Vermont's new environmental laws may look like a fairy tale happy ending...But we're not out of the woods yet.

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Credits:

Cover and lead story illustrations by Sam Bartlett
Masthead design by Laughing Bear.

The Vermont Natural Resources Council is a non-profit environmental organization working to promote the wise use of Vermont’s natural resources. The Council does legislative lobbying, research, and educational work on a variety of issues including forestry, agriculture, water, energy, hazardous wastes, and growth management.


The opinions expressed by VER contributors are not necessarily those of the Council. VNRC reserves the right to refuse advertising that is not in keeping with the objectives of the organization.

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FROM THE ASSOCIATE DIRECTOR

News of the Alaska oil spill seemed to cause Americans the same kind of grief and concern that we experienced after the space shuttle disaster. Immediately, instinctively, we questioned our faith in technology, recognized (again) the potential for human error, asked for better government oversight and control, and grieved about the loss of life.

But these sudden, sharp reactions are mellowed by time. Today the space shuttle is flying again, and the oil tankers are bringing us two million barrels of oil out of Valdez Harbor every day.

I've never been an aerospace engineer, but I did spend six years working on natural resource policy in Alaska's state government and Legislature. So I would like to reflect here on the mistakes that led to the disaster and what Vermont might learn.

Some of Exxon's spokespersons quoted in Associated Press wire stories were people I knew in Alaska. In my years in Juneau, I grew accustomed to hearing their opposition to virtually any government control. The greatest incentive for environmental protection is not government regulation or enforcement, they said, but a company's knowledge that its own reputation is at stake.

I also knew Alaska's environmental decision-makers, whose worst fears were confirmed on March 24. These hard-working specialists had long bookshelves of good environmental laws—but every year they had to fight special interests in the Legislature who sought to reduce government spending on permitting, regulation, and enforcement under the law.

And I knew many of the Alaska legislators who passed strong environmental laws but who, at election time, under enormous campaign pressure, accepted industry contributions—contributions connected at least informally to policies later followed by the successful, well-funded candidates.

The problem in Alaska wasn't as much the "anti-environmental" legislators who shrilly opposed environmental protection, although they did block some spending and lawmakers. The real problem was that too many average Alaskans, including legislators and government officials, accepted the industry's assurances without ever thinking through that big oil companies will say anything to protect corporate profitability.

Here are "oil spill lessons" for Vermonters who share an interest in environmental protection.

First, look skeptically on technology. It needs to be applied correctly, and is always subject to human error. Big environmental risks are only partly reduced by the application of technology.

Second, evaluate critically the motives and assurances of profit-oriented resource users. Many Vermont businesses say that they value our environment and lifestyle, but in many cases their actions risk or damage the very resources at stake.

Third, follow up on our laws and programs. They need funding, enforcement, and monitoring. Conservationists need to contribute to the policy enactment that follows legislation—the making of the budget by the governor and legislature, the daily operations of our environmental agencies.

There are other important lessons about conservation in our lifestyles. Can we reduce our oil use individually, fight for better public transportation, encourage recycling, live "smaller"?

We need to work together, watching our government and the businesses that drive our economy. Resource protection is a full-time task that can't be left to corporations and the government.

Ned Farquhar, VNRC Associate Director

VERMONT ENVIRONMENTAL REPORT • SPRING 1989 • PAGE 2
No Fan of Sports and Arts Complex

Dear VNRC,

In January, Elbert G. Moulton, Vermont Secretary of Development and Community Affairs, announced his intention to bring the Volvo tennis tournament from Stratton Mountain to Manchester. Tournament officials and their spoiled tennis stars were demanding more money than Stratton was willing to pay, so what could be simpler than creating a 15,000-seat “sports/art complex” in Manchester?

As part of this scheme, Mr. Moulton had signed an agreement with Radio City Music Hall—the forerunner of a 30-year contract under which the New York “arts group” would supply entertainers for the complex. What Manchester needs, it was suggested, is the Rockettes—the high kickers who are evidently Moulton’s idea of culture. (“They’re America’s theatre.”)

Thanks to an unprecedented outpouring of opposition in the form of letters to local papers and the governor, Moulton backed away from Manchester. But he is looking elsewhere, and other communities are considering his project with interest.

A lot of us were under the impression that Vermont attracted large numbers of visitors because of its unspoiled rural countryside and because it affords a glimpse of an independent community that is increasingly rare and beautiful. Not Mr. Moulton. He seems to envision Vermont as a giant Disneyland—a playground for out-of-staters who will be entertained by other out-of-staters. What completes his vision are stadiums, malls, outlet stores, wall-to-wall condos, highways and parking lots clogged with cars. Vermont could no longer pretend to be a community—it will be a service industry. If we’re really lucky, the next step could be casinos and The Mob.

Unhappily, Governor Kunin apparently supports this idiocy. . . . If southern Vermont—Montpelier’s unwanted stepchild—wants to retain what remains of its undeveloped land, along with its sanity, its residents had better put on the gloves and get ready for the main bout. The barbarians are at the gates, and they come from Montpelier.

But the problem is not limited to southern Vermont. At the heart of the issue are questions that must be addressed all over this state. Mr. Moulton dangles before us the prospect of riches the project will bring in. But what will it cost us—to build, operate and maintain, to provide access roads, to pay off the bonds, to clean up the trash, to police the place?

What effect will a 15,000-seat complex have beyond a particular region—on the state as a whole? Is an entertainment arena for out-of-staters a wise investment for Vermonters? Is the scale of the project appropriate for this small state? (After all, three per cent of our population could sit down in the stadium). . . Does it represent the wishes of those thousands of citizens who testified to the Governor’s Commission on Vermont’s Future that they want to preserve the character of this state, its stable communities, and orderly change?

Sincerely,

Richard M. Ketchum
Dorset

VNRC Southern Vermont
Associate Director Seth Bongartz responds:

Too often we forget to ask the fundamental question of whether development proposals like the sports-arts complex are in consonance with those qualities that make Vermont such a special
The Bears Are Winning!

Can bears stop bulldozers? So far, yes. Because otherwise, according to this May's Vermont Environmental Board's ruling, development could be the end of the bears.

The issue at hand is the construction of a snow-making pond in Mendon, on a parcel of land known as "Parker's Gore" owned by Killington Ltd. ski area and the International Paper Company. (See "Parker's Gore Update," Spring 1988 V.E.R.) VNRC, along with Friends of Parker's Gore, the Town of Shrewsbury, and two area planning commissions, have long argued that the proposed development is inappropriate. The groups successfully argued in 1987 that the proposal must be looked at as part of a bigger development plan—Killington's new snow-making pond is in fact part of a long-range scheme that includes eight to ten new chairlifts, many ski trails, 2,300 condominiums and more.

In a strongly worded, unanimous decision the Board ruled this May that if the pond were to be built and proposed logging completed, an important wetland and beech forest would be destroyed. Both are critical black bear habitat elements. Additional human activity accompanying the development would further disturb the bears, the Board found.

"We're just elated," says Friends of Parker's Gore Director Nancy Bell. "This decision backs up what we've been saying all along—that wildlife habitat is a critical element of Act 250 review. This sends a clear message to any future developer: In Vermont, bears are important."

The date has not yet been set for the next round of Board hearings to examine the proposal under other Act 250 criteria. SC

New Environmental Law

The 1989 Vermont legislative session wrapped up as this magazine went to press. VNRC members will receive a VNRC Bulletin detailing the legislature's work; meanwhile, here are the highlights:

- A new law allowing administrative penalties on polluters, bypassing years of litigation in most cases.
- A ban of some chlorofluorocarbon (CFC) use in Vermont: by 1993 cars won't be allowed to have air conditioners using CFCs.
- No major amendments to Vermont's solid waste and growth management laws; and the extension (to November 30) of a deadline for rules implementing the 1986 water quality law, accompanied by funding for experts to evaluate and support the rules. Thus, key existing Vermont laws stayed in place.
- A legislative study group formed to prepare options for a new land acquisition process with new dedicated sources of funding. This was an important reaction to the land crisis that occurs annually, this year at Willoughby Lake.
- A nice end-of-session surprise: the Department of Environmental Conservation's proposal to conduct a state-wide plan for improving sewage treatment for phosphorus, especially in the Lake Champlain and Memphremagog basins. (See Jay-Troy article, Vermont Perspectives, this issue.)

Two other environmental issues went unaddressed. A bill to establish a low-level radioactive waste siting process died in the final days of the session. Another bill, which proposed to merge the Environmental and Water Resources Boards, never moved out of its first committee. NF
Ottauquechee: Limits to Pollution

Should a portion of the Ottauquechee River be down-graded? Not according to this winter’s court decision, which reversed a Vermont Water Resources Board ruling. “A high quality body of water is being reclassified... in order to meet the shadows of unproven economic and social needs at and around the ski areas in Sherburne,” wrote a Rutland Superior Court Judge. “The high quality waters which the board found to exist must be preserved.”

Traditionally, “Class C” zones (the lowest water classification, permitting the discharge of treated sewage) have been used only to recognize and allow for the abatement of existing pollution problems. Sherburne’s request to reclassify a 200-foot stretch of river from Class B (suitable for activities such as swimming and in-stream fishing) to Class C could be precedent-setting, since it is the first time a downgrade has been proposed to accommodate sewage from yet-to-be-built development.

The court’s reversal represents an important victory for VNRC and the six other groups which appealed the Board decision. Robert Woolmington, the groups’ lawyer, noted, “Maybe there are limits to how much you can build on top of a mountain on bedrock. There’s no limits, maybe, to how much money you can make, but there’s limits to how much the land can take.”

Reclassification proponents are appealing the decision to the Vermont Supreme Court. A decision is expected within six months. SC

Jay/Troy Sewer Plant:
VNRC’s Involvement Brings Local and State-wide Improvements

The Jay/Troy sewer facility now under consideration for an Act 250 permit, and requiring a reclassification of the Missisquoi River for a direct sewer discharge, has drawn the attention of VNRC’s land and water experts. The proposal originates from the need to treat and dispose of the effluent produced by the AgriMark cheese plant (formerly Kraft) in Troy. But the proposed facility would also serve the towns of Troy and Jay and the Jay Peak ski resort. Jay Peak would command almost half the new plant’s treatment capacity, allowing extensive expansion of the resort.

“Although some advocates of the project are calling this a ‘model’ for the new Act 200 planning process, it’s clear that events are actually occurring in reverse order here,” says Peg Elmer, VNRC’s Land Use Associate. “The sewer plant is being designed, funded, and constructed before the towns and the ski area have done the appropriate land use planning.”

VNRC also will be involved in the reclassification proposal affecting the Missisquoi River.

VNRC’s Water Associate Steve Crowley says that the Water Resources Board will consider the reclassification proposal at a hearing in mid-June. “This will be the first reclassification proposal since the Ottauquechee decision,” Crowley says. (See “Ottauquechee: Limits to Pollution,” Vermont Perspectives, this issue.) “We need to ensure that there’s adequate information regarding the water quality effects of the new discharge. So far, the scientific information is very thin,” Crowley says.

Notably, VNRC’s involvement in this proceeding has helped prompt local planning and some important action at the state level.

Locally: VNRC Associate Director Ned Farquhar notes that “our involvement has quite evidently contributed to a higher level and quality of planning and inspection in the Act 250 proceeding and in subsequent town planning meetings. VNRC can provide important ideas and information in Act 250 proceedings without seeking to kill a project.”

