

ACT 250 BESIEGED

Vermont's development review law, Act 250, is under siege, but so far Gov.

Howard Dean and the state Environmental Board have stood firm against misguided — or calculated — attempts to weaken or undermine the law, according to VNRC's Deputy Director for Policy, Steve Holmes.

The attack has come from business groups complaining Act 250 has become cumbersome, lengthy, and a drag on job and business growth. They want a number of "reforms." VNRC has strongly opposed most of the changes, arguing the changes would make it harder for the public to testify and participate in hearings, curb the appeal process, and tilt the playing field toward developers.

At a key hearing of the board Nov. 18, Holmes testified that the changes wanted by the business groups would "strike at the very heart of the law — the ability of ordinary people to participate fully and informally in an open, non-threatening democratic process."

To its credit, the board subsequently jettisoned most of those proposals as unwarranted, says Holmes. At the same time, the board expressed a willingness to consider a reform idea backed by VNRC, which contends many of the delays blamed on Act 250 are caused because applications are incomplete and state and local permits haven't been obtained. The proposal, called "sequential permitting," would require all other per-

mits to be in hand before Act 250 hearings begin.

VNRC also was also successful in a meeting with Gov. Howard Dean, who agreed with a VNRC request to decouple Act 250 legislative reforms from his major 1993 economic package. Holmes says VNRC's concern is that, as part of a larger bill, Act 250 reforms could be held hostage or become a politi-

cal football instead of being judged solely on the merits.

As it stands now, Holmes says the Environmental Board continues to draft an Act 250 package for the Dean administration to submit to the Legislature. While praising its "thoughtful efforts," he says VNRC may decide to take a "pro-active" role and sponsor its own bill on permit reform. Stay tuned.



VNRC's Steve Holmes testifying at state Environmental Board hearing.

WATER WITHDRAWAL STANCE SUPPORTED

VNRC called in a leading international salmonid (trout) expert this fall to testify in hearings by the Water Resources Board on Sugarbush Ski Resort's plans to withdraw water from the Mad River for snowmaking.

Canadian research scientist Rick Cunjak backed VNRC's contention that the level of withdrawal sought by Sugarbush would cause significant adverse

effects to trout reproduction through ice scour and bottom freezing.

VNRC was the lead organization of a coalition of four groups that opposed the withdrawal plan as excessive. VNRC also argued that Sugarbush had not presented adequate data to back its proposal, says Chris Kilian, Water/Wetlands Program Director. A decision by the board is due in January.

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FIRST BUY FOR LEGACY PROGRAM

The state of Vermont and the Forest Legacy program marked a milestone with the purchase of a 1,672-acre parcel in Granby containing Cow Mountain Pond. The acquisition was the first in the nation under Legacy, a pilot program in Vermont, Maine, New Hampshire, and New York that will help preserve key tracts of northern forest.

The town was a prime mover behind the purchase, says VNRC Forests, Wildlife, and Public Lands Program Director Jim Shallow, who calls it "a great example of how we can have a public and private partnership to save important pieces of upland forest." The undeveloped pond and surrounding land were bought from the Champion paper company through the cooperative efforts of

Granby and state and federal agencies. VNRC serves on the special state Legacy committee that made the parcel its top priority and has had an active role in Northern Forest Lands policy.

"NON-POINT" PROGRAM SHIFT ON HOLD

During its last session, the Legislature mandated a handoff of the program that controls agricultural non-point source water pollution from the Natural Resources Agency to the Department of Agriculture. But questions by VNRC about both the legality of the move and whether it would harm the effectiveness of the program have put the change on hold.

"Agricultural non-point source pollution — basically runoff from manure and

chemical fertilizers in water — is the single largest remaining pollution source in Vermont," says VNRC Water/Wetlands Program Director Chris Kilian.

According to Kilian, the switch would move Vermont even further out of compliance with federal clean water laws. VNRC is now working with state and federal agencies to try to improve Vermont's compliance.

FOREST ALLIANCE FORMS

VNRC has joined with a broad range of conservation groups to develop a cohesive approach to Northern Forest issues.

The Northern Forest Alliance is an umbrella coalition of 27 groups ranging from the National Wildlife Federation and Audubon Society to regional and state organizations, such as the Appalachian Mountain Club.

