

Bulletin

1996 LEGISLATIVE PLATFORM

The 1996 legislative session offers renewed opportunities for Vermonters who care about their environment—and that should surely include our elected representatives in the House and Senate. Advocates for conservation and environmental responsibility have well-known foes, particularly in Washington, D.C., who were not sleeping during Vermont's political "off season." With the Legislature back in session, we can focus our intellects and energies on positive steps Vermonters can take to protect their natural resources and the opportunities those resources provide us.

Particularly, the Legislature must use the 1996 session to affirm the close relationship between successful environmental protection and a sustaining, and sustainable, economy. VNRC's Legislative Platform puts forth positions and proposals in several areas where attention to conservation will enhance that relationship: Forestry practices that discourage waste and contamination, and enhance the economic and recreational value of forest lands; targeted economic development that makes the best use of both settled and unsettled lands; property tax reform supportive of Current Use, which relieves the formidable economic pressures on natural lands and resources; fees for water use to aid a vibrant and diverse recreation industry.

The strident opponents of conservation are discovering that they have galvanized an electorate that distrusts their motivations. Seventy percent of respondents to an ABC/*The Washington Post* poll last summer said the federal government had not gone far enough to protect the environment. Vermont's public servants must not make the same mistakes as their Washington, D.C., counterparts.

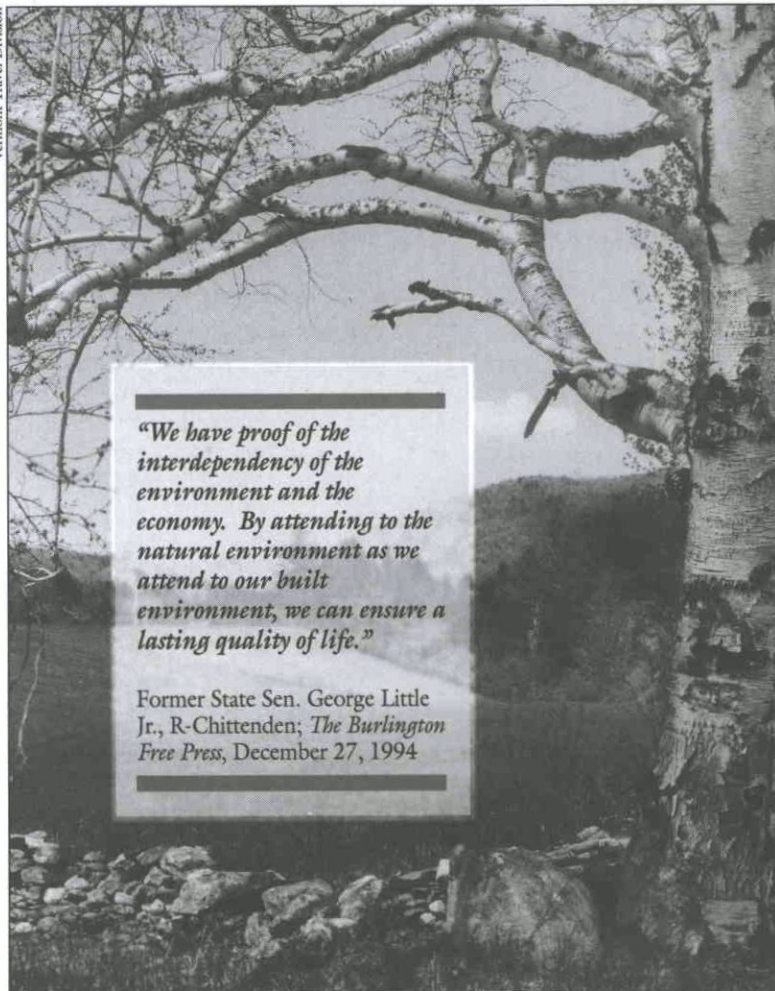
Do Vermonters—eyeing clean, verdant hillsides, drinking water purified with their tax dollars by municipal facilities, or breathing air freed of the taint from tailpipes or smokestacks—feel they are *too* protected by their government? Apparently not. Instead, Vermonters recognize that a fouled and abused environment is the label of economic and social disarray. It is clear which course Vermont lawmakers must pursue.

FOREST RESOURCES

Last year the Legislature passed a law addressing the increasing liquidation and fragmentation of Vermont's forests. The law attempts to discourage timber liquidation by extending Vermont's land gains tax to cover profits made on timber harvests. Vermont's Forest Resources Advisory Council (FRAC) was also reactivated and

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"We have proof of the interdependency of the environment and the economy. By attending to the natural environment as we attend to our built environment, we can ensure a lasting quality of life."