At the state level: in legislative hearings this spring, Environmental Commissioner Patrick Parenteau and other advocates of the Troy/Jay sewer plant noted that legitimate questions about the cumulative effects of phosphorous discharges—issues raised by VNRC—have imperiled the issuance of the Jay/Troy Act 250 permit. As a result, the Legislature has directed the Department to propose measures to upgrade sewer plants in the Champlain and Memphremagog basins for a higher level of treatment for phosphorous, and will review the effects of phosphorous in other Vermont waters.

VNRC has been deeply concerned about the effects of phosphorous in state waters, says Farquhar. “It is a major step forward, and an unexpected accomplishment in this year’s legislative session, for the Department to be moving to address the cumulative effects of phosphorous in state waters,” according to Farquhar. NF/SC
Fighting The Malling of Vermont

"It's a different place/Not a single trace/Of life as it was known/In every town/They took with them/What little green had shown."

The White Crow Audio song "Back to the Pyramids" expresses the concern that many Vermonters are feeling about the escalating number of mega-malls and other big development projects being proposed in Vermont by out-of-state interests.

"Getting involved in these extended hearings against big developers requires a lot of time and resources," notes VNRC Associate Director Ned Farquhar. "But as advocates for sound land use, we have no choice but to respond. Every one of these mega-proposals is out of line with Vermont's broad community and land use goals outlined in Act 200."

The Pyramid Mall/Maple Tree Place proposal in Williston is now undergoing Act 250 scrutiny by the District 4 Environmental Commission. The proposed 477,000-square-foot mall, a re-visit of a similar project that was bit-

"And the empire grew and grew/Taking anything in its path/While people turned and wondered/What happened to the past."

A verse from the song "Back to the Pyramids" shows that two can play at the publicity game. While multi-million dollar Pyramid Corporation spent thousands on full-page ads to give their side of the Pyramid/Maple Tree Place debate, inspired artists volunteered their talents in Burlington this winter to create a new song and rock video on an anti-mall theme. Lyrics were composed by Todd Lockwood, with music written by Mark Ransom; "The Sold Americans" perform the piece, all to benefit the Williston-based Citizens for Responsible Growth. Photos courtesy of White Crow Audio and CRG.
We're working to ensure that any attempts to side-step the planning mandates are unsuccessful." VNRC and CRG also applaud efforts by the CCRPC staff to study alternative uses of the Taft Corners site. In an April memo to their commissioners, CCRPC staff suggest that an industrial park would be a more appropriate use, and outline the economic and community benefits of such a facility.

Meanwhile, the Pittsburgh-based Zamias Corporation has proposed the 442,000-square-foot Rutland Mall on a 55-acre Rutland Town site.

Concerned about issues of traffic, air quality, urban sprawl and the fact that the project will require the filling of a wetland, VNRC asked for and received party status in Act 250 proceedings this fall. A local group, Citizens for Responsible Growth Rutland, has become an effective force fighting the mall and was also granted party status.

"The mall would be built on the outskirts of town, well outside of Rutland's central business district," notes VNRC Southern Vermont Associate director Seth Bongartz. "The proposal clearly contradicts one of the cornerstones of Act 200—the concept of compact growth centers with rural countryside inbetween." He adds, "With four anchor stores and 65 additional shops, the mall could be the death knell for the economic viability of an already ailing downtown Rutland."

"Development follows development," notes Bongartz. "It's not hard to envision this huge traffic and development generator leading to the worst kind of strip development all along the Route 7 corridor leading into Rutland."

The Act 250 proceedings are expected to conclude by late May, with a decision expected sometime this summer.

Rutland Mall developers received a serious setback when the U.S. Army Corps of Engineers asserted jurisdiction over the eight acres of wetland slated for fill if the mall is built. Mall developers have filed suit in federal court alleging that the Corps' action was "arbitrary." Conservation Law Foundation attorney Lewis Milverford, who has worked closely with VNRC throughout the proceedings, calls the Zamias suit "a desperate attempt to derail the Corps' investigation into this project."

Should the Corps retain jurisdiction (all indications are that they will) the developers will face a heavy burden to prove to the Corps that at the time they "entered the market," there was no non-wetland site available on which to construct the mall. Says VNRC's Bongartz, "The bottom line is that there were several other sites available. The Rutland Mall proposal is in deep trouble."

VNRC is also watching a proposal for a mall in Hartland on Route 4 between Quechee and Woodstock. The Hartland Crossing mall would be located on a site that the Two Rivers-Ottawquechee regional plan has determined should remain rural.

"The mall will have a severe impact on Route 4 traffic, is aesthetically out of conformance with the rural surroundings and, if approved, will seriously undermine the goals of the regional plan," says Don Bourdon, Executive Director of the Two Rivers-Ottawquechee RPC. However, the District 3 Environmental Commission granted a permit for the construction of the 57,000-square-foot mall this winter. The DEC vote was 2-1 with the chair issuing a 'strong dissent.'

The Two Rivers-Ottawquechee RPC voted to appeal the permit to the Environmental Board. VNRC's Southern Vermont office has offered to assist the RPC in preparing the appeal. Says Patsy Highberg, VNRC's Acting Chair, "It's important for VNRC to offer our help in this fight. If regional planning is to mean anything, we..."
can not allow those plans to be subverted - no matter how much the developers are willing to spend to get through the regulatory system." SC/SB

Tamarack Flashback - Salmon Hole Development Scaled Down, Still Has Problems

The massive Salmon Hole luxury development proposed for the southern Vermont towns of Stratton and Jamaica has undergone a metamorphosis, and now sports a new name and a reduced scale. Under the new plans, the 1,481-acre "Tamarack Golf and Country Club" will contain 180 housing units, scaled down from the original 435-unit proposal submitted to the District 2 Environmental Commission last summer.

As the proposal stands now, all of the housing units will be constructed within the town of Stratton. The 35,000-square-foot clubhouse, a portion of the eighteen-hole Arnold Palmer golf course, the sewage treatment plant and the septic spray fields will remain in Jamaica.

VNRC obtained party status in the case last summer, enabling the Council to play an active role in the Act 250 process. VNRC staff and technical advisors are examining the effects that the huge development would have on water quality, wetlands, traffic, affordable housing and regional sprawl.

"One hundred eighty units is still a lot of units," says VNRC Southern Vermont Associate Director Seth Bongartz. "Waste water capacity limitations and the fertilizer run-off from the golf course of the proposal have plagued this project from the start, and VNRC still has questions about whether the watershed can support even this new version of the development."

Bongartz notes that developers probably scaled down their proposal in response to two factors. One, the original proposal was unlikely to be approved since the Vermont Division of Water Quality told developers this winter that the drainage basin would not absorb wastewater from all of the units as well as the golf course.

"Just as important to the developers' pull-back," says Bongartz, "was the meticulous work of the Town of Jamaica Planning Commission and its clear statement of the project's non-conformance with the town plan. Here's an example of fine work at the local level having a major impact on a development," says Bongartz.

It will probably be late this summer before the Act 250 proceedings to amend Tamarack's application resume. MM/SC

Wetlands Rules: Mitigation From the Black Lagoon

Vermont's Water Resources Board (WRB) is now drafting rules implementing Vermont's 1986 wetlands law. However, the Board has been mired in a swampful of policy and procedure issues that harbors a real monster: the proposal to allow filling and dredging of Vermont's significant wetlands as long as a developer "replaces" them.

There is little proof that replacement can successfully replicate the wide variety of wetland functions and values mandated for protection in the wetlands law. In fact, according to VNRC Water Associate Stephen Crowley, attempts at replacement in other states should discourage Vermont from trying the same approach. "This isn't a case of re-inventing the wheel," says Crowley. "It's re-inventing the flat tire."

In April VNRC brought before the Board the expert testimony of Dr. Joseph Larson, an internationally respected wetlands specialist from the University of Massachusetts who has studied the record of replacement efforts in New England and elsewhere.

Larson told the Board that replacement is "a crapshoot." It might be possible to control stormwater and sedimentation and to replicate some types of wildlife habitat, he said, but it would be inadvisable to believe that replacing wetlands' nutrient storage, groundwater, and ecological characteristics is possible.

Based on the scientific record, he said the Board should only allow replacement of a few specific wetlands functions such as stormwater retention, and should ban most others unless an applicant is able to provide scientific evidence on the functions of the natural wetland and the proposed replacement measures.

Larson's testimony had immediate effect on the Water Board, which spent the same afternoon revising the draft rules to reflect the scientific record on replacement.

Now the rules contain a smaller, less accessible replacement mechanism. Environmental Conservation Commissioner Pat Parenteau's immediate reaction to the proposal was concern about the administrative difficulty of reviewing developers' sophisticated replacement proposals and the questionable legality of allowing any replacement at all under the wetlands law. Like other conservationists, Parenteau was pleased that the Water Board has narrowed the replacement proposal, but reserved judgment on it until it can be thoroughly reviewed.

The draft wetland rules will be enormously important to the protection of Vermont's natural heritage and environmental quality. In cooperation with local and
<table>
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<tr>
<th>The Laws</th>
<th>Status Report</th>
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<tbody>
<tr>
<td><strong>Act 200</strong></td>
<td>* Planning underway in towns and regions across the state</td>
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<td>Passed in 1988, Act 200 creates new incentives for local and regional planning according to a set of 32 state-wide goals – such as protection of agricultural lands and other natural resources. It also requires planning by state agencies in consultation with local residents.</td>
<td>* State agencies preparing to think in new patterns: avoiding developing agricultural lands, considering secondary effects of facility development</td>
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<td>* Growth accelerating in some areas</td>
<td></td>
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<tr>
<td>* Confusion regarding some requirements, capabilities</td>
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<tr>
<td><strong>Act 250</strong></td>
<td>* Still regulatory and reactive, without a state-wide planning context</td>
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<td>For almost 20 years, Act 250 has been the first line of defense for citizens concerned about the impacts of proposed development. It regulates the environmental and growth impacts of development on air, water, land, and wildlife.</td>
<td>* Constantly under fire by developers whose projects face opposition</td>
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<td>* Process technical and inaccessible for many average citizens</td>
<td></td>
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<tr>
<td>* Ineffectively enforced: hundreds of permit violations go unpunished every year</td>
<td></td>
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<tr>
<td><strong>Use Value Appraisal (Current Use)</strong></td>
<td>* Essential to many landowners who wish to avoid subdividing land</td>
</tr>
<tr>
<td>The Use Value program reduces the property tax burden on productive forest and farm lands.</td>
<td>* Cost to State: $12 million in 1988, and rising</td>
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<td>* Necessary in the absence of general property tax reform</td>
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<tr>
<td><strong>Water Quality</strong></td>
<td>* State agencies are overwhelmed by the task of protecting lakes and streams – little ability to measure/regulate cumulative impacts</td>
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<td>The 1986 water quality act establishes broad new policies for improvement of Vermont’s water quality and protection of upper elevation waters. It also prohibits &quot;significant alteration of aquatic biota&quot; by indirect discharges of wastes.</td>
<td>* Developers generally have the permitting advantage – not much review for most permits, little public review/comment</td>
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<tr>
<td>* Rules were due May 17, 1989; deadline extended to November 30</td>
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<tr>
<td><strong>Groundwater</strong></td>
<td>* No Class I/II areas have been designated for protection</td>
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<tr>
<td>The 1983 Groundwater classification law sets protective standards for several classes of groundwater areas, including pristine water sources, other groundwater areas that may be developed, and unprotected groundwater areas.</td>
<td>* Rules were signed into effect in late 1988</td>
</tr>
<tr>
<td>* Groundwater protection lags at the state and local levels -- often owing to lack of basic data</td>
<td></td>
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<tr>
<td><strong>Outstanding Resource Waters (ORW’s)</strong></td>
<td>* No ORW designations yet; procedural haggling</td>
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<tr>
<td>The 1987 State Rivers Policy includes provisions for designation of ORW’s by the Water Resources Board. The law also set new limits on gravel extractions from rivers.</td>
<td>* Limits on gravel removal from rivers are controversial among some farmers, riparian owners</td>
</tr>
<tr>
<td><strong>Wetlands</strong></td>
<td>* No implementing rules yet; draft has been under consideration by Water Board since September 1988</td>
</tr>
<tr>
<td>The 1986 Wetlands law protects the values and functions of &quot;significant wetlands&quot; from inappropriate use and development. Identified functions include habitat, recreation, water quality, stormwater retention, and aesthetics. The Water Board is assigned responsibility for identifying wetlands.</td>
<td>* Planning and development continue without regard to the law because &quot;significant&quot; wetlands haven't been identified</td>
</tr>
<tr>
<td>* New national &quot;no-net-loss&quot; standard may exceed Vermont's in-state wetland protection</td>
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<tr>
<td><strong>Solid Waste</strong></td>
<td>* Rules and plan were adopted in December 1988, eight months late</td>
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<td>The 1987 Solid Waste Act is among the most forward-looking in the nation, emphasizing waste stream reduction and recycling over disposal alternatives. It requires lining or closure of landfills by 1992.</td>
<td>* Though controversial in certain aspects, plan sets broad and achievable recycling goals for Vermont (40% by 2000 A.D.)</td>
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<td>* Landfill closure deadline recently extended, funding a problem</td>
<td></td>
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<tr>
<td><strong>Toxics/Pesticides</strong></td>
<td>* Rules adopted, education programs underway</td>
</tr>
<tr>
<td>The 1983 Pesticide monitoring program and Community right-to-know laws provide for public knowledge of the use and transportation of toxic or hazardous materials. The 1985 Underground Storage Tank law reduced threats to soil and water quality from leaking tanks.</td>
<td>* Strong record of implementation in most areas</td>
</tr>
<tr>
<td>* Cooperative working relationship among substance handlers, state officials, and the public</td>
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How can we improve the implementation of Vermont's environmental laws?

