

February 11, 2014

To the Vermont State Legislature  
Attn: House Judiciary Committee

Re: Comments on S.119: an act relating to amending perpetual conservation easements

Dear Representatives:

I am an attorney with 18+ years' experience with a focus on real estate and land conservation. I represent landowners who convey conservation easements to the Vermont Land Trust and who typically claim federal tax deductions for doing so. I also represent several smaller land trusts (also known as land conservancies). There are more than 25 nonprofit land trusts operating in Vermont.

I have previously written and testified in opposition to most of the provisions within this bill so I believe my 2012-13 objections remain on record. I advocated that in lieu of this bill, we work with Vermont's Congressional delegation and the larger nationwide land trust community to enact federal tax regulations to enable flexibility for minor amendments: this way any change would be more inclusive, trustworthy, reliable, and consistent with federal tax law (unlike the current bill).

Today I would like to bring the Committee's attention to yesterday's Vermont Digger article by three law school professors which I attach for the record as well. I concur with its writers, Echeverria, Milne and McLaughlin.

As I have emphasized before, **if this bill passes**, I would have the objectionable task of disclosing to my landowner clients:

- a) their conserved lands so special to them will **not necessarily be conserved forever** as they were assured; and
- b) when they claim a federal tax deduction for a new conservation donation, they risk this law landing them an **IRS audit and litigation** in federal tax court.

Although the bill's supporters welcome the opportunity to defend it in court, my clients – both landowners and smaller land trusts – would be horrorstruck to be pulled into such a conflict.

In short, I strongly believe that passing this bill would impose outrageous risk, liability, and undependability upon both nonprofit land trusts and landowners in regard to their previous and future conservation easements. It would cheapen and unnecessarily complicate heretofore successful land conservation endeavors in Vermont. Finally, as a citizen and taxpayer I consider it fiscally irresponsible for the state to fund the costly measures in this bill.

Respectfully,

*/s/ Annette Lorraine*

Annette Lorraine