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LEGISLATIVE TESTAMONY

To: Senate Committee on Natural Resources and Energy

FROM: Jonathan L. Wood CF – Private Consulting Forester

DATE: February 13, 2014

RE: S.100 An Act Relating to Forest Integrity

Thank you for the opportunity to comment on S.100. I am a private consulting forester working in northern Vermont for non-industrial private landowners. I have over 35 years of experience working in the forests of Vermont and New England. My background includes previously serving as Commissioner of the Vermont Department of Forests, Parks and Recreation and as the Secretary of the Vermont Agency of Natural Resources.

The issue of forest fragmentation is a real and serious concern for all of us that care about the many ecological, economic and spiritual values that the forests of Vermont provide to society.

As presently written and amended S.100 will be counterproductive to its stated purpose. It will create uncertainty and added expenses for forest landowners making long-term forest ownership less feasible and less attractive to long term forest land investors. It may even accelerate forest fragmentation. The amendment that seems to exempt forestry and farming is critical, but many unresolved issues remain.

Broad consensus has concluded that in order to keep the forests intact and healthy, incentives to own and manage forest land is the most successful conservation strategy. S.100 is new land use regulation with no incentive for long-term ownership. If a forest landowner needs to go through the expense of Act 250 for one house, they will be forced to do many more to justify the cost.

In working with many long-term forest landowners I find that the vast majority want to keep their forest resource intact, healthy and productive. They want to maintain the forest and steward that resource for future generations. What they find most difficult in reaching that goal is the burden, expense and uncertainty that government places on them as forest landowners.

Forest land taxes in Vermont are unsustainable for long-term ownership. Vermont taxes land at its assessed value for its highest and best use. This usually means the value the land has when converted to a use other than forest (development). S.100 fails to recognize the primary cause of forest fragmentation, which is the disincentive for long-term ownership created by Vermont tax policy and law. S.100 will create another cost of ownership that forest landowners cannot afford.

S.100 seems to penalize long-term rural forest landowners for their dedication to good stewardship. Those who have sacrificed short term financial gain for long-term stewardship are now to be subjected to Act 250 regulation as a perverse “reward” for their efforts.

S.100 creates a severe form of social injustice by applying only to those areas of the state with large areas of contiguous forests (the more rural and usually less economically viable lands) and not applying to the areas of the state where forest fragmentation is occurring the most (the more developed and economically viable lands). For many rural forest landowners the land is their life savings. A small house site for a family member may be what helps keep the forest in the family.

One of the most problematic parts of S.100 is the lack of definitions and undescribed impacts of the proposed legislation. I have a series of questions on what will occur under S.100 and who will be impacted? I have included the attached list of questions and concerns that should be answered and addressed so the many potential forest landowners directly impacted by the law can understand what is being proposed and have perhaps, a chance to comment.

The proposed legislation should be understandable and the impacts clear to both the regulated community of landowners and to Vermonters who cherish the forest resource. At this time it is impossible to explain this bill, as written and amended, to my forest owning clients. They are making long-term financial investments in the forest. They deserve an explanation on how S.100 will impact those investments and the forest land that they love.

The forest landowners of Vermont deserve to have a chance to understand and comment on such a broad reaching bill that could cause them direct financial harm. Those of us who are working with them to steward these forests for the benefit of future generations need to be able to advise them of the potential impacts. The present draft and amendment of S.100 makes that impossible.

Sincerely,

Jonathan L. Wood CF

S.100 QUESTIONS AND NEEDED CLARIFICATIONS (Jonathan L. Wood CF) 2/13/2014

Definitions –There are many unidentified or incompletely defined terms:

“Fragmentation of Forest Land” –“means the separation of forestlands by buildings, roads, or other physical structures or by other human-made alterations to the land such as clearing.”

“Buildings”? All? What about old fallen down houses, sheds, shacks, camps, sugar houses?

“Roads”? All roads? Class IV? Logging roads? Ancient roads? Recreational trails? “Skid roads”? Roads build and cost shared under government programs? Private roads? Rail?

“Human made alterations? What are these? Forestry treatments (Logging) are “human made alterations” and these are all across the landscape. Trails? Power lines? Transmission Lines? Wind towers? Cell towers. At what time in history? Most of Vermont has been “altered”.

“Clearing” All of them? What size? How old? Wildlife habitat cuts? Back Yards? Trails?

Who will make these determinations? When? How? With what criteria? How/When will we know? What baseline data will be used for regulatory compliance? How collected? When? \$?

“Contiguous forest land”- means land with either no roads or low densities of class 4 roads as defined in 19 V.S.A. s302, and little or no land development”

What is ‘low densities’? This will be an Act 250 trigger it should be clearly defined.

What is “Little or no” development? Little? What numerical criteria? Is one giant house little?

“Permanent road” means any public or private highway or road, including all parts of any bridge, culvert, roadway or street permanently open to public or general circulation of vehicles, and shall include a way laid out under authority of law”

That covers everything; this will have serious unintended consequences. Now landowners must close or gate roads to avoid regulatory impacts. This will have great negative effect on all types of activities. This will greatly reduce Vermont’s long tradition of public use of private land.

“Forestry road” means any permanent road constructed for the purpose of forestry activities that does not provide access to any structure used for a non-forestry purpose. A forestry road may be used for recreation purposes.

Any structure? A deer camp? Sugar House, Hunting blind? Ski yurt? Cell Tower? Etc. Few forestry roads are used only for forestry purposes by small non-industrial forest landowners. Many access structures of all kinds. Culverts and bridges are ‘structures’. An old cellar hole is a ‘structure’. A well or developed spring? A separate lot is a “structure” (VSA T24 Ch117).

What is the difference between a “structure” and a “building” (Under”fragmentation”)?

“1000 acres” As with the above questions, how is this defined, by who, when? What makes the “break” in between blocks of “1000 acres of contiguous forest?” Will a map of all of them be provided? When? How will a landowner know they are within one of these areas?

“1000 feet from a building, structure, or permanent road including a driveway” This seems to be a very poor choice to meet the intent of the bill. Distance is a poor measure of forest value. So, to avoid this as an Act 250 trigger, a landowner places the road, house, etc. less than the 1000 feet. That could be in the worst spot. Near a sensitive area, wildlife travel corridor, critical habitat, highly productive soils, etc. This provision could have some serious negative impacts and major unintended consequences.

“Productive Forest Soils” which ones? Site class I and II or more? Productivity is for timber production, ecological values are provided by many soil types. It does no good to “protect” productive forest soils if there is no access for harvesting, yet this is not addressed.

“Biological Value” what is this? How defined? Biology is a limited sub-set of forest values why was this chosen? What about ecological value, economic value cultural value, etc. etc.?

The many forest landowners potentially impacted deserve an explanation that clearly outlines what this bill means. The bill needs clear definitions and criteria be fairly understood.

I look forward to having a better understanding of the administration and impacts of this proposed legislation.

Thank You for your concern for the Forests of Vermont.