Vermont leaders, conservationists and community members respond

Madeleine M. Kunin, Governor of Vermont: "So- ciety's laws are generally enforced in two ways: a personal sense of moral right and wrong which guides behavior, and fear of pun- ishment, which prevents abuse of the law. In Vermont we have the opportuni- ty to strengthen both. The enforcement bill... has my strong support. It will en- hance our ability to enforce existing law in a swift and certain manner by applying civil penalties. But we can't have a cop standing at every stream, to monitor every smokestack, to make certain that our environment is not an illegal dumping ground. To a large extent, we must rely on every Vermonter's sense of environ- mental values. The unwritten command- ment, "Thou shalt not pollute," must be- come part of our environmental ethic, guiding decision making and behavior for business and the public. In this way, Vermont can provide a national role model for environmental enforcement. My hope is that pollution of this planet will be viewed as a shameful act as destroy- ing life itself."

Karen N. Meyer, former Vermont Commissioner of Housing and Community Affairs: "If we choose not to partici- pate in the really great decision making opportunities which we now have been given, the decisions about our future will be made by others. Our challenge is to make the choice to participate actively at the local, regional and state level, or be satisfied with the decisions of others."

Timothy Burke, Vermont Representative, (D-Putney) "In or- der to improve the imple- mentation of these laws two things need to occur: one is more resources to the Agency of Natural Resources for environ- mental enforcement, and two, adopt a citi- zen suit provision so that if the Agency is unable or unwilling to do the job, citi- zens can take action."

Douglas Racine, (D-Chittenden) President pro tem- porum, Vermont State Senate: "The last five years have been a time of aggressive legislative action in protecting Vermont's environment.... Proper implementation will require: Adequate funding for Depart- ment staff to write rules and manage per- mit programs; An administrative enforce- ment provision in Vermont statutes and new staff for investigation of reported viola- tions; Review and reorganization of management functions of the Department; A 20-year review of Act 250 procedures and management. In addition, citizen in- volvement in the Act 200 process will be the single best guarantee of long-term pro- tection of Vermont's environment.

Jean Flack, Professor and Assistant Direc- tor, University of Vermont Environmental Program: "In order to implement strong environmental laws in Vermont we need to change our values and attitudes towards the environ- ment. We need to overcome our greed and recognize that the environment is not merely a backdrop against which we play out our lives, but a living fabric of which we are part.... A stable future en- vironment requires that economic and social development and planning rest on a bedrock of sustainability. This means that environmental planning must meet the needs of the present without com- promising the ability of future genera- tions to meet their own needs. This concept is just as important for Ver- mont as for other parts of the world. In- deed we are not isolated; we are part of the global economy and environment.... We must learn to communicate these concepts in the education and leadership potential of students, both directly and through better support and education of teachers at all levels.... In them lies the hope of the future."

Deb Brighton, Environmental Consultant: "The most effective, active and energetic imple- mentation of Vermont's environmental laws depends on people.... Local planning commissions should have training and legal help so they can make Act 200 work; state agencies should make more information available; there should be a citizen process similar to the Federal En- vironmental Impact Statement process al- lowing the public to participate in the re- views of significant state projects; citizens should be allowed to sue people who violate environmental laws; records concerning the lands gains tax should be public to permit review of its effective- ness. And of course, we have to revamp the property tax system so it is less in- fluential in local decisions."

Gar Anderson, Executive Vice President, Ver- mont Association of REALTORS: "Implementation of Vermont's environ- mental laws could be greatly enhanced if the state agencies responsible for enforc- ing these laws could expand their educa- tional outreach efforts. Many of the vi- olations which occur are a result of ignorance on the part of the violator. I would still like to believe that most people make an effort to abide by the law but because of the magnitude and complexity of recent regulatory activity many people are simply not up to speed with their legal responsibilities."
The Laws That Roared

A status report on the implementation of Vermont's new conservation laws (1985-88)

The mid-1980's were unprecedented in Vermont legislative history for their successes in environmental protection. Growth management and planning, solid and hazardous waste management, water quality protection in areas including rivers, wetlands, groundwater and more, were all the targets of key legislation.

But the job doesn't stop when the bills are passed. In fact, it's only begun. Rules, enforcement, budget allocations and citizen involvement will all be needed to make sure that Vermont's environmental laws aren't only roaring, but have a real bite.
"Forces with varying interests, from conservation to economic development, have great expectations about Act 200's potential to cure ills. To make any of these come true, citizens representing a broad balance of interests must get involved in making tough, definitive land use planning decisions, instead of leaving difficult decisions to the case-by-case Act 250 process. The interest is certainly there; it remains to be seen if an effective planning process will be developed to make clear choices about the future."  
**Peg Elmer, Land Use Associate, VNRC**

"When Act 250 was adopted, it was a visionary approach to address resource use in Vermont. Now, twenty years later, we are witnessing our state and its natural and human resources and values slipping away under the veil of 'controlled development.' The cries of the district environmental commissions and state employees bogged down with their workloads are exceeded only by the cries of developers wanting their permits faster. We should not jump to expedite the Act 250 process, but look toward expanding the review and evaluation of these decisions that will affect all of us forever." **Nancy Bell, Exec. Dir., Shrewsbury Land Trust**

"Vermont's current use program is a proven success and represents a significant commitment to land stewardship. Recent legislation broadened the program to benefit the agricultural community, but has complicated the program enormously. Simplifying program administration and participation is essential to its continued success." **James Wilkinson, Current Use Tax Coalition Chair**

"Increasing amounts of waste (solid and sewage), the need for low cost energy, increasing withdrawals from streams, a historically high level of waste water plant failure, inadequate methods and resources to enforce current laws, all put Vermont's limited supply of clean water at risk." **Peter Richardson, Board Member, Connecticut River Watershed Council**

"Almost any kind of development -- and therefore many permits issued at the state and local level -- has some effect on groundwater. But the state's groundwater strategy, embodied in the 1988 rules, has not yet been incorporated into other permitting processes. This will take a great deal of time and effort to coordinate, but it is essential for the protection of our groundwater resources." **Rich Csapinski--Environmental Protection Consultant**

"There is tremendous interest in the public to get rivers classified as Class A or as ORW's. VNRC is fostering that effort by running the Battenkill River through the Board review process as a test case. Our hope is that by settling unanswered questions and preparing a first-rate petition we can smooth the road for citizen-initiated petitions that are sure to follow." **Seth Bongartz, VNRC Southern Vermont Associate Director**

"We have been very slow to understand the true value of our wetland resources and even slower in acting to protect those values. Although the environmental community breathed a sigh of relief when the 1986 protective legislation was passed, nearly three years have passed and the designation and management rules have yet to be adopted. A comprehensive list of unique and irreplaceable Class I wetlands should be prepared before the rules are formalized. In addition, 'mitigation' (replacing a natural wetland with a human-made wetland) should not be allowed. Mitigation can not be equated with protection, and is not a substitute for avoiding impact altogether by finding an environmentally preferable development site." **Lori Fisher, Executive Director, Lake Champlain Committee**

"Individual behavior and attitudes toward earth resources are the source of the solid waste problem, and the solution. Use less, and recycle it. Setting up programs and siting landfills are responsibilities we have created and need to share. The cost of abusing resources is finally working its way into the cost-benefit calculations of business and government. Even though the solutions may appear to cost more, in fact we're investing in our future, both economic and social. Here we see the growing pains of a society that is coming to grips, in spite of itself, with the consequences of its actions." **Stephen Crowley, Water Associate, VNRC**

"Vermont has a pesticide policy on paper that calls for the minimization of pesticides and the use of alternatives. But these chemicals unfortunately have remained the tool of choice for state government. Just this year the State has proposed use of pesticides to control pear thrips, sea lamprey, roadside weeds and various other pest problems. Our state agencies and universities appear to be incapable of implementing known alternatives and exploring innovative alternative techniques on anything more than a token level. This, despite the fact that public concern about the use of pesticides is at a peak." **Robin Cook-Hubner, Pesticide Project Coordinator, Vermont Public Interest Research Group**
**Issues Still at Hand**

- Funding for towns, agencies, regional commissions
- Protecting special areas and lands
- State agency conformance with planning goals
- Identifying appropriate development
- Designation of "growth centers"
- Controlling development until plans are done

- Public participation
- Ability to assess cumulative effects of development
- Consistency among district commissions/environmental board
- Speediness of permitting

- Program needs streamlining, is almost impossible to administer
- Not a permanent protection for forest/farm uses

- State will propose a cumulative phosphorus plan next year, upgrading some Champlain/Memphremagog plants
- Cumulative impacts of water pollutants go virtually uncontrolled
- Law doesn't provide for adequate streamflows for fish

- Major groundwater research and mapping effort is needed across the state
- Prime aquifers on public and private land should be designated for appropriate protection

- Graveling restrictions bother some landowners
- Appropriate waters yet to be designated
- Basic protections in the law need enhancement

- "Replacement" of wetland functions (mitigation) may be allowed – opposed by conservationists
- All "significant" wetlands not yet identified
- Special protection for exceptional wetlands needed
- Protection for wetlands in local planning and Act 250 needed

