

Bulletin & Legislative Update

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VNRC WORKS WITH LEGISLATURE TO TACKLE BIG ENVIRONMENTAL AGENDA

When looking back over the last decade or so, it is arguable that Vermont has been resting on its laurels and compromising its reputation as a leader on environmental issues. Often it seems as though we've been sliding backwards just as much as we've moved forward. In the last couple of years, however—and during this legislative session in particular—Vermont's Democratically controlled General Assembly has reasserted itself as a leader on the conservation and environmental front.

Perhaps as notable as the issues themselves are the leaders who have begun to emerge. Individual Democrats, Republicans, and Progressive alike have stepped out in front to lead the way on key issues. Representatives Steve Adams (R- Hartland) and Joseph Krawczyk (R-Bennington) came forward to honor the legacy of past Vermont Republicans who advocate for strong conservation values.

Representative Krawczyk, along with Representative Jim Masland (D-Thetford), guided the groundbreaking Growth Center bill through the House. Representative Steve Adams, as chair of the Fish, Wildlife, and Water Resources Committee, and his co-chair Representative David Deen (D-Westminster) have provided leadership on a number of bills including the Groundwater bill and



2006 LEGISLATIVE UPDATE



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the Basin Planning bill.

Respective chairs of the Natural Resources and Energy Committees, Senator Ginny Lyons (D-Chittenden) and Representative Robert Dostis (D-Waterbury) have ushered a number of environmental bills through each chamber including those related to renewable energy, greenhouse gas emissions, and energy efficiency. The list goes on...

And representatives David Zuckerman (P-Burlington) and Dexter Randall (P-Troy) have provided important voices on sustainable agriculture and water quality issues.

The point is this: VNRC's efforts to make environmental issues non-partisan is gaining ground. With the help of legislators from across the political spectrum, VNRC chalked up one of the most successful legislative sessions in recent memory. Central to VNRC's success is our unique full-time presence, our diverse expertise, our strong grassroots base, and notably, our collaborative approach.

Upon passage of the groundwater protection bill, a representative of the groundwater industry said on a Vermont Public Radio story, "I give a lot of credit to VNRC and others for talking about this and trying to get what they wanted from the bill but recognizing other concerns."

COMMUNITY IMPACT STUDY BILL

VNRC was close to ensuring passage of a bill designed to protect communities from the impacts of large-scale retail development. The bill, S.

175, would have required the developer of a proposed commercial project over 75,000 square feet in size to provide the funding for a community fiscal and economic impact study. The funding would be made available to the host community to pay for the study by a consultant of their choice.

The bill passed the Senate by a 20-5 vote. However, time ran out on this year's legislative session as the House Natural Resources and Energy Committee was reviewing the proposal. There was strong interest in this concept, and VNRC is hopeful that the bill will be passed next session. VNRC appreciates the work of Senator Vince Illuzzi, (R-Essex/Orleans) Chair of the Senate Economic Development, Housing, and General Affairs Committee who was a tireless champion of this crucial community development tool.

BASIN PLANNING AND WATER QUALITY

The House Fish, Wildlife, and Water Resources Committee worked diligently with VNRC and others on a water quality and watershed planning bill that passed the House, but the clock ran out on the session before the Senate had time to consider it. Nevertheless, VNRC may build on this year's efforts during the next session.

The House-passed bill would have authorized the Vermont Water Resources Panel to protect waters of the state by clarifying the water classification process and requiring the creation of new

rules to protect the highest quality waters in Vermont. Both tools were designed for use in the Basin Planning process, a requirement of the Clean Water Act that is designed to manage and protect each of Vermont's 17 watersheds.

The Basin Planning process continues across the state, and VNRC encourages Vermonters to get involved in their local watershed protection efforts. The Vermont Water Resources Panel has yet to act on guidelines for classifying waters in the Basin Planning process. VNRC will continue to follow this process closely and advocate for classifications that protect Vermont's high quality waters.

