



VCE's Mission

VCE advocates for the wellbeing of all Vermonters, striving for the protection of the natural world: land, air, water, wildlife, people, and especially the web of life.

We unite to pursue the common goals of encouraging economic development with minimal environmental impacts and preserving Vermont's natural beauty.

We inspire and engage citizens in longterm planning for sustainable economic, environmental, telecom and energy policies that will benefit Vermont communities and Mother Earth.

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*Vermonters for a Clean
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“America’s Lake Lucerne” vs. Vertical Real Estate Expansion



Currently the Public Utilities Commission’s (PUC’s) decision as to whether Massachusetts based Industrial Tower and Wireless (ITW) will be issued a Certificate of Public Good (CPG) for construction of a two-way radio tower in Westmore, two-thirds of a mile from [Lake Willoughby’s North Beach](#), is hanging in the balance. For now the balance is tipping in favor of ITW thanks to the PUC Hearing Officer Gregg Faber’s recommendation concluding that the “proposed Project will promote the general good of the State”. And the Department of Public Services (DPS) is following suit.

Oral Argument will be next, hopefully with a Public Hearing, before the PUC Commissioners, part of an unrelenting jumping through hoops, going on since abutters to the Project site were first notified of the proposed tower January 2024. The [obstacles and frustrations](#) that the town and residents of Westmore have faced navigating the regulatory process with ITW’s law firm trying to thwart their efforts at every turn, trying to deny testimonies, the town plan, telecom ordinance and Selectboard recommendation to deny, is a scenario facing other rural communities. Throughout all the hurdles, thankfully, VCE has been an ongoing resource and partner.

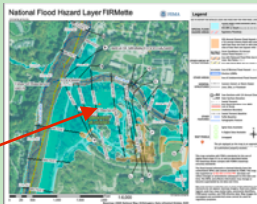
The massive lattice structure of ITW’s proposed radio tower, designed to support many different types of antennas, would be 140’ high, 153’ with antennas, putting it 70’ to 75’ above the treeline and making it visible from multiple places in the Willoughby area; from higher elevations including [Sentinel Rock State Park](#) and [Mt. Pisgah](#) to the Scenic Byway 5A, (cont’d p. 3)

Message from the Director by Annette Smith

Is it Whack-a-Mole or Groundhog Day?

I hadn't heard from Dom since 2021 when the PUC denied the solar project across from his neighborhood of worker housing on Richville Road in Manchester. The denial on aesthetics resulted in uproar and outrage from the renewable energy community. I was upset that the PUC didn't consider the flooding. When Dom called a couple weeks ago, he said, "you're not going to believe this." He was right.

The realtor trying to sell the field (which flooded twice in 2019, once in 2021 and once in 2023) proposed for the solar project for \$300,000 purchased it for \$80,000 and is proposing to build 43 rental units, with 9 "affordable housing" units on the area of the field lowest in elevation. Manchester's Development Review Board (DRB) held a hearing and an elevation demonstration.



Surely common sense would prevail, and a regulatory body would say "no, you can't build housing in a flood hazard area." If that voice of reason exists, I haven't found it yet.



Unbeknownst to neighbors, Act 250 issued a Jurisdictional Opinion in May finding the housing project qualifies for interim exemption. "Priority housing" that contains 20% "affordable" rental housing is exempt, regardless of number of total units or location.



Manchester's DRB is interested in aesthetics, but so far it is unclear when they will evaluate the project's compliance with the town's flood hazard bylaws. ANR has not responded to inquiries from VCE. The Select Board chair said it's regulated by the Feds and State. A Land Use Review Board member said it's municipal permitting.



How is it, with all the awareness about flooding, there is no clear mechanism in Vermont that says "no" to new development in areas known to flood? Incredibly, the only type of development that qualifies for interim exemption from Act 250 in a flood hazard area is housing with 20% of it defined as "affordable." Flood the poor.