Former State Sen. George Little Jr., R-Chittenden; *The Burlington Free Press*, December 27, 1994



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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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FOREST RESOURCES

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charged with developing benchmarks for nine principles of forest sustainability.

However, the failure to address property tax reform in the first half of the biennium, coupled with the Dean Administration's decision to further reduce Current Use funding, has continued to put pressure on Vermont's forests. Additionally, the granting of a state permit to Boise Cascade to spray herbicides on clear cut land introduced Vermont to chemically-dependent forestry for the first time. The permit was issued with no public review or discussion about whether this is a practice Vermont wants to encourage.

This year's FRAC interim report to the Legislature recommends ways to improve the practice of forestry and the ability of landowners to hold on to forest land. The report provides the Legislature an opportunity to move forward on improving forestry in Vermont.

To ensure a healthy future forest, VNRC recommends:

- Reforming Vermont's property tax;
- Increasing land protection and conservation efforts;
- Improving opportunities for public input on forest policy and public lands management;
- Improving forest practices;
- Promoting value-added opportunities in forest products to improve local rural economies; and
- Increasing funding for the Department of Forests, Parks and Recreation.

Taxing forest land at its use value (not its potential highest value) would improve the climate for long term management of timber. In addition, other forest values could be maintained or improved by

PROPERTY TAX REFORM

Reforming the property tax 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 clear cuts 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 use—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 they would tax open land at its use value, whether the effect would be to reduce overall dependence on property tax, whether tax rates between towns would be equalized, and whether stewardship of the land would be 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. Fully funding existing state aid to education and the Current Use program are short-term solutions and should not be considered true reform. VNRC will also judge reform proposals based on their impact on other parts of the budget and revenue sources.

reducing raw log exports, amending the landowner liability law, discouraging chemical forestry, certifying foresters and loggers to improve practices and lower worker's compensation rates, and establishing standards to protect wildlife habitat, water quality, biological diversity, soil productivity, and recreational opportunities.

Funding for the Department of Forest, Parks and Recreation should be improved so the state can provide oversight and assistance. A rededication of the gas tax could provide needed funds.

WATER RESOURCES

Both the Vermont Constitution and the public trust doctrine require that the General Assembly protect rivers and streams as public resources. There is widespread public support for

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clean water. Vermont's water quality laws should be strengthened to build upon the successes of the past in restoring water quality. Addressing problems of habitat deterioration, wet weather run-off of pollutants, insufficient **minimum stream flow**, and loss of biodiversity should be priorities for Vermont.

Uses that reduce stream flows and have damaged our rivers include snowmaking,

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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.

Besides direct municipal sewage or industrial discharges, our streams are damaged by "non-point source pollution" (wet weather runoff) 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 help eliminate the water pollution and public health risks attributed to non-point sources. The state should extend reasonable financial support, including funds for non-structural solutions, for affected farmers.

FEES FOR WATER USE

Every day more than 8.7 million gallons of water are sucked from Vermont's public waters for commercial and domestic uses. Some 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.

PERMIT REVIEW PROCESS AND FUNDING

It is important to focus additional permit reform efforts where they belong—not on Act 250, but upon problems related to state agency and municipal permit procedures.

We are encouraged by progress the Agency of Natural Resources (ANR) has made in implementing the 1994 permit reform bill to address broad citizen involvement as early as possible in the ANR permit process. The permit reform bill required the ANR to publish a bulletin publicizing hearings, comment periods, and decisions on its permits. ANR also developed a permit guidebook to make the process understandable to

applicants and lay people.

These changes should go far toward improving state agency permit review, but increased funding will be required to improve the ANR's own permit programs and their enforcement, as well as to sustain and enhance the Agency's participation and expert testimony in Act 250. Adequate funding for the Environmental Board and Water Resources Board is also critical to ensure the permit process functions smoothly.

VNRC also supports the efforts of the On-Site Sewage Committee to improve the management of Vermont's on-site sewage disposal and water supply programs. Their town officials survey showed there is a growing problem with failed septic systems caused by improper installation and maintenance; this is resulting in sewage surfacing, and water supply and surface water contamination. Among the legislative



Mossy Cunningham

remedies recommended by the committee are: Universal standards for sewage disposal and water supply systems, administered by qualified town reviewers or by the state; granting authority for towns to issue permits for systems; **elimination of the ten-acre loophole in the state subdivision regulations;**

Act 250

For more than 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.

