



To: Senate Natural Resources and Energy Committee  
From: Jamey Fidel  
General Counsel/Forest & Wildlife Program Director, VNRC  
Date: April 17, 2014

**Re: VNRC supports H.329**

Vermont's Current Use program is one of the most important and successful programs for maintaining Vermont's working lands and rural character. The program continues to grow every year. Last year, 457 additional parcels were enrolled in the program, adding 415 new landowners and 42,611 new acres. The continued growth of the program is integral to keeping working farms and forests intact in Vermont, but improvements are necessary to keep enrollment on a sustainable path, including keeping municipal reimbursements funded, and fixing certain perceptions that harm the program.

It is easy to say that the Current Use program should be left alone, but when budget discussions come up in the State House, current use is often mentioned because of concerns over property tax rates. This year is a good example where school boards are struggling, and various letters from the public have raised the issue of whether current use taxation is fair.

We believe use value appraisal is fair taxation, and the benefits far outweigh the costs. However because property tax impacts continue to be a concern, and in order to maintain the credibility of the program, we believe the penalty should be strengthened as a funding mechanism to keep enrollment growing, and to protect it from criticism that landowners can easily take advantage of current use by enrolling land for short periods of time as a precursor to development.

According to a study that was performed for the Legislature back in 2007 by Deb Brighton, the development penalty, or land use change tax, is an effective disincentive for temporary enrollment of land when the landowner intends to develop the **entire parcel**. The land use change tax, however, is not an effective disincentive for temporary enrollment of land when the landowner intends to develop a **portion of the parcel**.

Increasing the development penalty would fix the diluted penalty for withdrawing a portion of enrolled land. As one forester told me, she counsels landowners to always enroll land because the penalty for withdrawing a portion of land will amount to the cost one to two windows that are being installed in a new house. Quite simply, the penalty for partial withdrawal is weak.

The version of H.329 that passed out of the Senate Agriculture Committee strengthens the penalty for partial withdrawal of parcels enrolled for less than ten years, which will help discourage short-term enrollment or "parking" in the Program, even if it only occurs on several thousand acres a year. The Agriculture Committee, however, did not strengthen the penalty for partial withdrawal for land that been enrolled for 10 or more years.

The House version of H.329 suggests strengthening the penalty for partial withdrawal, but with a tiered down approach based on the number of years enrolled. We encourage you to look at the merits of strengthening the penalty beyond ten years of enrollment as a way to support long-term enrollment, and provide a revenue source to keep the program growing. Even if the penalty is increased to 10% across the Board for partial withdrawal, the average break even point for landowners would be seven years of enrollment. The Current Use Tax Coalition (CUTC), which VNRC is a member, supports a tiered down approach like the House bill, but at a 10-5-3 level depending on the numbers of years enrolled. Either way you cut it, the House bill and the CUTC proposal increase the penalty beyond ten years of enrollment.

### **Appraisal/Audit Considerations:**

We support the concept of ensuring consistent appraisal by local officials. This pertains to lands that are enrolled in current use, and lands that have conservation easements. Requiring a certain amount of audits may be one effective method to ensure consistent valuation.

One example in Waitsfield articulates why this is necessary. The property consists 88.50 acres of woodland, all in the Current Use program, with no improvements, at the end of a Class #4 town highway. The assessed value was \$400,000. After an unsuccessful appeal to the Board of Civil Authority, the owner appealed to the state appraiser's office. In November of 2009, the appraiser's office found the correct value of the property to be \$185,000 - meaning the state had been reimbursing taxes on \$215,000 of non-existent value. Performing audits on an annual basis would help the State understand if this is a widespread or isolated problem.

We also strongly encourage you to add Section 8 of H.329 as passed by the House, which required the Director of Property Valuation and Review to publish guidance for local official concerning how to assess land (1) subject to use value appraisal and (2) permanently encumbered by a conservation easement (see attached). This last point is important because not all land that is conserved by an easement is enrolled in current use, and because assessment rates may vary across the state, some landowners with easements have had to appeal their appraisals to achieve the correct valuation. Requiring the Director of Property Valuation and Review to publish guidance for local assessing officials is good policy.

### **Other Considerations:**

We support the floating two-acre concept.

We support greater flexibility for enrolling ESTA's or Ecologically Significant Treatment Areas. Only approximately 1,000 acres have been enrolled out of the 1.8 million acres of forestland that is enrolled in UVA. These areas serve important ecological functions and should be enrolled in the Program to compliment areas that are actively managed.

We support Section 11 and the desire to ensure that there is adequate staffing of foresters to reflect the growth of forestland parcels in the Program.