

## Robinson, Beth

---

**From:** MacLean, Alex  
**Sent:** Wednesday, March 09, 2011 2:32 PM  
**To:** Robinson, Beth  
**Subject:** FW: Testimony on H.248

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

**From:** Tom Torti [<mailto:tom@vermont.org>]  
**Sent:** Tuesday, March 08, 2011 7:38 AM  
**To:** MacLean, Alex  
**Subject:** Re: Testimony on H.248

Ok. We can make it work

Sent from my Verizon Wireless Phone

----- Reply message -----

**From:** "MacLean, Alex" <[Alex.MacLean@state.vt.us](mailto:Alex.MacLean@state.vt.us)>  
**Date:** Mon, Mar 7, 2011 8:01 pm  
**Subject:** Testimony on H.248  
**To:** "Tom Torti" <[tom@vermont.org](mailto:tom@vermont.org)>, "Mears, David" <[David.Mears@state.vt.us](mailto:David.Mears@state.vt.us)>, "Markowitz, Deb" <[Deb.Markowitz@state.vt.us](mailto:Deb.Markowitz@state.vt.us)>

FYI

Sent from my iPad

Begin forwarded message:

**From:** Tony Klein <[twk@tonyklein.com](mailto:twk@tonyklein.com)<<mailto:twk@tonyklein.com>>>  
**Date:** March 7, 2011 7:44:56 PM EST  
**To:** "MacLean, Alex" <[Alex.MacLean@state.vt.us](mailto:Alex.MacLean@state.vt.us)<<mailto:Alex.MacLean@state.vt.us>>>  
**Subject:** Re: Testimony on H.248

I want to keep taking testimony but I won't attempt to move it until the consensus language has been agreed upon. Otherwise my schedule gets really screwed up. Does that work?

T

On Mar 7, 2011, at 7:14 PM, MacLean, Alex wrote:

Any chance?

Sent from my iPad

Begin forwarded message:

**From:** Tom Torti <<<mailto:tom@vermont.org>>[tom@vermont.org](mailto:tom@vermont.org)<<mailto:tom@vermont.org>>>  
**Date:** March 7, 2011 1:28:09 PM EST

To: "MacLean, Alex"

<<<mailto:Alex.MacLean@state.vt.us>>Alex.MacLean@state.vt.us<<mailto:Alex.MacLean@state.vt.us>>>

Cc: "Mears, David"

<<<mailto:David.Mears@state.vt.us>>David.Mears@state.vt.us<<mailto:David.Mears@state.vt.us>>>

Subject: Testimony on H.248

Hi:

Happy winter. I see that Tony K has almost a full day of testimony tomorrow to discuss the bill. Is there any way that he could be asked to give us a few days to come up with something. It would be nice to go in with a consensus position.

If not, I've instructed folks to be temperate in any remarks.

T

## Robinson, Beth

---

**From:** MacLean, Alex  
**Sent:** Wednesday, March 09, 2011 2:32 PM  
**To:** Robinson, Beth  
**Subject:** FW: Testimony on H.248

---

**From:** Tom Torti [<mailto:tom@vermont.org>]  
**Sent:** Monday, March 07, 2011 1:28 PM  
**To:** MacLean, Alex  
**Cc:** Mears, David  
**Subject:** Testimony on H.248

Hi:

Happy winter. I see that Tony K has almost a full day of testimony tomorrow to discuss the bill. Is there any way that he could be asked to give us a few days to come up with something. It would be nice to go in with a consensus position.

If not, I've instructed folks to be temperate in any remarks.

