

Liz Thompson adds that the reason for this request is to avoid seeing a draft permit at the same time as seeing the application for first time. When this happens there is not an opportunity for meaningful input. Every situation is unique so it is difficult to enact a standard set of conditions.

Jon Kart says he could send out permit conditions that are typically implemented to give the ESC a sense.

Paul Wieczoreck says that to have a chance to give input beforehand is valuable because it gives people have time to think about it and discuss.

Allan Strong says he does not want us to come across as arbitrary, and suggests instead to have side boards so they know the range regarding what has been done in the past. Paul Wieczoreck agrees, but it can vary so much and can depend on the developer and whether they push back.

Art Gilman notes that permit application fees can be large, up to \$25k. Does someone want to apply and pay without having some idea that they will succeed? Flora SAG seems to have a decent process going with Bob Popp, where he seeks input from them. Perhaps it makes more sense for ESC to focus on seeing the permit, and leave the conditions to Jon Kart?

Bob Popp says that most consultants come to him ahead of time to get to a workable permit before going to a SAG. The process has become more formal however in last 10 or more years.

Bryan Pfeiffer suggests ESC approves the permits, and rely on staff to develop the conditions. What would be the ideal model when it comes to SAGs looking at something between the application and the permit stage?

Jon Kart says there are so many things for ESC to do that he hesitates to use up time for vanilla applications. At same time, he welcomes opportunities to make better decisions. He is happy to maneuver this. He can try sending applications sooner, and reiterates his offer to send a list of typical plant permitting conditions to give ESC members a sense.

Liz Thompson suggests that new ideas might come out of the process of having more eyes on permits, and after all this is one of the roles of the ESC0. If an applicant says they need it within a very short time window, that is not our doing.

Allan Strong says the reality is that collecting responses from people takes time, and we often do not have adequate time. Liz Thompson points out that a process by email is not a robust one. ESC has only 3 meetings per year, and applicants should adjust and wait for our decision-making process.

Allan Strong says there is no definitive solution here, but he would appreciate Jon Kart putting in some rough sideboards. It would be nice to be able to put creative thought into applications that may benefit from a robust, creative group process.

## **Adjourn**

*The meeting adjourned at 2:20 PM*

Minutes respectfully submitted: 2/23/2022, revised 2/23/2022

Rosalind Renfrew  
Fish & Wildlife Department

Approved:

Allan Strong, Chair Endangered Species Committee