- Boosting recycling with better marketing/collection
- Finding local/regional landfill sites
- Reducing packaging and other extraneous wastes
- Closing and lining some current landfills

- Federal pesticide research and regulation
- Transfer of contaminated properties
- Continued funding for waste clean-ups
- Disposal/use of household hazardous substances
- Pear thrips invasion and possible chemical response

**Improving Implementation**

**YOU CAN:**

- Dig right into local planning (planning and conservation commissions first)
- Help protect shorelines, precious habitats, agricultural areas, historic resources
- Guide residential/industrial development
- Call VNRC's Action Center for assistance

**YOU CAN:**

- "Watch the docket" of your district commission
- Monitor permit compliance in cooperation with commission staff
- Call VNRC's Action Center for assistance

**YOU CAN:**

- Join the Current Use Tax Coalition
- Support property tax alternatives

**YOU CAN:**

- Participate in public review of "indirect discharge" rules (summer and fall 1989)
- Support H.444 on water quantity
- Watch for water pollution in your area

**YOU CAN:**

- Encourage better data gathering and mapping
- Know what resources might be threatened by development proposals
- Call VNRC's Action Center for assistance

**YOU CAN:**

- Propose an ORW to the Water Board
- Talk to local landowners about graveling

**YOU CAN:**

- Participate in public review of draft rules (summer 1988)
- Identify/research special local wetlands
- Recommend wetland protection to local planning commission

**YOU CAN:**

- Get involved in local solid waste planning
- Support measures that may reduce the waste stream, and recycle!
- Call VNRC's Action Center for assistance

**YOU CAN:**

- Know what you're using and employ non-chemical treatments
- Support tougher federal laws for groundwater protection, pesticide research
- Keep tabs on thrips treatment proposals
LAWS THAT NEED YOUR HELP!
Land use planning and solid waste management are two areas where citizen participation is critical

ACT 200 - LAND USE PLANNING

Most towns are in need of committed residents willing to serve on one of the following decision-making boards:

- **Board of Selectmen or City Council** - The Board (elected at town meeting) acts principally as budget and infrastructure manager for the town and has the final say on the town plan as well as any proposed regulations. The Board is also responsible for appointing a well-balanced Planning Commission and Zoning Board of Adjustment which draft and administer the plan and regulations. Selectmen decide whether to pay for expert legal or engineering assistance to enforce regulations they adopt. Since many local land use decisions are made by this board, environmental representation is necessary.

- **Planning Commission** - Contact your selectmen to get appointed. The Planning Commission drafts the town plan, subdivision and zoning regulations, shapes the citizen participation process and administers the subdivision regulations. It also participates with the Select Board in local Act 250 applications proceedings as a statutory party.

- **Zoning Board of Adjustment** - Appointment is made by the selectmen. Zoning Board members decide on requests for conditional uses and appeals for variances in the dimensional requirements of the municipal zoning regulations. These decisions are critical in guiding the future character of a community's landscape.

- **Regional Planning Commission** - Appointment is made by the selectmen. Regional planning representatives are responsible for reporting RPC activity to local boards. Prior to Act 200, regional planning was not given a strong role in Vermont. Today leadership in guiding more difficult land use decisions primarily comes from regional commissioners.

You can also participate outside the decision-making process by initiating or getting involved in the following:

- **Conservation Commission** - Although not many towns have them yet, conservation commissions are useful for conducting studies and advising towns on a broad range of environmental issues. To create a commission, put the question to establish one on the ballot for town meeting day. For further information, contact VNRC's Main Office at (802) 223-2328.

- **Planning Subcommittees** - Propose to your planning commissioners that subcommittees be formed to address individual aspects of a plan -- developing resource goals, making a town's resources inventory, analyzing the information for concerns, and making management recommendations.

- **Citizens for Responsible Growth** - Act 200 will not eliminate all conflicts over development in Vermont. A local advocacy group can oversee the planning and development review process from an independent angle. Contact VNRC for information on starting a local citizens group.

ACT 78 - SOLID WASTE MANAGEMENT

- **Attitudes and Perceptions.** This is where it all starts. The ways we handle earth resources, our attitudes about the materials we use, and the care we exercise in use and "disposal" are what have created our solid waste problem.

  **Involvement:**
  - Participation in the process is the best educator.
  - The solution starts at the supermarket shelf. Don't buy packaging, don't buy styrofoam. Think of disposal before you make a purchase. Ask your retailer to find better alternatives.
  - Recycle.
  - Help out with local educational efforts, through schools and solid waste districts.
  - Write to newspapers, encourage wise resource use and disposal.

- **Management Programs.** Recycling is an idea whose time has come, but has to be well planned. Availability of markets and a high degree of participation will not come easily. Fee structures for waste disposal that recognize life-time costs and pass these costs on to the producers of waste have to be part of the picture, as well.

  **Involvement:**
  - Join or start a town recycling committee.
  - Encourage selectmen, solid waste representatives, schools and business people to make good programs happen soon.

- **Balancing the Damages.** You can't clean something up without getting something else dirty. Even a well designed landfill may not work out as well in reality as it looked on paper, and incinerators raise questions about toxicity of air emissions and ash. We may want to look for safe long term storage, so we can mine the stuff later when resources run out.

  **Involvement:**
  - Join your solid waste district's advisory committees for sitting facilities, to ensure good choices.
  - Investigate the status of existing facilities: Are they sound? How long will they last? What are the alternatives?
  - Encourage your district or municipality to engage in an active process of public participation. This is the best means of increasing awareness of an issue which is complex in its implications for social behavior and environmental conservation.
state conservation groups around Vermont, VNRC will sponsor a series of seven wetland workshops in May and June to help citizens prepare for the Water Board’s hearings on the proposed wetland rules. NF

River Lovers Needed

The VNRC Action Center is looking for river activists! There are seventeen major river basins throughout the state, and many more sub-basins. The sources of impact are many, and the resources of the State or groups like VNRC are stretched to the limit. But there is a great resource out there that isn’t utilized nearly enough—the people of Vermont.

Through the River Basins Project, VNRC Action Center staff plans to help local groups to identify key resources, and to develop planning and zoning measures that work at the local and regional level. For more information, call Stephen Crowley at VNRC’s main office, (802) 223-2328.

Appalachian Trail—For Hikers or Ski Lifts?

The continuing saga of Killington Ltd.’s efforts to expand over the back side of Killington Mountain and criss-cross the Appalachian/Long Trail with ski lifts and trails took a turn for the worse this winter when the National Park Service granted Killington a trail-crossing easement. Although trail protection groups had been promised the opportunity to review any proposed easement, the current agreement was apparently the result of secret meetings between Killington’s Washington attorney and the Park Service. Kevin Peterson, Regional Representative for the Appalachian Trail Conference, calls the easement agreement “a stab in the back—particularly in view of the years of good faith we have evidenced with the Park Service.”

This high peaks region is one of the oldest and most spectacular in the trail network. “Despite the relative proximity to the Killington ski area, hikers now experience only remote backcountry on these trails,” notes VNRC Southern Vermont Associate Director Seth Bongartz. “The addition of ski trails, a lift, picnic tables and other amenities will radically alter that experience.”

VNRC has joined with a variety of other hiking and conservation groups in issuing a strong protest to the U.S. Park Service. This alliance is working closely with Vermont’s congressional delegation, and Vermont Senator Patrick Leahy has asked the U.S. Interior Department for a full public accounting of the agreement.

Additionally, the Conservation Law Foundation (CLF) has filed a

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Freedom of Information Act request to force the Park Service to make available all the documents which led to the agreement. “The Park Service may have violated rules requiring an Environmental Impact Statement; and this entire process would seem to conflict with their duty to protect the Trail,” notes CLP’s Vermont Attorney Lewis Milfard. “We will only know if the Park Service discloses the records showing how and why it approved the easement.”

VNRC’s Bongartz notes, “We are looking at a bad precedent with grave implications for the entire length of the Appalachian Trail. We’re in for a long struggle, but I’ve never seen such a large number of groups and individuals so united to protect a key environmental and cultural resource.” MM/SC

1-800-982-7100: Recycling Hotline

Who will take which of your recyclables, and where in your area? You’re not the only one who’s been wondering. But the Vermont Agency of Natural Resources’ toll-free recycling hotline will help.

Act 78 and Vermont’s accompanying solid waste plan establish the goal of 40% recycling by the year 2000. The hotline, along with a variety of new programs and educational materials, should help get us closer to that goal.

“The Wasting of Vermont” video and the “Vermont Community Recycling Programs” slide show describe different aspects of recycling under Act 78; and directories are available on recycling collection programs, markets for recyclables, and recycling collection and processing equipment. ANR staff are also available to give presentations to interested communities.

For more information, just call that toll-free number. SC

The Last Farmer In Vermont

“It’s a hard life, but somebody’s got to do it.” In a rambling country style reminiscent of early Bob Dylan, a new song describes the last farmer in Vermont as relaxed, eating pizza, and bringing a few cows out on weekends so that the tourists can see them. With all the “gas pipelines and sports complexes and ski areas...” the song explains, any more farming than that is impossible.

“Once a year,” sings songwriter Michael Veitch. “the Governor comes down/She gives him a plaque/Shakes his hand and pats him on the back/says, ‘keep up the good work’/with a smile on her face/says it’s people like him that make Vermont such a very special place.”

Ouch. Take that, governmental proponents of large developments. It’s no coincidence that this new group, in honor of the sportsarts complex’s major supporter, calls itself “The Traveling Moultons.” Between this group and “The Sold Americans” (see Pyramid article, this issue) Vermont radio stations should have plenty of biting environmental parody on to fill the airwaves.

In the last line of his song, Veitch asks, “Where are Ethan Allen and the Green Mountain Boys when you need ‘em?” The answer is, their spirit is clearly alive and well—and writing songs in the hills. SC

Order “Last Farmer” from Rocking Ham Music, RR 2 Box 358, Chester VT 05143; send $3.00 to cover materials and postage. Or call your local radio station and request this and other environmental music!
The Champlain Pipeline

Does Vermont Want It?
Does the Northeast Need It?

Ned Farquhar

"The pipeline should not be permitted unless the need for new gas supplies is proved both for Vermont and New England, after consideration and implementation of conservation alternatives to reduce future energy demand, and replacement of less environmentally desirable energy sources."

VNRC testimony

Some Vermonters say there's never been an environmental issue this big in the state. The proposal is to construct a natural gas pipeline running the length of the state (destination: Boston's suburbs) and offloading a new supply of accessible and inexpensive gas for Vermonters on the way.

Proposing the project is the Champlain Pipeline Company, which made its way through an unprecedented "open season" for proposals for major Northeast energy projects administered by the Federal Energy Regulatory Commission (FERC) last year.

But early hearings on the project, starting with the FERC's one Vermont environmental issues "scoping" hearing in Rutland in late March, have overflowed with Vermonters' concern about the proposal. Major issues attracting comment have included 1) need for the project; 2) the viability and fairness of the expedited review process; 3) site and cumulative environmental impacts; and 4) secondary growth effects of providing new energy supplies around the state.

The proposed pipeline would stretch 339 miles, primarily underground, from the Canadian border to Massachusetts, carrying 300 million cubic feet of natural gas per day—the equivalent of 50,000 barrels of oil.

Is There A Need?

Speaking for the Vermont Sierra Club, George Webb stated at a recent Vermont Public Service Board (PSB) hearing that the Sierra Club is "in favor of using natural gas as an alternative to coal and oil because it makes less air pollution... Clearly there [would be] benefits from the proposed pipeline. The question is: do we need it?"

