

# Bulletin

## VNRC DEFENDS ENVIRONMENTAL LAWS IN TOUGH LEGISLATIVE SESSION

**H**istory will record the 1994 Vermont legislative session as one in which members stayed too long in Montpelier and accomplished little. Legislators adjourned June 12 amid vocal public disapproval.

VNRC had approached the session with modest goals. Deputy Director for Policy Stephen

Holmes noted in the Winter 1994 *VNRC Bulletin*, "Our thrust (will be) to preserve and fully implement the environmental programs and laws we have in the face of an economy slow to come out of recession."

VNRC had anticipated that anti-environmental forces intended an assault on Vermont's body of conservation law. But in the end, Act

250, Act 200, and other laws and regulations survived with only minor changes — even modest improvements in the state's permit processes. (See articles elsewhere in this *Bulletin*.)

The expected confrontation came early in the session, marked by contention over nominations to the Vermont Environmental

*Continued on page 3*

### SENATE VOTES ON ENVIRONMENTAL BOARD NOMINATIONS – 2/17/94

#### VOTING TO CONFIRM



Sen. J. Ankeney,  
D-Chittenden



Sen. J. Backus,  
D-Windham



Sen. S. Bartlett,  
D-Lamoille



Sen. M.A. Carlson,  
D-Bennington



Sen. A. Kroger,  
D-Chittenden



Sen. R. Mazza,  
D-Grand Isle



Sen. R. McCormack,  
D-Windsor



Sen. E. Ready,  
D-Addison



Sen. C. Rivers,  
D-Windsor



Sen. R. Sears Jr.,  
D-Bennington



Sen. P. Shumlin,  
D-Windham



Sen. J. Spaulding,  
D-Washington



Sen. J. Stephany,  
D-Chittenden

#### VOTING NOT TO CONFIRM



Lt. Gov. Barbara  
Snelling, R,  
Senate president



Sen. T. Bahre,  
R-Addison



Sen. J. Bloomer,  
R-Rutland



Sen. J. Canns,  
R-Caledonia



Sen. J. Carroll,  
R-Windsor



Sen. W. Doyle,  
R-Washington



Sen. B. Ferraro,  
R-Rutland



Sen. S. Gear,  
R-Chittenden



Sen. S. Hudson Jr.,  
R-Franklin



Sen. R. Ide,  
R-Caledonia



Sen. V. Illuzi,  
R-Essex/Orleans



Sen. M. Krauss,  
R-Washington



Sen. T. Macaulay,  
R-Rutland



Sen. S. Sweetser,  
R-Chittenden



Sen. S. Webster,  
R-Orange

#### VOTING SPLIT



Sen. M. Metcalf,  
R-Essex/Orleans  
(voted to confirm  
Courtney and  
Bongartz, not to  
confirm Ehrich)



Sen. F. Howrigan,  
D-Franklin  
(voted to confirm  
Courtney,  
not to confirm Ehrich  
and Bongartz)



Sen. H. Riehle,  
R-Chittenden  
(voted to confirm  
Bongartz, not to  
confirm Courtney  
and Ehrich)

*The qualifications of public officials should not necessarily be judged solely on the basis of selected votes. Other unrecorded matters such as committee performance and constituent service should also be considered.*



## Most Notable About The 1994 Session: What Didn't Happen In Montpelier

### ACT 250, ANR PERMITS

**A**ct 250 was expected to be a target of legislative initiatives in 1994, and it was. Before the session even began, both Gov. Howard Dean and Lt. Gov. Barbara Snelling announced plans to reform Vermont's permit processes, including Act 250. Yet the act survived the session with little harm, and even a few modest improvements.

In its original form, H.871 — the session's major permit-reform bill — would have weakened Act 250 in several respects. For example, one provision would have shifted the burden of proof in appeals entirely to appellants, raising barriers to citizen participation. VNRC helped make the case against this provision, which was deleted on the last day of the session.