Most of our community work in the last 15+ years has been assisting citizens and towns with participation in PUC cases; first wind, then solar and recently the issue du jour is telecommunications towers. We are assisting Pownal,

Manchester, Tinmouth, Rochester, Washington, Marshfield, Westmore which all have tower proposals by AT&T, Verizon, or Industrial Tower & Wireless in Advance Notice or Petition phases. Ira's ITW tower is being built. Recommendations of Select Boards or Planning Commissions are critical. VCE repeats the same info over and over: educate about the role of towns, the PUC process, how to participate. Solar is quieter, with disruption to the industry due to federal subsidy and policy instability. We are waiting for the PUC's decision on the 20 MW Shaftsbury Solar, and attended the site visit for the same company's 100+ acre 20 MW Fair Haven solar project on gorgeous agricultural lands.



With the end of the Clean Heat Standard, and the Climate Council's adoption of a new Climate Action Plan (which contains a recommendation to adopt a modified Clean Heat Standard), VCE's work is shifting to land use issues as implemented by Act 181 which created a new Land Use Review Board (LURB) that meets twice a week and, as was the case with the Climate Council, I am often the only citizen in attendance; plus it has three stakeholder groups - Wood Products, Tier 3, and Appeals - on which I serve.

Regional Planning Commissions are required to develop new Land Use Maps and VCE is fielding complaints about new growth areas being proposed for towns, with pressure to apply for Tier 1A or 1B status to enable municipal review that exempts entire areas from Act 250 review. Opening the flood gates to developers subject to review by municipal boards often populated by developers is looking like a bad idea.

Bennington's Select Board succumbed to litigation pressure by the solar developer who threatened the financing of a housing project and, for the second time, settled with the developer. Incomprehensibly, the agreement says the town was not under duress, financial or otherwise. The two solar projects on Apple Hill dating to 2013 continue to be under litigation at the PUC, Vermont Supreme Court, Federal District Court and the 2nd Circuit Court of Appeals. Each project is back at the PUC for the third time.



Rutland is about to switch its drinking water disinfection to chloramine. The city voted against it in 2013.

In Danby, the proposal to amend the town plan to enable the quarry next to the village to expand came back for the second time and may return for a third time (see p. 6).

VCE is excited to announce staff changes at our Annual Meeting on Sept. 10 in Tinmouth. Please join us. And thank you for supporting this unique organization. Annette

Westmore – Industrial Tower & Wireless – 24-1755-PET

cottages on the east shore, and watercraft on the lake. The tower is to be built on property leased for 99 years from Westmore Selectboard member Peter Hyslop who because of conflict of interest has recused himself from the discussion. Other than Glover EMS, invited to install their radio antenna for free, no cell service providers have signed up to co-locate on the tower. No attempts have been made to co-locate ITW's radio service on other towers within a ten mile radius. The Westmore Telecom Ordinance states, "A permit shall not be granted for a tower or facility built on speculation of a future letter of intent or contract with a licensed telecommunications provider". There is no guarantee such a provider will ever use this tower.



tower's visible presence could even jeopardize the lake's status as a designated National Natural Landmark (NNL); that the Project's aesthetic impact should be given substantial deference in compliance with goals clearly stated in the Westmore town plan.

"Any development 100 feet or higher that can be viewed from any point in the National Natural Landmark designation area should be considered development of substantial regional impact."

Westmore intervenors and witnesses filed extensive testimony opposing the project; ITW engineers also submitted their testimonies. DPS's independent aesthetics expert testified as well, basing his findings upon computer calculations plus a day visit to Willoughby (without witnessing either of

ITW's petition, submitted in June 2024, spurred six Westmore residents to become *pro se* Intervenor's opposing the project on numerous grounds, including lack of demand and public benefit, violation of the [Westmore Town Plan](#) and [Telecommunications Ordinance](#), and unduly adverse impact on the aesthetics of the Willoughby Lake viewshed. This has led to one legal filing after another [including](#): Motions to Intervene, Discovery, Prefiled Testimony, Discovery, Evidentiary Hearing, Briefs, Reply Briefs, Comments on Proposal for Decision, Request for Oral Argument and Public Hearing, Public Comments in addition to multiple other motions.

Throughout this process ITW has tried to thwart the intervenors, opposing their evidentiary hearing request (which did take place in May), filing motions to strike their testimony and eliminate their witnesses, marginalizing the Town Plan and TeleCommunications Ordinance and objecting to the Planning Commission's comments and Selectboard recommendations to deny the tower due to noncompliance with the Town Plan and Ordinance. ITW also [filed suit](#) against the state's three Public Utilities Commissioners in Federal District Court in December 2024, alleging they violated a 150 day shot clock in the Westmore Tower Case, adding concern about how this lawsuit may exert an intimidating influence on the PUC, putting the Westmore municipality and intervenors at an even greater disadvantage.