VNRC Forests, Wildlife, and Public Lands Program Director Jim Shallow says the group hopes to enhance its influence by presenting a unified front on diverse issues, from property tax reform to developing policies for a viable forest industry and forest conservation.

"It hasn't been an easy process, but I'm encouraged by the progress that's being made at this point," says Shallow.



Cow Mountain Pond in Granby



ALLISON TROWBRIDGE

SUNBOWL: CLOSELY WATCHED

Stratton Corp.'s proposed Sunbowl development continues to be closely watched by VNRC and a coalition of citizens groups in southern Vermont.

Procedural delays have pushed back until late winter any further Act 250 hearings or decisions on the ski area's plans for a 498-unit complex and 18-hole golf course. Parties are now preparing proposed "findings" on the impact of the development for review by the local Act 250 commission, says VNRC Southern Vermont Research and Administration Coordinator Alison Trowbridge.

VNRC's concerns focus on the degradation the large project would have on the quality of pristine Kidder Brook and adjacent watersheds, as well as the harm to important bear corridors and habitat and the development's nonconformance with local and regional plans.

STREAM WITHDRAWAL AT ISSUE

The issue of taking water from a nearby stream for snowmaking has become VNRC's focus in Act 250 hearings on a proposal to link Mt. Snow and Haystack ski areas with a water pipeline.

Mt. Snow, now in the second year of a three-year lease to operate Haystack, wants to put in the three-mile line to get snowmaking water from Cold Brook under an existing permit granted to Haystack. Southern Vermont Research and Administration Coordinator Alison Trowbridge says VNRC is concerned the pipeline amounts to a major change in the existing permit and will result in increased water withdrawals from the brook.

No decision is imminent by the district Act 250 commission, which hasn't set a deadline for submission of written findings by Mt. Snow, VNRC, and other interested parties.

HOPEFULLY, MORE WATER OVER THE DAM

VNRC is awaiting a decision from the Federal Energy Regulatory Commission on whether it can intervene in dam relicensing hearings on the Deerfield River in southern Vermont. VNRC, along with the Vermont Federation of Sportsmen's Clubs, filed as co-intervenors Dec. 11.

VNRC and other groups want minimum flow levels set

to restore fisheries on the river, which is controlled by New England Power Co.'s operation of Somerset and Harriman reservoirs. VNRC also is concerned that drastic draw-downs on remote Somerset Reservoir have affected nesting of endangered loons.

VNRC recently succeeded in a Freedom of Information Act request and received a copy of the massive, 18-volume application NEPCO filed to support its 30-year license renewal.

COUNCIL OF ENVIRONMENTAL ADVISORS

The 18 members of Gov. Howard Dean's Council of Environmental Advisors have had a busy agenda since their appointment last spring, says VNRC Executive Director Ned Farquhar.

Farquhar, VNRC Board of Directors Chair Sarah Muyskens, and five others with ties to VNRC are on the council, which is similar to the long-established Council of Economic Advisors.

Beyond offering input on current issues, Farquhar says the panel "has been providing very strong, clear-headed advice on long-range environmental policy" to Dean, who often sits in on its sessions. Farquhar says the council has also begun productive meetings with its economic counterpart, searching for common ground.

CONSERVATION COMMUNICATION GROUP

VNRC has been working with seven other Vermont environmental and land protection groups in strategy sessions to improve public understanding of environmental and land use issues.

To focus their message and improve the way it is conveyed to Vermonters, the group last summer brought in several outside consultants.

Among the consultants was Kimbell and Sherman, a well-known Montpelier lobbying and communications firm. However, Kimbell and Sherman have some clients whose goals conflict with those of the conservation group, and objections were raised to their participation.

As a result, a decision was made not to use Kimbell and Sherman any further. However, the group continues its work in meetings twice a month.

—Ned Farquhar

LEGISLATURE AT A CROSSROADS: HERE'S WHAT WILL BEST HELP VERMONT'S ENVIRONMENT

As the Legislature begins a new two-year session (biennium), Vermont's economy is hinting an upswing, but state budget dollars continue a downswing and the lingering memory of tough economic times makes certain this will be a critical time for the environment.