Nationally, conservationists are concerned that energy planning and conservation have gone by the boards in the past eight years. The FERC's apparent bias toward projects supplying new gas to northeastern cities, instead of conserving existing supplies, reflects federal policies that have dominated the energy scene since 1981. Many conservationists who addressed the PSB and FERC this spring brought forward the "need" issue as a threshold for further consideration of the project.

Among its other comments on the proposed pipeline project, VNRC stated that "the pipeline should not be permitted unless the need for new gas supplies is proved both for Vermont and New England, after a) consideration and implementation of conservation alternatives to reduce future energy demand, and b) replacement of less environmentally desirable energy sources."

In Vermont, conservationists have shown some success in the conservation area. The Vermont PSB's recent docket 5270, a rate-setting case affecting numerous Vermont utilities, includes a precedent-setting agreement between generators and conservation groups to provide for demand analysis and the implementation of conservation alternatives.

In this sense, according to John Gilroy of the Vermont Public Interest Research Group (VPIRG), "we need to put the pipeline in the context of all the other energy decisions the state is making...."

"Allowing the construction of a major pipeline without regional energy planning would undermine both conservation practice and power supply planning in Vermont and elsewhere in New England," says Lewis Milford, Ver-
mont Attorney for the Conservation Law Foundation. "We plan to recommend a thorough New England-wide energy planning process like that in the Pacific Northwest."

Impact Analysis

Citizen groups have presented a variety of growth and environmental concerns in their comments before the PSB and the FERC. Some of the comments relate directly to back-yard effects, and some range further afield—questioning the possible secondary growth impacts that could surge out from the pipeline corridor. Some Vermonters argue that the pipeline could spawn development—much as a new highway does—attracting new stores, homes, and industry, unless proper planning and growth control measures are taken before construction.

Projecting onsite impacts and preparing for growth are time-consuming and complex tasks. The PSB has contracted for major studies on the potential economic effect of the pipeline in Vermont and on the potential for secondary growth impacts. Obviously the two issues are difficult to separate. Until these studies are available late this summer, the growth impacts debate will remain general.

At this time the actual location of the corridor is somewhat indefinite; thus, defining on-the-ground environmental impact will be difficult. In fact, one of the first issues to be addressed by the PSB is the selection of a corridor; should the pipeline go in some entirely different place, if the need for it is shown? Until the Board decides on the "preferred corridor" in late August, determinations of onsite environmental impact will be premature.

The Public Process For Vermonters

In a May pre-hearing memorandum, the PSB identified several issues that will have to be addressed in its consideration of the pipeline proposal. These issues can be addressed at public hearings only by the admitted "intervenors" whom the Board has allowed to participate in the review process.

The first to be reviewed will be timing issues: how should the Board consider the different aspects of the proposal such as environmental impacts, corridor selection, and the issue of "need" for the gas? Is it realistic for the Board to try to meet the FERC's expedited schedule for the licensing process, designed to be completed next year?

The second issue is jurisdictional. Will the Board have "exclusive or concurrent" jurisdiction over the pipeline— or will federal licensing preempt the state's comment (which, under Vermont law, is to be issued by the PSB)? The Board holds hearings on these first two issues in May.

In June, July, and August the Board will consider other issues: Should the Board consider other corridors, such as interstate highways, railways, and electrical transmission corridors, instead of the corridor proposed by the applicant? Can identified needs be met more economically and more responsibly through energy efficiency and conservation measures? The Board will also set a schedule for studying environmental site impacts.

Simultaneously the FERC is preparing a draft Environmental Impact Statement on the entire project, including Vermont portions of the gasoline. This document probably will not be available for public review and comment until at least the fall of 1989. After its release, according to the FERC, "any person may file a motion to intervene" in the FERC licensing process.

The FERC has ultimate federal regulatory authority over the proposed gasoline. Although most of the FERC process will occur outside of Vermont (largely in Washington, D.C.), it will be important for Vermonters to stay up to date and involved in the federal process as well as the state's proceedings.
We're Not Out of the Woods Yet

Passing Environmental Laws Isn't Enough—We Have to be Sure They're Implemented

Ned Farquhar

Between 1985 and 1988 the Vermont Legislature enacted over thirty laws protecting our environment and natural resources. In fact, according to Jonathan Lash, Secretary of the Vermont Agency of Natural Resources, "A list of Vermont's environmental problems in 1985 would show action on every item by 1989."

Lash's point is that Governor Kunin and the Legislature have responded quickly to Vermont's environmental problems with new laws and programs. But has legislative action on selected environmental issues been enough? Is his agency able to meet present demands and look into Vermont's environmental future?

A Tall Order

Through our new environmental statutes, we have saddled the Agency of Natural Resources with enormous responsibilities. Even an abbreviated list of Agency duties would include maintaining and improving our water quality; managing and protecting our lands, air, and wildlife; reviewing major development proposals; conserving forest resources; providing data on groundwater and other resources; and preserving important elements of our natural heritage. in-
including wetlands and endangered species.

A recent legislative study of the Department of Environmental Conservation (a subsection of the Agency of Natural Resources) found it underfunded and under-staffed to carry out its mandates, including even the new conservation laws. The report noted, among other major findings, that "The Department is producing high quality products and faithfully executing its duties [but] under significant resource constraints..." and "The state legislature has continued to authorize new programs for the department to implement... without providing fully adequate resources to meet some of these responsibilities."

Vermont citizens and businesses make the same finding dozens of times every day. Other levels of government face similar implementation problems. Towns embarking on Act 200 planning find a dearth of resource data and call for more state assistance in the planning process; local citizens encounter tremendous obstacles ensuring enforcement of town zoning ordinances.

Many conservationists worry that the Agency of Natural Resources and Vermont towns are unable to keep up with their current workloads. Aside from the underfunding of daily operations, some capital needs—including sewer plant upgrades, park development, and land purchases—are delayed year after year. And Vermont, through its towns and agencies, isn't able to prepare for future environmental protection responsibilities because we're so busy dealing with today's problems.

The Problem is Growth

Growth impacts are increasingly evident around Vermont. The number and size of development proposals considered under Act 250, for instance, have been increasing steadily over the years. According to the Vermont Environmental Board, construction value of Act 250 proposals has more than doubled in the last several years. Leaving out the Chittenden County Circumferential Highway proposal that skews 1987's statistics, the dollar value of major projects proposed in Vermont leapt 30% from 1987 to 1988-reaching over $350 million. Notably, this figure does not include the Champlain gasoline proposal (not subject to Act 250).

(Continued page 15, after centerfold.)
which could add an equal amount of construction.

"Every project has some impact on the environment," says Peg Elmer, VNRC Land Use Associate. "And the recent, dramatic growth we've experienced intensifies the potential impacts and rate of change on the Vermont landscape. The state and most towns lack the capacity to review each individual project, and certainly there's almost no study of cumulative development impacts."

Examples of Growth

In 1988 alone, there were two mega-mall proposals in Vermont: Pyramid came back to propose anew at its Williston site, and Finard-Zamias Associates proposed a new mall of almost equal size in Rutland.

VNRC is involved in a very small fraction of the Act 250 applications presented in a year. But the Council looked at the two mall proposals and chose to seek party status, in order to ask growth- and pollution-related questions and to present evidence about the potential impacts of both malls.

"VNRC wants to make sure that the agencies and the district commissions have the best information for decision making," says Seth Bongartz, VNRC Southern Vermont Associate Director. "We are finding that the agencies don't have the funding to give these proposals the study they deserve, and they lack the rules and enforcement capability to assure protection of environmental quality."

"The Legislature's recent emphasis on environmental lawmaking has increased the statutory level of protection for some resources," states Patrick Parenteau, Commissioner of the Department of Environmental Conservation. "But the pace of growth, matched with new law, is testing our ability to manage and protect the state's environmental resources."

Construction value of Act 250 proposals has more than doubled in the last several years.

"We are finding that the agencies don't have the funding to give these proposals the study they deserve, and lack the rules and enforcement capability to assure protection of environmental quality."

Seth Bongartz, VNRC

"many private and public landowners object to the increasingly popular (ATV) activity, yet feel that the existing law is unable to protect them."

Another problem is setting specific conditions for development. For example, an integral part of the Act 250 review process is protecting wildlife and fish habitat. Act 250 work has been demanding much more time and money from the Department of Fish and Wildlife. Vermont's district environmental commissions usually turn to the Department for technical assistance on complicated Act 250 wildlife issues, such as those in the Salmon Hole and Parker's Gore development proposals. The department is hard-pressed to accomplish this work in addition to fulfilling its other duties.

Meanwhile, Steven Wright, Vermont Commissioner of Fish and Wildlife, notes that his department's budget is based on receipts from hunting and fishing license sales and some federal funds. "Our total dependence on decreasing license fees means we're holding positions open, reducing temporary help, and reducing operations and equipment funding," says Wright.

The Resource Damage That Results

What is the environmental effect of poor implementation? The effects are shown in direct resource damage, because the laws are difficult to implement or enforce.

The Winooski Valley Park District raises one example: implementation of the state's all-terrain vehicle law. Citing "the extremely harmful impacts ATVs have on the environment and their incompatibility with other recreational pursuits," Parks Manager Maryane Burns says that...
to the disposal of treated sewage wastes, but set very high standards for discharging the pollution. It also set a three-year deadline for administrative rules implementing the law—a deadline that was missed on May 17, 1989.

“The law came, it was stiff, and we had to figure out how to implement it,” says Gary Schultz, Director of the Environmental Protection Division in the Department of Environmental Conservation.

“For the time being, funding for permit issuance is adequate,” says Schultz, “but the problem is going to come in the future when we’re tracking permit compliance. We’re building up a data review workload exponentially, and these costs are going to escalate.” Monitoring indirect discharge data, according to Schultz, will be expensive and complicated compared to less sophisticated direct discharge monitoring.

Schultz’s comments relate to direct administration of the law. But even the rulemaking process—the “first step” in implementing new laws—is time-consuming and difficult. The 1989 legislative study of the DEC notes that in many cases, “...the scope and complexity of the technical issues that must be resolved in developing regulations is increasing....”

Vermont’s solid waste law (Act 78), water quality law (Act 199), groundwater law, and the wetlands act have each required grueling, staff-intensive rulemaking processes, with numerous public drafts and meetings, coordination with other agencies, and intensive legislative review. The solid waste plan and rules missed their April 1988 legislative deadline by more than eight months. Wetlands rules still haven’t been implemented more than three years after passage of the law, although the Water Resources Board is now working intensively on a public draft.

Good Implementation Costs Money

Act 200 is another major law that included inadequate natural resource funding. Intended to prompt local planning, the “growth bill” survived an arduous passage through the 1988 legislature and was finally passed without funding for the Agency of Natural Resources to provide assistance on natural resource inventories and management.

VNRC will sponsor a state-wide discussion of Act 200 funding needs in July. VNRC’s Peg Elmer notes, “Vermonters need to get together and make some decisions. How much money do we need to get the resource inventory data, conduct good planning at all levels, and then implement our plans consistently and forcefully?”

Enforcement Is Critical

This year’s most glaring example of an area needing new funding and new law is enforcement. (See Attorney General Amestoy’s article, this issue.)

Senator Douglas Racine (D-Chittenden), who helped secure funding for more enforcement staff in the 1989 legislature, notes that this year the legislature "worked up an environmental penalties bill that will speed enforcement. We’re paying more attention to environmental budget issues than we used to in the legislature. It’s an important new effort to make sure we can accomplish the lofty statutory goals set in recent years."