In 1995, the Vermont Environmental Board proposed comprehensive changes to the rules for Act 250. During a six-month period, the Board held four hearings around the state on the proposed rules, redrafted the rules in response to the 139 citizens who testified and 155 who wrote to the Board, and submitted them to the Legislative Committee on Administrative Rules before final adoption. The new rules contain major changes which will improve the efficiency of the Act 250 permit process. Many of the changes also implement the mandate of the 1994 permit reform bill, one of the major legislative initiatives passed that year. The

Board decided not to change party status rules after the proposal to limit citizen participation drew the most criticism from the public.

After nearly two years of intense legislative, administrative, and public scrutiny culminating in this major overhaul of the rules for Act 250, it is best now to give them time to work.

If Act 250 is addressed at all in 1996, it needs to be strengthened, not weakened. VNRC supports changes such as: Strengthening planning and its link to Act 250; implementing a statewide growth center policy and applying it to Act 250; rewriting "umbrella permit" rules to ensure that proposals, particularly mega-store developments, do not escape full review under the criteria of Act 250; and expanding appeal rights for citizens.

VNRC will continue to oppose changes that limit participation in the Act 250 process or erode the substance of the law.

licensing and certification requirements for designers, design reviewers, and installers; expanded educational and technical support; and loans and grants for repairs of failed systems for low-income households.

As the Legislature crafts an on-site sewage disposal bill, it should consider how to pay for its effective implementation. At a time when state and federal funds are being cut, it would be good to make this new initiative self-funding through licensing fees, user fees, and other new revenue sources.

The Legislature should also consider the long-term impacts on land use in Vermont of a new on-site disposal policy. With changes in the designs of disposal systems and more flexible standards, there will be more pressure to develop at higher densities and in new areas. The debate over construction at higher elevations and on agricultural lands and over conversion of wildlife habitat will intensify. Local and regional planners, already underfunded, will be ill-equipped to deal with these demands unless funds for land use planning are increased.

ACT 200 IMPLEMENTATION

In addition to the funding critical to effective planning, Act 200 needs legislative support to ensure full implementation. Forty-nine communities have approved plans. Eleven of 12 regions have adopted new regional plans, and 19 state agencies' plans were updated last year.

But much more needs to be done. Growth center demonstration projects must be completed and a growth center policy implemented statewide. Growth centers

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STATE FUNDING FOR PLANNING

For the second year in a row, state funds for town planning were zeroed out in 1995, while regional planning commissions received a small increase from \$953,000 to \$1,000,000. By comparison, regions and municipalities received a total of \$3 million in 1989. Elimination of these local and regional funds weakens effective planning and adds to the local property tax.

Last year the Legislature decided to rededicate a portion of the property transfer tax to local and regional planning and the Housing and Conservation Trust Fund (HCTF). (Note: In 1988, the Legislature dedicated the 0.75 % added to the property transfer tax to the Municipal and Regional Planning Fund and the HCTF.) This is a positive step; however, most of the proceeds of this tax are still being channeled into the General Fund.

Restoration of full funding and continued dedication of the property transfer tax to these two funds are critical if the goals of comprehensive planning and preservation of affordable housing and open land are to be fully achieved.

need more detailed infrastructure planning and design. Strategies set forth in the plans ought to be implemented. Bylaws must be written or updated. Financing must be put in place for capital expenditures. Plans prepared in 1991 must be updated. The process needs ongoing support to yield results.

Last year Act 200 survived another assault aimed at gutting effective planning.

VNRC will continue to support the planning goals and open public access established in Act 200 and will oppose any legislation that

repeals or undermines the goals and objectives of this valuable law.

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.