In the bill's final version, the only negative change wrought by H.871 was an exemption of slate quarries from Act 250 review — a shadow cast by the debate over the act's supposed impact on industry. The exemption holds until April 1, 1995, following a report from a legislative committee with recommendations about regulation of the industry.

In other respects, H.871 should enhance citizen participation in Vermont's permit processes. It requires the Agency of Natural Resources (ANR) to publish a bulletin publicizing hearings, comment periods, and decisions pertaining to Act 250 and other permits, and a permit guidebook to make the process understandable to applicants and lay people. Also, applications for Act 250 permits are to be sent automatically to all landowners adjoining proposed development sites.

H.871 responds to concerns for local control by authorizing towns to establish a process for reviewing projects for impacts on local educational and municipal services and conformance with the town plan. The findings, with respect to municipal impacts only, would be given weight in Act 250 hearings.

H.871 also provides for new enforcement personnel in the Agency of Natural Resources, and extends most Act 250 permits indefinitely if projects remain in compliance with permit conditions.

Two bills with more negative implications for Act 250 died in committee. S.69, the so-called "public benefit" bill, would have enabled projects that did not comply with the act's environmental criteria to be approved if they offered certain economic benefits. And H.775 would have set up new barriers to citizen participation.

### ACT 200

**A**ct 200, which integrates municipal, regional, and state planning, survived a legislative attempt to weaken the role of regional approval of municipal plans when Gov. Dean vetoed the bill. But the Legislature seriously reduced financial aid for planning under Act 200. Money for municipalities was eliminated, while funds for regional planning were cut by 12 percent, from \$1.08 million in FY 1994 to \$953,000 in FY 1995.

### HOUSING AND CONSERVATION TRUST FUND

**T**he Legislature cut the fund by \$1 million (appropriating \$9 million), and the fund's allocation from the property transfer tax was reduced by \$130,000. Even more important, the property transfer tax will no longer be a dedicated fund for the H&CTF and regional planning; all proceeds from the tax will be assigned to the state's General Fund. VNRC will work to reverse that decision in 1995.

### PROPERTY TAX REFORM

**N**o issue demonstrates the dissolution that marked the 1994 Legislature as dramatically as the fate of property tax reform. VNRC views such reform as critical if Vermont is to retain its working landscape and minimize development sprawl.

H.541, a complex and sweeping reform measure identified with House Speaker Ralph Wright, had VNRC's backing but no support in the Senate or the governor's office. Wright clung to the bill until the final days of the session, but neither H.541 nor any other reform was passed. Advocates intend to reintroduce similar legislation in 1995.

### CURRENT USE

**T**he program that alleviates tax pressure on open land received an \$8.44-million increase for FY 1995. Still, it was funded at only 59 percent — meaning more property owners will sell off farm and forest land to escape high taxes.



## ECONOMIC PROGRESS ACT

**S**.345 (known as the Economic Progress Act II) establishes a \$100,000 fund for growth center demonstration projects and creates a post within the Development Agency for a specialist to develop markets for natural resource-based products made in Vermont.

## IN-STREAM FLOW

**C**oncurrent with the early days of the session, an important step was taken that strengthened the state's power over water-withdrawal projects for snowmaking when outgoing ANR Secretary Chuck Clarke adopted new agency proce-

dures for determining and requiring adequate conservation flows. VNRC played a major role in forging this policy.

VNRC also helped head off attempts to pass legislation that would have weakened the state's authority over water-withdrawal projects or those that alter river flow.

## WASTE MANAGEMENT

**B**ills passed in the waste management area include:

- a prohibition on burning waste oil in small fuel-burning equipment;
- a grant program for municipalities to institute curbside collection of used oil; also a small battery-recycling program, and overhaul of the operation and management of

the New Hampshire-Vermont Solid Waste District.

## GOVERNOR'S VETOES

**G**ov. Dean exercised his veto power over three environmental bills passed by the Legislature:

- S.33 proposed to weaken the role of regional approval of municipal plans drafted under Act 200. Although funding for planning was cut (see "Act 200" above), Dean's veto saved this important provision of Act 200.

