

VERMONT ENVIRONMENTAL LIBRARY REPORT

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The Governor's Message:

Pronouncing himself "agreeably surprised," with the success of Vermont's recent experiments in environmental management, Governor Davis has nonetheless made it clear that 1972 will be a year of retrenchment and reassessment. In his State of the State message the Governor praised the General Assembly declaring; "In its pragmatic, workmanlike way, Vermont has wrought a revolution." But the Governor firmly indicated the revolution was at an end and that some tidying up is now in order. Davis ticked off a list of environmental improvements, emphasizing improved air and water quality and declared that construction and development in Vermont "is of perceptibly better quality" than during the pre Act 250 period. But the governor conceded that "we have not achieved perfection" in the processing of 250 permits and identified the "elimination of complex and cumbersome bureaucratic procedures," (presumably relating to the Act 250 permit process) as a priority legislative item this year. He also singled out "haphazard, slapdash strip development," as a target for legislative attention and reaffirmed his support for a ban on the sale of non-returnable beverage containers. Philosophically, Davis insisted that the state's economy "must be able to sustain a high quality of life to match our environment." Environmentalists, of course, might argue that the governor's priorities are reversed and that it is the environment which sustains the economy.

Land Transfers

Continue Apace

Large scale land transfers, many to out of state development firms ranging from Quebec to Venezuela, continued unabated in Vermont during 1971. "I hear estimates that 30 percent of Vermont land is owned by out-of-staters," one Tax Department official said. "I think that estimate is low." There were 646 land transfers of 100 acres or more last year, tax records show, with more than a third of the acquisitions going to firms with out of state addresses. That figure is considered unrealistic by the Tax Department however, which notes that many of Vermont's in-state developmental firms "are just a matter of post office boxes." Almost 20,000 acres, in tracts of 100 acres or more were acquired in 1971 by companies which are clearly in the development business or whose titles suggest they are development corporations. The Report did not examine smaller transfers. Four hundred of the large transfers were listed as being within Vermont. Franklin, Orleans and Caledonia counties recorded the largest percentage of out-of-state buyers but the largest single chunks of land changing hands were in Bennington County. One transfer in Orleans of more than 1,500 acres was recorded in the name of a Venezuelan development firm while title to a comparably sized tract in Essex was taken by a Sherbrooke, Que., firm. The heavy transfer activity in the three northern, and still predominately agricultural counties, suggest to some an acceleration of developmental pressures there coincident with the expansion of the interstate highway system into Northern Vermont.

The Vermont Environmental Report is a monthly newsletter published by the Environmental Planning Information Center (EPIC), a project of the Vermont Natural Resources Council, 97 State Street, Montpelier, Vt., 05602.

Editor: Arthur Ristau

A PROJECT OF THE V. N. R. C.

Legislature is target of land use planning

Looking ahead to 1973, Governor Davis, who has yet to announce his political plans, already has zeroed in on next year's General Assembly as the primary target of the Land Capability and Land Use Plans. The documents, now in preparation, will require adoption first by the Environmental Board, then the Governor, whoever he might be, and, finally, the General Assembly. "The plans," Davis said in his message to the legislature, "will represent the voice of many people and hence be acceptable to a broad range of Vermonters . . . and more particularly . . . to the 1973 Legislature." The Governor said the planning process has proven "more complex" than we had realized but that the plans "will be submitted to you by January, 1973. Act 250 originally stipulated that the documents be adopted by July, 1972. Left unanswered is the question of whether or not Davis, should he not seek a third term, would act on the plans prior to leaving office in January.

Brattleboro Appeal Prospects Dimmed

Brattleboro Selectmen have approved a zone change along the Putney Road which critics fear will jeopardize efforts by the Windham Regional Planning Commission to maintain the vitality of the community's downtown sector. In approving the variance for Palmer-Tarinelli of Bridgeport, which plans to construct a shopping center, the selectment also said there were "no issues they want to explore under Act 250." Earlier, the WRPC had filed an appeal with the Supreme Court asking for authority to reopen an Act 250 appeal lodged with the Environmental Board. The appeal, which had been rejected on procedural grounds, related to the application of Loomis J. Grossman to construct a shopping center adjacent to the one now planned by Palmer-Tarinelli. Both would front on Route 5 and both, the WRPC argues, would be heavily competitive with several commercial enterprises in the core area three miles to the south. The commission retained Dr. George Sternlieb, director of the Center for Urban Policy Planning at Rutgers, to evaluate the proposed shopping centers. His economic impact study indicates the new shopping area would cause deterioration in downtown Brattleboro.

"We've Stopped The Clock . . ."

