

VERMONT ENVIRONMENTAL REPORT

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26 State Street, Montpelier, Vermont 05602 (802) 223-2328 Editor, Arthur Williams

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VERMONT CONSERVATION BANQUET

The Honorable Russell W. Peterson, former Governor of Delaware, will be the guest speaker at the Vermont Conservation Banquet on Saturday evening, October 27, 1973. Named 1971 Conservationist of the Year by the National Wildlife Federation and the 1971 recipient of the World Wildlife Fund's Gold Medal award, Governor Peterson received national recognition in June 1971 when he banned further heavy industrial development of Delaware's coastline. It has been reported that Governor Peterson is in line to succeed Russell Train as Chairman of the Council on Environmental Quality.

The Vermont Conservation Banquet will mark the Tenth Anniversary of the Vermont Natural Resources Council. In addition to Governor Peterson's address, the after-dinner program will feature a tribute to the following individuals who were instrumental in the Council's founding and prominent in its early years -- Justin Brande, Cornwall; Dick Brett, Woodstock; Lucy M. Bugbee, Bradford; Kit Foster, Bennington; Jim Marvin, Burlington; Perry Merrill, Montpelier; Fred Mold, St. Johnsbury; Sam Ogden, Landgrove; Belmont Pitkin, Marshfield; Fred Sargent, S. Burlington; and Jim Wilkinson, Barre. The Banquet will take place at the Woodstock Inn in Woodstock, and will commence with a cash bar social hour at six o'clock. Dinner will be served at seven o'clock to be followed by Governor Peterson's address.

A Tenth Anniversary Fund with a goal of \$10,000 has been established to provide needed capital as the Council begins its next ten years. Monies received from Banquet ticket sales and additional tax-deductible contributions will be deposited in the Fund and be used for VNRC program support.

DAVIS JOINS VNRC BOARD

Governor Deane C. Davis was elected to the Board of Directors of the Vermont Natural Resources Council. The action was taken by the Council's Board at its quarterly meeting, September 25, in Brookfield.

VNRC Chairman, Jonathan N. Brownell expressed delight at Governor Davis's election saying, "The Governor is known and respected nationally for the forward looking environmental programs developed in Vermont during his administration. The Council is extremely fortunate to have a person of his interest and experience in environmental affairs on its Board of Directors."

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VNRC READIES ENVIRONMENTAL EDUCATION PROPOSAL:

The VNRC, which received a \$5,000 grant last year from the U.S. Office of Education to improve the coordination of environmental education in Vermont, has proposed the creation of an environmental education resources service. This proposal has been sent to a number of foundations in the hope that funding can be found to establish the service on a three-year pilot basis.

The idea is the outgrowth of the Council's preparation (with the Federal grant monies) of a state-wide inventory of environmental education activities and its sponsorship last May of a conference of environmental educators from all parts of Vermont to discuss their needs as practitioners of environmental education.

The Service is intended to stimulate and support activities undertaken at the local level and not to impose standards or criteria on schools or community groups. The Council's inventory indicated that there are many innovative and effective environmental projects and activities underway in Vermont. The conference made it clear that those in charge of these activities are often in need of information or advice on how to get the information they need.

Duplication of effort wastes time and money and the coordination that the Service can bring to the entire environmental education effort in the state will help significantly to promote the best use of limited financial and staff resources.

Among the functions that the Service will pursue are: (1) coordinate the offering of workshops for the instruction of planning and zoning commission members, zoning administrators and other public officials; (2) maintain lists of expert witnesses available to appear at hearings before environmental commissions, board of health and similar public bodies; (3) establish literature distribution service; (4) maintain telephone answering service; (5) publish a newsletter; (6) maintain the environmental education inventory; and (7) prepare bibliographic materials on learning methods, study guides, audio-visual aids and other resource materials.

Anyone wishing more information on the environmental education resources service or able to suggest sources of funding for the project are urged to contact Seward Weber at the VNRC.

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RE PROPOSED STATE LAND USE PLAN:

The State Planning Office has, over the summer, prepared a draft of a State Land Use Plan, the third and last step of the State Planning and Land Use Regulation Program instituted in 1970 as "Act 250." The Draft Plan has been issued, under date of October 1, 1973, and contains the following broad provisions:

1. A section of Legislative Findings, similar to the Legislative Findings incorporated in the Capability and Development Plan adopted in April 1973. They suggest "policies" of clustered settlement around existing villages and town centers, limiting

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development on productive land, and adoption of a state rate of growth based generally on a projection of present population and economic growth "trends."

