

Bulletin

PROPOSED WATER RULES WOULD WEAKEN PROTECTION

Public Comment Period Is Open on Special "Regs" for Ski Areas

In the wake of the hotly contested amendment to Vermont's water quality laws passed by the General Assembly earlier this year, the Agency of Natural Resources (ANR) has proposed regulations that would govern water withdrawal for snowmaking. VNRC is concerned that the proposed regulations would weaken protective standards, and the Council will urge that various provisions of the regulations be deleted or significantly amended.

The proposed rules would

allow snowmaking to be treated differently than other water uses under Vermont law, simply because the water is being used by a ski area. VNRC believes that, because the impacts of ski area withdrawals are the same as the impacts of other flow-altering uses, snowmaking water withdrawals should be regulated just like all other water uses that adversely impact the flow in the river.

ANR personnel have testified that many current water withdrawals for

snowmaking violate the Vermont Water Quality Standards — yet the proposed regulations would allow these violations to continue indefinitely. Not only could they continue, but ski areas could expand their use of water without any regulatory review and without correcting the violations.

The proposed regulations would also shift the burden of proof from the ski areas to the public. Taxpayers would have to bear the financial burden of

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STAFF

Jane A. Difley
Executive Director

Kimberly Beeken
Membership & Financial Coordinator

Brigid Dunne
Outreach Coordinator

Sue Higby
Deputy Director for Membership & Development

Stephen Holmes
Deputy Director for Policy

Christopher Kilian
Water Program Director & Staff Attorney

Stacie McNary
Office Manager

Jim Shallow
Forests & Outreach Director

Brendan Whittaker
Northern Forest Project Field Director

PUBLICATIONS

Sue Higby, *Editor*
Douglas Wilhelm, *Copy Editor*
Tim Newcomb, *Designer*

The Vermont Natural Resources Council (VNRC) is a nonprofit environmental organization founded in 1963 to promote the wise use of Vermont's natural resources. VNRC does research, legislative lobbying, advocacy, and educational activities on issues including land use, forestry, agriculture, water, energy, wastes, and growth management.

VNRC membership includes a subscription to the *Bulletin* (published three times a year) and the *Vermont Environmental Report* magazine (published twice annually). For an individual membership, send \$35.00 to VNRC.

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WATER RULES

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studies conducted by the Department of Fish and Wildlife to discover whether ski area use of fragile mountain streams would cause harm — even though fisheries biologists from Fish and Wildlife have already warned that the flow levels in the proposed regulations for these streams would damage habitat.

Vermont's water quality laws and the Federal Clean Water Act require that water users protect the quality of Vermont's waters. These laws are not balancing measures that would allow water quality to be sacrificed based on the "economic" costs of protecting river health. However, the proposed rules would allow violations of water quality laws depending upon economic analysis conducted by resorts.

The Vermont ski industry has become hooked on artificial snow. Vermont resorts say they can't remain competitively viable with each other or with other New England resorts unless they can withdraw water from public waters to make snow in enormous quantities. Yet the proposed regulations would not provide these resorts with more water; nor would they protect streams by requiring improvement-of-flow conditions.

"The regulations should require ski areas to prepare studies of available alternative snowmaking storage and source options that would both protect rivers and provide additional water," said Christopher Kilian, VNRC's Water Program Director and Staff Attorney. "If appropriate, rather than allowing degradation to continue, public financing could be

made available for construction of these systems."

As a strengthening measure, VNRC will also urge that the proposed regulations be amended to include prohibitions on snowmaking water withdrawals from high-quality Class A waters and Outstanding Resource Waters.

Public hearings on the proposed rules were held in early September. Written comments will be accepted until September 22 and should be sent to:

Canute E. Dalmasse,
Director
Office of Water Resources
Department of Environmental Conservation
103 South Main Street
Waterbury, VT 05671-0401

For more information, call Christopher Kilian at VNRC: 223-2328.

ACT 250: VERMONTERS SPOKE AND BOARD MAY HAVE LISTENED

Panel May Keep the Door Open to Citizen Participation

The Vermont Environmental Board appears to be rethinking its proposed rules for Act 250 in response to the concerns raised this summer by scores of citizens around the state. At a recent Board meeting, several members were reportedly backing off some of the more drastic changes, particularly those affecting citizen involvement.

During June and July the

Board held hearings in White River Junction, Montpelier, Manchester and Burlington on a major package of rules affecting how Act 250 will be administered and implemented. The two most sweeping changes would, first, limit the role of citizens in Act 250 hearings; and second, give more authority to the Agency of Natural Resources, while diminishing the Board's role in

determining conformance with several of Act 250's 10 environmental criteria.