T

## Robinson, Beth

---

**From:** MacLean, Alex  
**Sent:** Wednesday, March 09, 2011 2:31 PM  
**To:** Robinson, Beth  
**Subject:** FW: H.258 Update

---

**From:** Tom Torti [<mailto:tom@vermont.org>]  
**Sent:** Friday, March 04, 2011 10:13 AM  
**To:** MacLean, Alex  
**Subject:** RE: H.258 Update

You are a wonderful person ☺

---

**From:** MacLean, Alex [<mailto:Alex.MacLean@state.vt.us>]  
**Sent:** Friday, March 04, 2011 9:49 AM  
**To:** Tom Torti  
**Cc:** Mears, David; [epomerleau@pomerleaualestate.com](mailto:epomerleau@pomerleaualestate.com)  
**Subject:** Re: H.258 Update

Hi all,

I spoke with Rep. Klein yesterday and the Speaker this morning and they are fine with a rules suspension.

Best,

Alex

Sent from my iPad

On Mar 3, 2011, at 10:11 AM, "Tom Torti" <[tom@vermont.org](mailto:tom@vermont.org)> wrote:

I am writing from beautiful Westborough Mass where it only took 6 hrs to drive to last night.

An update to our discussions on 258 are in order. David and I met and I believe we reached consensus on the importance of legislation that brings us into compliance with the CWA and we have agreed to work collaboratively to get there. By the end of Friday (or Saturday) I will provide written comments with our views on the issues that David very articulately laid out in his email.

One concern is the looming date of crossover. It would be better if we didn't have to push a half finished bill through the House in hopes of finishing it in the Senate. So, Alex, what is the possibility of getting this bill absolved from a hard cross over date or getting it attached to another bill? If need be, we can make it work but it would just be easier to have it closer to 'done' before it goes over.

Let me know but, in any event, I think that the meeting was quite productive.

Tom T

## Robinson, Beth

---

**From:** Mears, David  
**Sent:** Wednesday, March 09, 2011 4:52 PM  
**To:** Robinson, Beth  
**Subject:** FW: H 258 (9 of 10)  
**Attachments:** ANR H 258.docx

---

**From:** Tom Torti [tom@vermont.org]  
**Sent:** Friday, March 04, 2011 5:57 PM  
**To:** Mears, David  
**Cc:** Recchia, Chris; Kessler, Gary; Dawn Francis; Ernie Pomerleau; Warren Coleman; Frank Cioffi  
**Subject:** H 258

All:

Memo attached. Have a good weekend and let's work on this next week.

Tom T

## OFFICE MEMORANDUM

**TO:** David Mears, Commissioner, DEC  
**FROM:** Tom Torti, LCRCC  
**DATE:** 3/9/2011  
**RE:** H-258

---

David:

I've taken the liberty of copying your email and adding my comments underneath each heading. Take a look and see if this is a good point of departure for our discussions. I'd like to get our respective folks together next week to work on points of agreement.

- This legislation will not place any burdens on economic development. The only delay or additional process is incurred for enforcement actions. Enforcement actions are rarely a prerequisite for business development or growth but are most often a response to a failure of a person or business to comply with the law. The time associated with the additional process to provide notice and comment on enforcement settlements or orders is not like the delay in the issuance of a permit in which work on new or expanded facilities is delayed.

*We agree that, in and of itself, the legislation does not create an additional burden for new development. However, it has the very real possibility of reinforcing the impression that Vermont is not a favorable place for business due to the difficulty of dealing with the resolution of environmental matters. Perception becomes reality.*

*We are very concerned that the draft allows "aggrieved parties" unfettered access to the appeals process. The draft legislation allows any aggrieved person to intervene as a matter of right (not by permission granted by the E-Court), file comments and request a hearing where, if granted, they can file evidence, cross-examine witnesses, and file an appeal to the VT Supreme Court. Groups, who are familiar with the E-Court will probably not be the source of delay or complications, but others who do not have similar experience or legal resources, or who have a particular issue that they advocate for, or are pro se litigants, will*

*make the overall enforcement process more difficult and may abuse the new process.*

- It is good public policy to allow the public to have the opportunity to comment on enforcement orders and proposed settlements of enforcement actions. Allowing public comment ensures that the enforcement decisions made by the agency are fully transparent, fair and consistent. The public comment opportunity is available to any person, including people or businesses in the regulated community.