Joan Mulhern, Legislative Director for the Vermont Public Interest Research Group, notes that in addition to the administrative penalties, “the legislature should also allow more citizen enforcement and appeals under our laws so that government won’t be expected to perform all of the enforcement functions."

Even the enforcement bill considered by the 1989 Legislature has budget and rule implications. It would require detailed rules before being implemented, and needs funding for new hearing officers and enforcement staff.

The solid waste plan and rules missed their legislative deadline by more than eight months. Wetlands rules are just now undergoing public review more than three years after passage of the law.

What VNRC is Doing

Given that the Legislature, prodded by citizens and interest groups, is likely to continue to pass laws that may lack adequate funding, the budget issue will continue to fall to the administra-
Tracking Budgets and Rules
What You Can Do

Conservationists advocate environmental protection when they're confronted with laws or projects that need response. Until now there hasn't been pressure to get involved in the grittier detail of environmental administration. But now that the laws are passed, dealing with the agency rules and budgets that affect day-to-day conservation around Vermont is one of the most critical areas of environmental advocacy.

1. Recognize that conservation costs.

   At the local and state levels, it's important to spend money on land conservation, project review, and planning. Our state agencies and local governments need adequate resources for their jobs.

   Every permit requires review and monitoring; and someday, enforcement. Buying land is expensive but the fairest way of recognizing a landowner's vested rights. Town and state planning can’t be meaningful unless the resource inventory is thorough, the people are informed and involved, and the plan is widely distributed and used.

   In the near future we might want to consider local and state taxes dedicated to conservation purposes. Revenue-raisers might include: second-home taxes, with proceeds going to the Housing and Conservation Trust Fund; local retail and property taxes for buying development rights on agricultural lands or creating a village green; or new local and state bond issues for land acquisition funds, as used in many other states.

   At the state level, VNRC will head up the preparation of a comprehensive conservation budget this summer and fall. We'll present it, with other conservationists, to the Governor this fall. Do you have ideas or ways of helping?

   VNRC also will hold at least one day-long event to study ways of increasing funding for the implementation of Act 200's planning requirements – at the state, regional, and local levels.

2. Participate in rule-making procedures.

   It might take you several attempts – in writing or in person at hearings – to get the conservation message across when the Agency of Natural Resources or Water Resources Board begins to implement a new law. Then, after the Agency or the Board finishes with a proposed rule, the Legislature takes over. The eight-member Legislative Committee on Administrative Rules reviews all rules for conformance with legislative intent, authority for the proposed administrative actions, and the absence of any “arbitrary” effects.

   Right now there are two major rules in progress. You can help assure the sensible and meaningful implementation of the Vermont Wetlands Act and the 1986 Water Quality Act by: commenting in writing on the draft rules; participating in public hearings on rule proposals; and providing legislators with your views. VNRC will hold special wetland workshops in preparation for the rulemaking. Contact VNRC to find out where the wetland and indirect discharge rules are in the review process, and where and when VNRC’s workshops will be held.

The budget is perhaps the most important policy action adopted by each session of the legislature. Funding for natural resources management and protection is a critical priority.

comprehensive “conservation budget” for the Governor and Legislature. For this year's legislative session, VNRC initiated efforts aimed at increasing spending on environmental protection in Vermont: VNRC co-signed a December 1988 letter, along with nine other environmental groups and with the additional support of the Vermont Association of Realtors, to Governor Kunin urging more funding for environmental enforcement and groundwater research and mapping; and the Council developed a package of “urgent” and “anticipated” funding needs for the environment.

VNRC’s recommended spending would increase today’s natural resources budget by about 10%, but would increase the Agency’s presence and effectiveness by a great deal more. Here’s what $1.25 million (about 1/500th of our annual spending in Vermont) will buy:

• Three times as many environmental enforcement staff in the Agency’s regional offices, with all-new permit tracking and compliance capabilities;
• The beginnings of a non-regulatory program to reduce non-point source water pollution in Vermont (pollution caused mostly by the agricultural and construction industries);
• A forestland protection/acquisition program, in response to
major land sales around the state;
• A new lake protection pro-
gram, including funding for clean-
up and management of Lake
Champlain;
• Staff to implement Vermont’s
wetlands law in consultation with
landowners;
• A comprehensive ground-
water mapping program, designed
to provide information so we can
protect key water supplies;
• Better consideration of natu-
ral resource protection in Act 200
planning and Act 250 land use
regulation; and
• Efficiencies in Agency
management and public commu-
nications, providing the public
with improved knowledge of en-
vironmental laws and programs,
and using Agency staff better.

Conserving
Vermont’s Natural
Resources:

A land ethic for
today and
tomorrow.

James E. Wilkinson, Jr.
Natural Resource Consultant
125 TREMONT STREET
BARRE, VERMONT 05641
TELEPHONE (802) 476-5359
Enforcement Needs Teeth

Who’s Afraid of the Big Bad Laws?

Jeffrey Amestoy

Note: As this magazine went to press, the Vermont legislature enacted a law improving the State’s ability to go after polluters. The law allows the Department of Environmental Conservation to assess administrative penalties of up to $100,000 without the usual lengthy court process. The bill was strongly supported by Attorney General Amestoy’s office. SC

Since 1985, Vermont’s Office of Attorney General has handled more than one hundred thirty environmental law enforcement cases. One-third of these cases were complaints against owners or developers for violating the state’s Act 250 and other land use and water quality laws. In almost every instance, violators were compelled to comply with permit conditions or the operation was shut down. Where the violations were willful, harmful or repetitive, stiff—and even criminal—penalties have been obtained.

But while Vermont can count many environmental victories in its legal battles, we are not winning the war of environmental law enforcement. With some of the nation’s most modern environmental protection legislation on its books, Vermont’s system and tools for enforcing those laws are obsolete. The administration of Vermont’s environmental laws is clearly overburdened, understaffed and, in some instances, self-defeating.

Enforcement Encumbered

Court action against permit violators is cumbersome, slow, and inefficient. Recently, for example, the Attorney General’s Office obtained a $30,000 penalty against a developer who had started construction without a permit. The case—aggressively prosecuted by the State and vigorously defended by the developer—took over two years to complete. Vermont’s environmental law enforcement system is simply not designed for quick response and deterrent attack against violators.

First, environmental offenders stand about an even chance of not being caught. The Department of Environmental Conservation (DEC) estimates it finds about sixty percent of permit violations each year. The Department has nine enforcement inspectors (the Office of Attorney General has none). Two of DEC’s inspectors are responsible for enforcing provisions of Act 250, as well as regulations relating to public buildings, subdivisions, mobile homes and campgrounds. Add to this burden the fact that many Act 250 permits contain ongoing compliance conditions, and it is not difficult to see why there is a gap between the expectation of the regulator and the experience of the regulated.

Of course, increased enforcement responsibility without commensurate increases in enforcement resources is a familiar story to those who have spent any time in the public sector. The Office of Attorney General, for example, has doubled the number of Assistant Attorneys General responsible for environmental work (from two to four) by reallocating existing resources. Quite apart from the obvious increase in the scope and complexity of environmental responsibilities, the Office of Attorney General is meeting other explosive enforcement problems (drugs, child abuse, and white collar crime to quickly name three) with less staff than was authorized five years ago.

Ironic Rewards

While it is unquestionably true that the majority of Vermont’s developers put a great deal of time, effort, and expense into satisfying permit requirements, it is also accurate to note that some developers have taken advantage of inadequate enforcement resources. For those who place a higher value on profit than compliance with the law, the current enforcement system sometimes reinforces their values. Once a violation is discovered the system may work to give the violator ironic rewards. An owner or developer caught building without an Act 250 permit, for example, can then apply for the permit. Even where the violation was willful, nothing in the law stops the violator from receiving permission to proceed.

Often the Attorney General’s Office takes a violator to court for building without a permit only to have the permit issued in the middle of the litigation. The courts, already clogged, are then faced with a case against violators who have received permits. While getting a late permit does not excuse the violation, as a practical matter the Attorney General’s burden of persuasion in front of the court is seriously undermined when violators have received permits in spite of their violation.

Continued p. 21.

A closer examination of the document, however, indicates that the writer did not have much faith in the state's enforcement work. In fact, he seemed confident that no one would read past the first page.

"Rain continued about normal for the period," the document begins, and goes on to add assurances of "no major problems" during the report period. Except, ah, one thing. We discover halfway down page two that pedestrians are, it seems, violating the brook protection zone.

"This area has been fenced on two separate occasions in an attempt to discourage foot traffic," the report explains. "In the last instance the contractor installed pungi sticks, claymore mines and secured the entire area with attack dogs inside a barbed wire perimeter. The attack dogs defecated in the brook, destroyed all of the undergrowth and eventually impaled themselves on the pungi sticks. The claymore mines were inadvertantly set off by the last thrashings of the dying dogs. The brook was hopelessly polluted for two weeks causing a work stoppage due to clean up activities and memorial services for the dogs."

Wait, there’s more. "Under mistaken orders, the remains of the attack dogs and other refuse were buried in the stump dump. Leachette from the area has been detected by Water Resources investigators and the entire project is now in violation of the new Interim Procedures regarding indirect discharges. . . ."

Clearly, here was a creative writing effort worthy of note. However, although the document was stamped "received" by the Commission, Sunrise engineers did not hear back from the DEC on their innovative prose efforts. A month went by, and Sunrise's October report contained this news: "The site has returned to a relative state of normalcy as the Army Corps of Engineers evaluation and EIS Group sets up headquarters, begins construction of their communication tower/heliport/office complex. When we requested copies of their permits for the work they merely pointed to the sky, patted their shoulder holsters and muttered something about Rambo."

Contacted recently about the document, report author David Fretz explained, "It was toward the end of the season, and we wanted to see if anyone really paid any attention to these things. And nobody did. Or if they did, nobody said anything."

Fretz does engineering and research work for Hawk Mountain Corporation, a partner in the Sunrise group, and complains that many of the State’s reporting requirements are “relatively worthless.” But Fretz also notes, "We really need better enforcement. I’d much rather there were stronger, more even-handed enforcement—I wish every district had an enforcement inspector."

District I Environmental Coordinator Anthony Stout admits, "As I recall, it was a few months before someone was doing research and came across these documents in the files. The reports were then circulated to staff as a pointed reminder that it's easy to let things slip through the cracks."

"Frankly, this is why I would discourage this 'report-back-to-us' approach to enforcement—it's much better to have active protection," says Stout. Although this particular case occurred three years ago, Stout notes, "The basic underlying situation in enforcement hasn't changed one iota—except that now we have more cases."

"We need a commitment from top-level management in the State that we’ll see this type of day-to-day enforcement case—not just the glamorous ones—through to the end," says Stout. "And of course, it takes sufficient budget and trained staff to see it through."

On that point, everyone seems to agree. But until that time, we'll just have to keep our sense of humor about us—and hope that nothing more dangerous than imaginary attack dogs is polluting our streams undetected.
Some cases—where the violations are inadvertent or minor—can be settled through negotiation and fines. But in many cases the compliance of the developer with permit requirements does not moot the matter. The Office of Attorney General's environmental caseload contains several cases where the issue to be resolved at trial is the appropriateness of the Attorney General's penalty demand. Ironically, increased demands arguably run counter to effective deterrence because of the significant lapse of time (sometimes years) between the infraction and the court-imposed penalty.