What the Board heard at the hearings was: "Don't change the rules to make it more difficult for citizens to participate in Act 250. Make it easier!" At every session, people who spoke against the changes outnumbered supporters of the rules. In all, three out of every four people who spoke at the hearings voiced

strong opposition to either restricting citizen appeal rights or giving more weight to ANR permits, or both.

Alice Allen, a dairy farmer from Wells River, asked the Board to create an advocate for citizens in the Act 250 process, to insure that their voice is heard. "We do have a lot to add to the future of Vermont," she said. "There's no money in this for us; we want to protect our homes."

Referring to ANR's involvement in a landfill project that threatens the Wells River, and which Allen and other neighbors were trying to block, she said: "If you rely on the Agency of Natural Resources, it's a joke. It's very, very political out there."

Mary Ashcroft, a VNRC Board member from Rutland and former chair of the District 1 Environmental Commission, said of the rules: "I don't see that there is a problem ... If it ain't broke, don't fix it."

Bennington attorney R. Marshall Witten, a former Republican legislator who served during the years when Act 250 was created, said at the Manchester hearing: "Make no mistake, the new rules will be used as instruments of exclusion, and that ... is wrong. It is both bad public policy and contrary to legislative intent, which created citizen commissions and citizen participation. The current party status system works. Keep it."

Of the change giving more weight to ANR permits, Witten added: "This is a particularly pernicious proposal at a

period in our political life when citizens of widely differing persuasions are convinced that government is becoming ever more remote, unresponsive, and corrupt. It is never the time, and Vermont is never the place, to create either the opportunity or the appearance that developers can cut secret back-room

deals with ANR and compromise Act 250."

VNRC staff played a major part in getting the word out to citizens about the hearings. "It wasn't too hard," noted Deputy Director for Policy Steve Holmes. "Once people found out what these changes do, nothing short of natural disasters would

have kept them away!"

During September, the Board will be deliberating on the changes, with a decision expected around October 1. Then the proposal will go before the Legislative Committee on Administrative Rules for review and comment before final action by the Board.

CITIZENS' CALLS HALT TO "HERBICIDE FORESTRY"

Margaret Mead summarized it perfectly: "Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, it is the only thing that ever has."

In early August, when

the Department of Agriculture issued a permit to Boise Cascade for aerial spraying of herbicide in Brunswick, it seemed that forestry would take a 180-degree turn without public input. By happenstance, Brendan Whittaker, VNRC's

Northern Forest Project Field Director, learned of the permit from a landowner of property abutting the proposed spray area.

As the story unfolded, the phones began to ring. At VNRC the calls came from concerned citizens



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seeking information on the spraying. At an office two blocks away, the calls to the Governor's Hotline (1-800-649-6825) came from Vermonters who urged Gov. Dean to intervene and stop the spraying. Their calls convinced the governor to urge Boise to reconsider its plans. Boise did, and the spraying was averted — at least for this year.

Still, numerous questions arise: Do we want to

encourage chemically dependent forestry in Vermont? What are the long-term impacts of herbicides in the forest environment? What is awry in a permit process that could allow forestry to change so dramatically without public scrutiny?

VNRC will follow this issue closely, and keep you informed as developments occur.

VNRC's OUTREACH COORDINATOR DEPARTS

Tom Gilbert, VNRC's outreach coordinator until this past summer, has headed back to school to pursue a graduate program in natural resources planning. He will be greatly missed.

Tom describes the high point of his involvement at VNRC to be the "Listening Sessions" that were conducted in tandem with the Northern Forest Lands Council review. "I greatly enjoyed working with members and citizens who care a heck of a lot and showed powerful support for protecting the Northern Forest," Tom said. He is engaged to marry Erin O'Donnell, his high school sweetheart, in June 1996. We wish them the very best.

Patrick Berry



RESOURCES COUNCIL CONSIDERS ACTIONS FOR THE FUTURE

If a tree is felled in the woods, does Vermont have a way to measure if this is sustainable forestry? This is the question before the Forest Resources Advisory Council (FRAC), which spent the summer collecting information on the conditions of Vermont's forests. The Council's goal is to make recommendations to the Legislature on how Vermont can promote sustainable forestry.

Sustainability can be defined in many ways — however, most agree that it has ecological, social, and economic elements. Recognizing this, FRAC established three working

groups to collect information and report to the full Council this fall. Topics for the work groups included sustainability benchmarks, rural economic development, and assessments.

FRAC will meet again on October 26 to hear presentations from the working groups. FRAC will then take its findings on the road to hear from the public about what needs to be done to assure that Vermont's forests remain healthy and productive. For more information contact Charles Johnson of Forests, Parks and Recreation, at (802) 241-3670.

