

April 1, Forest*Care Lynn Levine Documents

Greetings.

My name is Lynn Levine (802-254-4717). I have been a consulting forester for 37 years, and have needed to turn to New Hampshire and Massachusetts for licensing, since Vermont does not have any statutory standards for forester licensure. Currently, in Vermont anyone can put up a shingle and claim to be a forester. I was a founding member of CVAV (the Consulting Foresters' Association of Vermont) which is now under the auspices of the Vermont Woodlands Association. This has been an attempt to formalize basic standards for forestry practice and on-going continuing education, but membership is strictly voluntary, and it is an organization without any enforcement powers. I am unequivocally in favor of and have long advocated for Vermont to have a formal system for the licensing of foresters.

The following is my response to several questions which have been raised as to the necessity of forestry licensing in Vermont:

What harm or danger to the health, safety, or welfare of the public can be demonstrated if foresters continue to practice without some form of licensure?

Foresters should play a critical role in protecting Vermont forests for the future but, currently, anyone can call himself/herself a forester. Licensing is a way of making clear to the public who is a professional and who is not. Without the kind of care that a trained forester can offer, the forests will be seriously degraded. Vermont's forests have so many problems, including the dramatic increase of invasive plant species, the threat posed by new insects and diseases, and the overgrazing of new tree regeneration by deer, all which can seem insurmountable. Highly qualified and skilled foresters are the professionals who are most able to consider such issues and to adjust forest practices as appropriate. We need trained practitioners who have the skill and commitment to consider and balance the value of Vermont's forests within the context of the needs of the forest products industry, of our tourist economy, and of the overall environmental health of our State.

What benefit can the public reasonably expect if foresters are licensed, and how would it be measured?

A too familiar story in Vermont finds a landowner who answers the door or phone and is told by someone that they will pay him or her particular sum of money in exchange for "selectively" cutting some trees in their forest. **Often** they had no idea that their timber had any particular value, so are pleased to be able to make some money. The next thing you know, the forest is cut, with the only consideration being the immediate profits for the harvester. Protecting resources such as endangered species, water quality and wildlife values are not considered - just short-term profit. A properly licensed forester can make a difference in protecting these valuable resources.

Is there a need to assure that foresters have a certain amount of education, training, or experience?

Not only should there be a basic educational requirement, but every professional field needs ongoing training to assure that practitioners stay current with the ever-changing field of knowledge. That is one critical reason to have licensing. At present, the only the states in New England which require such on-going professional development are those that also require foresters to be licensed. There will always be "a few bad eggs" in every profession, even if there is licensing, but education and accountability raises the bar to provide greater quality and integrity.

Is the public protected from harm caused by foresters by means other than regulation? (For example, criminal penalties, consumer protection laws, national organizations, employment relationships, small claims court, civil litigation, etc.)

I have been a witness in several court cases, where the laws of the state of Vermont were violated. It was apparent that the primary reason that my testimony was considered credible was that I was licensed in New Hampshire and Massachusetts. It was embarrassing and absurd to not have similar accreditation from my own state of Vermont.

There are two organization which provide certification to Vermont foresters—Vermont Woodlands Association, and Society of American Foresters, but these are **voluntary certifications**. Unfortunately, most landowners are not even aware that these organizations exist. Therefore, there is no reason to learn whether the forester has such certification.

Failure to use best forestry practices is difficult to prove in court, unless the circumstances are extreme. Even County Foresters have a difficult time expelling landowners from the Use Value Appraisal (Land Use) program because they have to provide in-depth and hard to come by statistics for the case to hold up in court. It is much more effective to prevent problems before they happen, and this is most likely when woodland management is overseen by properly trained and up-to-date foresters. Licensing and holding foresters accountable is the best path to preserving and protecting Vermont's extraordinary forest resources.

Have foresters caused harm to Vermonters or the environment? (Please give specific examples.)

The issue is not whether foresters have caused harm, but the fact that anyone in Vermont can call himself/herself a forester. Specifically, I have walked on thousands of acres where there has been no care for the forest. Vermont landowners would be much more likely to properly manage their properties if there was a universally accepted set of standards for the licensing of qualified professional foresters for them to turn to. They wouldn't purchase their land without a licensed attorney. They wouldn't depend upon a surveyor without a Vermont license. They would, likewise, be protected by having a choice of Vermont certified professional foresters. ' The following are just some of my clients whose lands, prior to my becoming their forester, have been mined (high-graded), leaving the unhealthiest trees to grow:

Brown Place LLC- Newfane, VT---The better quality oak had been harvested, leaving behind mostly poor quality trees and an erosion problem.

Albert and Nancy Cohen - Marlboro, VT- The better quality mixes of hardwoods species were harvested, leaving behind mostly poor quality trees..

Eben Chesebrough –Townshend, VT- A large portion of the sugar maple and other hardwoods was harvested, leaving behind mostly poor quality trees.