**Choices for Enforcement**

Vermont seems to have three choices:

We can keep the enforcement system the way it is, with inadequate resources to either investigate or prosecute all cases of environmental violation.

We can appropriate hundreds of thousands of dollars to hire an army of investigators and lawyers to make the current enforcement system work effectively.

Or, with a minimum investment in new personnel, the Legislature can revise and streamline the enforcement system to make detection of violations more sure, and make enforcement more uniform, fair and swift.

It is time to overhaul Vermont's environmental law enforcement system. Permission to develop can and should be denied to owners and developers who willfully ignore permitting procedures. Monetary penalties can and should be imposed administratively as part of the permitting procedures according to a schedule of fines authorized by the Legislature and geared to take the profit out of noncompliance. Resort to the courts can be and should be utilized where violations are egregious or where real questions of statutory interpretation require judicial intervention.

The opportunity for constructive and significant improvement to environmental law enforcement is present in legislation introduced this legislative session. Senate Bill 54, sponsored by Senator Ready of Addison County, seeks to create administrative environmental enforcement capabilities including authorization to assess administrative penalties, stop work orders, and stays of the issuing of permits to persons not in compliance with existing permits. Such an approach coupled with adequate appropriations and authorized positions can make an enormous difference in effective environmental enforcement.

At the Attorney General’s Office, as elsewhere in Vermont, there is no shortage of commitment to environmental protection. We welcome those who join with us in seeking to match the will to protect with the capacity to succeed.

Jeffrey L. Amestoy is Vermont’s Attorney General.
The siting criteria will dictate the characteristics of new landfills and will determine where such landfills will be located. Consequently, it is absolutely essential to get citizen participation when these siting criteria are being developed.

About a year ago, the Central Vermont Solid Waste Management District (CVSWMD) went public with ten potential sites for a new landfill. The response of many citizens, upon learning that a potential site was located in their town, was outrage.

"The reaction was extremely negative, and that's putting it mildly," says Eva Sell, who helped organize Barre Town's Concerned Citizens Association in opposition to the District's initiative. "I collected 2,135 signatures against it in ten days. The process that the district used was unfair—people simply were not considered."

Ben Rose, CVSWMD Manager, explains that the District made a good faith effort to engage citizens in the process, holding some fifteen hearings on siting criteria.

"In retrospect, however," notes Rose, "there were two problems.

Above: Volunteers handle recyclables in Barre. Although Vermont's solid waste law calls for reduction, reuse and recycling of Vermont's trash, we will still need new landfills to handle residual waste.

John Lingelbach, a recent graduate of the University of Virginia School of Law, intends to enter the field of environmental mediation. He has a special interest in siting procedures for "lulu's"—locally unwanted land uses.

Where Can We Dump It?

Citizen Participation in the Landfill Siting Process

John Lingelbach
First, discussions of criteria do not generally arouse passionate interest, so we never had a crowd until the focus shifted to specific sites. Second, there was no mechanism for incorporating the comments we did hear by revising the criteria. Rose adds, "We learned enough to step back and try again."

CVSWMD is not alone. This year, the Rutland County Solid Waste District has gone through a similar experience. If anything, the public response has been more negative and more entrenched.

"Experience from around the country has shown that only through an open sitting process, with substantial citizen input, can there be success in siting undesirable facilities," says Steve Maier, Chief Solid Waste Planner for the Vermont Agency of Natural Resources (ANR). "If people are urged to participate and given some real control, they are more likely to respect the sitting process and less likely to fight it."

**An Act Needing Action**

Act 78, Vermont’s solid waste management law passed in 1987, makes the state’s regional planning commissions responsible for preparing long-range solid waste management plans. In most regions, groups of neighboring towns have formed or are forming into solid waste management districts to carry out these plans. It is these districts that will have to site Vermont’s new landfills.

"Act 78 emphasizes recycling, source reduction and re-use," notes VNRC’s Water and Solid Waste Associate Stephen Crowley. "Ultimately, eliminating waste at the source, coupled with heightened respect for the earth’s resources, is the only solid waste management alternative," he notes.

"However, no matter what initiatives solid waste districts undertake," says Crowley, "experts agree that most districts will also have to site new landfills during the next few years."

Studies by the Agency of Natu-

ral Resources indicate that there is only enough space in existing landfills to meet Vermont’s needs for about another eight years. And any landfills which are releasing unacceptable levels of contaminants into the groundwater will have to be shut down even earlier. Furthermore, Act 78 requires that the operating portions of all landfills be lined and designed to collect and treat leachate by July 1, 1991. In many instances it will be cheaper to build a new landfill than to line an old, nearly full one.

Act 78, and the state plan adopted under it, mandate substantial, early and ongoing public participation in the districts’ sitting process.

"There is flexibility as to how districts get citizen input, but certainly more than traditional public hearings are required," says ANR’s Maier. "We are looking for the process to be one that people can respect as fair, honest and open." At the same time, the state realizes that a district cannot require or manufacture public participation. It is up to citizens to get involved early and actively.

"Find a Site, But Do It Right!"

As Vermont’s solid waste law is presently structured, it is up to the solid waste districts to establish a number of landfill siting criteria. The state has set some criteria, such as minimum distance to surface waters (300 feet), and has established areas where landfills cannot be located, such as Class I or II groundwater areas, significant wetlands and threatened or endangered species habitat. But it has been left to each district to establish criteria for such factors as the use of agricultural land, minimum distance from residences, schools and hospitals.

A district may also establish criteria to cover other factors that are important to its citizens. Different districts may tailor their siting criteria to fit the needs and preferences of their citizens. Citizen participation is key to creating the siting criteria, as these criteria will dictate the characteristics of new landfills.

"When a specific site is proposed and it is within a mile of
your house, or on the same road as your kids’ school bus, then you get excited,” notes CVSWMD’s Ben Rose. “The problem is to engage people in the siting process, and incorportate their concerns, before the light turns to heat. If enough people participate at the abstract level, it is possible to anticipate and address the site-specific concerns that are likely to arise.”

There are two other stages in the siting process in which citizen input is essential: in the development of both the assurances and the compensation packages that are negotiated between a district and a host community.

Strict assurances will have to be made by a district to alleviate various concerns of the host community’s citizens. Some of these are design standards, such as maintaining water and air quality, or preventing the migration of toxics. Other assurances are related to the operation of a landfill, such as specifying truck routes and schedules, and allowing or prohibiting the residual ash from an incinerator in the landfill. In any case, the many public concerns about a landfill “in my backyard” will have to be resolved to the satisfaction of the host community.

Compensation decisions, more than those concerning assurances and siting criteria, are “business decisions” that will have to be made by the districts’ boards, to a large extent on economic grounds. Nonetheless, it is important that citizens consider these issues, form opinions, and participate in open debate.

“Municipal solid waste is a jumble of resources, and facilities to manage such waste can be real assets to their host communities,” notes Rose. Most districts will at least be making “payments in lieu of taxes” to a host community (districts, being governmental entities, are exempt from local property taxes). Beyond this, such things as reduced disposal fees, “royalties” based on the amount of waste disposed of at the landfill, and one-time “impact fee” payments may be negotiated.

How to Participate

A district that is attempting to site a landfill will have a landfill siting committee made up of members of the district’s board of supervisors. It should also have a landfill siting advisory committee made up of concerned citizens, to help ensure that all interests are represented during the development of siting criteria.

Citizens are encouraged to attend and apply to join their district’s advisory committees. All district meetings are open to the public.

Citizens can seek out committee members, learn what is going on and express concerns to them. Each district office or regional planning commission will have further suggestions as to how you can get involved (see box).

“What we really need in this process is plain old common sense, with a dash of creative thinking,” says Rose. “Siting is difficult, but not impossible.”
September 16 – Vermont Conservation Celebration!

Imagine all of Vermont’s conservationists in one big, sunny spot—sharing ideas, swapping tales, learning the details of each other’s work. Add in some time to frisk about with the kids, toss in some good music and maybe a little dancing too.

Well, we can’t guarantee the sunny weather, but we’re working hard to arrange all the rest, with our plans for Vermont’s first Conservation Celebration.” Save out Saturday, September 16 and make plans to meet us on the Statehouse lawn in Montpelier.

As a finale to VNRC’s 25th Anniversary year celebration, VNRC is acting as coordinator of the Conservation Celebration, and the VNRC Annual Meeting will be held at the event. But the Celebration goes far beyond VNRC. Dozens of conservation groups—representing thousands of Vermonters—are preparing booths, workshops and activities for the day. And music, storytelling, games and other lively entertainment will ensure that the day is relaxing as well as, we hope, inspiring.

You’ll be hearing a lot more on this from us over the summer. Meanwhile, Conservation Celebration Coordinator Dan Lindner is looking for volunteers of all sorts to help with event preparation. Give Dan a call at VNRC, 223-3232, today!

Our Only Problem is Where to Put Them All...

Veteran and new staff, interns and volunteers are putting every available inch of VNRC work space to good use. VNRC warmly welcomes our new Information and Education

New Members

VNRC is pleased to welcome the following new members who joined us between December 1, 1988 and April 1, 1989: William L. Ash; Tom Barden; Anne Batten; Peter J. Berman; Murray Bookchin; Charles Boothby; George Britton; Burke Mountain Academy; E. Ware Cady Jr.; Callie Consulting; Marcia S. Calloway; Harvey & Mary Carter; Stanley Chartoff; Ned Childs; Alice Chuet; Web Coleman; Alan Conlone; John & Gaal Crowl; Hope & Philip Dean; Walter & Sally Deinzer; Craig R. DiGiammarino; Jo-An Dobson; Lido & Dean Douglas; William K. Dugan; E. A. Durand; Stephen D. Eddy; Jean M. Eisenhart; Steve Ellis; Carol J. Embury; Norman & Ginger Etkind; Peter T. Farrar; Grace B. Farrington; Charles H. Fish; Bernard W. Folta; Jeffrey W. Forward; Sarah P. Foss; Christopher Foster; Jon Gilbert Fox; Tom Frank; Peg Garland; Judy Gibb; William Dean Giezentanner & Elissa M. Landre; Loren Sapphire Goldberg; Amy Golodetz; Anne Gould & John Wall; Rebecca G. Grous; Denis G. Gravel; E. Grosskreutz; David Haaren; Lois Harris; Peter D. Hart; John N. Haugrud; Judith & Steve Hinds; Laura Hollowell; Jennifer Hopkins; William Hunter; Maureen M. Jennings; Robert M. Johnson; Craig D. Jolly; Maureen Kangley; John T. Kaplan; Tom Kustner; Erika Keller; Sue Kibbe; Michael Kline; Karen Joy Knapper; Fritz Koch; Barbara & Jeff Kruh; Peter A. Krusch; Jaan Laaspere; Vivian A. & Richard M. Lacey; Michael Lamere; Barbara LeVan; Larry W. Lee; Steven Lembke; Robert & Marcia Liles; Raymond Lobdell; Bruce Lord; Steven & Oksana Ludd; Vaino Mann; Tom Martin; Ann & Charles Martino; Gail McDonough; Penne McEdward; Dwight Merriam; Kevin A. Moreau; Paul Molinelli; Andrea Morgante; Christie Myrab; Mary Nieling & Dave Speno; Jennifer O’Hara; Alison PAN; Nancy Patch; Dr. Robert Pawling; Vera L. Perkins; Earl W. Phillips; Freideric B. Preston; Marthe Punderson; Mr. & Mrs. Hugh Putnam; Quad Left Graphics; Susan Rankin; Bradley C. Robinson; Ken & Jill Roger; Patricia A. Rubin; Elizabeth Sahm; Thomas Sampson; Art Sanborn; Joanne Sather; William M. & Carrye Schenk; Jeff Schoelkopf & Sally Sweetland; Nancy Segel; Rebecca Sheppard & John Bloch; Stanley R. Sherwood; Constance A. Skinger; Stu Slote; Stephen E. Smith; Conrad W. Smith; Southern Vermont Dairy Goat Association; Tim Storow; Richard Swarts; Bob Switzer; Susan & Harold Taskin; The Vermont Book Shop; Steve Thurston; Peter D. Van Oet; Michael Vettel; Eugene J. Ward III; Elizabeth Way; Peter Welch; Ruthellen Weston; Carl H. White; Kevin Wiberg; Diana Wilcox; Holly Wilson; W. Scott Worrall.
THE COUNCIL

Staff... Projects... ACTION!

