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# VERMONT ENVIRONMENTAL REPORT

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## **Senate Committee Shelves Bill Softening NEPA Nuke Standards**

The Senate Committee on Interior has tabled a House-passed bill which opponents claim would weaken National Environmental Policy Act restrictions relating to the licensing of nuclear power plants. The committee's action on the proposal, which was supported by the Nixon Administration, effectively kills its chances for enactment this year. The legislation would have granted interim operating licenses to nuclear power plants even though they had not completed the drafting of environmental impact statements required by NEPA. Members of the committee, led by Sen. James L. Buckley (CR-NY), argued that the bill would have provided an unfortunate precedent for weakening NEPA.

The Atomic Energy Commission, however, which earlier this year said court decisions made amendments to NEPA necessary, said it planned to issue interim nuclear operating licenses anyway, despite the Senate committee's action. Critics of the AEC contend the agency feels the amendment was unnecessary in the first place and was sought only to possibly forestall court challenges to the interim licensing practice. The only pending application for an interim license has been filed by Vermont Yankee Nuclear Power Corp. which seeks authority to operate its Vernon plant at full power in time to meet anticipated heating requirements this winter. A court challenge to that application is anticipated.

## **Massachusetts To Conduct Use Value Tax Referendum**

Massachusetts voters will be asked in November to approve a constitutional amendment authorizing the state's legislature to prescribe a system of current use property assessment, "for the purpose of developing and conserving agricultural and horticultural lands." Specifically, the ballot question would permit the legislature to authorize preferential valuations on farmlands with the stipulation that the revised assessment not apply to land which is "less than five acres in area or which has not been actively devoted to agricultural uses for the two years preceding the tax year." Such holdings would continue to be assessed at fair market value.

Bay State conservationists give the referendum question mixed reviews. Opponents feel the revised assessments could make farmland more attractive to speculators because such holdings acquired for development could be retained for longer periods under the proposed preferential rate. Others also argue that the definition in the proposed amendment is too narrow and makes no provision for open lands not classified as agricultural.

The Massachusetts Land League says operating farms in the Bay State have shrunk to 6,200 from 1945's figure of 38,000. Farmland in Massachusetts which is surrounded by housing developments is required by law to be assessed at the valuation of housing lots. In practice, however, local assessors frequently do not value the land in accordance with its fair market value and proponents of the referendum argue that it would merely make this common practice legal.

## Recreation Water Restrictions Now In Effect at Several Sites

The first rules under a 1970 law aimed at controlling the growing competition among recreational uses of surface waters are in effect this summer on some of Vermont's lakes and ponds. The law authorizes the Water Resources Board to write rules for surface water use after receiving a petition from at least ten residents or from the selectmen of the town in which the body of water is located. A hearing is required. Since June, the Board has adopted rules for Silver Lake in Barnard, Stoughton Pond in Weathersfield, and North Springfield Reservoir and it has issued proposed rules for Bomoseen Creek in Castleton, Burr Pond in Sudbury, and Woodward Reservoir in Plymouth. Action is pending on requests from residents of Shadow Lake in Glover and Lake Dunmore.

The rules are tailored to specific situations. Generally they state which uses of the surface water are permitted, where, and at what time. The most frequent disputes have been between motorboaters and those preferring other types of boating and objecting to the noise, speed, and oil slicks caused by motorboats. The Board has taken several different approaches. At Stoughton Pond and North Springfield Reservoir, a 5 mph speed limit was imposed, in effect preventing water skiing from developing. Silver Lake rules allow four motorboats to operate at one time for water skiing between 10 a.m. and 6 p.m. The proposed rules for Woodward Reservoir limit boats launched at the Fish and Game Access to 10 horsepower and a speed of 5 mph, presumably adequate for fishing. All boats must observe a 5 mph limit in the narrow northern end of the lake. There is some pressure to exclude motorboats entirely at Silver Lake and Woodward Reservoir. Some residents suggest that smaller lakes such as these should be reserved for non-powered types of boating. The law calls for consideration of use prior to regulation and for provision for all normal uses. So far the only use forbidden altogether by the Board has been houseboats.

