

Bulletin & Legislative Platform

Published by the Vermont Natural Resources Council, Inc.

THIS YEAR'S TOP ISSUES AT A GLANCE:

VNRC is working on a host of environmental issues in the 2001 Legislative Session, ranging from increasing state funding and technical assistance to farmers to strengthening and improving Act 250. With over 50 new legislators in the House and Senate, VNRC has found ample opportunities to work with old and new friends who are concerned about the environment.

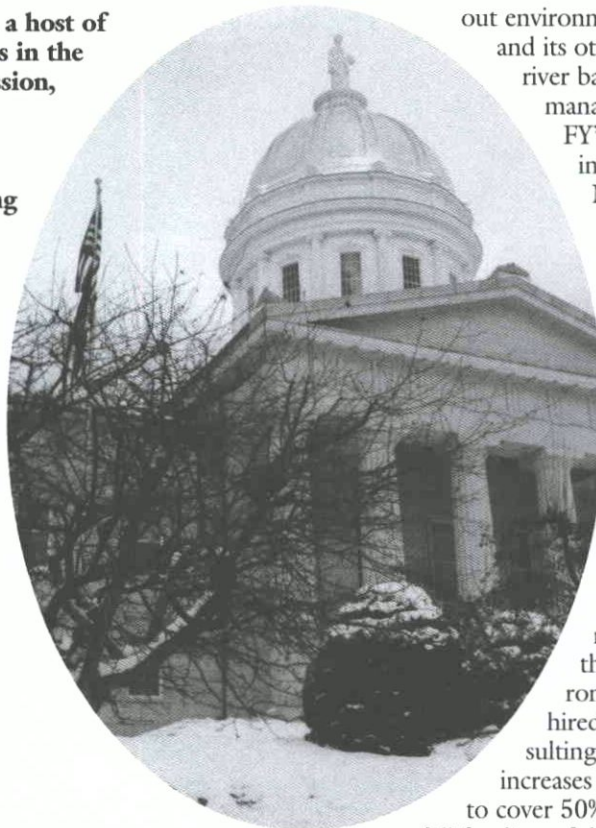
VNRC is present at the State House to represent the opinions of our 5000+ members. If you have questions or comments about our legislative initiatives, please let us know.

INVESTING IN THE ENVIRONMENT

Over the past five years the Agency of Natural Resources' (ANR) budget has bottomed out at just over 1% of the General Fund compared to an average of around 2% during the 1980s and early 1990s. The amount of state general funds invested in environmental protection has dropped from \$35 per year/per Vermonter in 1993 to \$15.50 per year in 1998, and staffing has been reduced by almost 40 people.

The following investments will go a long way toward improving Vermont's environmental quality and protecting its natural resources:

- Adequate funding for the Agency of Natural Resources, so it can effectively and efficiently carry

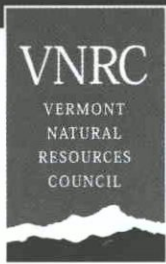


out environmental permitting enforcement and its other responsibilities, including river basin planning and stormwater management. Governor Dean's FY'02 Budget makes a significant investment in the Agency of Natural Resources. The Governor's budget should act as the "floor" or absolute minimum investment of our tax dollars for environmental protection.

- Revise ANR permit fees to incorporate more of the total societal costs of the regulated activity so polluters pay more of the costs. Currently, ANR charges approximately 30% of permitting costs to the permittee. This means taxpayers cover 70% of the costs required to permit environmental impacts. The State hired an independent economic consulting firm which suggested fee increases which would require permittee's to cover 50% of the costs. VNRC supports full funding of the ANR's Permit Fund Proposed Fee Structure revenue adjustments.

- The administration has proposed a one-time appropriation in the amount of \$500,000 to establish a "Land and Water Stewardship Trust Fund." The fund will reportedly support maintenance of our chronically underfunded State Park system, support state lands management planning, and support ecological and natural community inventories.
- The Fee Bill (above) proposes to carry over excess receipts from the Environmental Permit Fund into the

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VNRC'S WELCOME LETTER TO THE 2001 LEGISLATURE...

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The Vermont Natural Resources Council, Inc., is a nonprofit environmental organization founded in 1963 to protect Vermont's natural resources and environment through research, education, and advocacy.