Pressures from the business community to streamline environmental programs threaten Act 250 and the state's permitting process, while fiscal pressures threaten funding for environmental and conservation programs. Along with such concerns, however, some opportunities are also likely to arise in 1993 to improve environmental programs.

"The Vermont Legislature stands at a crossroads," says VNRC Executive Director Ned Farquhar. "It can steer excessively toward economic development at the expense of the environment, or continue down the reasonable path it has for the past 10 years, helping the economy while preserving the environment."

Act 250

VNRC expects there will be major efforts to "streamline" or "reform" Act 250 in the 1993 legislative session. Gov. Howard Dean has announced that permit process reform will be one of his 1993 initiatives. He has indicated, however, that his administration will not propose changes to Act 250 criteria or to limit participation in the Act 250 process.

VNRC believes that any problems with the permit process in Vermont relate to state agency and municipal permitting, not to Act 250. Any discussion of changes to the permit process must address the

issue in a comprehensive way, avoiding the pitfall of singling out one component, such as Act 250.

VNRC could support limited administrative revisions to Act 250 — through rule-making where possible — that strengthen the law and do not erode its substance or its democratic process.

For example, VNRC believes that "sequential permitting," where all state and local permits are received and Act 250 applications are complete before the Act 250 hearing begins, would speed up the Act 250 process. Other areas

that VNRC could support include provisions to develop a simplified, commonsense method of dealing with Act 250 permit expirations and renewals and to allow municipal permits to carry the weight of presumption, under certain circumstances, at the district commission hearing.

ANR Permit Review

VNRC supports efforts to improve the permitting process within the Agency of Natural Resources. The agency's permit review programs need to be evaluated and modified, where appropriate, to facilitate a faster, more efficient, and responsive process. Increased funding will be required to improve the agency's own permit programs as well as the agency's participation and expert testimony in Act 250 proceedings.

VNRC will monitor these areas with an eye on maintaining protection of land, water, and air resources while improving public participation in the permitting process.

Act 200

VNRC opposes any efforts to repeal or undermine the planning goals and objectives of Act 200, and supports the goals of open public participation and access in local planning that are fostered by this important law.

Economic Development

Growth Areas. The Dean administration has included "growth center" legislation in its Economic Progress Act. VNRC will work to see that

growth centers remain an integral part of the package. Growth centers would allow towns to concentrate mixed development — shops, offices, homes — in one area, following Vermont's traditional, compact village settlement patterns.

VNRC will continue to support the growth center concept as an excellent alternative to strip development and haphazard division of the Vermont countryside, as long as it is linked to permanent protection of land outside the growth center. The review process on growth center planning should also include public involvement, regional planning review, and Act 250 approval.

Infrastructure. VNRC supports initiatives that target infrastructure funding and programs such as road improvements, public buildings, and water and sewer systems to properly designated growth centers.

Historic preservation and downtown revitalization. Vermont's historic resources and its traditional downtown urban areas and village settlements are cornerstones of a successful long-term development strategy for the state. VNRC supports funding and programs that preserve our historic resources and foster downtown revitalization.

Regional tax sharing. VNRC would support a regional tax-sharing mechanism as part of the growth center concept.

Housing and Conservation Trust Fund

VNRC supports funding necessary for the fund to meet its objectives for fiscal year 1994. VNRC supports the goals of the program, which provides important monies to help protect forest and farm land throughout the state while working to finance and preserve affordable housing for Vermonters.

Current Use

With the continuing fiscal crunch, the Use Value Appraisal program, also known as "Current Use," will again be a target for the budget axe. Property tax reform efforts taking place will add to the pressure to cut the program. Adequate funding must be maintained for Current Use until property tax reform providing tax equity on productive land is accomplished. VNRC does not support a moratorium in the program, nor should any further cuts be made unless tied to other tax proposals that meet the goals of the program.

VNRC believes agriculture and forestry — two vital mainstays of the Vermont economy — should be protected by a viable program of current use taxation that returns tax equity to productive land. VNRC will not support proposals that cut funding for the forest program in favor of the agriculture programs, and vice versa. With the Current Use program facing its third year of underfunding, VNRC be-

lieves it is time to begin developing a long-term plan for protecting productive farm and forest land, including concepts that target funds to areas of viable forest and farm production and that consolidate programs.

