



Testimony on H.789

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

April 12, 2016

Thank you for the opportunity to testify on H.789. I am testifying on behalf of the following organizations that support this bill:

Audubon Vermont, The Trust for Public Land, Vermont Chapter of the Nature Conservancy, Vermont Land Trust, Vermont Natural Resources Council, Vermont Conservation Voters, Vermont Chapter of the Sierra Club, The Conservation Fund, Greensboro Land Trust, Northern Rivers Land Trust, and Upper Valley Land Trust.

Before commenting specifically on H.789, I would like to provide some background on why this bill is so important.

For the past nine years, Vermont Natural Resources Council has been convening a Forest Roundtable on forest fragmentation, and strategies for maintaining the integrity of Vermont's forests into the future. These conversations have included diverse stakeholders, many of whom recognize the following benefits of our forests.

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.

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 addition, VNRC has analyzed subdivision trends across the state and through twenty-two case studies in municipalities. Over a study period of 2002-2010, there were 2,749 lots were created from 925 subdivisions affecting a total of 70,827 acres. This is snapshot of subdivision activity on just twenty-two towns over a short period of time. The actual number of subdivisions and affected land is much, much larger since there are 255 municipalities in Vermont.

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 Forest Roundtable starting meeting almost a decade ago to develop recommendations to keep our forests intact. As you can see from the participant list on pages 21-22, diverse interests from state government and the planning, conservation, forestry, forest products, academic and rural development sectors came together to outline recommendations to address forest fragmentation. There was consensus that forest fragmentation and parcelization was an issue of concern, and recommendations were developed around tax policy, land use and conservation planning, valuing ecosystem services, and promoting the long-term viability of the forest products industry.

On pages 13 and 14 of the Forest Roundtable report the following strategies were identified:

- **Integrate existing planning efforts at the local, regional and state level to better address parcelization and forest fragmentation.**

Local, regional, and statewide planning strategies to address parcelization and forest fragmentation are being instituted in a piecemeal fashion across the state. All local, regional, and state level planning efforts should be integrated to address parcelization and forest fragmentation on a uniform basis. Successful planning strategies should be shared among state planners and regional planning commissions, and should be implemented at the local planning

level. For instance, there should be goals for local planning, such as encouraging that each town has a conservation commission, a town forest, and a town plan that speaks to the values of contiguous forest/connectivity, forest economies, and traditional uses of the land.

- **Identify and correct gaps in Act 250 and other land use regulations to attenuate the rate of parcelization and forest fragmentation in Vermont.**

A significant amount in the state is not subject to Act 250. Exemptions in Act 250 may reduce the ability of the Agency of Natural Resources and the Act 250 District Commissions to review potentially harmful development in important forestland resources. For example, long driveways and the associated impacts of utility lines are currently exempt from environmental review in Act 250. The Natural Resources Board recently completed a report on the utility line exemption. The Legislature should review this report and consider improving Act 250 to address forest fragmentation. The local development review process and associated regulations should be improved to address forest fragmentation due to development and its associated impacts.

- **Implement planning efforts that reflect the public values of forests.**

Regional and town plans offer excellent opportunities to educate the public about the importance of forests for ecological, social, and economic values. It is recommended to implement planning that provides an opportunity for the public to inform decision makers about the public values of forests. For instance, a community can map or chart the values of forestland in their town. Woodland organizations, state and municipal government, and non-government organizations should take full advantage of planning workshops to collect information and make the public more aware of the values of forests.

H.789 implements these recommendations by:

- Proposing to amend the goals and requirements for municipal and regional land use planning to address forest fragmentation.
- Adding the planning goal of managing Vermont's forestlands so as to maintain and improve contiguous forests and support the purchase of local forest products.
- Encouraging local and regional plans to indicate those areas that are important as forest blocks and habitat connectors and plan for land development in those areas to minimize forest fragmentation and promote the health, viability, and ecological function of forests. A plan may include specific policies to encourage the active management of those areas for wildlife habitat, water quality, timber production, recreation, or other values or functions identified by the regional planning commission. The policies could be regulatory or non-regulatory – each town or regional planning commissions decides what is appropriate for their area.
- Calling for a study committee to examine potential revisions to Act 250 and municipal bylaws to protect contiguous areas of forestland from fragmentation and promote habitat connectivity between forestlands. The bill would take a deliberative approach to examining Act 250, rather than moving forward with regulatory changes at this time.

The bill does not:

- Regulate forestry. The bill makes it clear that forest areas that are identified for planning

purposes may include silvicultural practices that are currently exempt from municipal regulation, and H.851, which is currently before this Committee, would further clarify that forestry operations that are not subject to municipal regulation. In fact, the bill would help promote forestry by encouraging towns to plan for keeping working forests intact, and for supporting the purchase of local forest products.

- Mandate any kind of regulatory outcome. Towns and regional planning commissions are free to choose the policies that work for them. For example, planning at the local or regional level could support policies that are non-regulatory, like promoting enrollment in current use, or encouraging landowners to be aware of strategies for keeping forestland intact. It is up to each town to decide the kinds of policies they want to support.

Proposed modifications to the bill:

H.789 currently would have the purpose and goals (Section 1) and the definitions (Section 2) take effect on July 1, 2016. Part of the mandate of the study committee is to review the definitions and to make a recommendation on whether to make revisions to the definitions.

The study committee is currently charged with submitting its recommendations by July 1, 2017. This means the definitions may take effect for up to two years before the Legislature can modify the definitions based on any input from the committee. In addition, the committee is charged with looking at the elements of a regional plan and municipal plan and offering any recommendations on whether to make revisions, but again the Legislature will not be able meet and absorb these recommendations before these sections go into effect.

We therefore propose that you move the date up of the study committee's work to the end of this year, so that the appropriate legislative committees can review the work of the study committee, and act on any proposed changes next year, rather than waiting until 2018. There has been much work over the years discussing the concepts that will be part of the committee's charge. This includes work at the Forest Roundtable, Commissioner Snyder's work reporting to the Legislature on forest fragmentation, and a year-long effort that VNRC and regional planning commissions collaborated on with state agencies and other partners to develop a land use planning forest fragmentation action plan. We believe the committee can complete its work over the course of 2016 so that the Legislature has the benefit of the report next year.

Therefore, we propose the following changes:

Section 5(e) Report. On or before December 31, 2016 ~~July 1, 2017~~, the Committee shall submit its written recommendation and any proposed legislation to the House Committee on Fish, Wildlife and Water Resources and the House and Senate Committees on Natural Resources and Energy.

Section 6. Effective Dates

(a) This section and Sec. 5 (study and report) shall take effect on passage.

(b) Secs. 1 (purpose; goals) ~~and 2 (definitions)~~ shall take effect on July 1, 2016. The definitions shall take effect on July 1, 2017.

(c) Secs. 3 (elements of a regional plan) and 4 (plan for municipality) shall take effect for any plans adopted or readopted after ~~on~~ January 1, 2018.