Experience with the rules indicates that enforcement may be a problem. The rules are enforced by the Marine Division of the Public Safety Department which also enforces boating safety rules, but the division does not have the manpower to keep a close eye on all lakes, a more complicated job when rules differ from place to place. Enforcement is also difficult because zones designated for certain uses are usually not marked. Residents object to buoys as unsightly and the question who would pay for them remains unanswered.

### Mad River Madness?

"You've gone from an independent, self-reliant community to a group of people who provide services for the out-of-state wealthy that come and go when they please. You've got people there that were independent farmers and mill workers and merchants, who have become hash-slingers in restaurants, cooks in hamburger joints, chambermaids, garbage carriers and snowplow operators. The Village of Waitsfield is pretty much dead now. All the economic activity is located on a highway strip south of the village and on the mountain road. The same thing is happening to the Village of Warren.

"The developments bring more jobs for slinging hash and plowing snow. But the identity of our towns is changing significantly in the process and its not changing for the better. These developments are burying our towns. We're getting more and more of these developments every day. The situation is getting worse and banks and other financial institutions are encouraging the developments to become bigger and more intensive. The pressures are enormous. They say the developments will help the town. But if taxes go up we're swamped with social problems, the poor have no place to live and the cost of living is higher than ever. How can those things be a help to our town?"

*David Sellers, Warren architect and planning committee member, who appeared before the District Five Environmental Commission last month during a hearing at which plans were reviewed for a variety of developments in the Mad River Valley.*

### Marlboro Zoning Meets Court Test

Marlboro's zoning ordinance, which requires an increasing average lot size as the number of units in a development rises, has withstood a constitutional challenge. The Windham County Court has ruled that the regulations, adopted in 1971, were not arbitrary or unreasonable and did not result in a confiscatory taking of land. The sliding scale starts with a 2-acre average lot size for one to two units and reaches a 9-acre average lot size for 31 or more units. Lots may be different sizes as long as the average size meets the minimum requirements. Marlboro now has a year-round population of about 400 and is located between the ski developments of Dover and Wilmington and the town of Brattleboro. Much of the town has a slope of 15% or more and 98% of its soils have severe limitations for septic systems with filter fields. Owners of property near the Hogback Mountain ski area who wanted to subdivide 18 acres into 9 lots challenged the ordinance. Nine units would require an average of 4 acres per lot under the ordinance. An appeal to the Vermont Supreme Court is expected.

## Regional Commission Executives Evaluate 250 Planning Problems

*(Previous issues of the Environmental Report have examined the attitudes of the Republican gubernatorial candidates and prominent state officials concerning the content and purpose of the state-wide plans mandated by Act 250. This month we consider the viewpoints of four individuals who will be among those closely associated with both the public review process as the plans are developed and with the implementation of the plans—directors of four of the state's regional planning commissions.)*

**Lee Williams, Central Vermont** envisions the 250 plans as advisory documents which will define policies, "and policies change from week to week and month to month." Williams sees the plans altering from specific documents at the local level to more general statements as they consider broad state policy. Local plans, says Williams, will have to have the most stringent controls because of traditional Vermont insistence on the predominance of local government administration. Williams says a primary difficulty is the local resistance to long range planning until suburban-type developmental pressures are evident. "Townpeople usually don't have the experience or resources to formulate comprehensive land use plans," says Williams. "By the time the towns commit themselves to land use planning programs they often find problems which could have been avoided had they moved earlier."

Williams said the district task forces "are not as valuable in the actual planning process as they are for education." He feels that although the task forces had consulted with regional planning commissions and were valuable from a public relations standpoint they had not made a sufficient effort to obtain suggestions from the average citizen. He also said the Environmental Board "may make recommendations but has no control over an actual plan" and that tax policy wouldn't be incorporated in the 250 plans.

