WAL-MART PERMIT DENIED

The message that came out of the state Environmental Board's recent decision denying Wal-Mart a permit to build a 100,000-square-foot store two miles from St. Albans city was clear: Vermont is serious about protecting its landscape, its downtowns, and its economy from the fragmentation of scattered development.

The board, in its order of Dec. 23, declared that "the public costs of the proposed project are projected to outweigh the public benefits." Citing formidable competition the giant Arkansas-based retailer would pose for local businesses, with a resultant loss of tax revenues and escalating demand on municipal services, the board even quantified the anticipated impact: "The ratio is projected to be approximately three dollars of public cost for each dollar of public benefit."

And the board concluded that rather than boosting employment, the project would result in a "net job loss for the Franklin County region."

"The board's decision is unique in that it really hits home the notion that Vermont needs to protect its communities," said Stephen Holmes, VNRC Deputy Director for Policy. "Board members were very concerned about the impacts of this project. The decision reflects that concern and also reflects the weight of the testimony presented by witnesses for VNRC."

The decision, with its focus on Act 250 criteria examining the impact of growth and the costs of scattered development, was especially sweet for VNRC because it had earlier been denied an opportunity to present such evidence. The District 6 Environmental Commission granted Wal-Mart a Land Use Permit on Dec. 21, 1993 after ruling that VNRC had no expertise on the economic issues the organization wished to address. When a citizens group — Franklin-Grand Isle County Citizens for Downtown Preservation — appealed the permit, VNRC asked the Environmental Board to reconsider its standing. The board granted party status, and the appeal hearings were held in July.

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CLEAR-CUTS THREATEN FAYSTON/ DUXBURY TRACT

The findings and recommendations last year of the Northern Forest Lands Council have focused statewide attention on the importance of sound forestry practices. But in central Vermont forest liquidation continues apace on a 9,000-acre tract in Fayston and Duxbury. There, VNRC is seeking to rein in a logging operation bent on removing 75 percent of the merchantable trees and clear-cutting some 300 acres of forest.

"Basically, they're going to cut everything over 12-inches diameter in the hard-

Continued on page 2
CLEAR-CUTS, 
cont’d from page 1

woods and eight inches in the softwoods,” said Jim Shallow, VNRC Director of Programs for Forests, Wildlife, and Public Lands. “They plan to quadruple timber sales, from 1 million board feet a year to 4 million board feet.”

The rank depletion of the forest and the harsh methods of harvesting inspired intense criticism from Leo Laferriere, a former lumberman and past Commissioner of Forests, Parks, and Recreation. At a meeting in Fayston, Laferriere characterized the operation as “commercial exploitation” and beneath any standards of forestry.

Central to the case is whether the conservation criteria of Act 250 can apply to logging operations. Commonly, logging below 2,500-feet elevation is not subject to review; but here the previous landowner had subdivided much of the land over a 20-year period, so that Act 250 permits are in place.

The new landowner, Keith Van Buskirk of New York state, has sold the standing timber on all of the lands, though cutting has not commenced on the subdivided portions in Fayston. Van Buskirk insists Act 250 has no jurisdiction over his operation.

VNRC holds that the lands are contiguous, so all of the timber harvest must be reviewed under Act 250 as a “substantial change” to the existing permits.

But District 5 Environmental Coordinator Edward Stanak, in an advisory opinion on Dec. 20, said a small trail in the forest creates a legal right-of-way that separates the tracts, exempting some of the land in Roxbury. VNRC, however, is relying on a 1993 advisory opinion written by the staff of the Environmental Board that said the trail was not a right-of-way.

On Jan. 19, VNRC appealed Stanak’s advisory opinion to the Environmental Board, seeking a declaratory ruling that Act 250 does apply to all of the lands in Duxbury.

“It’s a simple question of whether a permitted subdivision is contiguous with the rest of the land,” said VNRC Water Program Director and Staff Attorney Chris Kilian.

“We think it’s really straightforward and that Act 250 applies. The Environmental Board has said if a permitted tract shares any boundary with other land owned by the applicant, it all becomes involved land.”