2. A description of five proposed land use areas, which will be depicted eventually by a map. (There is no map included with the October 1 draft). The Draft Plan provides a procedure whereby a local plan and zoning bylaws can take precedence over the State Plan, provided the Agency of Development and Community Affairs "finds that the plan and bylaws of the local government further the State Plans," in which event the District Commission and Environmental Board apply the local plan and bylaws, instead of the State Plan, in determining whether or not a 250 application development meets the criteria of the law.

The draft then assigns "intensities of development", ranging from one "principal building" per 64 acres in the conservation area, one per 25 acres in the resource area, one per 6 acres in a rural area, and any intensity in the village area. These intensity of development requirements, however, will be supplanted in the District Commission's or Board's development proceeding by a local plan or bylaw which has been "found to further the State Plans." The draft also lists "allowable and conditional" uses within each of the five areas, granting discretion to the District Commission, in any 250 development hearing, to broaden or restrict the uses permitted.

3. The Plan includes a "public investment policy," for the purposes of planning and coordinating public capital expenditures which would have an impact on the State Plan. The State Planning Office would have a key role in approving or denying any state capital expenditure and also approving or denying any local capital project which would constitute a development within the jurisdiction of Act 250.

The 1970 adoption of "Act 250" provided the regulatory structure and basic natural resource protection criteria for certain large developments within the State; the 1973 adoption of the Capability and Development Plan, mandated by Act 250, expanded and more clearly defined those criteria protecting our natural resources, and also provided a base for the public regulation of both the location and rate of future growth and development within Vermont. The State Land Use Plan, the third and final step in the implementation of Act 250, is designed to allocate land uses on all of the State's land, by State law.

Some of the areas of concern, which probably will be addressed during the public hearings before the Environmental Board (which has the job of preparing the final draft of the State Land Use Plan) are as follows:

1. The purpose of the Plan must be specifically acknowledged: that it is a regulatory document, designed to permit or deny certain land uses, by certain developers, as a function of State law. In cases such as substantial developments above 2500 feet or in areas totally devoid of public facilities and services, the State Plan must be of specific, and as much of a regulatory document, as a local zoning ordinance. If the

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Land Use Plan does not perform this function, if it merely states "policy" or establishes "guidelines," the job, perhaps, could be better done through regional and local commissions with substantial input of funds and assistance from the State to the local level. If, however, the State Land Use Plan has regulatory effect over land uses, the text of the Plan, including the definitions and the list of uses must be sufficiently clear so that a Vermont citizen can tell precisely how the use of his land will be restricted. The land use map (mandated by Act 250) should be sufficiently clear to show landowners, district commissions, and the courts what use area a particular landowner is in. Furthermore, the Plan gives discretion and authority to District Commissions in their decisions as to whether or not a particular development will be permitted or denied. Experience at the District Commission level has shown that what may be "reasonable" to one District Commission may be "unreasonable" to its neighboring District Commission, a situation not conducive to uniformity of development standards which Act 250 contemplates.

2. A particular relationship between the State on the one hand and local and regional commissions on the other, in the preparation of the map, is suggested in this draft. The Land Use Plan, apparently in total, can be replaced by a local or regional plan and bylaws which are found by the Agency of Development and Community Affairs to "further" the purposes of the Land Use Plan. Reference is made to proposed amendments to the local and regional enabling act, Chapter 91, which are not included as part of this draft. Without those amendments, one is left with a concern as to what standards will be used by the Agency to determine whether a local plan "furthers" the State Plan. It has also been suggested that the local plans can take precedence over the State Plan even if they are less "restrictive," however, it is difficult to see how a local plan which would allow high intensity development in the area determined by the State as "conservation" or "resource" could be said to "further" the State Plan. Again, the key in this provision would seem to be the guidance and education of local and regional planning efforts to assure before the fact, instead of on a review basis, that the local components of a plan support the findings of a General Assembly policy of settlement or rate of growth.

