



April 18, 2014

NRB Chair's Proposed Changes to H.448 (submitted 04-16-14):

(3) Mitigation entirely on-site. The District Commission shall **require give preference to** mitigation that is entirely on-site if the Commission finds that:

(A) the project tract supports an agricultural operation or has been in active production or rotation within the last **seven five** years; or

(B) the primary agricultural soils on the project tract consist predominantly of NRCS agricultural value groups 1–5; or

(C) after considering the recommendation, if any, of the Secretary of Agriculture, Food and Markets, the project tract has site-specific characteristics that warrant on-site mitigation.

VCC Comment: The proposed changes above would significantly exacerbate current statutory constraints and are quite unacceptable to the Vermont Chamber of Commerce and its members. These changes will effectively tie the District Commission's hands who would have no discretion in the vast majority of cases. District Commission Chairs, Tim Taylor and Tom Little, testified that while the statute needs to provide greater guidance, discretion to make the correct decision based on the best available evidence is vital to a successful process designed to "best further the preservation of primary agricultural soils for present and future agricultural use with special emphasis on protecting prime agricultural soils."

These changes could lead to unintended results adversely affecting even small parcels of land with primary agricultural soils in close proximity to significant investments in infrastructure (roads, water and sewer) surrounded by other similar development in an area planned and zoned for high intensity growth by the community). Under the language above, the developer would be able to develop 2 acres out the six (one to three ratio) on the small parcel and leave the rest through on-site mitigation - thus insuring that the soils will lie fallow. See slide on next page for an example of what could happen to a small parcel of primary agricultural soils having been mowed during the last seven years but located in an industrial zone. Blue Sky Development - 4C0325-2 issued April 5, 2012. This scenario could be replicated in other parts of the state where higher quality soils occur or simply if the parcel is being mowed on a routine basis to keep it free of trees.

Blue Sky Development - Industrial Parkway, Burlington