VNRC is the Vermont affiliate of the National Wildlife Federation.

VNRC membership includes a subscription to the *Bulletin* and the *Vermont Environmental Report* (both published bi-annually).

For an individual membership, send \$35.00 to VNRC.

The *Bulletin* is printed on recycled paper with soy-based ink. However, please recycle this issue by sharing it with your family and friends!

January 16, 2001

Dear Legislator,

Vermont Natural Resources Council (VNRC) would like to welcome you to the 2001 legislative session. As guardians of Vermont's environment since 1963, VNRC is our oldest statewide not-for-profit environmental organization. VNRC has over 5,000 members across the State who care very much about the natural resources and vital communities of the Green Mountain State.

Our focus is not only on supporting efforts for clean water, clean air, sustainable agriculture and forests, and healthy communities, but also on protecting the integrity of Vermont's existing environmental laws. A few of our priorities include:

- Supporting increased funding and technical assistance to help farmers clean up sources of agricultural runoff;
- Supporting increased levels of funding for the Agency of Natural Resources, especially stormwater management programs, watershed planning, state lands management, and environmental enforcement;
- Improving the Act 250 process to better address environmental concerns, guarantee the rights of all Vermonters, assist small business in an expeditious permitting process, and ensure healthy, active citizen participation, the foundation upon which the law was built.

Aside from working on our own legislative priorities, the staff at VNRC is committed to providing information and input on issues that may be important to you. Our in-house team of experts is well-versed on a host of issues. Please feel free to contact me or the following staff for specific needs:

- Pat Berry: general information
- Job Heintz: forestry, energy, lands management
- Steve Holmes: land use, sustainable communities
- Kim Kendall: staff scientist
- Kelly Lowry: water quality

We look forward to working with you this legislative session.

Sincerely,

Elizabeth Courtney
Executive Director



Back row, from left: Pat Berry, Steve Holmes, Elizabeth Courtney. Front row, from left: Job Heintz, Kim Kendall, Kelly Lowry

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Trust Fund. VNRC will support this initiative provided that additional measures for increasing the fund will not be derived from activities which will negatively impact our public lands. VNRC opposes generation of funds from timber receipts derived on state lands, and where the public has not had ample notice and opportunity to comment.

- Maintain substantial year-to-year funding for the Housing and Conservation Trust Fund.
- Fully fund the Municipal and Regional Planning Fund.

ACT 250

For over 30 years Act 250 has been recognized as a national model for managing growth and development. It has helped Vermonters to protect the environment while strengthening the economy by improving the quality of major developments and producing generally secure financial investments.

Yet Act 250 covers only 40% of development in the state, and in recent years has had little effect in containing sprawl and moderating the rapid pace of development. A look at the facts shows that since 1970, the year Act 250 was passed, Vermont has had one of its strongest periods of population growth. Between 1970 and 2000, Vermont's population grew by almost 37%, averaging over 12% a decade.

The facts show that Act 250 is already pretty easy to go through. Out of 600 plus applications a year, Act 250 approves over 98%. Act 250 now treats about 80% of applicants as "minors" with-



out full review. And through expedited permitting procedures, Act 250 now pushes about two-thirds of the applications through in 60 days or less. (In 1970 Vermont had 444,732 residents. Today the state is home to 608,827 – an additional 164,000 people in just 30 years. It took 140 years from 1830 to 1970 for Vermont to grow by a comparable amount.)

Many believe that, in spite of Act 250, the quality of life in Vermont is slipping away. Because the law's review standards are dated, it allows review of development projects only on a case-by-case basis, and the long-term planning context is virtually ignored. Moreover, the process leaves citizens out of full participation, because only some may appeal beyond the Environmental Board appointed by the Governor. For example, Wal-Mart can appeal to the Supreme Court, but a local business owner or neighbor affected by the project cannot.

As the new millennium begins, factions of the incoming Vermont legislature seem poised to "reform" or "streamline" Act 250. "Reforming" and "streamlining" have become code words for cutting citizens out of the picture, in the name of efficiency, to make it easier for developers to build in Vermont.