Margaret Comparella - Westminster, VT-A large portion of the hardwoods was harvested, leaving behind mostly poor quality red maple and other species.

Trillium Land Trust - Halifax. VT- In the western portion of the stand, all quality trees were harvested, leaving behind mostly diseased ash trees.

Robert Grinold – Wilmington, VT- Many different types of species, including white pine, spruce, and fir, and a mix of hardwoods, was harvested, leaving behind mostly poor quality trees.

William Happy – Dover, VT- The high quality sugar maple overstory was removed, leaving behind mostly poor quality trees.

Hermitage LLC – Dover, VT- The high quality sugar maple was harvested, leaving behind a high proportion of diseased beech.

Deborah Brookes – Dummerston, VT- A diverse mix of quality trees of many species was harvested, leaving behind mostly poor quality trees.

Ron Minnes - Brattleboro, VT- A mix high quality hardwoods of was harvested, leaving behind mostly poor quality trees, which were then mined again...

Carol Blackwood - Rockingham, VT – A mix of quality hardwoods was harvested, leaving behind mostly poor quality trees.

Robert Labrie – Brookline, VT- A mix of hardwoods was harvested leaving behind poor quality trees, which was later harvested and the trees left were of even poorer quality.

Melvin Osborne – Halifax, VT- A mix of hardwoods was harvested, leaving behind mainly poor quality trees.

Ann and Eric Floriani – Readsboro, VT- A mix of species was harvested, leaving behind mostly poor quality trees.

William and Jean Graustein – Marlboro, VT- A mix of mostly high quality, mostly hardwood trees, was removed, leaving behind mainly diseased beech.

Thayer Tomlinson and Amit Sharma – Guilford-VT- A mix of mostly high quality hardwood trees was harvested, leaving behind mainly diseased beech.

Kathleen Angell and Dutch Leonard - Newfane, VT- A mix of mostly high quality trees hardwood trees was harvested, leaving behind mainly poor quality trees.

Statement from David Kittredge- Professor at University of Massachusetts in Amherst

30 March 2016 196 Montague Road Shutesbury, MA 01072 To whom it may concern, My name is David Kittredge. I am a forester in Massachusetts, and serve on the faculty at the University of Massachusetts in the Department of Environmental Conservation where I lead the undergraduate forestry program. I am the state's Extension Forester, and I also Chair the Massachusetts Forester Licensing Board. The opinions in this letter are my own, and I am not representing the MA Forester Licensing Board, the University of Massachusetts, or the Commonwealth of Massachusetts.

Massachusetts has had licensing for foresters since 1999. There are currently approximately 180 foresters licensed to practice in Massachusetts (approximately 7 of them are from VT, 16 are from NH, and 30 are from other states, including CT, ME, and NY). The law states that anyone engaged in the practice of forestry needs a license. Licensed foresters need to have a minimum educational degree and years of professional experience to qualify for a license. In order to maintain their license, foresters need to present evidence of at least 20 hours of continuing education annually. A Forester Licensing Board (FLB) of 5 members meets periodically to review new applications for a license, as well as renewal applications. The other role of the FLB is to review complaints made against licensed foresters, investigate, and make recommendations regarding the revocation or suspension of a license. The FLB meets 5 or 6 times annually to address its duties of application review and occasional investigation. In the last 5 years, there have been 2 investigations based on claims made against licensed foresters. It is a requirement in Massachusetts that management plans for woodland owners be prepared by a licensed forester, as this is considered to be the practice of forestry. In my opinion, licensing foresters enables landowners and others to be referred to people qualified to engage in the practice of forestry, and clarifies the difference between foresters, loggers, and others who work in the woods or industry, or with trees. The process provides an objective assessment of professional qualifications. Acquiring sufficient continuing education credit is not onerous, as an increasing number of licensed foresters are able to meet the annual requirement through online webinars or other activities at their convenience. There is also sufficient breadth of continuing education options to meet a variety of needs (e.g., mirroring the Society of American Foresters (SAF) continuing education requirements, credit is provided for giving talks, holding elected or appointed office, writing articles, and other professional activities).

Massachusetts accepts SAF continuing education credits, and maintenance of an SAF Certified Forester (CF) credential is accepted as evidence of meeting the Massachusetts licensed forester requirements. I believe forester licensing has been good for Massachusetts and the profession. It creates a clear standard by which people are evaluated. It provides clarity to woodland owners and others about who is eligible to call themselves a forester. It inspires continued professional improvement in a flexible, diversity of ways. It is not overly complicated or onerous. My one suggestion is to make the term of a license longer than one year. Currently in Massachusetts, licenses need to be reviewed annually. This creates a requirement for licensed foresters to acquire the equivalent of 20 hours of continuing education annually, and for the FLB to annually review 180 continuing education portfolios submitted by foresters for renewal. There is currently a bill pending in the Massachusetts legislature to change the term of a license to three years. This would require licensed foresters to acquire 60 hours of equivalent continuing education credit, but more conveniently over a 3-year period. This likewise relieves the annual burden of reviewing everyone's continuing education portfolio. I would be happy to talk to anyone interested to know more about how licensing in Massachusetts works. Sincerely, David B. Kittredge, CF MA Licensed Forester #127 413 259-1756 dbkitt@gmail.com.

