



Testimony on H.584 and Forests

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

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Thank you for the opportunity to testify on H.584. Before commenting on H.584, I would like to provide some background on the growing need to maintain the integrity of forests in Vermont.

For the past nine years, Vermont Natural Resources Council has been convening a Forest Roundtable on forest fragmentation and the strategies that are needed to maintain the integrity of Vermont's forests into the future. These conversations have included diverse stakeholders, many of whom joined together last year to submit a sign-on letter the Vermont Legislature.

As outlined in the attached letter, sixty organizations and individuals agreed that it is important for policy makers to play a positive role in maintaining or increasing the contribution of our forests to the state's economic, ecological, and cultural wellbeing.

According to the attached letter, our forests are a major driver of our economy. Forest based manufacturing, recreation, and tourism employ approximately 13,000 Vermonters and contribute about \$1.5 billion in revenue to the state every year.

Our forests also provide a rich array of important ecological functions. They support wildlife habitat, protect water quality and help insulate communities from the effects of extreme weather, such as flooding. According to the Gund Institute every acre of forestland provides approximately \$318.50 worth of benefits for services like rainfall regulation and flood control on an annual basis.

In addition, Vermont's forests remove an estimated 75,000 metric tons of carbon and 1,610 metric tons of other pollutants from the atmosphere each year – a function that would be worth about \$16 million if we paid for these pollution control services out-of-pocket.

Vermont's forests are productive in many respects. From supporting forest products, including maple syrup, to the leaf-peeping economy, to providing ecosystem services and recreational opportunities like hiking, skiing, hunting, and wildlife watching, forests contribute to the health and wellbeing of our state.

It is important to note that in recent decades, we have improved how our forests are managed. Because of the Current Use Program and technical assistance efforts, more forests are being managed in accordance with management plans. The utilization of Acceptable Management Practices helps maintain water quality on logging jobs. More landowners are managing their

woodlands for wildlife and biodiversity, and every year more forestland is conserved due to landowners working proactively with conservation groups.

Yet the continuation of these successes cannot be taken for granted, especially since for first time in over a century our forests are actually declining in extent. While it is hard to pin down the exact amount of acreage that has been lost, between 1982 and 1997, 51,000 acres were converted to other land uses. A more recent Forest Service report suggests that Vermont may have lost up to 75,000 acres of forestland from 2007 to 2013, although the Forest Service does not report this as a statistically significant change due to the margin of error in the analysis. Regardless of the actual number of forest acres lost in recent years, there are certainly reasons to be concerned about the impacts of forestland conversion.

From above, the Vermont landscape has an appearance of densely forested lands; however a closer look at the surface reveals that our forests are being compromised and fragmented by rural sprawl. Data from the Forest Service demonstrates that we lost five percent of forests over 100 acres in size between 2001 and 2006. Research by VNRC indicates that the amount of woodland parcels larger than 50 acres that were undeveloped decreased by about 34,000 acres between 2003 and 2009 due to subdivision and the development of dwellings.

This highlights an increasing trend in Vermont; smaller parcels are being created through the fragmentation and parcelization of land from subdivision. According to a VNRC research report, the amount of land in parcels larger than 50 acres decreased by about 42,000 acres. This correlated with an increase of 4,300 parcels under 10 acres in size between 2003 and 2009.

In Vermont, we value well-planned development and a growth pattern of supporting downtowns and village centers surrounded by rural countryside. If we are smart about our future, we can continue to accommodate new housing while ensuring that our forests provide for diverse forest products, modern and efficient wood energy, intact wildlife habitat and clean, healthy water.

Vermonters overwhelmingly value our working lands, our rural character, natural environment, and forested hills and iconic mountains. We have an incredible opportunity to be proactive and develop lasting policies that will keep our forests intact.

That is why the sixty organizations and individuals called on the Vermont Legislature to support a stakeholder process to develop legislative recommendations to maintain the integrity of Vermont's forests into the future.

That stakeholder process was incorporated into Act 61 last year. Act 61 called on Commissioner Snyder to collect stakeholder input and report back on regulatory and non-regulatory strategies for maintaining forest integrity. We understand this report is forthcoming.

As part of our Forest Roundtable, we sponsored five working groups over the last six months to provide stakeholder input on strategies related to education and outreach, land use planning, landowner incentives, land conservation, and maintaining a viable forest products industry. We hope that stakeholder input will be presented in Commissioner Snyder's upcoming report.

Along with the other organizations that are testifying this morning, VNRC looks forward to reviewing Commissioner Snyder's report, which we understand will be submitted soon. For purposes of today's testimony, I would like to offer specific comments on H.584 on behalf of VNRC, the Vermont Land Trust, Audubon Vermont, The Nature Conservancy, The Trust for Public Land, and Vermont Conservation Voters. In addition, our organizations would like to highlight some broader policies that we think are needed to ensure that the integrity of Vermont's forests.