There are ways to improve Act 250, but weakening public involvement is not one of them. The law can be strengthened by making the process work more efficiently in coordination with other permit processes while respecting Vermont's long-standing commitment to citizen participation in Act 250.

Here are some ways to strengthen Act 250 that will help protect the environment, foster a strong economy and ensure the rights of citizens:

- Establish an Office of Act 250 Public Advocate to help parties better understand and work through

the permitting process. An adjunct to the office would be a permit ombudsman for small scale-developments to help them through the permit process.

- Create a smaller, full-time Environmental Board to help ensure fair, consistent, and timely decisions that are responsive to the demands and needs of the people of Vermont.
- Level the playing field for all citizens in the Act 250 process by allowing individual Vermonters the same appeal rights as any other entity (including the executive agencies, state, national and multi-national corporations) to the Vermont Supreme Court.
- Establish a process similar to that used for judicial selection for nominations to the Environmental Board and District Environmental Commissions.

2001 LEGISLATIVE PLATFORM

- Provide technical and judicial training for District Environmental Commissioners and Environmental Board members.
- Create a Blue Ribbon task force to find ways to strengthen, simplify and coordinate local and state permits and procedures.
- Create a study group to find ways to allow for environmental innovation in the Agency of Natural Resources and Act 250 permitting processes.
- Make stronger provisions for Master Plan review of major development projects. Master plans should be required for large-scale, multi-year, phased development projects.
- Allow Act 250 to conduct comprehensive reviews of the long-term cumulative

impacts (on natural resources, the economy and infrastructure like roads, sewer and water systems) of large-scale, complex developments, rather than the current practice of piecemeal, project-by-project decision-making.

- Review and strengthen some of Act 250's criteria—like traffic—which are too weak or outdated and ineffective in protecting Vermonters, our environment and our communities.
- Provide adequate funding to the Environmental Board to accomplish the above recommendations and to facilitate efficient, timely permit review.

SPRAWL

Sprawl development is overtaking Vermont in the form of suburban subdivisions, commercial strips with

“big box” retailers like Wal*Mart and Home Depot, and scattered residential lots in outlying areas. Research conducted by the *Vermont Forum on Sprawl* shows that land is being developed in Vermont at about 2.5 times the rate of population growth, suggesting that land is being consumed at excessive rates. According to the Vermont Agency of Natural Resources (ANR), Vermont is losing over 6,500 acres a year to development.

Sprawl threatens to change our traditional rural landscape, the vitality of our downtowns, and our sense of community. The following initiatives are recommended to address the problems associated with sprawl:

- Examine and revise state policies and investments that contribute to sprawl. Many state agencies such as Commerce and Community Development,

Transportation, Natural Resources and others have programs and budgets that have impacts on how land is used in Vermont. It is critical to understand how and to what extent the policies and programs implemented by these governmental entities may be inadvertently increasing sprawl, and to make appropriate adjustments so as to avoid or reduce the opportunities for sprawl to get a foothold in our communities.

- Create growth centers where development, including affordable housing, is supported and state funding for infrastructure is targeted while enhancing land protection efforts and discouraging state infrastructure investments outside downtowns/growth centers.



- Revise ANR policy to prioritize state funding for sewer and water projects so as to favor downtowns and growth centers.

DOWNTOWNS

Vermont has taken some steps to revitalize its major downtown areas and has preserved many of its compact towns and villages, but in many parts of the state, pressure to develop outside town centers continues to be strong.

- Revise the Downtown Law to provide additional financial incentives for affordable housing as part of mixed income or mixed-use projects in designated downtowns.
- Consider the concept of land value taxation that would enable cities and towns to increase taxes on land values in their downtown centers while decreasing taxes on downtown building values if they choose. This enabling legislation would give municipalities with designated downtowns the flexibility to set the tax rates on land, buildings and improvements at levels they believe would work best at encouraging development in their downtown, and to alter the ratio in future years.
- Provide for exemption from Act 250 fees and Labor and Industry fees in designated downtowns. Add special infrastructure and amenity loss fees in agricultural and natural resource-rich areas while keeping fees the same as current levels in built-up areas and areas planned for growth outside designated downtowns.

- Amend Vermont Economic Progress Council (VEPC) policies to encourage and give preference in the awarding of tax credits to businesses which locate in existing downtowns or which use existing infrastructure and which support the sustainable agricultural community and economic development in rural community centers.

