

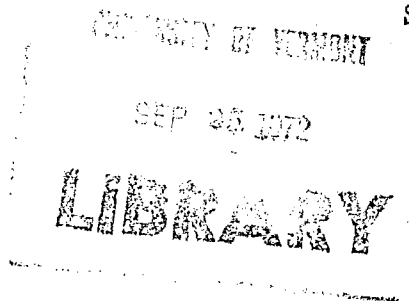
# VERMONT ENVIRONMENTAL REPORT

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## KENNEDY CALLS PLANNING CONFISCATORY CLAIMS COMPENSATION MAY BE REQUIRED

The Speaker of the Vermont House of Representatives has described land use planning as a form of confiscation and says land owners should be compensated for losses incurred when the use of their property is limited. Representative Walter Kennedy of Chelsea, who is expected to be a key figure in the consideration of the Act 250 plans by the 1973 General Assembly, also says that a land use plan can be enacted before reforms in educational financing are passed next winter.

Kennedy's statements came during a panel program on land use taxation held late last month in Morrisville. Other participants, including Representatives Peter Giuliani of Montpelier and Emery Hebard of Glover and Frederick P. Smith, president of the Burlington Savings Bank and a senatorial candidate, agreed that a graduated capital gains tax on real estate transfers is necessary to curb land speculation. But they disagreed on whether a land use taxation program should precede, or be dictated by, a land use plan.

## LAKESHORE ZONING (CONT'D)

Three months after the deadline set by the legislature to zone all unzoned Vermont shorelines, Vermont is still without regulations. Forrest Orr, director of planning for the Agency of Environmental Conservation concedes the task is proving more difficult than was originally thought but he says he's now working on model regulations patterned after those recommended for use in Maine.

But Tom Gorman, who is evaluating water resource planning in New England for the Federal Environmental Protection Agency, says the Maine code is far from ideal. He called the Maine standards "ambiguous" and said community's in that state have had difficulty implementing them.

## VELCO STATION DECISION

### EXPECTED IN SEPTEMBER

Burlington's Intervale area is hanging on to its strong position in the race for the site of VELCO's 277-megawatt combined-cycle generating station. A study by the special Committee to Evaluate the Intervale Power Plant recommending against use of the flood plain site was not discussed at a late August meeting which had been expected to narrow the number of locations in the running from eight to two. A decision on the primary and alternate sites for the facility which VELCO hopes to have in operation by 1977 was delayed until mid-September. The Intervale study, prepared by several members of the UVM Geology Department, raises questions of soil suitability, effect on fisheries, and possible air pollution and fogging.

The seven other areas being considered by VELCO are all in Chittenden and Franklin Counties. They are Mill River at Georgia, whey plant site at East Georgia, Milton, Colchester Pond, Williston, Essex, and Winooski. The company wants a site close to the Essex Junction load center to minimize the need for additional transmission lines. Other requirements include an area of 100 acres within a mile of the railway, and a half a mile of adequate water supply, some screening, and subsurface support capability of 4,000 pounds per square foot.

VELCO plans to petition the Public Service Board in December for the Certificate of Public Good required to start construction of the plant which will be built by Westinghouse Electric Corporation.

### ENVIRONMENTAL INSPECTORS ON THE JOB SOON

The Agency of Environmental Conservation hopes to have three environmental inspectors on the job within a month. John Miner of Hyde Park, formerly with the state Agriculture Department, has been hired as supervisor of the new team. Miner will be stationed in Montpelier with the other two inspectors working out of Rutland and Morrisville. The three will check out complaints concerning developmental permits which relate not only to possible Act 250 violations but to subdivision regulations and mobile homes. They will also follow up on permit applications by spot checking developments which have been approved.

### EDITOR'S NOTE

The revised format of the Vermont Environmental Report reflects both the experimental nature of this publication and our desire to make it more informative and readable. The alterations were made largely in response to suggestions from our readers and will also enable us to spend a proportionately higher amount of the Report budget on editorial services. We are pleased by the many comments you have offered. Story suggestions are especially welcome.