*The Clean Water Act regulations appear to provide for two methods to comply with the public participation requirements. ANR has chosen the least restrictive alternative which grants intervention in enforcement proceedings by right. A preferred alternative, and one allowed by the CWA, would allow the E-Court the discretion to determine if a party could intervene, allow for public notice and comment on proposed settlements, and require ANR to respond in writing to all complaints filed by the public.*

- This bill is one of the last pieces that needs to fall into place in order for Vermont DEC to have the authority to respond to the deficiencies identified by EPA in response to the Clean Water Act "de-delegation" petition filed by the Conservation Law Foundation. Our state law is not in conformance with the requirements of the federal environmental laws we administer in this state and needs to be changed to ensure that we can retain authority to administer these programs. EPA has said so and the Environmental Court has also said so – there is no ambiguity about whether our law is in compliance, it is not. This Administration does not want to return the Clean Water Act program or any of the federally authorized programs to EPA. Having a dual water quality permitting program administered separately by both Vermont and EPA Region One would provide less flexibility in our ability to adapt federal requirements to Vermont, and would impose a more onerous permitting process on our businesses. Also, DEC needs to rebuild its relationship with EPA Region One so that we can move to a reduced level of EPA oversight in Vermont. This legislation is a step in that direction.

*We acknowledge that EPA has found us to be out of compliance with the public participation requirements of the CWA. (We are curious if you know how other states are ensuring compliance and EPA's views on those methods.) We would like to propose that we not apply the CWA requirements to all environmental violations. It is understood that this may add complexity and additional workload at ANR but we think the benefits outweigh these considerations*

- As a matter of full disclosure, you should know that, while I was at Vermont Law School, I filed the de-delegation petition on behalf of CLF pointing out the failure of Vermont's law to conform to federal

requirements for public participation. I have, however, worked to ensure that this legislation, H.258, is in the best interest of the Vermont public and does not represent a bill advancing CLF's interests only. Also, most of the text of this bill was negotiated between DEC and EPA before I was appointed DEC Commissioner, though I have been actively involved since I joined DEC.

*We do not question your integrity or ethics. We trust that you have disclosed that which is required and have received the necessary waivers. Enough said.*

- This legislation will not interfere with the government's ability to settle cases. I used to work for the U.S. Department of Justice which is required to post all proposed settlements for public comment and never found that the process interfered with the ability of the government to effectively enforce environmental laws or settle cases. A vanishingly small number of enforcement actions and settlements attract public comments at all and when they do, the courts and the parties are almost always able to address the comments without any difficulty. The only effect of the short delay associated with providing a notice and comment period for enforcement actions is that the effective date of the order, including any obligation to pay a penalty, stop work or implement injunctive relief, is put off for a short period, typically 30 to 60 days. Citizens who are environmental activists rarely want to cause any delay, even a short one, in the effective date of an enforcement order.

*We have a slightly different view of the 'sand in the gears' that can be created when a third party has the broadest right to intervene. It is easy to understand how a settlement between two parties would become more difficult if there was a third party there to critique, question, or challenge that settlement. If all that this legislation did was provide for public notice and comment on proposed settlements then it would probably not be an issue. This bill goes further by allowing for the third party to be part of the hearing process, to present evidence, to cross examine witness, and to file an appeal ultimately with the VT Supreme Court.*

- We wrote the law to apply to all enforcement actions, instead of limiting it to just enforcement actions under federally delegated laws, in order to increase the efficiency and predictability of the enforcement process. Many of our enforcement actions involve violations of both federal and state law so, as a practical matter, distinguishing between the two types of law for the purposes of this new process would not have any effect for many cases. Further, it is important to simplify and standardize our procedures in the Department so that department staff, the regulated community, and the general public are better able to understand what to expect. Having different procedures for different types of enforcement actions is a step in the wrong direction.