Property Tax Reform

VNRC welcomes renewed efforts to find other ways to finance education besides the regressive property tax.

Recognizing the importance of the farming and forest industries to the Vermont economy, VNRC strongly believes that any new method must provide fairer taxation of undeveloped land. VNRC backs factoring the ability to pay into any taxation plan.

Water Withdrawals

VNRC will lead the fight — whether in the Legislature or at the state agency level — to develop clear, consistent, and scientifically based policy for minimum stream flows that protects ecological and recreational values in Vermont's waterways.

With ski areas, power companies, and municipalities increasingly eyeing Vermont's rivers and streams for their own purposes, VNRC believes the impact of water withdrawals on aquatic life and Vermont's major recreational and natural resources must be addressed.

Public Trust Doctrine

VNRC will continue its efforts to ensure the Public Trust Doctrine, as developed by the courts, will be used to provide strong protection for

Vermont's public resources such as lakes, rivers, and shorelines.

Water

As Vermont implements ground water protection laws and debates how to implement provisions of the federal Safe Water Drinking Act, VNRC will keep an eye on environmental and public health issues relating to this critical resource.

Transportation

Federal mandates promoting less highway construction and more environmentally sound transportation policies have been strongly backed by VNRC, which will keep a close eye on the state's list of highway construction and planning projects this session.

VNRC will continue to oppose as unnecessary the proposed Bolton I-89 interchange, and opposes further widening of the Route 7 corridor, preferring to see rail initiatives explored in that area and others.

Air Quality / Solid Waste

VNRC will continue to work closely with other groups to improve air quality and environmentally sound waste disposal.

VNRC will work for a strong state program to limit toxic air pollution. VNRC will support efforts that set a high priority on waste reduction, reuse, and recycling, such as the Waste Reduction and Packaging (WRAP) Act.

Energy

Energy conservation and efficiency programs remain a priority for VNRC, which will monitor bills that affect state energy policy, programs, and funding.

Citizen Lawsuits

VNRC would support a provision in Vermont law enabling citizens to sue for enforcement of environmental protection laws.

Regulation and Enforcement

VNRC will support efforts to reform and strengthen Chapter 117, Vermont's local and regional planning and development act, in order to improve local enforcement and the implementation of local plans.

Fish and Wildlife Programs

VNRC supports fish and wildlife management policies that are based on sound biology and will maintain the overall health of the species populations.

VNRC opposes any staff reductions in Vermont's valuable Non-Game Wildlife and Natural Heritage programs.

Landowner Liability

VNRC strongly supports the longstanding Vermont traditions of public access to the state's northern forests and other important recreational lands and waters. VNRC will support efforts to clarify the liability of private landowners regarding lawsuits by recreational users or trespassers.

MEETING WITH NEW AGENCY CHIEF

VNRC staff have had two meetings with Vermont's new Agency of Natural Resources Secretary Charles Clarke, and their discussions left a good impression.

"I'm optimistic Chuck Clarke will take the agency in the right direction," says Steve Holmes, VNRC's Deputy Director for Policy.

Joining Holmes in the meetings were VNRC Executive Director Ned Farquhar and policy staff members Peg Elmer (Land Use), Jim Shallow (Forests), and Chris Kilian (Water). Their wide-ranging talks touched on Act 250, permit reforms, water quality, water withdrawal, and solid waste.

VNRC North Woods Project Field Director Brendan Whittaker — a former head of the same agency — also met with the new chief and says Clarke, a biologist by training, "has encouraging understanding of the technical issues of the agency." Whittaker expressed his concerns about "the continual drain of dollars and additional duties," but was reassured that Clarke understands Vermont's strong environmental commitment.