PROPOSED SNOWMOBILE  
REGULATIONS POSTED

Proposed standards for the use of snowmobiles on Vermont's public and private lands have been advertised by the Agency of Environmental Conservation and will be the subject of a public hearing in Montpelier at 10:00 A.M. October 11. The proposed regulations would prohibit the use of snowmobiles on private or public lands unless the property involved is posted for snowmobiling or the individual has obtained the consent of the landowner.

The regulations relating to state lands would create a special use permit system under which snowmobile rallies, races and similar events could be held. They also spell out a variety of criteria for the designation of trails on public lands including potential damage to soil and vegetation and the necessity to minimize harassment of wildlife.

The proposals also state that trails and land designated for snowmobile use must "minimize conflicts between snowmobiles and other recreational uses on the same or neighboring public and private lands and to ensure the compatibility of such uses with existing conditions in populated areas."

DEVELOPMENT AGENCY ADVOCATES  
A SELECTIVE BECKONING POLICY

Deputy Secretary Charles Wiley of the Agency of Development and Community Affairs sees considerable merit in the new undevelopment mood which is rippling through several Western states. Wiley says he's sympathetic with statements by Oregon's Governor Tom McCall that tourists are welcome to visit but not to settle. And Wiley suggests that Western states could learn a great deal from Vermont's efforts to manage its growth which, the deputy secretary said, has included "discouraging 12 or 15 industries from coming to Vermont."

Wiley was asked to comment on a Time Magazine summary of the undevelopment phenomenon which has spawned organizations such as the New Mexico Undevelopment Commission and such slogans as "Think Small, Lesser Seattle."

Wiley said Vermont towns are working to determine their future economic orientations with Manchester and Woodstock opting for recreation and other communities such as Island Pond concentrating on industrial development. Wiley says Vermont now has an adequate amount of facilities for tourism but the state has to work on a higher percentage useage of its present attractions and accommodations.

But the Development Agency can do little about population control, Wiley said. He points out that a paradox exists wherein the more pleasant Vermont becomes as a result of public policy measures directed toward cleaner water and land use control, the greater will be the inducement for people to move here.

#### PERU PROPOSAL RECALLS HEMCO HASSLE

A proposal which may raise some of the same issues as the Hemco controversy two years ago was scheduled for Water Resources Board hearing September 14. Developer Lawrence Scalera has applied for a permit to build a dam on Flood Brook to create a 15-acre lake for a Peru subdivision. It would provide lake frontage for 22 of the 63 lots in his 126-acre Forest Mountain Estates, located east of Peru on Route 11. The design calls for an earth fill concrete core dam 330 feet long and 20 feet high. The Bennington District Environmental Commission is expected to grant an Act 250 permit for the project with conditions controlling septic tanks, docks, and motorboat use.

The Water Resources Board hearing was to determine the safety of the dam and whether it will serve the "public good". Matters considered include effect on scenic values, recreation, fish and wildlife, forests, natural flow of the stream, and town grand list. In the Hemco case involving a proposal to dam the Mad River in Waitsfield to create a lake about twice the size involved in Peru, the Board denied the permit on the grounds that it would alter scenic and recreational values, affect fish habitat and cause sedimentation.

#### NATIONAL LAND USE POLICY PROPOSALS

##### SCHEDULED FOR CONGRESSIONAL DEBATE

Two national land use policy bills, both of which seem objectionable to environmentalists, are expected to be debated in the Congress this month. S 632, offered by Senator Henry M. Jackson, D-Washington, which is regarded as the superior proposal, is nonetheless criticised as vague, general and lacking both a clearly defined statement of principles and effective regulatory provisions. The House bill, sponsored by Representative Wayne Aspinall, D-Colorado, is being attacked by conservationists because it could open single-use public lands to multiple-use interests, including a variety of commercial uses.

Critics contend the Jackson proposal vests too much authority in the federal bureaucracy without spelling out just what constitutes sound land use as a matter of national policy. Jackson is pushing for enactment of his bill during the current session to counteract the threat of Senate passage of the Aspinall package.

Aspinall's measure, H.R. 7211, is attacked as a mechanism for stimulating disposal of national parks, wildlife refuges and national forests and as a device to open the way for widespread giveaways of grazing privileges, lumber, minerals and other resources.