*While there is some practical merit this argument, Vermont has been granting and limiting party status in environmental for decades – Act 250. Parties are granted status with regard to the issues where they can demonstrate standing and are precluded from party status on other issues. Since this legislation is being driven by Clean Water Act regulations the solution can be limited to the same.*

- This legislation does not create a state citizen suit nor is it a first step towards that type of enforcement. First, the only time a citizen would be able to comment on a state enforcement action under this bill is if the state brings the action in the first instance. Second, the participation of any person is limited to questioning whether the enforcement order or settlement furthers the purposes of the statute. This bill does not authorize a citizen to add new claims. If the environmental court finds that the enforcement action is not consistent with state law, the court will simply not sign the enforcement order and it will not go into effect until and unless modified by the agency.

*You are correct that the legislation is only triggered when ANR or Act 250 brings an enforcement action. The legislation does not explicitly state that the aggrieved person or public is “limited to questioning whether the enforcement order or settlement furthers the purposes of the statute.” One can imagine that if an aggrieved party wants to present evidence of any kind about the alleged violator they will be permitted to do so and the E-Court will then sort through what evidence is relevant or not.*

- I appreciate the sensitivity of the business community to creating a state citizen suit provision in our environmental laws and, if the state proposes legislation to create such a provision while I am in office, I promise to promote a full and open public dialogue that includes the business community in advance of the introduction of such a bill. This bill does not create citizen suit authority.

Even if I agreed that an “environmental ticket” issued under our new enforcement program should preclude federal citizen suits, the law is clear that such a limited administrative enforcement action cannot serve as a barrier to a federal citizen suit. This conclusion is a matter of federal law and nothing in this bill can alter that. I am not sure how CLF would feel about taking the language out of the bill relating to the ability of environmental tickets to serve as a barrier to federal citizens’ suits, but I have no objection to removing that sentence. That deletion would theoretically leave any violator free to make the argument that the tickets did bar a citizen suit -- though I believe that such an argument would fail in the federal courts. As an aside, any violator who wants protection against a citizen suit can always seek a more formal enforcement action by the

state in lieu of an "environmental ticket" if concerned about federal citizen suit liability.

*Under the environmental ticketing provision, any member of the public may file comments, not just an aggrieved person. We would like more explanation as to why you believe a ticket cannot be sufficient to bar a citizen's suit. Assuming you're correct, the lack of a bar against citizen's suits might serve as a deterrent to using a new enforcement tool that was designed to provide a quick and efficient resolution of minor violations. Also, why should ticketing be subject to notice and comment? If there is agreement that violations that are subject to ticketing are "minor" violations, then why can't there be agreement that a citizen's suit and notice and comment would not be necessary. I cannot think of other ticketing processes can that allow for the public to file comments on the ticket?*

That's it. We look forward to working with you and your team.

Tom T

## Robinson, Beth

---

**From:** Mears, David  
**Sent:** Wednesday, March 09, 2011 4:49 PM  
**To:** Robinson, Beth  
**Subject:** FW: Changes that Gary Kessler is working on (6 of 10)

---

**From:** Tom Torti [tom@vermont.org]  
**Sent:** Monday, February 28, 2011 11:37 AM  
**To:** Mears, David  
**Subject:** Changes that Gary Kessler is working on

David:

I understand that Gary is working on revisions and would like our input today since he availability during the rest of the week is limited. We have not had time for our legal counsel to conduct our own review of federal requirements etc. I assume that this is not the only day that he is soliciting input to modify the legislation. We should have something by the end of the week.