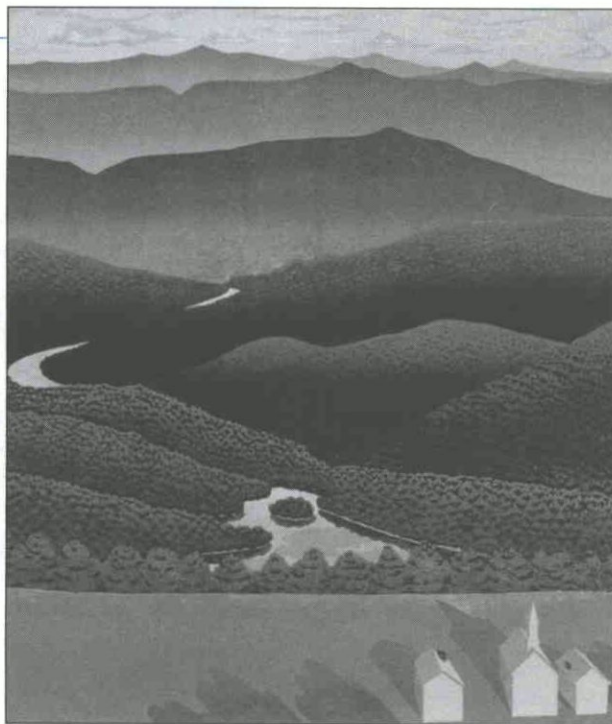
"I came away with a sense that none of the essentials are going to be given away," says Whittaker.

GRANTS FOR TREES

Vermont's Urban and Community Forestry Council is again offering grants to help communities plan for and maintain their urban tree-scapes and rural forests. Grant information has been sent to every town manager, planning and conserva-

tion commission, and other identified tree groups. Past projects have ranged from the formation of local tree boards to the inventory and planting of trees. The grant applications will require a 50/50 funding match and will have a February or March deadline.

For further information write Steve Sinclair, Vt. Dept. of Forests, Parks, and Recreation, 103 S. Main St., Waterbury, VT, 05671-0601; or call 244-8716.



THE NORTHERN FOREST – ON YOUR WALL

VNRC has been working with other state, regional, and national groups toward long-term protection of New England's northern forests, together with sustainable use of the region's forest resources. Well-known Vermont artist Sabra Field has created a poster depicting the beauty and expanse of these northern forest lands. It is available from Wild Apple Graphics at HCR 68, Box 131, Woodstock, VT 05091 (telephone, 457-3003). Through the generosity of Sabra Field and Wild Apple Graphics, part of the proceeds from the sale of each poster will be donated to VNRC.

SHARING THE SPIRIT

In September representatives from local environmental groups gathered at Camp Keewadin on Lake Dunmore for the fourth annual Sharing the Spirit Conference. Much excitement was generated as people met and shared problems, successes, and insights in two days of workshops, networking, and fun.

Property rights, property tax reform, how to work with lawyers, fundraising, and ecotourism were among the workshop offerings. Contradancing and a surprise performance by Keewadin's Executive Director, Jim Wacker, as a clown with an environmental message, balanced serious information-sharing with fun. Several children accompanied their parents on this overnight event and added zest to goings-on.

Anyone interested in helping to organize the next event should contact Peg Elmer at 223-2328.

NEW AND RETURNING BOARD MEMBERS

VNRC welcomes the following new board members elected by the membership at the September annual meeting:

Paul Bruhn, Burlington. Paul joins us as an organizational member for the Preservation Trust of Vermont. He is part-time Executive Director of the Preservation Trust and a member of the Governor's Council of Environmental Advisors.

Megan Camp, Shelburne. Environmental education activist, Vice President and Program Director for Shelburne Farms, Megan joins us as an organizational member for Shelburne Farms.

Alison Clarkson, Woodstock. Alison has been a board member of the Adirondack Council and brings to the VNRC Board a long-standing commitment to environmental protection.

Anita Dunlap-Childs, Dummerston. Anita co-founded the Windham County Mothers' Center, is involved with the Threshold Foundation, and is committed to preservation for the sake of future generations.

Douglas Racine, Burlington. Doug has worked as a legislative assistant to Sen. Patrick Leahy and has just finished 10 years of service as a state senator with a primary interest in environmental protection.

The following board members are returning to serve a second term:

Tony Clark, Goshen. Owner and operator of Blueberry Hill, a popular Inn near Middlebury College, Tony is committed to holding business growth to strong social and environmental standards.