The overarching major concern is that an industrial structure of this size would spoil the [exceptional scenic beauty](#) of Lake Willoughby with its iconic glacial gap and surrounding natural, non-industrialized landscape; that the

Willoughby (without witnessing either of ITW's balloon visibility tests), and the Quechee Test determining aesthetic impact. Quechee Part One found that given Willoughby's sensitive nature being a NNL "the Project would likely be considered to result in adverse impacts to the aesthetics and natural or scenic beauty to the area." That necessitated turning to Part Two in which if any one of three questions elicited a YES the tower would fail the test; therefore recommendation for CPG:

- 1) Would it not comply with municipal plans?
- 2) Did ITW fail to mitigate negative impacts?
- 3) Would its effect on the area's aesthetics cause an "undue" negative impact on the "average person"?

The expert's conclusion: None would be answered positively, therefore the tower qualified for a CPG, an opinion rubber-stamped by the PUC Hearing Officer.

Those opposing the tower argue that the numbers of people, residents and visitors, who cherish the Willoughby area, lauding it with descriptions like "America's Lucerne", and "the last piece of paradise in the lower 48", submitting numerous comments in opposition to the tower on the PUC portal, should be proof enough that the construction of a 140' industrial radio tower with little to no evidence of serving the public should be allowed to outweigh the importance of keeping this "crown jewel" of the Northeast Kingdom as free as possible from industrialized development. Westmore Intervenor's recognize that if ITW succeeds in building an industrial tower at Lake Willoughby, a NNL, they will easily dot the Vermont landscape with their self serving radio towers across Vermont. *By Cynthia Kriebel, Cover Photo by Jay Hudson*

Loss of Transparency and Democratic Process *by John Brabant*

It's mid-July 2025 as of this writing and the Vermont Legislature has gone home, a delayed June 14th ending due to the protracted, fierce debate on H.454, education.

As VCE's Regulatory Affairs Director and lobbyist, I was more than happy to not have to endure the very difficult atmosphere advocates face each day working the halls of the Vermont legislature all the way until mid-June. The 2025 legislative session brought hope of a more positive and collaborative atmosphere, with the end to the Democratic Party's supermajority control in both chambers. As I have said many times, the behaviors put on display by this supermajority are not unique to the party in control, but are more a symptom of human nature when anyone or any authoritative body has unlimited and unchecked power. The lack of any checks and balances resulted in the most extreme forms of arrogance, rude behavior, predetermined outcomes, limiting public input and testimony while accepting testimony only from those who would support the supermajority's predetermined political agenda.

So, with the hope brought by the voters' rebalancing of the legislature, I entered the Vermont Statehouse building excited about the possibilities of an improved atmosphere of dialog and open-mindedness. In fact, in the first weeks, it seemed that what I had hoped for was in fact coming true. Democrats in leadership proclaimed that they would be making a clear effort to work across party lines, seeking collaboration with those they had historically marginalized as a supermajority. I took these statements at face value and with them, the prospect of working to make positive change for the public interest and the environment.

In January, working the halls and committee rooms that had just last year been a very toxic statehouse atmosphere, seemed to have been transformed back to how the statehouse operated 30 plus years ago, where all opinions and ideas would be allowed by witnesses from all perspectives in legislative committees. It wasn't just me who was optimistic, so too was VCE's Executive Director Annette Smith as well as citizen activist Alison Despathy, who had witnessed the worst abuses of power by the Democratic supermajority. Many lobbyists felt the same way during the first month of the session.

With the Clean Heat Standard effectively held in abeyance as a result of the Republicans' gaining increased voice and PUC guidance, VCE was able to direct more of its attention to other environmental and energy policy issues. With the assistance and sponsorship of House

representatives from all three parties, on February 21, I was able to see [H.303](#) introduced, with most all members of the House Agricultural Committee and a number of representatives from the House Environment Committee signing on.