**Charles Carter, Northeastern Vermont** sees no necessity for "state-wide zoning." He also is convinced that regional plans should be the basis for the state land use and land capability plans. Carter points out that legislative approval of "specific statements about Vermont's future" (such as might be incorporated in a zoning document) would be difficult to obtain. He feels the people of northern Vermont don't fully comprehend problems in the southern part of the state and that the southern counties "don't realize the real employment problems the northern part of the state is facing." Carter favors state incentives to assist communities which are preparing zoning ordinances.

**Ray Willis, Addison** views the state plans as a "smoothed out conglomerate of local plans." Vermont towns, says Willis, should adopt a plan then work with other communities in their regions to blend the plans in to a single regional document. The same strategy, he says, should be applied to state-wide plans. Willis is worried about specificity in the state plans because "if there is very much change from the town-adopted plans they (the 250 plans) won't be adopted." Willis added that if more towns were involved in the planning process the state plans would have a better chance of passage.

"It's taken nearly two years to get as far as we are now," says Willis. The problem is time—you're not going to do it overnight. They shouldn't try to force a plan through. If it takes two more years to do it right that's better than trying to change (plans) after the land has been committed to a particular use." Willis went on to say that Vermonters are complacent until they learn about particular instances where land was misused. He says 90 percent of a regional planning commission's job is public relations and education. He plugged for state funding of regional commissions because they are working with communities and hence could become a valuable link between state and local planning efforts.

**Art Hogan, Chittenden** wants the act 250 plans to reflect some of the natural resource priorities set forth in the Becker Research Corporation survey. But he also believes "economic factors have to be considered . . . we have to aim for orderly growth." Hogan feels the creation of jobs for Vermont's existing work force should be a high governmental priority. He also said that if a tax policy were not coordinated with the state plans they would have little affect on changing land use.

Hogan says that if the state plans don't mesh with local and regional documents "something is very wrong with the planning process." He too feels the state plans should be a composite of the best of local and regional plans but adds: "I don't think we can design a plan as a mosaic of small plans because that wouldn't take into account the overall state-wide considerations." Hogan sees a common thread running through the task force reports and feels a state plan should reflect this.

Hogan also envisions jurisdictional difficulties in the implementation of the 250 plans. He is concerned, for example, about who will exercise the ultimate control over land use. "If a town wants a development and the state is opposed to it who will have the final say?" he asks. Hogan summarized his view of the problem this way: "When we get people to see beyond 'My Town' to the overall area, land use planning will become more effective."

## **Maine Weighs Extensive Development Moratorium**

The Maine Land Use Regulation Commission is considering interim regulations which would place a three-year moratorium on all development along the shores of lakes and major streams in the state's ten million acres of wildlands. The area contains the headwaters of all Maine's major rivers. About \$250 million is being spent to clean up the lower portions, and there was strong feeling in the last legislative session that efforts should be made to ensure there was no pollution upstream. Most of the land, which covers roughly the northern half of the state, is owned by paper companies. As its value for recreational development soars in comparison to an estimated \$1 an acre return from forestry, the companies are beginning to build recreational developments or sell their land for such use. Several are already involved in fairly extensive recreational projects around Moosehead Lake and at Sugarloaf Mountain in the Carrabassett Valley.

Vermont is in a similar, though smaller scale, situation. More than 600,000 acres are estimated to belong to paper companies including over half of Essex County. St. Regis Paper Co. has proposed a small development in Averill. More permit applications are expected as Interstate 91 nears completion and land values continue to rise.

The staff of the Maine Land Use Regulation Commission has suggested regulations which would place in protection districts all land within 250 feet of lakes and of streams draining at least 50 acres, as well as land with a slope of more than 60 per cent or over 2500 feet. Part of their proposal is based on the work of Prof. H. W. Vogelmann of UVM. The great bulk of the wildlands covered by the interim regulations, due to be issued in mid-September by the Commission, would be put in management districts in which the activities of paper companies would be unregulated. Already developed areas would go into development districts and some surrounding areas would be placed in holding districts for later development.