VNRC's environmental Action Center is now fully staffed, and have we got action! The Action Center, funded by a three-year grant, is hard at work encouraging citizen participation in Vermont conservation efforts, particularly in implementing Vermont's many new environmental laws.

The Action Center's Land Use Associate Peg Elmer has been busy with us since January, working with neighborhood groups and other Vermonters interested in planning and development review at the local level.

With over ten years of Vermont planning experience, Peg has worked with the Environmental Board on administering Act 250, and was staff to the Governor's Commission on Vermont's Future. Most recently Peg worked as assistant to Agency of Natural Resources Secretary Jonathan Lash.

Joining Peg this spring is VNRC's new Water and Solid Waste Associate Stephen Crowley. Steve has been active in water, solid waste and other environmental issues for the past fifteen years, and worked most recently as an environmental science teacher.

Steve has been working with other activists wetlands rules and local water resources protection efforts. And in between consulting with local groups on landfill siting and a few key development proposals, Steve will be coordinating Vermont Land and Water, an Action Center newsletter due out this summer.

The Action Center and VNRC's Southern Vermont Office have have collaborated on VNRC's new Citizen Involvement Kits. "We're including resource materials on growth management and many other conservation issues," says Elmer. "We're hoping the kits will help Vermonters feel more powerful in the face of our current development boom—and take action."

Assistant Jane Burchard. The welcome includes a special tooting of horns and tossing of confetti by Editor Susan Clark, who is delighted to have assistance with education and outreach. Jane has a strong communications background, and her projects include updating our popular Vermont Environmental Directory and coordinating 25th Anniversary events. Jane is working half-time at VNRC, and puts her other creative energy to work on starting a dance company in Burlington.

VNRC is also delighted to have Dan Lindner coordinating the September 16 Conservation Celebration. In addition to conservation efforts such as coordinating a community recycling project, Dan has a great deal of organizing and entertainment background, as leader of Vermont famous Banjo Dan and the Midnight Plowboys bluegrass band.

Thanks to Dan's talented coordination, it is clear that the Celebration's workshops, activities and entertainment shouldn't be missed!

This year's legislative intern, funded by the Maurice "Red" Arnold Memorial Internship Fund, was Lisa Peskin. A 1988 UVM graduate, Lisa studied environmental policy and wildlife, and has experience monitoring federal policies as an intern for the National Wildlife Federation. At VNRC Lisa followed legislative issues, and also had a hand in the research and writing for this V.E.R.

Jim Shallow, a policy and research intern for VNRC's Action Center, has organized VNRC's Water Caucus list and prepared comments on the State's draft wetlands rules. A graduate of Colorado College, Jim has a history and political science background and a strong interest in environmental issues.

Also interning for the Action Center is Roberta Lewando, a 1988 graduate of the University of Virginia with a background in English and environmental science. Roberta's projects include citizen involvement work and land use workshops. Roberta heads for Honduras in June as a Peace Corps volunteer.

Our Southern Vermont office has discovered a creative gold mine in Paul Molinelli, a graphic designer who generously contributed the design work for our Citizen Involvement Kits. Although we admit that the ostrich
THE COUNCIL

is not a native Vermont species, we do contend that its fabled head-in-the-sand behavior comes far too close to depicting some of our own community involvement. One look at Molinelli’s alarmed ostrich makes us proud (and relieved) that our Kit is now available!

Still To Come: 25th Anniversary V.E.R.!

Faithful readers will recall that we promised you our special 25th Anniversary issue of the Vermont Environmental Report this spring. With the avalanche of legislative issues that needed coverage, however, plans changed a bit, and as you can see, (with the exception of the exceptional fold-out) the Spring issue runs along the traditional format.

The 25th Anniversary issue, complete with a new design by Laughing Bear Associates, will hit your mailbox this summer. We hope you’ll feel your patience was rewarded! SC

IN MEMORIAM
Bernice Burnham

Bernice Burnham, a conservation enthusiast and past VNRC Board member, treasurer, bookkeeper and payroll clerk died on April 18. She was 90.

Bernice donated energy and expertise to the “business end” of VNRC for over twelve years. Her enthusiasm for business, photography and the environment led her to involvement in many organizations, including community groups and environmental education projects. We will remember Bernice with warm thoughts and gratitude. She contributed greatly to our organization, and to Vermont.

VNRC Accepts NWF Affiliate of the Year Award
Warner Shedd

On March 18, I had the great pleasure of seeing the Vermont Natural Resources Council honored as the National Wildlife Federation’s “Affiliate of the Year.” This highly coveted award, eagerly sought by NWF affiliates throughout the nation, recognizes VNRC’s truly outstanding work.

Selection of the Affiliate of the Year is based on several criteria, including outstanding work on conservation issues and development of the organization. VNRC was chosen because of its exemplary work on issues including growth management and protection of agricultural land, and for its tremendous surge in membership, income, staff, and other measures of organizational effectiveness.

VNRC members may say, “Gee, that’s wonderful—but just what is an NWF affiliate, anyway?”

The National Wildlife Federation, the nation’s largest citizen conservation organization, has a unique structure. It has one affiliate in each state; and each of these affiliates is an autonomous state-wide membership organization. The unique feature is this: not only are NWF affiliates autonomous, but in a very real sense they control the National Wildlife Federation!

At NWF’s Annual Meeting, state affiliate representatives assemble and vote on the resolutions which establish NWF policy. These resolutions are binding on NWF’s Board and staff. Moreover, the affiliate representatives also elect the officers and directors of NWF. As a result, VNRC, through its elected representative, has one-fiftieth of the say in setting NWF’s conservation policies and electing its officers and directors.

Beyond this direct policy-making role, what is the relationship between VNRC and NWF? Put in its simplest terms, it is one of mutual benefit. It’s a bit like a good marriage, in which each partner contributes something important to the relationship and in turn receives major benefits.

VNRC originated as a grassroots conservation organization with a broad range of interest some 25 years ago. It has continued to fulfill that role admirably as the organization has grown and matured. NWF looks to VNRC as its grassroots contact in Vermont, so that when local or state problems arise, NWF can refer concerned citizens to VNRC.

VNRC, on the other hand, benefits in a number of ways from NWF. NWF staff can help and advise on many technical and legal issues, especially those which involve federal agencies. NWF lobbyists work on national and regional issues which are of particular importance to VNRC. Also, NWF provides conservation education materials, particularly for Wildlife Week, for VNRC to distribute—a process which benefits both organizations.

Congratulations to VNRC for its superb conservation work and for its richly deserved Affiliate of the Year award!

Warner Shedd is the New England Regional Executive of the National Wildlife Federation. He lives in Calais.
More VNRC 25th Anniversary events!

- "Planning for Open Space" Repeated four times, all 7-9:30 p.m.; June 29, Community Church; July 6, Dover Elementary School; July 20, Danville Dousers Hall; July 27, Enosburg Falls American Legion Hall. A workshop examining public and private options for action in protecting open space.

- Vermont Rivers Day Celebration Saturday, June 17, Otter Creek, Weybridge, VT. VNRC invites you to celebrate Rivers Day, a day of music, picnicking, canoeing, river protection workshops, and other exciting events! For more details, call Steve Crowley at VNRC's Montpellier office - (802) 223-2328.

- Canoe Trip and Water Quality Issues Discussion June 25, 9:00 a.m. to 4:00 p.m., Wilder Dam Visitors Center VNRC, the Connecticut River Watershed Council, and Riverwatch co-sponsor a day-long canoe trip on the Connecticut River from Wilder Dam to Hart Island. Water quality discussion includes water sampling and a sewage treatment plant tour. For fee information and registration call 1-800-292-CRWC.

- Vermont Agriculture Tour Thursday, August 10, 9:00 a.m. to 3:00 p.m. starting at Perry Waite's farm in Pauilet. Visits a Vermont dairy farm and sheep farm, picnic at the Merck Forest and Farmland Center, and hear presentations by farmers Perry Waite and Noel Clark, Agricultural Commissioner Ron Albgo and Merek Forest's Natural Resources Manager Matt Profil. For more information, contact VNRC's Southern VT office, (802) 362-3113.

More events are being planned, including:

- "Defining the Parameters of the 'Taking' Issue" Is the taking issue the land use monster it is often made out to be? A workshop addressing "taking" and more will be held this summer. (For specifics, call VNRC's Southern VT office (802) 362-3113).

- "How to Achieve Affordable Housing in Both Urban and Rural Settings" To be held in four locations in August. Call VNRC's Main Office for details. This workshop will examine mechanisms that work, the success that others have had and how you can create affordable housing too.

And to top it all off...

- Conservation Celebration Saturday, September 16, 1989, Statehouse Lawn, Montpelier. "Awareness to Action" is the theme of this day-long celebration focusing attention on Vermont's conservation issues through seminars, exhibits, entertainment, speakers, kids' stuff and hands-on workshops. Hosted by VNRC and co-sponsored by environmental groups statewide. We hope to inform, involve and inspire thousands of people, generate media and political attention on environmental concerns and inspire Vermonters to work for change. It's bound to be a day to remember so mark your calendar!

- VNRC 25th Anniversary Annual Meeting Saturday, September 16, Statehouse, Montpelier. (Note the change in date and location from our original 25th Anniversary Flyer.) Held as part of the Conservation Celebration.

Other upcoming Vermont and New England events:

- August 30 - December 13 The University of Vermont Environmental Program will offer a 3-credit Continuing Education course in Natural Areas Planning and Management. Analyzing and applying management techniques, site i.d. and protection, land acquisition and stewardship approaches, site rehab and restoration, and more. Hands-on approach emphasized. Wednesdays, 4-7 p.m. Call Rick Paradis, 656-4055.

- July 10 - July 14 The Lincoln Filene Center at Tufts University will hold its annual Environmental Leadership Training Institute, 9-4 each day. For citizen leaders, non-profits staff, teachers, town, state and regional officials, and others interested in improving leadership skills. Tuition $150-$175. Write Environmental Program, Lincoln Filene Center, Tufts University, Medford MA 02155 or call (617) 381-3451.
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Get Informed!
The 2nd Edition of VNRC's popular Vermont Environmental Directory contains complete and updated listings of Vermont's environmental groups, a guide to environmentally-related state government, regional and town commissions, and more.

Get Action!
VNRC's Action Center staff is ready to meet with all interested citizens to discuss land use, water, solid waste or other environmental issues and how you can take action. Plus, if you join VNRC, you'll receive our action alerts and the Vermont Environmental Report.

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