NORTHERN FOREST STEWARDSHIP BILL IS BROUGHT BEFORE CONGRESS

The dog days of August saw the recommendations of the Northern Forest Lands Council (NFLC) move a step forward. Senators Leahy and Jeffords joined with senators from Maine and New Hampshire to introduce the bipartisan Northern Forest Stewardship Act (S.1163). Working from the NFLC recommendations, the bill would establish programs to conserve forestland, to help communities diversify their economies, and to continue the interstate dialogue

established by the Council.

Combined with the tax bill cosponsored by Senators Gregg and Leahy, this measure provides the people of the Northern Forest states with an opportunity to make a case before Congress on the importance of protecting this national treasure. VNRC will work with our congressional delegation to push for passage of a strong bill that will protect wild areas, help local economies, and promote sound stewardship of the forest.

LEARNING ABOUT VERMONT'S "TROUBLED WATERS"

Oct. 27 Conference Will Consider Issues and Opportunities

Next month Vermonters will have a chance to learn about the threats facing local rivers and watersheds, and about what individuals and communities can do to protect these irreplaceable resources.

On Friday, October 27, an all-day conference called "Vermont's Troubled Waters: Issues and Opportunities for

Community Action," will be convened by VNRC, the Northeast Natural Resource Center of the National Wildlife Federation, the Conservation Law Foundation, and River Watch Network at the Vermont College campus in Montpelier. To receive registration materials, call Christine Negra or Stacie McNary at 223-2328.

VNRC FILES BRIEF IN WAL-MART APPEAL

Wal-Mart and the town of St. Albans have appealed the Environmental Board's decision on Wal-Mart's development application to the Vermont Supreme Court. In order to participate in the appeal and defend our position, VNRC has decided to file an *amicus curiae* brief with the Court. Bill Roper, a former Board member of VNRC, will be the Council's attorney for the case.

WELCOME BRIGID!

Brigid Dunne joins VNRC as Outreach Coordinator in early September. Brigid worked in Washington, D.C., for several years after graduating from UVM in 1990, including a stint with Senator Leahy's staff. She is a native of Chittenden county and brings a great deal of legislative, campaign, and outreach experience to VNRC.



ENVIRONMENTAL LAW AND THE "CONTRACT WITH AMERICA"

November 30 Gathering Will Review the Challenges Ahead

VNRC will jointly sponsor with the Vermont Law School the 16th Annual Environmental Law Conference on November 30 in South Royalton. Its

scope will include an historical overview of environmental and public health laws, how Congressional Republicans' "Contract with America" will affect local regulations,

linkages between a healthy environment and sound economy, and the legal and policy challenges ahead. For more information, call Steve Holmes at 223-2328.

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WORKING TOGETHER FOR VERMONT

Join Us on September 23

Come celebrate the woodlands, mountains, rivers, and lakes of Vermont's spectacular environment. Savor our successes, and learn about our new challenges in Vermont and beyond; meet new friends, relax on a nature walk, and unwind with Vermont fiddle music and great local ice cream. The VNRC 1995 Annual Meeting will take place on Saturday, September 23 at the West Village Meeting House in West Brattleboro from 9:30 a.m. to 5 p.m.

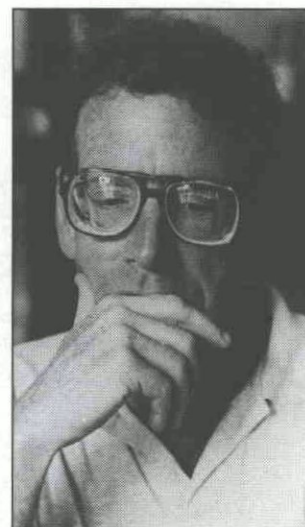
Acclaimed author and poet W.D. Wetherell will be

joining VNRC members at the Annual Meeting for a presentation on Vermont's precious waters. "Nature writers and conservationists are often forced to speak as Cassandras, warning of what is about to be lost, playing catch-up with the developers, ringing the environmental alarm," Wetherell reflects. "In these days, when so much of the natural world is threatened, this is a fit and proper task. And yet at times, we should remember to celebrate what it is we're fighting to save — to spend time cherishing the glories that, despite every-

thing, remain."

"My own celebrations often center on moving water — ocean tides, river currents, the rocky steps, and terraces of headwater streams — and I'd like to draw upon this in my talk, using illustrations from my own work and from that of writers I admire, with particular attention to those forgotten lonely *vital* upland streams from which so much beauty and purity and delight stem."

We look forward to your participation — don't forget to register right away.



François Camoin

W. D. Wetherell



Vermont Natural Resources Council
9 Bailey Avenue
Montpelier, Vermont 05602

(802) 223-2328
(802) 223-0287 facsimile
E-mail: VNRC@together.org

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