H.303 proposed to ban the land application of wastewater treatment facility (WWTF) sludges on farmland due to the many concerns of land and food contamination associated with this historic practice. While by no means the only contaminant of serious concern, per- and polyfluoroalkyl substances (PFAS), for which there is no safe level of exposure, are ubiquitous in sludges and were a primary driver of interest by the bill's sponsors, a number of whom were farmers. H.303 was assigned to the House Committee on Environment as the committee of primary jurisdiction over the Vermont Agency of Natural Resources, which permits the land spreading of WWTF sewage sludge.

Lead sponsor Representative Greg Burt presented H.303 to the Environment Committee on March 26th. In addition to the 19 House sponsors' support, H.303 received strong verbal support by Democratic and Republican Senators in leadership positions who looked forward to seeing the bill when it passed the House.

One would thus conclude, as did I, that this bill (which would easily pass out of the House) would have been taken up enthusiastically by House Environment Committee Chair Amy Sheldon. Over the past number of years, including this session, Chair Sheldon had expressed grave concerns with the PFAS contamination being found in our natural environment and as well as in the bodies of all living things. Despite my repeated conversations with Chair Sheldon as well as numerous requests being made by members of her committee who were H.303 cosponsors, Chair Sheldon refused to take any witness testimony on the bill. It would not be until April 9th that any testimony was allowed; this testimony presented by Matt Chapman and Eamon Twohig of ANR and the Jeremy Rathbun, the WWTF operator for the Town of Middlebury, the town represented by Chair Amy Sheldon, all advocating the continuation of sludge spreading.

It is notable that Chapman stated that of the more than 14,000 varieties of PFAS in use today, ANR only tests for 5. Given that witness testimony had been taken on H.303, under House Rules, anyone requesting to testify on a bill where witness testimony has been taken must be granted the opportunity to testify.

Loss of Transparency and Democratic Process (*cont'd*)

On April 15th, I submitted a request to testify along with a number of nationally recognized expert witnesses who would be addressing the concerns associated with sludge spreading. Not hearing back regarding my request for my and others to testify on H.303, I approached Chair Sheldon a number of times who refused to allow me or the other witnesses to testify. As such, I met with House Speaker Jill Krowinski's office to discuss this violation of their House Rules. It was only after making this complaint that only I was allowed to [testify](#) on [May 7th](#), while the other witnesses were denied, in continued violation of this House Rule. The Chair refused to take any further testimony on H.303 and to date has made it clear that she will not be taking further action on the bill, using her power to kill the bill in her committee.

Rigging witness testimony has been a pattern of VT House committee chairs, stacking testimony from witnesses that fully agree with their and their donors' agendas, and blocking testimony from any witnesses who are perceived as holding positions that might be contrary to bills the Democratic Party chairs are pushing to get passed. VCE's Executive Director was [denied from presenting any testimony](#) by the Chair of the House Energy & Digital Infrastructure Committee, Rep. Kathleen James, despite numerous requests by me, Director Annette Smith as well as members of James' committee.



Jared Duval of Energy Action Network conferring with House Energy & Digital Infrastructure Committee Chair Kathleen James. Duval testified to the committee five times in 2025.

The committees most important to VCE's work, Environment, Natural Resources and Energy & Digital Infrastructure, have adopted a practice of hearing only from organizations. Previously, legislators welcomed hearing directly from Vermont citizens. Not anymore.

The Democratic leadership has been charged on many fronts with operating the House and Senate undemocratically and with a severe lack of transparency, and it is not just with their blocking witness testimony in violation of their own rules. Up until the election of Governor Peter Shumlin, it had been a matter of

procedure for the House and Senate to hold joint public hearings on legislation that are a matter of substantial public interest and policy change. Such hearings would be scheduled for the late afternoon and often run past 11 p.m., taking testimony from dozens if not hundreds of Vermont citizens. Since gaining control of the House, Senate and Governor's office in 2010, Democratic legislative leaders have rarely, if at all, held public hearings on major bills impacting energy, education, health care, taxation and the environment, breaking with decades of tradition in the name of political expediency while placing party interest over the public interest.