How about you and I meet at 1:30 tomorrow in Williston at the Chef's Corner

Tom

## Robinson, Beth

---

**From:** Mears, David  
**Sent:** Wednesday, March 09, 2011 4:48 PM  
**To:** Robinson, Beth  
**Subject:** FW: H.258 (5 of 10)

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

---

**From:** Mears, David  
**Sent:** Sunday, February 27, 2011 9:25 PM  
**To:** Tom Torti  
**Subject:** RE: H.258

Tom: It would be great to discuss in person. Monday afternoon after 3 I am open. On Tuesday, I have nothing scheduled and would be glad to come up to Burlington. The rest of the week (Weds through Friday) I have a series of all day meetings. One of the more complex dynamics I am trying to sort out and would love to get your insights on relates to EPA and its oversight of our Clean Water Act permitting program. David

---

**From:** Tom Torti [tom@vermont.org]  
**Sent:** Sunday, February 27, 2011 6:20 PM  
**To:** Mears, David  
**Subject:** RE: H.258

David:

Thank you for your very thoughtful response. I've been away most of the weekend and am just getting a chance to read it on something other than a phone screen. Despite my best attempts to be 'with it', I find it difficult to read anything of substance on a 3 inch screen.

There are times when perception drives reality and those perceptions are usually not without some distortions. It would be good to sit down and talk it through. I have a crazy week and will need to rearrange some meetings. Let me suggest a few times when I get into the office tomorrow and see if we can make it work. My goal, and the goal of the folks I represent, is not to be the party of opposition but to find those areas where we can agree.

I look forward to meeting. Is it easier to meet down that way rather than have you drive up to Burlington?

Tom T

---

**From:** Mears, David [mailto:David.Mears@state.vt.us]  
**Sent:** Sat 2/26/2011 4:39 PM  
**To:** Tom Torti  
**Cc:** Ernie Pomerleau; Robert E. Miller; Lofy, Bill; MacLean, Alex; deb.markowitz@state.vt.us; Johnson, Justin; Recchia, Chris; Kessler, Gary; Dawn Francis  
**Subject:** RE: H.258

Dear Tom: Thank you for your message. I apologize for not discussing this legislation with you before it was introduced. If you are willing to forgive this oversight, I would like to have the opportunity to persuade you that this bill is in the interest of the business community in Vermont. I would gladly discuss in person on Monday if you have time. Also, I have reviewed the written version of the testimony that Dawn Francis provided on Friday and, based upon my understanding of H.258, offer the following response to the concerns she raised:

- This legislation will not place any burdens on economic development. The only delay or additional process is incurred for enforcement actions. Enforcement actions are rarely a prerequisite for business development or growth but are most often a response to a failure of a person or business to comply with the law. The time associated with the additional process to provide notice and comment on enforcement settlements or orders is not like the delay in the issuance of a permit in which work on new or expanded facilities is delayed.
- It is good public policy to allow the public to have the opportunity to comment on enforcement orders and proposed settlements of enforcement actions. Allowing public comment ensures that the enforcement decisions made by the agency are fully transparent, fair and consistent. The public comment opportunity is available to any person, including people or businesses in the regulated community.
- This bill is one of the last pieces that needs to fall into place in order for Vermont DEC to have the authority to respond to the deficiencies identified by EPA in response to the Clean Water Act “de-delegation” petition filed by the Conservation Law Foundation. Our state law is not in conformance with the requirements of the federal environmental laws we administer in this state and needs to be changed to ensure that we can retain authority to administer these programs. EPA has said so and the Environmental Court has also said so – there is no ambiguity about whether our law is in compliance, it is not. This Administration does not want to return the Clean Water Act program or any of the federally authorized programs to EPA. Having a dual water quality permitting program administered separately by both Vermont and EPA Region One would provide less flexibility in our ability to adapt federal requirements to Vermont, and would impose a more onerous permitting process on our businesses. Also, DEC needs to rebuild its relationship with EPA Region One so that we can move to a reduced level of EPA oversight in Vermont. This legislation is a step in that direction.
- As a matter of full disclosure, you should know that, while I was at Vermont Law School, I filed the de-delegation petition on behalf of CLF pointing out the failure of Vermont’s law to conform to federal requirements for public participation. I have, however, worked to ensure that this legislation, H.258, is in the best interest of the Vermont public and does not represent a bill advancing CLF’s interests only. Also, most of the text of this bill was negotiated between DEC and EPA before I was appointed DEC Commissioner, though I have been actively involved since I joined DEC.
- This legislation will not interfere with the government’s ability to settle cases. I used to work for the U.S. Department of Justice which is required to post all proposed settlements for public comment and never found that the process interfered with the ability of the government to effectively enforce environmental laws or settle cases. A vanishingly small number of enforcement actions and settlements attract public comments at all and when they do, the courts and the parties are almost always able to address the comments without any difficulty. The only effect of the short delay associated with providing a notice and comment period for enforcement actions is that the effective date of the order, including any obligation to pay a penalty, stop work or implement injunctive relief, is put off for a short period, typically 30 to 60 days. Citizens who are environmental activists rarely want to cause any delay, even a short one, in the effective date of an enforcement order.
- We wrote the law to apply to all enforcement actions, instead of limiting it to just enforcement actions under federally delegated laws, in order to increase the efficiency and predictability of the enforcement process. Many of our enforcement actions involve violations of both federal and state law so, as a practical matter, distinguishing between the two types of law for the purposes of this new process would not have any effect for many cases. Further, it is important to simplify and standardize our procedures in the Department so that department staff, the regulated community, and the general public are better able to understand what to expect. Having different procedures for different types of enforcement actions is a step in the wrong direction.
- This legislation does not create a state citizen suit nor is it a first step towards that type of enforcement. First, the only time a citizen would be able to comment on a state enforcement action under this bill is if the state

brings the action in the first instance. Second, the participation of any person is limited to questioning whether the enforcement order or settlement furthers the purposes of the statute. This bill does not authorize a citizen to add new claims. If the environmental court finds that the enforcement action is not consistent with state law, the court will simply not sign the enforcement order and it will not go into effect until and unless modified by the agency.

- I appreciate the sensitivity of the business community to creating a state citizen suit provision in our environmental laws and, if the state proposes legislation to create such a provision while I am in office, I promise to promote a full and open public dialogue that includes the business community in advance of the introduction of such a bill. This bill does not create citizen suit authority.
- Even if I agreed that an “environmental ticket” issued under our new enforcement program should preclude federal citizen suits, the law is clear that such a limited administrative enforcement action cannot serve as a barrier to a federal citizen suit. This conclusion is a matter of federal law and nothing in this bill can alter that. I am not sure how CLF would feel about taking the language out of the bill relating to the ability of environmental tickets to serve as a barrier to federal citizens suits, but I have no objection to removing that sentence. That deletion would theoretically leave any violator free to make the argument that the tickets did bar a citizen suit -- though I believe that such an argument would fail in the federal courts. As an aside, any violator who wants protection against a citizen suit can always seek a more formal enforcement action by the state in lieu of an “environmental ticket” if concerned about federal citizen suit liability.

Gary Kessler, Division Director of DEC’s Compliance and Enforcement Division, will be reaching out to Dawn Francis on Monday to discuss whether revisions to the legislation would meet any remaining concerns and still allow us to meet the requirements of federal law.

My hope is that you and other business groups in Vermont will change your position to supporting, instead of opposing, this bill. I appreciate your frustration with my failure to effectively communicate with you in advance of H.258’s introduction but hope that this fact alone will not be a barrier to gaining your support for a bill that is in our state’s best interests.