ENERGY

Both House and Senate Committees on Natural Resources and Energy picked up where they left off last year by tackling a host of energy related issues. In fact, the House committee began planning their efforts last fall and, under the leadership of Chairman Robert Dostis (D-Waterbury), the committee spent the majority of their time working on the following bills—all of which successfully passed this year:

Appliance Efficiency Standards, H.253- One critical piece of last year's omnibus energy bill that was left behind would have required more stringent efficiency standards for certain appliances, including furnaces, lamps, transformers and power supplies. Presented as a stand-alone bill this year, and designed to decrease energy consumption in Vermont, the Legislature delivered on its promise to pass the appliance efficiency



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GROWTH CENTERS

After years of hard work, Vermont now has some new tools to fight sprawl. On the last day of the 2006 session, the General Assembly passed the Growth Center Bill, S. 142, to encourage development in appropriate areas while ensuring protection of valuable farmland and other rural resources. This groundbreaking initiative has been at the forefront of VNRC's legislative agenda for the past two years.

Upon passage of the bill, VNRC's Executive Director Elizabeth Courtney remarked, "This hard fought bill heralds the long awaited marriage of planning and regulation in Vermont. With it we'll see communities much more clearly defining guidelines for development in Vermont."

Last year, VNRC pushed for the establishment of the "Working Group on Growth Centers," a Joint House-Senate panel charged with making recommendations to encourage compact development patterns. The Working Group's final report was issued late in 2005, and became the template for the growth center bill. VNRC worked diligently with the Working Group to craft its report and to provide testimony to the many legislative committees which had a hand in drafting the final bill.

Special thanks go to both the Senate and House Natural Resources and Energy Committees, and especially Senator Ginny Lyons (D-Chittenden) who steered the bill through its entire two year journey.

Key provisions of the bill include:

- A meaningful description of growth centers that will focus new development in designated downtowns, village centers, and new town centers, and land adjacent to these three areas;
- A requirement that growth center planning be in accordance with smart growth principles designed to avoid sprawl and strip development;
- An expanded Downtown Development Board to assist with land use and community planning issues in the growth center designation process;
- A growth center designation process that ensures that growth centers are appropriately sized and that proper

planning and zoning tools are in place;

- A requirement that communities maintain their rural character including protection of important natural and historic resources outside the growth center;
- A new planning coordination group to provide growth center designation assistance to communities;
- Provisions that would allow for a more expeditious review for development projects inside the growth center;
- Regulatory incentives such as an Act 250 master plan permit application process for all or a portion of the growth center;
- A package of financial benefits within growth centers, including eligibility for tax increment financing for infrastructure and improvements, priority for state assistance to growth centers, and preferential location for state buildings;
- Expansion of the downtown program tax credits for historic building rehabilitation, and façade and code improvements in downtowns and village centers;
- Authorization to mitigate for the development of agricultural soils in the Act 250 process by permanently conserving other parcels of farmland. Mitigation ratios are designed to discourage development of farmland outside of growth centers;
- A farmland planning and resource conservation group, of which VNRC has been named as a member, to report back to the legislature on agricultural land conservation policies for the future.

VNRC's Sustainable Communities Director Steve Holmes noted, "The Growth Center Bill is a fitting companion to Act 200, Act 250, and the Downtown Law. It's designed to unite planning, regulation, incentives, and state investment policy to guide future development that will bring vitality to existing communities and enhance environmental quality in the countryside. There are very few states today who can claim such a comprehensive growth management program."

DRINKING WATER PROTECTION

The Legislature delivered a critical victory for Vermonters this year by passing a bill that will begin to address protection of the state's groundwater resources. Passage of this important legislation represents over two years of planning, coordination, and hard work by VNRC's legislative team, who chaperoned the drinking water protection bill through the legislative process and then negotiated the final language.

While VNRC served as the catalyst that moved the groundwater bill, bipartisan leadership in both the House and Senate kept the momentum going. Chair of the House Fish, Wildlife, and Water Resources Committee, Representative Steve Adams (R-Hartland), and Chair of the Senate Natural Resources and Energy Committee, Senator Ginny Lyons (D-Chittenden) made it clear that the groundwater protection bill was a priority. Members of both committees worked hard and deserve a lot of credit. Also critical to the success of the effort was the grassroots citizen action and involvement of groups such as Water 1st! and Vermonters for a Clean Environment.