A sustainable economy for Vermont is one in which environmental quality and

economic prosperity form a partnership: They are complementary and 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 (clean air, water, wildlife habitat, and open space) by leading toward:

- The sustainable use of land and resources with special emphasis on Vermont's locally owned and operated businesses, including home businesses;
- Programs that strengthen agriculture and forestry, including: Development and marketing of agricultural and forest products and other land-based goods that depend on the "Made In Vermont" label and a high level of environmental quality; development of value-added farm and forest products; and support for Current Use and eventually linking that program to sustainable techniques like rotational grazing and uneven-aged, long-rotation timber harvesting;
- Programs and funding to identify and attract environmental industry that would naturally be interested in locating in Vermont (such as environmental products, e.g., solar electric power and electric vehicle development; waste reduction, reuse, and recycling technologies; and energy and water efficiency technologies), and to provide special support to in-state environmental technology startups;
- Programs to encourage

high-quality, non-polluting industry such as higher education, financial services, computer services, intellectual property, etc.;

- Implementation of the **Sustainable Jobs Fund**, created last year. The Legislature should continue to provide stable funding to ensure the success of this program;
- Programs and funding that preserve our **historic resources** and foster **downtown revitalization**. Vermont's historic resources and its traditional downtown urban areas and village settlements are cornerstones of both a successful growth center policy and a long-term development strategy for the state;
- Targeted **infrastructure**, such as road improvements, public buildings, water and sewer systems, and other utilities; in addition, the necessary funding and programs in properly designated growth centers;
- Tourism opportunities, such as **heritage and eco-tourism**, that take advantage of our unique natural and historic resources and are based on and reinforce Vermont's quality-of-life values;
- **Education** for Vermonters that will enable all citizens, especially our young people, to remain in this state and have productive careers and lives;
- Conservation of **energy** (in domestic, commercial, and transportation uses) and increased production from renewable and local energy sources;
- **Growth centers** where economic development—from manufacturing and small businesses, to education and financial services—is targeted.

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Growth centers, in downtown locations or adjacent to existing downtowns, would enable communities to concentrate appropriately scaled and sited, mixed development — shops, offices, homes — in one area, following Vermont's traditional, compact village 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 will continue to support the growth center concept as an excellent alternative to strip development and haphazard parceling up 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.

HOUSING AND CONSERVATION TRUST FUND

The HCTF provides important resources for the protection of agricultural and forest land throughout

Vermont and finances the creation and preservation of affordable housing for Vermonters.

VNRC supports a funding level of \$7.2 million for the HCTF to meet its objectives for fiscal year 1997.

ECOSYSTEM HEALTH AND BIODIVERSITY

From its forests and alpine areas to its wetlands and rivers, Vermont has many varied ecosystems. Our public health depends on the health of our ecosystems in many ways, from the forests and soils protecting our surface water supplies to the long-term medicinal value of some animals and plants. 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 weakening the state endangered species law and any staff reductions in

Every day more than 8.7 million gallons of water are sucked from Vermont's public waters for commercial and domestic uses. Some 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.

Vermont's valuable Non-game Wildlife and Natural Heritage programs. VNRC supports a special license plate to support these and other conservation programs.

TRANSPORTATION

VNRC will monitor the Agency of Transportation's Capital Program (list of construction and planning projects) to seek stronger implementation of the federal Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA - "ice tea") promoting more environmentally sound transportation, such as trains, buses, car-pooling, and bicycles, with less emphasis on new highway construction, and more citizen involvement in transportation planning.

VNRC will advocate for project designs that encourage alternative forms of transportation (such as bike path construction on reconstructed roads or bridge replacements), and that respect environmental, historic, and scenic resources (such as the "foot-print replacement" bridge

ENERGY

VNRC will monitor utility industry restructuring, state energy policy, programs, and implementation, and will support appropriations in the capital budget targeted for energy efficiency. Energy conservation and efficiency programs will remain a priority for VNRC.

"Vermont's strong environmental policies have not imposed observable economic burdens: pollution regulations have not cost jobs or hobbled manufacturing; and land use regulations have not depressed real estate, construction, or farming."

Stephen M. Meyer, Professor of Political Science, Massachusetts Institute of Technology, 16th Annual Environmental Law Conference, November 30, 1995

program). VNRC will advocate for initiation of passenger rail projects, particularly in the Route 7 corridor.

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 waste reduction, reuse, and recycling.

LANDOWNER LIABILITY

To help maintain our state's tradition of public access to Vermont's northern forests and other important recreational lands and waters, VNRC will support efforts to clarify the liability of landowners regarding lawsuits from recreational users or trespassers.

CITIZEN ENFORCEMENT OF ENVIRONMENTAL LAWS

The federal government and many states have laws allowing citizens to take polluters to court. VNRC supports changes in Vermont law to enable citizens to sue for enforcement of environmental protection laws.



Any questions about key issues? Call VNRC's staff members, including Brigid Dunne (back); Christopher Kilian, Stephen Holmes, and Jim Shallow (second row, left to right); and Jane Difley (front), at (802) 223-2328.



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