The stakes are high in the Duxbury controversy.

“What this case points out,” said VNRC’s Shallow, “is that we have very little capacity to review logging in Vermont.”

WAL-MART, 
cont’d from page 1

“VNRC was able to make a very solid contribution,” Holmes pointed out with satisfaction. “A good deal of the board’s decision was based on the testimony of our witnesses, Beth Humstone and Tom Muller.”

Holmes also credited Middlebury attorney Bill Roper, who represented VNRC. “Bill did a phenomenal job on this case, and we all worked well as a team,” said Holmes. Along with the Franklin/Grand Isle group headed by former State Sen. John Finn and represented by attorney Frank Murray, Paul Bruhn and the Preservation Trust of Vermont were also key players in the effort.

The board’s denial does not mean the St. Albans Wal-Mart project is dead. The board invited Wal-Mart to provide detailed projections of how secondary growth, typically associated with Wal-Mart projects, might outweigh the negative economic impacts cited by the board; Wal-Mart also could propose ways the company might alleviate the municipal burdens represented by growth outside established commercial settings.

“That’s the only troubling thing,” said Holmes. “The decision kind of leads them along.”

But the decision also underscores Vermont’s commitment to its traditional values of land use that protect both people and the economy.
As a new Legislature convenes in Montpelier, recast and reaffirmed by Vermont’s voters, VNRC celebrates the 25th anniversary of a quintessential Vermont law. For a quarter of a century, Act 250 has provided Vermonters an invaluable mechanism for deciding together how they wish their communities to develop. Vermont has more than its remoteness to thank for the generally well-conceived and productive development it has enjoyed; it has Act 250, and the citizens who partake in the law’s opportunities, to thank as well.

Although democracy is a querulous form of government, each legislative session gives lawmakers a chance to set old disputes aside and embark on new, cooperative ventures. Cooperation will be vital this year as lawmakers examine issues of considerable importance to the environment. Two — reforming the property tax and stimulating economic vigor — rank high on the Legislature’s agenda.

VNRC welcomes the discussions. Local experience and national studies have proved that a productive, sustainable economy depends on high environmental standards, and that undue reliance on the property tax undermines both. On these and other issues, VNRC will work with legislators in 1995 to conserve Vermont’s natural resources, knowing these resources are a valuable part of our heritage and the key to our future.

Act 250

For 25 years Act 250 has helped Vermonters protect their environment. Its economic effects have also been positive, improving the quality of major developments and producing generally secure financial investments. Vermont’s economic performance has been one of New England’s strongest.

Therefore it is important to focus permit-reform efforts

"Since the Act passed, there’s always been very low-level disapproval of any sort of regulation, and I think that builds up in a bad economy. I look at Act 250 as a long-range affair. You have to guard this law, which has really worked very well."

Former State Sen. George Little Jr., R-Chittenden; quoted by the Associated Press, Dec. 16, 1992

where they belong — not on Act 250, but upon problems related to state agency and municipal permit procedures. Despite misguided and divisive attacks upon Act 250 and the Environmental Board during the 1994 session, the Legislature ultimately passed a bill (H. 871) that improved state and municipal permit processes. It amplified local control by authorizing towns to review projects for impacts on local educational and municipal services and for conformance with town plans; the findings — with respect to municipal impacts only — would receive added weight in Act 250.

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Legislative Platform '95

"So that's what got me started — to realize that the rights of the public had to be heard where major developments were to be."

"As for you, VNRC must continue its great work of educating and making people think about Act 250 and the need for it. [VNRC] was in on the genesis of it more than any other organization, so you have the background and history to carry on with this."

Former Vermont Governor Dean C. Davis, from an interview published in VNRC's "Vermont Environmental Report", Fall 1989.

STATE FUNDING FOR PLANNING

In 1994, state funds for town planning were eliminated by the Legislature, and regional planning funds were cut to $953,000. (By contrast, regions and municipalities received $3 million for planning in 1989). Such reductions weaken effective planning and add to local property taxes.