That's the way Environmental Board Chairman Ben Partridge describes the current status of the Interim Land Capability Plan. After having been approved in December by the Environmental Board and submitted to Governor Davis for consideration, Partridge wrote the Governor on January 10 asking that the plan be returned to the board "in view of certain concerns regarding the interpretation of portions" of it. Partridge went on to tell the Governor he felt his board should consider "areas of ambiguity and possibly take further action to eliminate the possible objections which may arise to the plan as originally adopted." The chairman later explained that there won't be a great deal of difference in the revised plan but that it would be clearer. Original press reports stated the Governor had sent the plan back to the Environmental Board.

Who Pollutes . . .

Who Pays

"Slight amendments," to Vermont's tough Water Quality Standards Law (Act 252) are being criticised in some quarters as giving the state's municipalities a license to pollute. Governor Davis says he is anxious to relieve Vermont towns which are now on schedule from the discharge fee obligations of the statute. Left to Water Resources Commissioner Martin Johnson is the question of what constitutes non compliance. Board Chairman Denning Miller says intent to comply with the new regulations should be incorporated in "some planning statement which must be satisfactory to the commissioner." Miller further declared this should represent a statement that communities are proceeding with "all deliberate speed," and that "good faith must be evidenced." But the chairman also emphasized there would be no softening of standards where industry is involved.

Act 250 Called Blameless In Vermont Building Lag

Non-residential construction in Vermont lagged behind the rest of New England during 1971 but a Boston-based economist doesn't feel the state's environmental laws are responsible. Ed Estle of the New England Telephone Company said he doesn't think the new statutes pose undue restrictions on the construction industry and noted business activity in Vermont overall "shows a significant rise in the period which ended last November." Residential construction in Vermont through that phase rose some 18 percent. However, non-residential building dipped by 40 percent. Vermont's loss in non-residential construction was the largest in the region but Rhode Island and Connecticut also experienced decreases. Non-building construction (roads, public works) was off by about \$5 million compared with the same period in 1970. Estle attributed this to "a general belt-tightening by Vermont taxpayers." He went on to say that the Telephone Company "hears occasional stories" about difficulties construction firms encounter obtaining environmental commission permits. "But I don't think those problems are too severe," he said.

Beckerning Country

John Becker, the Boston public opinion analyst, has completed an exhaustive survey of Vermonters' attitudes concerning environmental problems and other competing public policy issues. The 561 45 minute interviews were commissioned by EPIC which has prepared a summary of Becker's findings in a 20 page booklet called "Vermonters on Vermont." The summary notes that Vermonters do have a high degree of concern for the state's environment and that they support state and local environmental legislation and programs designed to protect our natural resources. Water quality is the environmental problem of greatest concern, the deterioration of our natural beauty is deemed less important and Vermonters aren't particularly worried about air pollution. Almost all of the principles of our major new environmental laws are endorsed by a substantial majority of Vermonters and they are optimistic concerning the state's quality of life in the years ahead. Copies of the summary may be obtained by mailing 25 cents to EPIC, 97 State Street, Montpelier.

Middlebury Chamber Considers Curb Cuts

The Middlebury Chamber of Commerce has been admitted as a party in a local zoning dispute involving a proposed shopping center on Route 7 south of the city. The Chamber's entry into the controversy reflects language in the Addison County Regional Plan which establishes a policy "to minimize curb cuts for direct service onto these highways (including Route 7) and to establish a suitable measure of influence over the design of curb cuts." At issue is an application from a Worcester, Mass., development firm which specializes in the construction of strip discount shopping centers. It was pointed out during a late January hearing that there is an existing state aid access road to the site of the proposed Route 7 development. State officials suggested the existing road could be utilized to create a planned shopping center without the multiple access points which the Worcester firm wants. The Vermont Highway Board has adopted a policy of minimizing curb cuts and this will be further refined in legislation pending before the General Assembly (see The Governor's Message). Unlike a similar problem in Brattleboro, it is reported that the Addison Regional Planning Commission, despite the language of its own plan, is not actively intervening in the dispute. The hearing was recessed after the developer was unable to say what he would do with eight acres of blacktop runoff which would flow directly into Otter Creek.

The Governor's Budget

"The budget is a superb deflator of rhetoric." R. M. Nixon, January 24, 1972.

Governor Davis has increased by almost \$500,000 his recommended environmental protection budget for Fiscal 1973 over 1972. The Governor's recommendations jibe with requests submitted by the state environmental agencies and include a recommended increase of \$484,491 for protection and control programs. Fiscal '73 recommendations were pared by \$50,000 however in programs relating to resource conservation and facility improvements. The largest single account boost was \$460,873 for water supply and pollution control. Small increases over '72 were recommended for outdoor advertising control and protection and planning. Davis wants funds earmarked for forest management upped by \$134,212 plus an additional \$51,000 for sign removal compensation over '72. He also wants funds for habitat control raised by \$208,303 and proposes a \$33,088 hike in the budget for Forests and Parks. This was offset by cuts of \$50,000 in the recommended Highway Department budget for forests and parks roads and \$7,725 for Fish and Game maintenance.