3. Act 250, and the Plans that are adopted under it, affect and apply to only certain kinds of substantial developments. However, it is clear that the change and growth in our local communities, is caused not only by large development. The inherent growth of our communities, with increased ease of transportation to the rural towns outside employment centers, a gradual change of farmland to a single family dwelling, one-, two- and three-acre lot subdivisions for those who wish to live in the country are all part of the change occurring in Vermont. These developments are not subject to Act 250, and therefore, not subject to either the Capability and Development Plan or the State Land

Use Plan. Thus, unless the principles set forth in this Draft Plan are applied to more than just the substantial developments, the result might well be to prevent only those developments requiring large capital outlay, such as low- and middle-income housing developments, and clustered residential and recreational developments, and allowing the kind of development to continue which will rapidly erode the natural and scenic resources of our state.

4. Another issue which needs to be acknowledged and addressed, in the planning process if not the Draft Plan itself, is the equalization of the economic impact of land use controls. If one landowner's property is determined to be of greatest value to his community and to the State in agriculture or forestry, and another landowner's property is permitted, due to its location, to be used for high intensity residential or commercial use, the first landowner has had his expectations of profit from his land substantially decreased, whereas the second landowner has received, by virtue of the public decision, a windfall benefit.

No planning commission, and possibly no General Assembly, will wish to restrict the uses of land to the extent that landowners' expectations are materially reduced, even though the public benefit from those restrictions can be shown to be substantial. Thus, unless some provision is made for the equalization of the economic impact of State, regional, and local planning and zoning, the purposes and benefits of planning as provided for under Act 250 may not be realized. Adjustments and readjustments of the property tax appear to be only an interim solution, inasmuch as what is at issue is the economic value of a Vermonter's real property, as directly affected by State law.

THE LEGISLATURE RECOGNIZES THE BICYCLE

...Peter Franchot, Director, VERMONT TOMORROW

In a recent New York Times article, educator Ivan Illich casually mentions that 250 million Americans use more energy on motorized transportation than 1.3 billion Indians and Chinese use for all purposes, residential, industrial, and transportation. He advocates bicycles as an ideal form of transportation.

Apparently Senators Gibb and Bedford of Addison County agree, as their bill S.49 creating preferential bike lanes throughout Vermont is now before the House Highway Committee. The legislative findings of that bill contain the following assertion:

"The near total reliance upon the private automobile for ground transportation is increasingly inefficient, contributes to congestion and degrades the air with toxic auto pollutants."

This legislation has the potential of relieving not only the weekend recreational bicyclist, but also of providing facilities for the commuter who wishes to cycle to work during the summer. As a non-polluting non-motorized alternative to the automobile, the

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bicycle has no equal. On August 13, 1973 the Federal Highway Aid Act provided more than 2 million dollars of federal funding to Vermont for the construction of bicycle routes or lanes in the state.

For information about bicycling in Vermont write to the Division of Recreation, Agency of Environmental Conservation, Montpelier for the booklet Bicycle Touring in Vermont (75¢).

CALL TO VNRC MEMBER ORGANIZATIONS FOR
NOMINATIONS TO BOARD OF DIRECTORS

Six members of the VNRC's board of directors represent member organizations. These individuals were nominated by their groups and elected by membership at the 1972 annual meeting. Two of these terms expire this year and the vacancies will be filled at the 1973 annual meeting on December 1 provided individuals are nominated by organizations belonging to VNRC. The organizations listed below hold membership in the VNRC. If you belong to one of these and wish to nominate someone from your organization to stand for election to the Council's board send your suggestion to the president of your organization as soon as possible. All member organizations are being contacted directly reminding them of the nomination procedure and deadline. Organizations currently belonging to the VNRC are:

American Association of University Women, American Institute of Architects, American Forest Institute, Antioch Graduate School, Appalachian Mountain Club, Arlington Garden Club, Inc., Barre Granite Association, Bennington Garden Club, Town of Bennington, Catamount National Bank, Center for Northern Studies, Inc., Central Vermont Audubon Society, Conservation Society of Southern Vermont, East Barnard Community Club, Equinox Lodge, Fairbanks Museum, Farm and Wilderness Camps, Fawb's Island, Inc., Friends of Spruce Mountain, Granite Center Garden Club, Greater Vermont Association, Green Mountain Audubon Society, Inc., Green Mountain Club, Green Mountain Profile Committee, Handle Road Associates, Keewaydin Camps, Lake Champlain Committee, Lake Raconda Association, Inc., Lamoille County Development Council, Merck Forest Foundation, Middlebury Garden Club, Naomi Ingalls Garden Club, Northeast Kingdom Audubon Society, Norwich Vermont Natural Resources Council, Ottaquechee Regional Planning and Development Commission, Otter Creek Audubon Society, The Plain Dirt Gardeners, Planned Parenthood of Vermont, Randolph Garden Club, St. Joseph's College Library, Sierra Club of Vermont, Society of American Foresters, Snowald Corporation, South Burlington Natural Resources Committee, Southern Vermont Dairy Goat Association, The Sterling School, The Stowe School, Students Concerned for the Environment, Sunwood-Washington County Group Home, Syrotiak's National Marionette, Upper Valley Planning and Development Council, Vermont Association of Snow Travelers, Vermont Bicycle Touring, Vermont Chapter of Nature Conservancy, Vermont Federation of Business and Professional Women's Clubs, Vermont Federation of Women's Clubs, Vermont Historical Society, The Vermont Institute of Natural Science, Vermont Recreation and Park Society, Vermont Sierra Club--Central Vermont Group, Vermont Timber Owners Association, Inc., Vermont Tomorrow, Waterbury Public Library, Woodstock Garden Club and White River Natural Resource District.

SIGNIFICANT DETERIORATION...Richard Valentinetti

As a result of a U.S. District Court Order which was recently affirmed by the Supreme Court in a 4-4 tie vote, the Environmental Protection Agency has proposed four alternative methods for determining "significant deterioration" of air quality in areas where the air is already cleaner than required by Federal ambient air quality standards. At public hearings held in Washington in August, the Sierra Club, the prime force behind the original suit, indicated that the proposed regulations were "in flagrant violation of the plain language of the District Court order and were not a good-faith effort to comply with the decision of the Supreme Court and other Federal Courts."

All four proposals by EPA had as a minimum basis requirement "best available control technology" would be used as it applied to new or modified facilities within sixteen categories of air pollution sources designated by EPA. In addition to these sixteen specific sources, any source which would generate more than 4,000 tons per year of all pollutants that a national air quality standard exist would be subject to this best control technology stipulation. These sources would be subject to review by the State to make a determination if best available control technology was being employed. The four alternative proposals by EPA differ in their "definition" of "significant deterioration" are as follows:

1. Maximum allowable increase in ambient concentration of sulfur dioxide and particulate matter above the 1972 levels of air quality in areas where the federal standards were not exceeded in 1972.
2. Maximum allowable increase of emissions from air pollution sources for sulfur dioxide and particulate matter on a percentage basis above the 1972 emissions. This proposal would promote the clustering of industrial development which could use up the "air rights" for that entire region.
3. The states would determine on a case-by-case basis what significant deterioration is.
4. The state would identify two air quality zones. One would be ultra clean and little development would be allowed, while the second development could produce increases of sulfur dioxide and particulate emissions above the level designated in the first proposal.

Though the court has decided that "significant deterioration" should not occur, the proposed regulations by EPA raise many questions about EPA's efforts to develop a careful definition of this problem. The absence of a definitive opinion from the U.S. Supreme Court will probably result in further court tests on whatever proposal EPA promulgates.

WHATEVER HAPPENED TO.....

SKI AREA EXPANSION PLANS

- National Forest Service reports that no Vermont ski area using land under their jurisdiction has been given permission to expand.

GRANITE INDUSTRY CLEANUP

- Water Resources Department reports that August 1 deadline has been met in every case but one and that was due to flood damage.

CAMPAIGN TO SAVE SPRUCE MT.

- The Nature Conservancy has asked for appraisal of property owned by developer. If property can be purchased at appraised price, Conservancy will join with state in attempt to raise funds.

CAPITAL GAINS LAND TAX

- Revenues about \$400,000--still lower than predicted. Indication that crass speculation has slowed up considerably, no doubt helped by Act 250 and very tight money market.

HOLIDAY INN FOR CAPITOL COMPLEX

- State appealing to city Board of Adjustment. Final disposition of property not yet decided. Possibility that Motel could come under Act 250 regulations.

BROOKFIELD MASSACRE

- Construction continued in spite of Environmental Board ruling that permit was required. Environmental Board's stand may prevent repetition.

LAND AUCTIONS

- Still continuing but state with strong backing from Governor taking stand to halt practice. All 250 weapons being used.

VNRC ANNUAL MEETING..DECEMBER 1, 1973

TAVERN MOTOR INN, MONTPELIER

**VERMONT NATURAL RESOURCES COUNCIL
26 STATE STREET
MONTPELIER, VT. 05602**

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