The Legislature also decoupled the Municipal and Regional Planning Fund and the Housing and Conservation Trust Fund from the property transfer tax, effective in FY 1996. This reversed the course taken in 1988, when the Legislature added .75 percent to the property transfer tax and dedicated the sum to the two funds.

Restoration of full funding, and coupling these two funds to the transfer tax, are critical to the goals of comprehensive planning and preservation of affordable housing and open land.

ECONOMIC DEVELOPMENT

VNRC supports economic development legislation that is economically and environmentally sustainable, protects opportunity for Vermonters, enhances the rural economy, and provides for long-term prosperity.

In a sustainable economy, environmental quality and economic prosperity are mutually reinforcing. A clean environment and productive resource base are necessary for a prosperous economy, and a strong economy is necessary to support high environmental and social standards. Vermont's economic policies should protect environmental quality by leading toward:

- The sustainable use of land and resources, with emphasis on Vermont's small, locally owned and operated businesses;
- Further development and

Support to yield results.

VNRC will continue to support the planning goals and public access established in Act 200, and will oppose legislation that repeals or undermines the objectives of this valuable law.

ACT 200

The state's comprehensive planning law is gaining momentum. To date, 34 communities have approved plans. Ten of 12 regions have adopted new regional plans, and 19 state agencies' plans are currently being updated.

But more needs to be done. Growth center demonstration projects must be completed and a growth center policy implemented statewide. Strategies, now enunciated, need to be implemented and financing put in place for capital expenditures. Plans prepared in 1989 should be revisited. The process needs ongoing support to yield results.

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On October 12, 1994, The Institute for Southern Studies ranked Vermont first overall in a study entitled ‘Gold & Green,’ a survey of economic performance and environmental conditions. Vermont was ranked third in terms of economic performance and first in environmental conditions. The study concluded that the states that do the most to protect their natural resources also wind up with the strongest economies and best jobs for their citizens.

marketing of agricultural, forest, and other land-based products that depend on the “Made In Vermont” label and a high level of environmental quality;

- Programs to identify and attract environmental industry sectors, such as environmental products, services, and recycling technologies, and target support to in-state environmental technology start-ups;
- Growth centers that encourage and support a broad range of economic development activities. Growth centers within or adjacent to existing downtown locations would enable communities to concentrate appropriately scaled and sited, mixed development — shops, offices, homes — in one area, following Vermont’s traditional settlement patterns. Growth centers should first be designated in existing downtowns. Only when downtown growth centers are at capacity should locations outside the downtown be selected. VNRC supports the growth center concept as an excellent alternative to strip development, firmly linked to permanent protection of land outside the growth center;
- Programs and funding to preserve historic resources and revitalize traditional downtown areas and village settlements;
- Funding for infrastructure improvements targeted to roads, public buildings, water and sewer systems, and other utilities in properly designated growth centers;
- Tourism opportunities, such as heritage and ecotourism, that take advantage of natural resources and reinforce Vermont’s quality-of-life;
- Education enabling Vermont citizens to remain here and have productive careers and lives; and
- Energy conservation and increased production from renewable energy sources.

PROPERTY TAX REFORM

Reforming the property tax system is critical if Vermont is to maintain its working landscape, minimize sprawl, and enable towns to protect their residents’ health and safety by maintaining basic services and infrastructure.

The property tax is a major factor in devastating, ongoing changes to Vermont’s landscape — forest clearcuts hundreds of acres in size, and the fragmenting and subdividing of both forest and farm land. When municipalities assess land for its “highest and best use” — that is, its development value — taxes on farm and forest land often exceed the income the landowner generates from timber or crops.

VNRC will evaluate reform proposals based on whether open land is taxed at its use value, overall dependence on the property tax is reduced, tax rates between towns are equalized, and stewardship of the land is encouraged. Until comprehensive reform is achieved, VNRC will press for full funding and/or reform of the Current Use program to stabilize taxes on open land, and for full funding of the existing aid-to-education program.

FOREST RESOURCES

Vermont’s forest lands increasingly are subject to devastation caused by high timber prices, a reviving land market, and pressures from property taxes and inheritance taxes. A recent study of four northern towns found that 20,864 acres (24 percent of the forest) had been clear-cut over a 15-year period. Many of these cuts were not forestry operations, but rather timber liquidation for quick profit, leaving the future of these lands uncertain.