The Legislative Ledger:

Environmentally related legislation introduced during the first month of the 1972 session of the Vermont General Assembly includes:

Number	Sponsor	Purpose	Committee
H 343	Orcutt	Dedicates highway trust funds solely for highway purposes.	Gvt. Opns.
H 379	Esposito	Exempts steam engines from air pollution regs.	N. R.
H 382	Powell	Sets graduated fees for electrical energy use; makes prices competitive with oil heat.	Commerce
H 396	Free	Restricts operation of snowmobiles	G. & M. A.
H 402	Graves	Sets property appraisals at current use	W. & M.
H 407	Graves	Makes glass containers returnable; taxes other beverage containers; creates litter fund.	N. R.
H 411	Hebard	Permits towns to authorize open burning of natural wood at sanitary landfills.	Mun. Corp.
H 421	Orcutt	Limits minimum lot sizes to no more than one acre per family.	Mun. Corp.
H 424	Burns	Consolidates procedures for Act 250 permit applications within single districts.	Gvt. Opns.
H 435	Environmental Agency	Prescribes civil penalties obtainable for violations of developmental laws.	Judiciary
H 441	Collins	Taxes non returnables, requires dealers to accept returned containers.	W. & M.
H 442	Collins	Regulates installation of private sewer and water systems to minimize pollution hazards.	H. & W.
*H 446	Cutts	Places air pollution regulation within the Environmental Agency; establishes standards.	N. R.
*H 441	Cutts, Graf, Hutchins	Flood Plain zoning regulations.	N. R. (Favorable)
*H 460	Environmental Agency	Limits highway curb breaks to restrict strip development along state owned & aided roads.	Highways
*H 467	McClaughry	Creates a land trust to which property can be dedicated. Sets up sinking fund from gas tax.	W. & M.
H 474	Collins	Creates state operated recycling centers; gives junk yard licensing authority to environmental agency	N. R.
H 491	Steventon	Requires approval of governor and legislature for flood control dam projects.	N. R.
H 492	Steventon	Requires property assessment to conform to "most intensive use" permitted in state land use plans.	W. & M.
H 493	Steventon	Makes Route 100 a scenic corridor	Highways
H 501	Burns	Creates a Vermont Electrical Power Authority	Gvt. Opns.
S 142	Boardman	Permits issuance of industrial development revenue bonds to finance waste and pollution control projects	Finance
S 155	Hayes	Requires P. S. B. approval for nuclear plants; subjects licensing to the authority of the legislature.	N. R.
S 159	Simpson	To attempt to obtain voluntary compliance with conservation statutes prior to prosecution.	N. R.

Legislation from 1971 still awaiting final disposition includes:

*H 100		Prohibits sale of beverages in non-returnable containers.	Senate Finance
*H 80		Amendments to Municipal Planning and Development Act.	Senate N. R.
*S 48		Provides for citizens suits for environmental protection.	Senate Jud.

*Denotes bill deemed to be of particular significance.

The Stratton Slalom

Frank Snyder, president of Stratton Mountain and the head of the National Ski Areas Association, seems to feel Act 250 is a terrific law—except when it is applied to Stratton. Last Fall, Snyder was complaining to his fellow NSAA members that Act 250 and Act 252 had stopped Stratton "dead in our tracks," insofar as lift capacity expansion is concerned. The issue is worth examining from the perspective of state officials who dealt with Snyder's expansion plan. Stratton had come before the Windham District Environmental Commission with an application to add two new ski lifts and 50 acres of trails. Officials of the corporation, whom environmentalists concede have a history of sensitivity to ecological issues, promised to meet a series of stipulations required by the DEC, most of which related to severe traffic congestion along the resort's state-built access road. Traffic signals would be installed, Stratton spokesmen said, and the road thoroughly policed. Then came the question of capacity. The Stratton people said they had no idea exactly how many skiers they accommodated on busy weekends but guessed around 7,000. The commission said this was beyond the carrying capacity both of the ecological system surrounding the mountain and the resort's sewage treatment plant. They went on to say that since the latter could handle a maximum of only 74,000 gallons a day and peak skier traffic generated three times that much, then ticket sales would have to be reduced. The DEC emphasized that it did not want the new lifts and trails to attract more people. Stratton then estimated that the conditions imposed by the DEC would force them to confine ticket sales to 4,600 skiers per day. Harvey Clifford, Snyder's second in command, said the proposed conditions could be lived with. "But," he added, "we would prefer not to."