The Nixon Administration purportedly supports the House bill because it has lower funding levels and weaker stipulations for regulating development. But Russell Train, Chairman of Nixon's Council on Environmental Quality, is quoted by the New York Times as backing Jackson's measure.

STANDARD SIX MAY BE  
CATCH 22 OF ACT 250

Barre's Superintendent of Schools wants the State Department of Education to sponsor amendments to Act 250 which he believes would rectify a potentially serious flaw in its administration. Ernest Lyon has petitioned for changes relating to standard six in the law's permit criteria which pertains to the potential impact a development could have on a community's educational system.

Lyon's call for clarification grew out of a recent District 5 Environmental Commission approval of a 22-unit subdivision in Barre. Lyon, who was attending a school board meeting, did not appear at the hearing and did not enter written testimony. Yet he had earlier been quoted as saying that "an influx of any size" in the area where the prospective development would be located would force the city to construct a new elementary school.

Commission members said however that they can assess each application only on the basis of testimony offered at hearings and that they had no choice other than to approve the development. Chairman Dr. William Countryman said that school officials have often failed to offer what he considers critical testimony in similar situations. "I question a lot of times whether developments will create undue impacts on the schools," Countryman said, "but the school superintendents don't show up to testify so there's nothing the commission can do."

Lyon said he didn't appear because he didn't have enough information. Canute Delmasse, District 5 Coordinator, said he told Lyon the applicant's name, the number of housing lots involved and the date of the hearing. Dalmasse said the law doesn't require him to do this but that the commission members feel it is necessary. He said that to his knowledge no other district commission followed this notification practice.

Now Lyon wants the law to require developers to file copies of applications with local school districts. He also feels that the burden of proof as to whether or not a development would place an unreasonable burden on a community's educational resources should rest with the developer, not the community as is now the case.

Lyon feels that developments in Vermont have been "planned, approved by all the various planning commissions and constructed, all without school district knowledge, unless that knowledge came about by accident, through the news media or from other sources."

The issue of a community's capacity to absorb a large subdivision is expected to be cited with increasing frequency in the months ahead. It is probably the single most critical issue in the consideration of the mammoth King Hill proposal in Westford.

ENVIRONMENTAL NEWS HIGHLIGHTS DURING AUGUST INCLUDED...

BRATTLEBORO - Two well-known southern Vermont legislators have formally expressed their support for state-wide zoning. Representative Royal B. Cutts, R-Townshend, chairman of the House Committee on Natural Resources, and Representative Kenalene Collins, R-Readsboro, were among those indicating their support for this concept at a meeting of the Windham-South Windsor Act 250 planning task force.

MONTPELIER - Chairman Benjamin Partridge of the Environmental Board thinks that the Board should be directed by a full-time chairman who would also act as its hearing officer. Partridge suggested the board's work load indicates it should be structured along the lines of the Public Service Board and might also be renamed the "Land Use Control Board" to remove the "stigma" of the term "environmental."

SOUTH BURLINGTON - The New England Public Power Association has called on Congress to support a new power and environmental agency for the region which would administer the production and distribution of electricity. In expressing its firm support for the proposal offered by Representative Michael Harrington, D-Massachusetts, the association also heard a public power advocate declare that electrical costs in the region have jumped by 30 percent in the past four years with industrial rates escalating by twice that much.

MONTPELIER - Vermont is three years away from a complete halt to industrial pollution, according to Water Resources Commissioner Martin Johnson. But Johnson also declared that his department's efforts to abate pollution are impeded by a lack of staff. He complained that there are only four inspectors in his office and at least ten are needed to do an adequate job.

WASHINGTON - Vermont conservationists have protested Senator Robert T. Stafford's committee vote which tipped the balance against opening up the federal Highway Trust Fund for mass transit systems. Stafford's vote in the Public Works Committee was against an administration-sponsored proposal which would have offered an option to states and municipalities to divert their share of trust funds into mass transportation programs. The issue is expected to be considered soon by the full Senate.

BENNINGTON - The Conservation Society of Southern Vermont has decided not to appeal a U.S. District Court decision permitting construction of a Bennington bypass without an environmental impact statement. Judge James L. Oakes ruled the beltline could be constructed without the issuance of such a statement.

