

To: Senate Natural Resources and Energy Committee

From: Jamey Fidel, General Counsel/Forest and Wildlife Program Director  
Vermont Natural Resources Council

Date: March 10, 2014

Re: S.100 – 2/27/2014 Draft

Thank you for the opportunity to comment on the 2/27/14 version of S.100. VNRC supports the Committee's goal of addressing forest fragmentation through Act 250. To be effective, we believe Act 250 should be updated to include (1) criteria that will encourage sound planning to reduce forest fragmentation, and (2) jurisdictional mechanisms to review development that reaches far into forest blocks.

In this version of the S.100, the Committee has chosen to focus on adding criteria, while leaving jurisdictional improvements out of the bill.

The criteria additions are fairly consistent with previous versions of the bill, but the bill clarifies that maintaining productive soils and minimizing fragmentation are separate requirements. We support this approach. In addition, we support the concept of requiring mitigation, with a workable process for identifying equitable lands for conservation. It really doesn't make sense that we require mitigation for development on primary agricultural land, while ignoring mitigation for development on important blocks of forestland. If the Committee has concerns over the process for identifying appropriate mitigation lands, we would suggest asking for a report back from the Agency of Natural Resources and the Natural Resources Board on mechanisms for implementing a workable mitigation program.

In regards to the jurisdictional issue, we strongly encourage the Committee to ask for a report back from stakeholders and the Shumlin Administration on ways to address the jurisdictional review of development that reaches deep into forest blocks. Without a jurisdictional improvement, we will continue to incrementally whittle away at the integrity of our forests, a pattern that is well documented by VNRC through our subdivision research.

We believe there is benefit to allowing more time for creative thinking on ways to improve the jurisdictional gaps that exist, while potentially taking a more narrow approach than the original solution in S.100. For several years, we have suggested reinstating the road rule with a cumulative driveway and road calculation. This may be one solution to consider, along with other options, such as determining whether secondary growth from utility lines should also be reviewed rather than exempted. A focused discussion and study on this issue would be beneficial to understanding how to proceed with additional improvements to Act 250.