The bill requires water users withdrawing over 50,000 gallons per day to secure an interim groundwater permit. The 50,000 gallon limit matches New Hampshire's threshold for permitting groundwater extraction.

In addition to acquiring a permit, applicants in Vermont must map the aquifer in which the proposed groundwater withdrawal will take place. The interim program is designed to safeguard Vermont against groundwater depletion and contamination until a long-term, comprehensive program to

protect the resource is put in place.

To address the long-term protections contemplated by the Legislature, the bill creates a task force charged with recommending a groundwater protection program for Vermont. The task force will look closely at several key water protection tools communities need to safeguard their drinking water supplies, including:

- The creation of comprehensive maps of the state's groundwater resources and a schedule for completing groundwater mapping;
- The funding sources needed for groundwater mapping;
- The creation of a statewide program for addressing groundwater withdrawals;
- The adoption of the Public Trust Doctrine to declare that surface water and groundwater are held and managed in the public trust.

Now that the Legislature has passed the bill, some of the hardest work is slated to begin. Public involvement will be essential to ensure that the task force crafts the meaningful protections for drinking water aquifers, and that the Legislature adopts those recommendations. VNRC will remain at the forefront of this effort, and will count on the support of our members and activists to help develop a program that will protect Vermont's groundwater for generations to come.

A. Blake Gardner



standards bill during the 2006 session.

Regional Greenhouse Gas Initiative, H.860- Governor Jim Douglas' Administration deserves significant credit for negotiating a landmark Regional Greenhouse Gas Initiative, a cap-and-trade program among seven northeastern and mid-Atlantic states designed to reduce greenhouse gas emissions. The Legislature played its part by approving the agreement, and jump-starting one of the key goals in the Climate Action Plan signed by the New England Governor's and Easter Canadian Premiers to reduce greenhouse gases to 10% below 1990 levels by 2020.

Vermont Energy Security and Reliability Act, H.859- The House Committee expended significant effort on this year's omnibus renewable energy and energy efficiency bill. Provisions include a requirement to better engage Vermonters in energy planning, energy efficiency guidelines for construction of commercial buildings, better planning requirements for locally sited power generation, modest improvement in Vermont's net-metering laws (that allow small renewable energy projects to feed excess energy to other customers), and a Clean Energy Development Fund of \$4.8 million.

Climate Change, S.259- The Senate took the lead on S. 259, a bill that sets loose targets to reduce Vermont's greenhouse gas emissions by 25% in 2012, 50% in 2028, and 75% in 2050. It is expected that the Vermont Commission on Climate Change (CCC) will refer to the goals set forth in the legislation when making specific recommen-

dations for climate change issues in Vermont. Patrick Berry, VNRC's Policy Director, was appointed by Governor Douglas as one of six members serving on the CCC.

VNRC applauds James Moore from the Vermont Public Interest Research Group and Andy Perchlik from Renewable Energy Vermont for their diligent work on this year's energy legislation efforts.

FISH AND WILDLIFE FUNDING

Over the last few years, VNRC has been encouraging the Legislature to provide an opportunity to address the broad-based, sustainable, long-term funding fix needed for the Vermont Department of Fish and Wildlife (DFW). VNRC worked with Representative Steve Adams (R-Hartland), Chair of the Water Resources and Fish, Wildlife, and Water Resources Committee, to pass a provision in the House that created a task force charged with addressing the DFW financial woes.

Under the leadership of Senator Susan Bartlett (D-Lamoille), Chair of the Senate Appropriations Committee, language was inserted into the budget that instructs Governor Douglas to appoint a nine member task force to develop recommendations for comprehensive,

sustainable funding mechanisms for the DFW which complement existing funding sources, such as hunting and fishing licenses.