The lack of federal and state policies only encourages a divestment of our forests through land sales and increased harvesting. To ensure a healthy future forest, VNRC recommends:

- Reforming Vermont’s property tax,
- Evaluating the state land gains tax,
- Increasing land conservation efforts, and
- Improving forest practices.
Taxing forest land at its use value (not its potential highest value) would improve the climate for long-term management of timber. Forest practices could be improved by certifying foresters and loggers, and by establishing standards to protect wildlife habitat, water quality, biological diversity, soil productivity, and recreational opportunities.

**WATER RESOURCES**

Both the Vermont Constitution and the public trust doctrine require that the General Assembly protect rivers and streams as public resources. VNRC is part of a coalition of anglers, trappers, and conservationists, representing more than 40,000 Vermonters, who have come together to advocate protection of waterways.

Uses that reduce stream flows and have damaged our rivers include snowmaking, hydro-electric power generation, municipal use without conservation measures, and industrial use. The Agency of Natural Resources should implement and enforce rules governing water use. New legislation is not needed; existing laws require minimum stream flows to protect fish and other aquatic life.

Besides direct municipal sewage or industrial discharges, our streams are damaged by non-point source pollution (wet weather run-off) from agriculture and other sources, now believed to be the leading source of water pollution in Vermont. VNRC believes that effective standards, coupled with enforcement, would reduce non-point source pollution. The state should extend reasonable financial support for affected farmers.

**FEES FOR WATER USE**

Every day more than 3.7 million gallons of water are sucked from Vermont’s public waters for commercial and domestic uses. More than 3.1 billion gallons are used every year — predominantly for hydro-electric power.

Yet most of the commercial users, including hydro-electric and snowmaking operations, pay nothing for the privilege. VNRC supports assessment of reasonable fees for these uses, with the funds dedicated to state programs that protect water quality, fish, and wildlife.

**ECOSYSTEM HEALTH AND BIODIVERSITY**

From its forests and alpine areas to its wetlands and rivers, Vermont has many, varied ecosystems. VNRC supports habitat protection and fish and wildlife management policies that are based on sound biology and will maintain the health of these diverse species and ecosystems. VNRC opposes any staff reductions in Vermont’s valuable Non-Game Wildlife and Natural Heritage programs.

**TRANSPORTATION**

VNRC will monitor the Agency of Transportation’s Capital Program to seek stronger implementation of the federal Intermodal Surface Transportation Efficiency Act of 1991 promoting environmentally sound transportation such as trains, buses, car pools, and bicycles with less emphasis on highway construction.

VNRC will advocate for project designs that encourage alternative forms of transportation (such as bike path construction on rebuilt roads or bridge replacements) and that respect environmental, historic, and scenic resources. VNRC will advocate for initiation of passenger rail projects, particularly in the Route 7 corridor, and will oppose the continued widening of that highway.

**AIR QUALITY/SOLID WASTE**

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

**ENERGY**

Energy conservation and efficiency programs will remain a priority for VNRC. VNRC will support appropriations in the Capital Budget targeted for energy efficiency.

**CITIZEN LAWSUITS**

The federal government and many states allow citizens to take polluters to court. VNRC supports changes in Vermont law to enable citizens to sue for enforcement of environmental protection laws.
INCREASED PROTECTION SOUGHT FOR DEERFIELD RIVER

For 40 years, sportsmen's groups and public agencies have tried to revive the ecological health of the Harriman Reservoir and the whole Deerfield River in southern Vermont. But their efforts to restore trout and salmon populations and overall productivity have been foiled by drastic draw-downs of the reservoir for power generation, which de-water vast areas of shoreline including the vital littoral zone that nurtures the aquatic ecosystem.

VNRC is now using the Federal Energy Regulatory Commission's relicensing process to press for better protection of the river.