It is not just at the Federal level that our democracy has been undermined, it is happening right here, right now in the State of Vermont. Vermont has ranked poorly on transparency, ethics and anti-corruption, ranking 37th in a 2015 study commissioned by nonprofit investigative journalism website, Center for Public Integrity. In that same study, Vermont's Democratic Party controlled legislature received a "Legislative Accountability" grade of F. <https://publicintegrity.org/politics/state-politics/state-integrity-investigation/vermont-gets-d-grade-in-2015-state-integrity-investigation/> Representative Amy Sheldon's hometown college and alma mater's on-line student weekly, The Middlebury Campus published a summary of the findings of this study where Vermont received an overall D ranking for public integrity. <https://www.middleburycampus.com/article/vermont-receives-d-ranking-on-state-corruption/>

You would think that this story might have moved Representative Sheldon to work toward improving transparency in her own committee, rather than undermining it. Tragically, in the ten years since, matters have only worsened, and worsened severely. The Vermont public is now paying attention and expressed their displeasure toward their manner of conducting the business of the VT Legislature at the polls this past November. The controlling party apparently still hasn't gotten the message. Whether this undemocratic behavior by the leaders of Vermont's legislative branch is further taken to task by Vermont voters remains to be seen and will likely come down to election turn-out in 2026, with a strong turnout resulting in a further rebalancing away from the current leadership.

It is time for major change if we are to save Vermont from this continuing downward spiral.

A Controversial Quarry Next to Historic Danby Village by Alison Despathy

June 18th was a beautiful summer night and those attending the Danby Planning Commission [meeting](#) clearly meant business. Vermonters don't waste a precious summer evening unless there is a good reason. Public health and welfare, structurally sound homes and businesses, and protecting their investments and property values – which for many is all they have – were top priorities bringing even the shyest residents in to speak and encourage the Planning Commission not to change the land use designation in the town plan [requested by Tom Fuller](#) to enable the quarry next to the village center to expand by adding 11.87 acres. Almost 40 Danby residents turned out to the public hearing.

Residents shared intense stories about cracks in their foundations and around window sills due to blasts, ceilings falling while the house reverberated. Residents discussed chest tightness, headaches and asthma attacks due to the particulate and overwhelming odors of asphalt plant fumes.

One woman recounted trauma and PTSD triggers from the booming and shocking blasts. The stories were devastating and hard to imagine unless you stop and think what it would be like to live close to an active quarry blasting with a regular smell of paving material wafting through your home and outdoors.

Water quality issues, damage to the aquifer, decreases in home values, and the need to move were all laid on the table as those attending the meeting worked to explain their opposition to this quarry expansion proposal. Existing public safety and welfare issues with current quarry operations demand attention.

Danby residents also submitted a petition specifically stating:

“We, the undersigned legal voters of Danby, Vermont do hereby petition the Danby Planning Commission and Select Board to retain the current Town Plan Future Land Use Map and reject Fuller Sand and Gravel's proposal to amend Danby's Town Plan's Future Land Use Map from Agricultural/



The entire forested area, purple, which is the height of land in Danby village, is proposed for the Fuller Sand & Gravel quarry expansion

Rural Residential to Commercial/Industrial to enable expansion of quarry blasting, unless and until ongoing problems with property damage, asphalt fumes, dust, noise and property devaluation are addressed.”

Fuller's asphalt plant in Danby's air pollution control permit states:

“The future allowable emissions of all air contaminants from the Facility, including the asphalt batch plant and the sand and gravel processing operations, are calculated to exceed 10 tons per year, however no single air contaminant is emitted at rates exceeding thresholds which would cause this facility to be classified as a major stationary source.”

The [proximity to the village](#) was shocking and it was easy to understand why the residents held high emotions and heavy opposition to Fuller's request.

Back in July, 2017, when Fuller applied for a permit amendment for an adjacent gravel pit – which was approved – Danby village residents also reported their public health and safety issues and the damage to their homes from existing operations. Annette Smith was quoted in the Rutland Herald stating,

“It is disappointing that Tom Fuller has refused to work with the community to look for solutions to the asphalt plant fumes, rock crushing dust, trucking and neighbor issues that have plagued this operation for a decade.”

In September 2024, a Danby Select Board vote [denied](#) a motion to change the 11.87 acre lot abutting Fuller Sand and Gravel from an Agricultural/Rural Residential land use designation to Commercial/Industrial. This change could have led to the expansion of the quarry.

This exact proposal is now back on the table a year later.

After all of the villagers' efforts, great news came on the evening of July 8. The Danby Planning Commission voted. With only three out of seven planning commissioners voting in favor of this proposal, the motion failed.