- H.367 would have exempted from Act 250 review municipal highway projects that expanded the traveled portion of the roadway by up to 50 percent — "a loophole," said VNRC's Deputy Director for Policy Stephen Holmes, "literally wide enough to drive a truck through. We support

the governor's veto."

- H.867 dealt with wetlands mapping, but the Senate added a provision making it harder for state officials to enter private property for wetlands surveys, even where the land was subject to regulation. The governor vetoed the measure.

## CAPITAL BILL

**B**esides its contribution to the Housing and Conservation Trust Fund, the 1995 Capital Bill offers ANR grants and loans to municipalities for:

- zebra mussel control in water supplies drawing from Lake Champlain;
- landfill closings;
- hazardous waste removal;
- recycling;
- Bennington's Superfund clean-up project.

## STAND-OFF, from page 1

Board. The fight set the tone for the ensuing five months when on Jan. 19 the Senate Natural Resources Committee, without prior hearings, recommended to the full Senate that it not confirm Gov. Howard Dean's nominees. Senators supporting the ouster offered as justification only an unsubstantiated accusation that Act 250 had repressed economic growth.

VNRC and other conservationists saw the attack on the board members as an effort to

put political pressure on the Environmental Board to weaken its interpretations of Act 250 and as an effort to undermine the laws that protect Vermont's environment.

After a long, widely publicized and divisive battle, the Senate (with Lt. Gov. Barbara Snelling casting the tie-breaking vote on two nominations) ultimately voted on Feb. 17 not to confirm three of the governor's nominees: Chairwoman Elizabeth Courtney and board members Terry Ehrich and Ferdinand Bongartz. Thereafter, partisan

divisions undermined hope of progress on any of the Legislature's broad agenda, including property tax reform.

After the Legislature adjourned, Holmes looked

back at the abrasive session and concluded: "I think the development community saw this year as a big opportunity to work over environmental laws so they would be more to their liking. With the economy on the rebound, they wanted to strike before the window closed.

"On almost every front, however," Holmes said, "they fell way short of the mark. So in a way, it was a victory for the environment."



TOBY TALEOTT

A pensive Courtney during Senate hearings.





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## VNRC ANNUAL MEETING

**V**NRC's Annual Meeting is set for Saturday, Sept. 10 from 9:30 a.m. to 3 p.m. at the Chase Center at the Vermont Law School in South Royalton. On the agenda: workshops, field trips, and fun for the whole family. Keynote speaker is Pat Parenteau, director of the Environmental Law Center at VLS and former Vermont Department of Environmental Conservation commissioner. If you haven't received your invitation, call VNRC for details.

## WATCHABLE WILDLIFE

**B**urlington will be the site of the National Watchable Wildlife Conference Oct. 26-29. Featured speakers include Jim Fowler, who has appeared on "Wildlife Kingdom"; Mollie Beattie, U.S. Fish and Wildlife director; and Jack Thomas, U.S. Forest Service chief.

"Watchable wildlife" is a popular phrase for wildlife viewing, an activity that can promote conservation as well as tourism. Casual visitors can be challenged to become informed and active conservationists.

For more information, contact Hannah Kirchner at (219) 258-0100, or write the National Watchable Wildlife Conference, 607 Lincolnway West, Dept. A, Mishawaka, IN 46544.

## GREEN PAGES PUBLISHED

**N**o more wild goose chases trying to track down environmentally safe cleaners or recycled office products, or to figure out how to recycle old paints or car tires. Consult *The Vermont Green Pages* instead, an 80-page statewide directory listing sources of environmentally friendly products, organic nurseries and greenhouses, farmers' markets, and recycling depots.

So advises Susan Kashanski of West Barnet, the book's author. *The Vermont Green Pages* is available in bookstores or by contacting The Vermont Green Pages, RD 1, Box 85A, Groton, VT 05046, tel. 592-3447.

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