Vermont's Agency of Natural Resources issued a draft water quality certificate — a prerequisite for federal approval of the power stations — last September. But VNRC concluded that the certificate failed to address the "significant damage" to the river caused by 80 years of power production. Noting that the company wants a new 40-year license, VNRC seeks stricter protection of the river's productive capacities and improved flow conditions.

"The next time these projects are reviewed I'll be 69 years old, if I'm lucky, and a lot of the folks currently making decisions about the Deerfield won't be around anymore," said Chris Killian, VNRC Water Program Director and Staff Attorney. "So we have to get it right this time."

GATHER, TALK, LEARN THIS WINTER

With cold temperatures, gray skies, and some snow, it's time again for VNRC's "living room meetings." In particular, meetings will be organized around the state in February and March to discuss progress on issues addressed in the final report of the Northern Forest Lands Council.

"These living room meetings are a great tool to do grassroots education and build involvement," said Tom Gilbert, VNRC Outreach Coordinator. "We get members together at someone's house over refreshments or a potluck, and sit by the fire on a cold night and talk about issues that are hot."

VNRC began holding living room meetings four years ago as the Council undertook its study of Vermont's Northern Forests. The Council made its final recommendations to Congress last September, then disbanded. But the work on forest issues is just beginning.

"Now that the Council has sunsetted," said Gilbert, "we want to let our members learn about the new plan and ask for more public involvement, is that the recent draft placed undue emphasis on highway construction.

"The era of the interstate is over," said VNRC Deputy Director for Policy Stephen Holmes, who, along with VNRC Executive Director Jane Difley, participated on committees giving input to the agency. The "post-interstate era," said Holmes, should include more emphasis on alternatives such as mass transit, ride-sharing, and bicycle lanes.

To its credit, Holmes said, the draft recognizes the important link between transportation and land use. The plan also sets the stage for creating Vermont Design Standards for roads and highways appropriately scaled to Vermont's towns, villages, and countryside.

The AOT hopes to draft a full and detailed plan by the end of January, followed by a period for public comment.
THANKS!

Thank-you, members, for your generous year-end contributions to VNRC. Your support is essential to our ongoing programs and future success!

GATHER, TALK, LEARN.
cont’d from page 3

know where things stand in getting action on the Council’s recommendations at the state and federal levels. These meetings will provide us the opportunity to hear our members’ perspectives and to involve them in the effort to protect forest land in Vermont.’’

To learn when a meeting will be held in their areas, Gilbert urged members to stay tuned.

VOLUNTEERS’ WORK APPRECIATED

A number of volunteers have been working with us on a variety of tasks. We salute and thank you!

- Charlotte Karr, a participant in the Retired Senior Volunteer Program, who has done data-entry work.
- Matthew Ennis, who has worked on a media research project.
- Brenda Paterson, who has been helping to update the Vermont Environmental Directory.
- Emily Sloan, who has photographed and done presentations on clear-cutting in the Northeast Kingdom.

Any VNRC member interested in volunteering should call our Outreach Coordinator, Tom Gilbert, at 223-2328.

OWN AN ORIGINAL “DOONESBURY”

Garry Trudeau completed his “Doonesbury” series on Wal-Mart this fall with the wise, prophetic panel pictured on this Bulletin’s front page. Now, the well-known cartoonist has graciously donated the original art to VNRC to help in our fundraising efforts. We’re holding a silent auction among members for the panel, with proceeds supporting VNRC’s continuing campaign to strengthen Vermont downtowns.

Submit your written bid (please, send no payment with your bid) to VNRC so we receive it no later than the close of business (5 p.m.) on March 31, 1995. The minimum bid is $1,000, and the highest bidder wins the panel. This “Doonesbury” black ink original measures 6.5 x 16.5 inches unframed.

Questions? Contact VNRC’s Deputy Director for Membership and Development, Sue Highby.

ACT 250 IS 25!

Act 250 was passed 25 years ago, and VNRC is planning to commemorate the event through special activities centered around Earth Day in April. Mark your calendars for the week of the 15th, and we’ll send more details as plans firm up.

Vermont Natural Resources Council
9 Bailey Avenue
Montpelier, VT 05602