PROTECTING OPEN LANDS

- Extend current use program to other open space lands, including land enrolled to protect threatened and endangered species or significant natural communities.
- Provide additional incentives to clean-up and promote development in "brownfields" (areas which are abandoned, idled, or under-used industrial and commercial facilities where expansion, redevelopment, or reuse is complicated by real or perceived environmental contamination) which are located in designated downtowns. For example, Vermont could enable municipalities to offer a partial exclusion from property taxes as buildings and improvements are constructed on the property.
- Broaden and increase the land gains tax so that the land gains tax rate for land most threatened by sprawl could increase.
- Close the 10-acre loophole in state subdivision regulations and provide financial and technical assistance to communities to address the land use impacts associated with alternative sewage treatment technologies.

ENERGY

The State of Vermont is at a crossroads in terms of energy supply and demand. Recent growth in certain portions of the State has strained available energy resources. As we look for ways to provide greater reliability to our energy system, Vermont has an opportunity to determine whether the State's policy will encourage energy efficiency and renewable sources of energy supply, such as wind and solar, or rely more heavily on fossil fuels.

The following could improve Vermont's energy future:

- Maintain the benefits of the current regulated system, such as environmental protection, demand side management, development of renewable energy resources, consumer protection, and low-income assistance, in any legislation on electric utility industry restructuring. Public involvement is a crucial element of any restructuring endeavor.
- Provide a sales tax exemption for all equipment for solar, wind, biomass and pellet stoves. In addition, provide a five-year exemption for Energy Star labeled home appliances.
- Provide income tax credits for the production and sale of electric power from renewable energy sources, including wind, solar, biomass, and methane.
- Provide income tax credits for investments in renewable energy systems of solar electric, solar hot water, and wind.

TRANSPORTATION

The Vermont Agency of Transportation (VTrans) is guided by the state Long Range Transportation Plan and federal laws such as the Transportation Equity Act (TEA-21), which stress that maintaining our existing transportation facilities and improving all modes of transportation to provide Vermonters with choices are the top priorities. In light of these well-articulated policy documents, VTrans and the legislature should seek to promote more environmentally-sound transportation choices, such as passenger and freight rail, buses, car-pooling, pedestrian and bicycle facilities, with less emphasis on new highway construction, and more citizen involvement in transportation planning.

To that end, Vermont's Committee to Ensure Clean Air, (of which VNRC is an appointee) is in the final stages of preparing a report on Transportation Strategies for Clean Air. A balanced group of multiple interests, The Clean Air Committee recommendations should be implemented by the legislature as expeditiously as possible.

Specifically, VNRC urges the legislature to:

- Increase funding for rail, public transportation, and other non-highway modes of transportation,
- Require VTrans implementation of its "fix it first" policy to maintain the existing roads and bridges that we have, before investing in new highway projects such as the Chittenden County Circumferential (Circ) Highway.



- Consider increasing the motor fuel tax and dedicating the revenues raised to support public transportation; under no circumstances should Vermont decrease motor fuel taxes.
- Establish pleasure vehicle registration fees that reflect fuel consumption, vehicle weight and/or "footprint", with some vehicle fees being reduced or eliminated.
- Provide income tax credits for purchase of, or conversion to, an alternative fuel vehicle and provide income tax credits for the purchase, conversion, and/or installation of alternative fuel infrastructure.
- Provide income tax credits for Low Emission Vehicles (LEVs), and Zero Emission Vehicles (ZEVs) and hybrids.

WATER QUALITY

The waters of the state are public resources owned by all Vermonters. Both the Vermont Constitution and the

public trust doctrine require the General Assembly to protect the public's interest in our lakes, rivers, and streams.

National and state polls indicate there is widespread support for clean water.

Although Vermont has done a good job of cleaning up direct municipal and industrial discharges called "point sources" of pollution, our lakes and streams are damaged by dispersed "non-point source pollution" (wet weather runoff) from urban parking lots and streets, agriculture and other sources.

Non-point pollution is now the leading source of water pollution in Vermont. Studies have shown that on a per acre basis, urban runoff delivers a pollutant load that is many times greater than agricultural runoff, although agriculture is still the prime source in terms of total pollutant load.