VNRC believes the task force is a vital first step in bringing diverse interest groups together to recommend solutions that will keep the DFW and wildlife conservation well funded in Vermont. VNRC hopes to participate on the task force and will keep Vermonters posted on its progress.

ALL TERRAIN VEHICLE ACCESS

In a bit of a disappointment, comprehensive legislation to better manage All-Terrain Vehicles (ATVs) in Vermont did not surface this session. Two years ago, the Governor convened an ATV Collaborative to make recommendations to the Legislature. VNRC's Forest and Biodiversity Program Director, Jamey Fidel, participated in the Collaborative.

The recommendations, including mandatory registration, safety requirements, and higher enforcement penalties, have sat in limbo since then. In the meantime, controversial action behind the scenes prompted an uproar from Vermonters and action by the legislature.

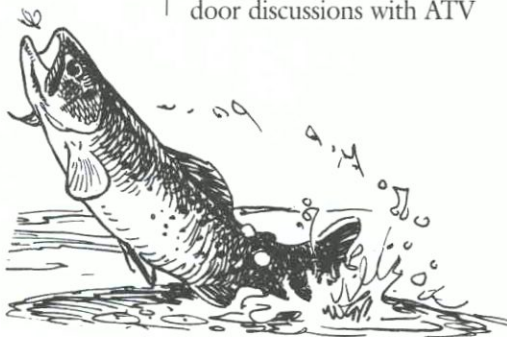
The Douglas Administration began closed-door discussions with ATV

enthusiasts, negotiating controversial proposals to use registration fees to construct ATV trails on state-owned land, and to allow ATVs on the 96-mile state-owned Lamoille Valley Recreational Trail (LVRT). The latter scheme surfaced this legislative session.

During the past four years of LVRT planning, citizens concerned about the management of the LVRT have been assured that the trail would remain a snowmobile trail in the winter and a bike and pedestrian trail in the summer. In an abrupt change of policy, however, state transportation planners changed language in the LVRT lease to allow ATVs on the trail.

VNRC raised concerns, arguing that comprehensive legislation is first needed to address multiple issues including lack of enforcement, illegal trespass, and environmental review of ATV trail construction. Other trail organizations, such as the Vermont Bike and Pedestrian Coalition, also cried foul over the sudden change in policy.

Private landowners adjoining the LVRT took particular umbrage to overturning the expected ATV prohibition and, during the waning weeks of the session, language was inserted into the budget clarifying that the LVRT should be administered as an enhancement project. This means that ATV trail crossings for farm and forestry operations would be permitted, but that recreational ATV trail crossings will need to get a special exemption. The exemption is required since enhancement projects prohibit ATVs on bike and pedestrian trails.



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OTHER ISSUES

VNRC assisted with a variety of other crucial efforts this year, including successful passage of the Open Government Bill that prohibits the executive branch of government from invoking secretive privileges that keep public records hidden from the public. Recently, the Vermont Agency of Natural Resources refused to hand over important public files on the state's lagging industrial stormwater pollution clean up requirements to the Conservation Law Foundation, prompting the Legislature to force unequivocal access to public records.

VNRC supported Rural Vermont and its lead organizer Amy Shollenberger in efforts to secure passage of the Farmer Protection

Act. This bill would have made seed manufacturers liable for contamination of organic crops by genetically engineered seeds instead of putting the burden on the conventional farmers who use them. Both House and Senate passed the bill. At press time for this publication, the bill remained on the Governor Douglas' desk, but it has been anticipated that he would veto the bill.

WITH LEADERSHIP, A HEALTHIER FUTURE AHEAD

The Legislature's actions this session marked a vital return to Vermont's roots of conservation stewardship. Legislative leaders enacted policies that will help safeguard the natural, community, and economic resources upon which

Vermont's culture is defined and the state's future will rely. Bipartisan leadership and broad-based collaboration made these steps forward possible. Other important action is needed, however, and it will require even more broad-based commitment. As more people recognize and respect Vermont's invaluable natural and community resources, and take action to protect them, a healthier, wealthier and brighter future will be possible.



Gustav Verderber