Is it over? Probably not. Fuller can return and ask again.



Asphalt plant in 2017, fills the village with fumes.

Public Participation at the PUC is Never Easy *by Brian and Penny Dubie*

Opposing a [wind project](#) through the Public Utility Commission (PUC) is a complex and lengthy process for both applicants and citizens. After three years of navigating a proposed wind turbine project in our community, we've learned valuable lessons on how to effectively engage in this process. A key ally in our efforts was Annette Smith from Vermonters for a Clean Environment (VCE), whose deep understanding of the PUC process and her ability to help communities develop a plan are invaluable. VCE relies on public support to continue its work – please consider donating to help sustain their efforts.

Developers are well-prepared, with extensive resources, experience, and a clear plan to present their case to the PUC. In contrast, interested parties often lack the knowledge, resources, or strategy to effectively participate in the PUC process. This imbalance can leave citizens feeling overwhelmed and uncertain about how to proceed.

Below is a guide to help others fight a wind project, incorporating our experience and suggestions:

Educate Yourself and Your Community

- ~Review town and municipal planning documents to understand compliance with local regulations and priorities.
- ~Study the developer's pre-filed application (Advance Notice) and application (Petition) to identify potential issues, such as environmental or aesthetic impacts.
- ~Inform your community association or group. We worked to educate our association members, build consensus, and maintain support by keeping everyone informed.

Mobilize Community to engage with town select board and regional planners.

- ~Engage neighbors and community members who may be impacted by the project. Share information about potential negative effects, such as noise, visual impact, or environmental concerns.
- ~Encourage community members to write letters to or attend select board meetings and municipal and Regional Planning meetings to voice their concerns and urge the boards to scrutinize and weigh in on the proposal.
- ~Both the town select board and regional planners, after a thorough and independent review, decided to oppose the project, strengthening our position.

Participate in PUC Proceedings

- ~Hire experts or identify people in your community who have expertise who will donate their time as witnesses.
- ~The PUC process involves extensive legal filings, including public comments, pre-filed testimonies and exhibits, discovery, discovery responses, rebuttal and surrebuttal testimonies, briefs, reply briefs, comments on the Proposal for Decision and oral argument.
- ~Annette Smith was critical in helping us research, draft, and format these documents. Her editing and “word-smithing” transformed our often-awkward submissions into polished, professional filings.
- ~Be prepared for a time-intensive process that requires significant research and attention to detail.

Leverage Independent Reviews

- ~The Department of Public Service concluded that the project would have an “undue adverse impact”.
- ~Advocate for site visits and independent assessments early in the process to ensure objective evaluations.

Lessons Learned and Suggestions for Reform

The PUC process is daunting for average citizens. Developers often have a head start, presenting polished proposals with balloon tests and mock-up photos that can downplay a project's true impact. To level the playing field, we propose the following reforms:

- **Early Site Visits:** The PUC should conduct a site visit at the outset of the process to assess the project's impact firsthand.
- **Community Meetings:** The PUC should hold public meetings with community members early on to listen to concerns and foster transparency.
- **Simplified Process:** Streamline the PUC process to make it more accessible to citizens without legal or technical expertise.
- **Require applicant** to mitigate impacts or withdraw projects that do not fit with town and regional plans.

Conclusion

Participating in a wind project at the PUC requires persistence, organization, and access to expertise. By educating your community, mobilizing support, engaging local authorities, and leveraging resources like VCE, you can build a strong case to protect your community's interests. While the process is arduous, our experience shows that dedicated citizens, with the right guidance, can make a difference. We have yet to hear the decision from the PUC on this proposed wind project. Whatever they decide, we are confident that the all viewpoints pro and con have been put forth for their ultimate consideration.

Yes, I want to be a member of VCE
And make a difference, too!

Name _____

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\$15 ___ \$25 ___ \$50 ___

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Mail to: VCE, 789 Baker Brook Road
Danby VT 05739

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Your contribution is tax deductible.
Thank you!

Members receive two newsletters a year.
Printed on 100% recycled paper.

VCE Annual Meeting

Tinmouth, Vermont

September 10, 2025

Refreshments at 5 pm

Meeting: 5:30 - 7 pm



Please RSVP to Annette
at vce@vce.org
for
location and directions.

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