Melissa Cunningham, Woodstock. Missy does freelance photography, coaches high school sports,

and hopes to pass on to young people a commitment to Vermont's environment.

Jane Difley, Bennington. A forester by training, Jane works for the American Forest Council. She is Vice President and President-Elect of the Society of American Foresters.

Margaret Laggis, East Hardwick. Director of Government Relations for the Vermont Farm Bureau, Margaret owns and operates with her husband a 200-plus Jersey Dairy Farm.

Andrew Nuquist, Montpelier. Andy, a fourth-term member of the Green Mountain Board of Trustees, returns to the board as an organizational member from the Green Mountain Club.

Cheryl Rivers, Windsor. State senator, with experience in low-income and environmental advocacy, Cheryl manages the River Echo Morgan Horse Farm.

Steve Trombulak, Middlebury. Steve is a biologist and professor at Middle-

bury College where he teaches natural history in the Environmental Education Department.

Katherine Vose, Burlington. Katherine, or "Max," is a natural resources planner working on solid waste problems. She is Executive Director of the Northwest Vermont Solid Waste Management District.

WELCOME, JENNIFER!

Jennifer Langdon has joined the VNRC staff as an intern. Jennifer will help coordinate Act 250 grassroots efforts and legislative campaigns for 1993. Jennifer comes to us with a strong background in public relations, which was both her major at the University of Vermont and her work in San Francisco before her return to her native Vermont.



Jennifer Langdon, new VNRC intern.

NEW AND REPRINTED PUBLICATIONS

The *Citizen's Action Guide*, an update of the original *Citizen Involvement Kit*, provides valuable tips for towns and individuals faced with unwanted development. Tips include a citizen's guide to Act 250, facts on water and conservation, and much more. The cost to VNRC members is \$6; to non-members, \$11.

VNRC's *Environmental Directory* has been updated in a new, near pocket-size for improved user-friendliness. Members, \$6; non-members, \$11.

Tropical Rainforest: The Vermont Connection offers 100 pages of middle school curriculum materials and ideas developed by VNRC under a grant from the National Wildlife Federation. The cost is \$5 a copy.

VNRC's Worcester Range Project has generated *An Economic Picture of the Forest Industry in the Worcester Range*. The report, generously supported by the Norcross Wildlife Foundation, provides a snapshot of the forests and forest industries in and around the Worcester Mountains.

New to our list, *Growth Management News*, celebrates conservation and planning statewide. It is free.

VNRC's video *So Goes Vermont* provides a powerful portrait of land-use planning issues and the Vermonters who grapple with them. It has been updated, runs 23 minutes, and costs \$3.

CHANGES IN MEMBERSHIP MAILINGS

We hear from many of our members that they traditionally renew their VNRC memberships on the anniversary of the date they joined the Council, regardless of our schedule of renewal mailings. Beginning in January, we'll celebrate your anniversary as a member of VNRC! The date you joined is the date we will use to calculate when our next membership renewal request is mailed.

We hope that this makes giving more convenient for you. We also hope that you will consider increasing your gift with your next response. We appreciate your patience as we iron out this new mailing schedule.

TAX WORKSHOPS

Taxing Conservation was the topic of five VNRC co-sponsored evening workshops held this fall in towns throughout the state. As more and more landowners are selling, donating, or transferring development rights, towns have had to wrestle with how to assess

taxes on conserved land. Debate has grown over the effects of these conservation easements on the local tax base.

The workshops aimed to help town officials and landowners better understand how to list property with easements and to explore the impact of these easements on the tax base. Assessment of property with easements has proved difficult because often there are no comparable properties on the grand list by

which to set the standard of value. Also difficult to assess appropriately have been the benefits of land easements in moderating demands for costly services coincident with land development.

The workshops were led by Deb Brighton of Ad Hoc Associates, an expert on property taxes and a member of the Governor's Commission on Educational and Municipal Financing Reform. Material prepared for the workshops is available from VNRC.



Consultant Deb Brighton helps unravel the tangled questions around the taxation of land subject to conservation easements in Vermont. More than 30 listers, landowners, planning commissioners, and conservationists from Lamoille and Washington counties met Dec. 7 at the Morristown Elementary School for the workshop.



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