I look forward to discussing further with you at your convenience. I have a busy Monday but will be free from 3:00 pm on. My telephone number is 802-241-3808. Sincerely, David

David K. Mears, Commissioner  
Vermont Department of Environmental Conservation

---

**From:** Tom Torti [mailto:tom@vermont.org]  
**Sent:** Friday, February 25, 2011 8:55 AM  
**To:** deb.markowitz@state.vt.us; Mears, David  
**Cc:** Ernie Pomerleau; Robert E. Miller; Lofy, Bill; MacLean, Alex  
**Subject:** H.258

Deb/David:

I want to give you a ‘heads-up’ that we are opposed to H-258 and will be testifying against it this morning. Our rationale will be spelled out in our testimony but suffice to say that we believe that it will have a chilling effect on economic development in this state. We are joined in our opposition but virtually every other business group.

For the Chittenden County businesses that I represent, I must point out that we are astounded that no one from your agency reached out to solicit our opinions – or to let us know of your intent -- before you introduced it. This is especially noted following our meeting at 60 Main Street where we all pledged transparency and a willingness to collaborate. We

found out about the bill after I was called and given a 'heads-up' by CLF..... not a group we normally hear from. We sincerely hope that your meetings with us are not window dressing simply meant to appease us.

Tom T

## Robinson, Beth

---

**From:** Mears, David  
**Sent:** Wednesday, March 09, 2011 4:41 PM  
**To:** Robinson, Beth  
**Subject:** FW: H.258 Environmental Law Enforcement public participation (2 of 10)  
**Attachments:** LCCC notes edited.doc

---

**From:** Dawn Francis [dawn@vermont.org]  
**Sent:** Friday, February 25, 2011 10:02 AM  
**To:** Recchia, Chris  
**Cc:** Mears, David; Tom Torti  
**Subject:** H.258 Environmental Law Enforcement public participation

Chris:  
Per your request, attached is the testimony we presented in House Natural Resources this morning.



## H.258 – Environmental Law Enforcement Public Participation

We understand the need to address the concerns of EPA with respect to the requirements of increased citizen participation in enforcement cases brought under the Clean Water Act. We don't object to reasonable public comment periods or notices on the state's website. However, we believe this bill goes beyond the EPA directive by applying to all state environmental programs, including Act 250, and allows appeals of various enforcement actions rather than just a public review and comment period.

We concur with a statement made by the Committee chair that we need assurances via additional language in this bill that there cannot be any frivolous actions by the public to delay projects or interference with agreements designed to remedy violations.

We are also concerned that language in the bill on environmental ticketing does not close the door on future citizen suits on issues that have been previously resolved by ANR via ticketing. If a ticket is issued and paid it should permanently end the matter and not leave the possibility of a separate citizen suit open.

Finally, we would appreciate additional time be provided for the regulated community to understand the implications of the proposed changes which appear to be very expansive and beyond the scope of what is necessary to address EPA's concerns about public participation in Clean Water Act enforcement matters. We would appreciate some time to provide language that might meet the goals of increased participation while providing a solution that does not mire various enforcement actions down into more unnecessary lawsuits and delays by opening the door for people who want to take advantage of these new processes.

## Robinson, Beth

---

**From:** Alex MacLean [allymac9@gmail.com]  
**Sent:** Wednesday, March 09, 2011 2:29 PM  
**To:** Robinson, Beth  
**Subject:** Fwd: An Issue

----- Forwarded message -----

**From:** Tom Torti <tom@vermont.org>  
**Date:** Wed, Feb 23, 2011 at 11:51 AM  
**Subject:** An Issue  
**To:** Alex MacLean <allymac9@gmail.com>

Last night I got a call from CLF telling me that *H.258 – Environmental Law Enforcement – Public Participation* was being introduced and that the business community was probably not going to like it. I asked what ANR's position was and was told that they wrote the bill. That was confirmed by Dawn today

Two issues:

- Deb, Mears etc.. have been meeting with us ostensibly trying to make nice with the business community. Introducing a bill we hate and not telling us is pretty cheesy. We won't always agree, but a heads up is always appreciated. For us to get the heads up from CLF is insulting.
- The Bill is an economic development nightmare

Got any advice?