Considerable opposition to the protection districts surfaced at hearings on the proposed regulations last month. Although they would put at most ten per cent of the land in protection districts, the regulations would halt additional development on the area's 3,000 lakes and numerous peaks during the three years they would be in effect. Maine's three-phase land use planning program for its unorganized wildlands calls for proposed interim regulations this September, a long range comprehensive plan by July 1, 1973, and permanent regulations by September 1975.

### **A Thought From Chairman Peg . . .**

Two young Vermonters were married earlier this month on a hillside near the Connecticut River. In the wedding invitation, the prospective bride's parents said the couple "have requested that in lieu of gifts, contributions be made in their name to the Vermont Natural Resources Council. This, the invitation went on to say, "is an environmental organization concerned with the future of the state they love."

As I near the close of three eventful years as your Council chairman it is a pleasure for me to reflect on many of the interesting and exciting activities in which I've been privileged to participate . . . I think we've made a meaningful contribution to the public dialogue which has moved our state forward so dramatically and decisively in the field of environmental management.

But first and foremost it is people who give meaning and vitality to an organization. People like the young couple beginning a life together in the state they love with a commitment not to material enrichment but to the goals of an organization concerned with the future of that state.

It is indeed a marvelous complement. More than this, however, it is a challenge to those of us at the Council to redouble our efforts and make ourselves and our organization worthy of the trust this young couple has placed in us. We shall do our best to be worthy of this trust.

Peg Garland

### **Shoreland Zoning Edicts Delayed**

Shoreland zoning ordinances were to have been in effect in all towns by June 1, but the state model regulations, required by a two-year-old law, have yet to be issued and few town officials have shown any inclination to go ahead on their own. The draft model state regulations are now expected to be circulated for comment in early September. Regulations used in Maine, Minnesota, and Wisconsin were considered in drafting the Vermont version, which will provide minimum standards for lot size, frontage, setback, and sewage disposal as well as requirements for administration and enforcement. If a town fails to adopt regulations at least meeting the minimum standards, the Water Resources Board is charged with establishing them for the town.

## **Environmental News Highlights During July Included . . . .**

**ISLAND POND**—Luther F. Hackett of South Burlington, a candidate for the Republican gubernatorial nomination, said Vermont should limit its population growth rate to two percent annually to avoid "radical change in the state." Hackett's statement was apparently viewed as somewhat controversial even though a two percent annual growth rate would represent a substantially faster tempo of population increase than Vermont experienced in the dynamic period of the late 1960's. A two percent annual increase would boost Vermont's population by almost 90,000—to 542,000 by 1980—over the 1970 census. The Vermont Planning Office predicts a 1.2 percent annual increase which would bring the state's population to almost 498,000 by 1980. A survey conducted last year for the Vermont Natural Resources Council by the Becker Research Corporation showed that almost seven out of ten Vermonters want the state's population to either stabilize or decrease.

**MONTPELIER**—The Davis Administration has vetoed Vermont participation in new interstate highway proposal linking Bethel and Pownal via the Route 7 corridor and Sherburne Pass. The governor's office said it supports improvements in Route 7 but was firmly opposed to the construction of another interstate highway into and through Vermont.

**SHELBURNE**—The Lake Champlain Committee recommends that a proposed coho salmon stocking project not be conducted. The LCC study of the concept concludes: "In the absence of accurate knowledge of existing fish populations, the stocking of an exotic predator would be irresponsible." The committee does support development of the lake as a cold water sport fishery, however, and is urging environmental agencies in Vermont and New York to give higher priority to the development of lake trout and Atlantic salmon fisheries.

**ALBANY, N.Y.**—Gov. Nelson A. Rockefeller has endorsed as state policy a master plan for the use of 2.27 million acres of state-owned land in the Adirondacks. The plan, submitted to Rockefeller by the Adirondack Park Agency after a series of public hearings, classifies almost a million acres as wilderness area. The planning documents are described as "guidelines" which are given the force of law by Rockefeller's approval. Still to be resolved is the more controversial issue of private development of lands in the six million acre state park. These planning documents must be submitted to the governor and the legislature in January. Peter S. Paine, a member of the commission and counsel for the Lake Champlain Committee said the plans for private development in the park will be as crucial to the future of the Adirondacks as Act 250 was to the future of Vermont.