Stratton's primary argument was that there would be no water pollution resulting from additional skier traffic because the mountain's parking facilities were inadequate; i. e. no place to park, no more skiers, no water pollution. The DEC's decision has the effect of assuring that no expansion could take place at Stratton before existing sewage disposal problems were eliminated. As a further stipulation, the DEC required Stratton to go before the Water Resources Board in November to obtain a pay to pollute permit. Instead of asking for authority to discharge at something comparable to the sewage system's 74,000 gallon capacity — a rate consistent with the 4,600 skiers they said they could safely accommodate — Stratton asked the board for authority to discharge 175,000 gallons a day, plus permission to store and carry away another 60,000 gpd. Why, one might wonder, was permission for a discharge load far in excess of the system's capacity necessary when the Environmental District Commission had limited the number of skiers in accordance with the capacity of the existing system? In threading a slalom course between the DEC and the Water Resources Board Stratton had attempted to "play off one department of state government against another," according to Ken Senecal, executive officer of the Environmental Board. Senecal who was the Windham DEC coordinator when the Stratton application was heard said, "They told us one story and Water Resources another." Snyder's story doesn't vary that much, however. He continues to insist that the state "keeps changing water quality standards." Senecal observes: "If a corporation is discharging 175,000 gallons a day in a plant designed for 75,000, how does this constitute a change?"

Ryder Pond Revisions

Praised by Jackson

One of Act 250's landmark controversies may soon be resolved. Haynes Brothers, Inc., owners of Whitingham's Ryder Pond, are reported ready to resubmit a substantially modified Act 250 application, the original denial of which touched off perhaps the largest single controversy since the enactment of the law. More than a year ago the Environmental Board, ruling that Ryder Pond was a "rare and irreplaceable" natural area rejected a 250 appeal calling for a 38 lot subdivision which would have permitted Haynes Brothers to drain some 75,000 to 90,000 cubic yards of marshland. Biologist Hub Vogelmann testified that Ryder Pond was one of the state's 15 to 20 best natural bogs and that such bogs are particularly rare in Southern Vermont. The Board voted to uphold the district commission's decision to deny the application but allowed the case to be reopened. Governor Davis commented at the time that the Ryder Pond controversy "comes awfully close to the line" between police power and eminent domain and Schuyler Jackson, assistant secretary of the Environmental Conservation Agency, said the matter raised "some frontier issues concerning the state and the individual" and poses "the most deep constitutional and philosophical questions in regards to man and his environment." Now Jackson, after spending several hours with Lincoln Haynes in late January says the revised application "has satisfied all of our agency's original objections." He said he examined "new designs and concepts" developed by Haynes' engineers and praised them as "outstanding." Jackson went on to say that Haynes Brothers have "taken advantage of the pond's environmental quality and its uniqueness as an ecological phenomenon rather than destroying it." The modified application is seen as forestalling a court test of Act 250 which many thought would be highly significant in clarifying some of the issues raised by both Davis and Jackson concerning the state's police power.

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Try It... You'll Like It

Rep. Frank W. Hatch, Republican floor leader in the Massachusetts House of Representatives and president of the Vermont based Merck Forest Foundation, is sponsor of a bill which would implement a land planning policy in Massachusetts directed by an "Environmental Board and District Commissions." Most of Hatch's bill is not a carbon copy of Act 250—it's a Xerox copy.

Davis Intervenes In 250 Petition

For the first time since the enactment of Act 250, Governor Davis has intervened in an application pending before an environmental district commission. Acting on the request of Joe Teller, associate director of the Windham RPC, Davis has submitted a memorandum outlining his objections to a proposed 700 unit campground in the unorganized Windham County town of Somerset. In his letter to the Governor, Teller pointed out that the state of Vermont "is the guardian of Somerset," that regional planning commissions are without jurisdiction to plan for unorganized towns and that there are "serious issues concerning planning" for Somerset. Among these, Teller noted, is the fact that Somerset has 2,000 unregulated acres under private ownership. At issue is a permit application for a 700 unit campground, which would be Vermont's largest, on a 287 acre tract. Davis wrote to George C. Ware of Newfane, Somerset's supervisor, stipulating 12 conditions, ranging from site development to sanitation, the Governor felt must be met as prerequisites for an Act 250 permit. One of these was the requirement that the number of units be reduced to 250.

The Vermont Environmental Report will be produced and distributed by the Environmental Planning Information Center (EPIC) for the next six months as an informational experiment. The publication is an outgrowth of a review by the VNRC's publications committee of the newsletter program. Council members will receive VERMONT ENVIRONMENTAL REPORT instead of NEWS NOTES. The publication will also be circulated to members of the Lake Champlain Committee, the Vermont League of Cities and Towns and the Vermont General Assembly. Comments and criticisms are welcomed.