Pollutants in urban runoff include heavy metals, petroleum products, pesticides, fertilizers, sediment and salt. For fish, one of the worst problems is sediment which smothers the aquatic insects

that form the base of the food chain.

In 2000, the legislature passed a bill that is designed to improve the management of stormwater in Vermont. Adoption of strong rules by the Agency of Natural Resources is critical for successful implementation of the law.

Over the summer, VNRC conducted research to determine the gaps in current programs that assist farmers in cleaning up agricultural runoff. Based on this research, we have concluded that the following areas are understaffed and underfunded in Vermont: implementation of nutrient management practices: conservation of riparian buffers; education and outreach on the Accepted Agricultural Practices (AAPs), enforcement of AAPs and the Large Farm Operation law.

To help farmers, the legislature must:

- Increase funding and technical assistance to help farmers with nutrient management, stream buffer protection, outreach and

education programs and better enforcement of non-compliance to improve water quality.

The following initiatives should also be undertaken this year to improve water quality in Vermont:

- Remove the sales tax exemption on non-agricultural pesticides and fertilizers. Currently, no sales tax is paid on pesticides and fertilizers in Vermont. Originally designed as a subsidy to aid farmers, the exemption also extends to commercial lawn applicators, golf course, ski areas, industry, and homeowners purchasing these products off the shelf.
- Develop a comprehensive approach to label, separate and properly dispose of mercury-containing products to reduce the exposure of citizens to mercury in the environment. Requirements would include manufacturer take-back programs and phase-out of nonessential mercury-containing products.

FORESTS

In 1997 the Vermont Legislature passed Act 15, *An Act Relating to the Regulation of Heavy Cutting of the Timber Resource*. Act 15 obligates landowners who are planning a "heavy cut" (clear-cut type harvest on 40 or more acres) to obtain a permit from the Vermont Department of Forests, Parks, and Recreation. Unfortunately, under 'emergency rules' still in place three years later, Act 15 does little more than require a notice of intent to cut by a landowner.

Substantive natural resource provisions are intended to come out of a

formal rulemaking process. The law clearly states, in 10 VSA §2625(g) that “[t]he Commissioner shall adopt rules relating to heavy cutting...” Section 2625 (g)(2) creates a mandatory obligation for the Commissioner to adopt rules establishing: “requirements with respect to

soil productivity, water quality, wetlands, riparian zones, significant wildlife habitat areas, unique or fragile areas, regeneration, scenic quality, and unusual environmental events such as those causing severe damage from wind, ice, disease or insect infestation.”

- While factions of the incoming Legislature would like to repeal Act 15, VNRC supports strengthening the law, and will work with the legislature to require the formal rules be drafted by the responsible public official.

- Target funding for increased rail, public transportation, and other non-highway modes of transportation and maintenance of existing roads and bridges rather than on new projects like the Chittenden County Circumferential (Circ) Highway.

VERMONT NOTES

VNRC WELCOMES BACK A LONG-TIME BOARD MEMBER AND USHERS IN TWO NEW MEMBERS!

**Mark Schroeder,
Belvidere,
Lamoille County-**

After graduating from UVM in Dairy Science in 1958, Mark bought a small dairy farm in Belvidere. With his wife Sukey, he spent two years in the first Peace Corps group to Nepal. In 1971 Mark received a Ph.D. from Cornell University in Agricultural Economics. He

was on the Belvidere Planning Commission and a Belvidere Selectman for many years.

In 1979, he was appointed by Governor Hoff to Vermont's 208 Board for water quality management. He was also the Economist in the Vermont State Planning Office and participated in the writing of the Interim Land Capability Plan. Mark has been active with the Vermont

Natural Resources Council Board for many years, and is currently Treasurer of Sterling College in Craftsbury. He still resides in Belvidere with Sukey. They have three children and two grandchildren.

**Virginia Rasch,
Calais,
Washington County-**

Virginia is the founder and Executive Director of the Association of Vermont Conservation Commissions. While working on her M.S. in the Field Naturalist Program at UVM, Virginia formed the Grand Isle Conservation Commission, then the ninth commission in the state. Now, there are over 80 commissions. Previously, she assisted several Connecticut conservation commissions while working toward her B.S. and M.S. degrees in Biology from Southern Connecticut State University.