#### Comments on H.584

- We appreciate many of the findings that are articulated in the beginning of the bill, including the recognition that forestry operations are adversely impacted by the encroachment of urban, commercial, and residential land uses that result in forest fragmentation and conversion and erode the health and sustainability of remaining forests.
- In regards to the sections implementing harvest notification and trip tickets, we believe there is a benefit to being able to compile and track at a statewide level information about the location, acreage, and volumes of timber harvests. Since this information is not currently collected at the landowner level across the state, it will provide valuable information about trends in the state, and as Commissioner Snyder has testified, will help the Agency of Natural Resources track the implementation of Acceptable Management Practices for Maintaining Water Quality (AMPs). Harvest notification will also assist in strengthening the collection of the land gains tax on timber sales on land subject to the land gains tax. It is our understanding that other states in the Northern Forest region require the filing of harvest notification information. It would be helpful to understand how these programs are designed so that necessary information can be collected in an efficient manner.
- The requirement of trip tickets for the transportation of forest products falls outside of our area of expertise; however, we are concerned about timber theft, and we support creating a system for tracking timber to help in the enforcement of timber trespass and theft. We also support increasing penalties and damages for timber theft and trespass, including criminal enforcement for timber theft in Vermont. Relying on civil enforcement has proven not to be an effective deterrent.
- In regards to the protection of forestry from nuisance lawsuits, we understand the underlying premise of promoting the continuation of forestry operations as a viable practice free from undue interference from landowners. We appreciate Commissioner Snyder's leadership in identifying policy options to ensure that forestry can exist as a viable practice in Vermont. The suggested language on limiting nuisance claims would make it harder to file a nuisance claim, but we also recognize that there may be a situation where there is legitimate harm to an adjoining landowner from a forestry activity. We support landowners having the ability to rebut a presumption of compliance if there is indeed a level of harm that is having an adverse effect on health, safety or welfare of an individual. The suggested language would require there being a "substantial adverse effect" on health, safety, or welfare, or a "noxious and significant interference with the use and enjoyment of the neighboring property." As Legislative Council Michael O'Grady testified, this is a high bar to overcome, and we would

like to ensure that landowners not be precluded from raising valid concerns, especially if there is a harm to a landowner from the use of chemicals, or noise levels that go beyond the normal scope of a generally accepted forestry operation. The bill suggests that noise beyond the scope of a generally accepted forestry operation would not enjoy the presumption, but the bill does not define “generally accepted forestry operation.” This creates a bit of a grey area on this issue. In addition, according to the bill, the presumption of protection from a nuisance claim only exists if harvesting activity is conducted in accordance with AMPs, accepted silvicultural practices as defined by the Commissioner, and other applicable law. We agree with requiring compliance with AMPs, but it is important to note that there are no “accepted silvicultural practices as defined by the Commissioner.”

- In regards to land use and municipal bylaws on pages 31-32 of the bill, we believe it is important to add clarity to this statute, which is currently the source of confusion in some municipalities. Part of the confusion stems from the fact that the Commissioner has not adopted accepted silvicultural practices beyond the AMPs. The proposed language would clarify that “forestry operations” cannot be regulated by town bylaws. In looking at the proposed definition of forestry operation on page 7, we interpret the definition to include the primary processing of forest products that are procured on-site, versus those that are procured off site and delivered to the site for processing. We believe this is an important distinction since the processing of off site material is more akin to a commercial activity like manufacturing that should be able to fall under town bylaw review. The proposed language on page 32 clarifies that a municipal panel may impose reasonable conditions on a decision related to land development to protect wildlife habitat, threatened or endangered species, or other natural, historic or scenic resources. We are still reviewing this language to make sure that towns have all the necessary options for conditioning land clearing that is related to land development versus forestry. Sometimes forestry operations and the development of forest roads are really just precursors to land development, and these activities should fall under municipal regulation if it is clear that the intent of the activity is for land development. For example, if land is being cleared for a house, that clearing should be able to fall under the regulation of a bylaw, and towns should be able to maintain important forest features and functions through development and subdivision review.
- We support the suggested language on pages 46-48 clarifying that land acquired by the Agency of Natural Resources that is enrolled in the Current Use Program shall be exempt from the levy of a land use change tax if the land is being acquired for public ownership. We strongly encourage you to expand the exemption to include land that is acquired by the Green Mountain National Forest for public ownership.

Beyond these provisions in H.584, we believe many more policies are needed to maintain the integrity of forests. Our organizations have specific recommendations, including policies that relate to funding forestland conservation, helping landowners incentivize the long-term ownership and maintenance of forests, promoting proactive land use planning, and maintaining a viable forest economy. We would welcome the opportunity to work with this Committee to address these policy recommendations.