**MONTPELIER**—Unable to agree on a single strategy, a special legislative committee investigating educational financing has agreed to submit two alternative proposals to the 1973 General Assembly. The committee, meeting at the direction of the 1972 adjourned session, opted for both an equalized state-wide property tax concept and for a "power equalizer formula" which would enable towns to set their tax rates and the state to determine an average per pupil cost. Under the first option, funds would be collected and dispersed by the state on a per pupil basis. The second strategy would parcel state aid in accordance with local tax effort and a community's ability to pay.

**MONTPELIER**—Peg Garland of Burlington and Jonathan Brownell of Calais, chairman and vice chairman of the Vermont Natural Resources Council, have won the American Motors Corporation's conservation awards for "major achievements in the area of conservation." Bronze medallions were presented to the V.N.R.C. officers by Gov. Deane C. Davis.

**WARREN**—Sugarbush Valley officials have released development plans anticipating a population of 3,000 residents and 9,000 skiers for the Mad River Valley resort. The projections were submitted to the District Five Environmental Commission in conjunction with the company's request to construct a 160,000 gallon per day sewage treatment plant. The plans were submitted following a hearing in June during which Assistant Secretary Schuyler M. Jackson of the Agency of Environmental Conservation pressed both the commission and the board for growth projections. Sugarbush officials offered a disclaimer to the plans which stated that they "should not be taken as a limitation upon adding to the capacity of the facility" or changing the growth estimates "as time and circumstances dictate." But the submission of the documents was seen as a potentially significant precedent in the future consideration of similar requests from other ski resorts.

**PERU, N.Y.**—Former State Planning Director Leonard U. Wilson says the threat of small, single unit development may be just as critical to Vermont's environment as more massive multi-unit projects. Wilson told the annual meeting of the Lake Champlain Committee that while Act 250 can control larger developments "Vermont can be hurt immensely by the scatter of single homes across the landscape, a situation that in no way serves the public interest well." Wilson said local governments haven't effectively controlled this type of land use.

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### **Planning Questionnaire Responses**

An analysis of responses to a questionnaire distributed to Vermonters attending the series of public meetings held during May and June on the Act 250 plans was presented to the Environmental Board last month by representatives of the V.N.R.C.'s EPIC project. The questionnaires were distributed at six of the seven meetings and 70 percent of those attending these sessions—almost 1,000 Vermonters—filled them out.

While no representation was made that the respondents represented a statistically valid cross-section of Vermonters, the findings did underscore the results of last year's survey by the Becker Research Corporation which reflected the viewpoints of a scientifically selected sample. The data presented as a result of the survey findings disclosed:

—That 51 percent of the respondents think environmental management will be the single most severe problem facing Vermont over the next ten years.

—That 82 percent feel agriculture should be encouraged to grow in Vermont but only 12 percent support growth in the second home construction industry.

—That 57 percent feel out-of-staters should be discouraged from acquiring either vacation homes or permanent homes in Vermont.

—That 14 percent feel industrial and commercial growth should be encouraged with 65 percent feeling this type of activity should be stimulated where employment is needed and where environmental capabilities permit it.

—That 60 percent support some form of mandatory land use controls—either state or local—and that if state intervention is deemed necessary it should take the form of locally implemented requirements rather than state-imposed standards.

—That 87 percent support assistance to small farmers which would encourage them to stay in business.

—That 81 percent support the purchase by the state of open space easements and scenic lands.

### **Architectural Environment Course Offered**

Vermont's historic and architectural resources which, it is argued, are not given adequate consideration in the Act 250 planning and permit procedure, will be the subject of a new course offered in Montpelier this fall. "Architecture in Vermont's History" will be given by Chester H. Liebs, assistant director of the Vermont Historic Sites Division, with the cooperation of the University of Vermont and the Vermont Historical Society. In addition to a survey of Vermont architecture it will include the formation of working task forces to develop preservation plans for threatened buildings or sites in the state. The course will be given at the Pavilion each Tuesday night beginning September 12.