MONTPELIER - Secretary Robert B. Williams of the Environmental Conservation Agency has banned the use of trail bikes and all-terrain vehicles on state lands. Williams blamed both environmental and enforcement problems for his decision and said his division of Forests and Parks will post all trails not open to public use.

## PRISTINE STREAM RULING

### ANTICIPATED NEXT MONTH

A decision is expected next month in the first test of the pristine stream rule. The Water Resources Board completed hearings in August on the appeal by a Magic Mountain ski lodge which was denied a discharge permit because it is on a pristine stream.

Rule 10 of the Water Quality Regulations adopted in 1971 defines as "pristine" all streams over 1500 feet or with a flow of less than 1.5 cubic feet per second. It prohibits any new waste discharges into these streams and requires best available treatment for existing sources. Governor Deane Davis was among those who vigorously supported the pristine stream concept. He outlined his position both before the Water Resources Board and at last year's Governor's Conference on Natural Resources. Davis urged standards which would provide absolute protection from degradation to upland streams from both new and present sources of pollution, noting that it makes little sense to clean up downstream if the state's purer waters are at the same time being polluted.

Dostal's, the Londonderry resort involved in the appeal, has a secondary treatment plant which discharges into a stream eventually flowing into the West River. Since the stream's flow is under 1.5 cubic feet per second, it qualifies as pristine. Because the plant was built in 1969, it is the part of Rule 10 dealing with existing pollution sources which may be clarified by the Board's ruling.

## STATE SANCTIONS

### SKINNY DIPPING

In a delightful and widely reprinted series of "guidelines" issued a year ago, Chittenden County State's Attorney Pat Leahy, his cheek bulging with tongue, discussed the difficulties of law enforcement officers confronted with complaints (or even visual evidence) of nude bathing. Leahy's memo noted "the persistent rumor" that Calvin Coolidge himself "had engaged in such activity within the borders of this state while subject to Vermont laws."

Now the Water Resources Board has promulgated a series of regulations relating to the use of public waters of Woodward Reservoir in Coolidge's home town of Plymouth. And the standards straight-facedly sanction not only skinny dipping but bare boating.

"When not otherwise prohibited by law," the rules declare, "the conduct of any nude swimming, or the nude operation of or riding in, on or about any watercraft or similar device, shall be permitted only within the limits of such marked swimming area."

The regulations apply only to those owning shoreline on the reservoir but skinny dippers have hailed the board's decision as a visible improvement over the situation of just a year ago when a Washington County judge sentenced a Warren man to 20 days in jail for swimming nude in the Mad River.

## ENVIRONMENO

Among those appealing the Public Service Board's decision on the siting of VELCO's transmission line through South Burlington is Angelo Pizzagalli, a member of Common Sense Associates. . . .The Green Mountain Club's revitalized "caretaker" program, protecting Vermont's segment of the Long Trail, concluded on Labor Day. The trail underwent its most intensive use in history this year. . . .Davis Cherington of the Nature Conservancy has joined the staff of the VNRC on a part-time basis. Cherington will work in Vermont, Massachusetts, New Hampshire and Rhode Island on land acquisition problems but the majority of his time will be spent in Vermont. . . .The VNRC's EPIC project is co-sponsor of the booklet "Land Use and Development - Vermont's Environmental Programs" issued this month by the Environmental Agency. . . .Guilford voters have defeated zoning for the fourth time in four years. The town's interim ordinance expired September 1 and the community is reportedly under intense developmental pressures. . . .Dr. Gordon J. F. MacDonald has been named the first Henry R. Luce professor of Environmental Studies and Policy at Dartmouth. McDonald was an original member of the President's Council on Environmental Quality. . . .Peg Garland and Art Ristau of the VNRC will present a program on the Council's EPIC project in Boston next month at the opening session of the annual national meeting of the American Institute of Planners. . . . The UVM Extension Service will hold a two day housing conference beginning at 10:00 A.M. September 19 at the Given Building. . . .The annual Governor's Conference on Natural Resources will be held October 19 and 20 in Montpelier. Its theme will be "Vermont Forest Use - Transition and Conflict". . . .Five cars and a locomotive will make up the AMTRACK passenger train which begins service in Vermont September 29.

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