Virginia is also a freelance editor and a walking tour guide; she has led tours in Vermont, Switzerland and Italy.

Volunteer positions, past and present, include serving on numerous planning and

conservation commissions, sampling water quality as a lake lay monitor, and volunteering for Bluebirds Across Vermont and Vermont Cares. Virginia received the Governor's Earth Day Award from Governor Kunin, and the Vermont Recreation and Park Association's Theresa Brungardt Award.

Her passions include mothering her daughter, Jessica, spoiling her dog, hiking and snowshoeing.

**Dale Gulbrandsen,
Manchester,
Bennington County-**

Dale has been a human resource management, organizational development and education and training professional for over 30 years, with particular strengths in strategic planning, team building, leadership development, and group facilitation. In 1999 he co-founded the grass roots organization Coalition for Alternatives for Trucks Through our Towns (CATT), to seek a viable alternative to a Casella Waste Management proposed road and expansion of waste transfer facilities in rural-residential Manchester.

Dale is an active outdoor adventurer, runner and skier. He lives in Manchester with partner and soulmate, Sally Dodge Mole.

COME BY AND MEET VNRC'S LEGISLATIVE LIAISON!

Rebecca D. Ramos is coordinating VNRC's legislative activities for the 2001 General Session. Rebecca graduated from Vermont Law School in 1997 with both her J.D. and Master's in Environmental Law. Before moving to Vermont, she was the Conservation Director for a state-wide environmental organization in South Carolina, the Palmetto Conservation Foundation, and worked for a private law firm, Woodward, Cothran & Herdon. Rebecca lives in Montpelier.

To contact Rebecca, please call the VNRC office or email her at redramos@yahoo.com.



TRACKING WORKSHOP WITH SUE MORSE

Once again, VNRC is teaming up with nationally recognized wildlife habitat and tracking expert Sue Morse, of Keeping Track. Join us to look for signs of bear, bobcat, moose and other forest creatures. This workshop will fill up quickly, so please call Jimmy Fordham at VNRC (802-223-2328) to make your reservation today.

**Friday, February 23, 2001
9:00 to 4:00
Richmond**

Be prepared to be outside all day hiking over some steep and uneven trails, and please dress accordingly: warm clothes, good boots, and extra clothes. **PLEASE BRING LUNCH AND WATER.** Please bring snowshoes if there's snow. If you don't have a pair, Keeping Track has a few pairs to rent for \$5/pair.



Photo courtesy of Sue Morse

JOIN VNRC's CONSERVATION NETWORK!

Get more involved! Whether you are a dues paying member of VNRC or simply an interested citizen, you can join the Conservation Network. You will receive more information about public hearings, legislative issues, community events and more. Find out how to get in touch with your legislative representatives, and learn more about writing letters to the editor of your local paper, or how to find additional information about your top issues.

"Citizen support is crucial to the protection of Vermont's environment," says

Pat Berry, VNRC Communications Director. "We all need to let our Legislators know how we feel about issues like the protection of our waters, the strengthening of Act 250, and the preservation of Vermont's biodiversity. The Conservation Network is a great way to get informed so people can get involved."

For more information or to join the Conservation Network, please call Pat Berry at 802-223-2328 or email him at pberry@vnrc.org. Help make a difference for environmental protection in Vermont.

TAX SHIFTING CONFERENCE A GREAT SUCCESS!

On December 8, the Vermont Fair Tax Coalition (a group which includes the Vermont Natural Resources Council, Friends of the Earth, Vermont Businesses for Social Responsibility and Vermont Public Research Interest Group) convened with over 150 participants to explore a range of environmentally friendly tax reform options for Vermont. The conference, co-sponsored by Vermont Law School, entitled "Are Green Taxes a Solution for Pollution? Can Vermont Shift Taxes Towards a More Efficient Economy, Healthier Environment, and Fairer Tax



System?" featured a host of regional and national speakers addressing specific green tax reform issues in Vermont. The keynote speaker was Kai Schlegelmilch, advisor on Ecological Tax Reform for Germany's Federal Ministry.

For more information about tax shifting, please contact Steve Holmes at VNRC.

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