New Hampshire Board of Forester Regarding Robert E. Burke Forester

State of New
Hampshire
Board of
Foresters
Concord, New
Hampshire 03301

In the Matter of:
Robert E. Burke,
Forester License No.
00104 (Misconduct
Allegations)

SETTLEMENT
AGREEMENT

In order to avoid the delay and expense of further proceedings and to promote the best interests of the public and the practice of forestry, the New Hampshire Board of Foresters ("Board") and Robert E. Burke ("Respondent"), a forester licensed by the Board, do hereby stipulate and agree to resolve certain allegations of professional misconduct now pending before the Board according to the following terms and conditions:

- I . Pursuant to 310-A:112, II, the Board has jurisdiction to investigate and adjudicate allegations of professional misconduct committed by foresters. Pursuant to RSA 310- A: 113, "A hearing shall be held on all written complaints received by the board ...unless otherwise agreed to by the parties."
2. The Board first granted Respondent a license to practice forestry in the State of New Hampshire on January 2, 1992. Respondent holds license number 00104. Respondent conducts logging operations throughout New Hampshire and Vermont.

3. On or about July 8, 2014, the Board received a complaint alleging, in part, that Respondent violated RSA 227-J:5, RSA 227-J:6 and RSA . 227-J:15 through his forestry practices.

4. In response to this complaint, the Board conducted an i nvestigation and obtained information pertaining to Respondent's actions, omissions, violations, su"?"monses, warnings, and remedial measures.

5. If a disciplinary hearing were to take place, Hearing Counsel would seek to prove that Respondent engaged in professional misconduct by engaging in unprofessional conduct under RSA 310-A:112, II (c) and Fors 501.03 (e)(I) through violations of RSA 227-J:5, RSA 227-J:6, and RSA 227-J:15, by the following facts:

- A. Respondent is a licensed forester whose various business names include Log Pro Inc., Log Pro Log Yard and Vermont Forestry Associates.
- B. On or about January 27, 2011, while patrolling in Sugar Hill, a Forest Ranger discovered a timber operation that did not have a posted Intent to Cut. The Forest Ranger subsequently verified that Intent to Cut had not been signed. The Forest Ranger contacted Respondent, who was the forester responsible for the job, and informed him of the violation. A summons was issued to Respondent for cutting wood without a valid Intent to Cut in violation of RSA 227-J:5. Respondent checked the guilty box on the summons.
- C. On or about the September of 2012, A Forest Ranger received the Report of Wood Cut from the only Log Pro operation in Pittsburg. The numbers did not look correct to the Forest Ranger and upon investigation it was discovered that 17,410 BF of softwood logs were missing. During questioning, Respondent admitted that there was an issue with the volumes. Respondent determined that another 132.03 tons of hardwood pulp was also missing. Thus, a total value

of \$2,464.26 was not paid to the landowner. After his discussions with the Forest Ranger, Respondent did pay the landowner for the subject softwood and the subject hardwood pulp. A summons was issued to Respondent on November 30, 2012 for filing a false Report of Wood Cut and not remunerating the landowner pursuant to the written contract, in violation of RSA 227-J:15. Respondent checked the guilty box on the summons.

D. On or about July 11, 2013, a Forest Ranger and a DRA representative conducted a site inspection on "J.S." property in Orford, NH, following being alerted to a complaint of a cutting operation being conducted without an Intent to Cut being filed. During the inspection, the inspectors found that wood was cut down, but that the cutting operation was not active at the time. They also found a violation of the operation requirements in wetlands, as one area was crossed without proper crossing device. Two Orders to Cease and Desist and two summonses were issued to Respondent for cutting without a valid Intent to Cut, in violation of RSA 227-J:5, and for operation through a brook without a proper crossing device in place, in violation of RSA 227-J:6. Respondent checked the guilty boxes on the summonses.

E. On or about October 31 and November 6, 2013, site inspections were conducted during which a Forest Ranger found that a timber harvest had been completed, but that the stream banks were not stabilized where crossings were installed and rutted skid trails were run on both sides of the stream. A summons was issued to Mr. Burke for failing to follow the Best Management

Practices of Forestry ("BMP") for erosion control, in violation of RSA 227- J:6. Respondent indicated that he did not wish to contest the alleged violation.

6. The Board finds that Respondent committed the acts as described above and concludes that such conduct constitutes unprofessional conduct under RSA 310- A:112, II (c) and Forms 501.03 (e)(I) through violations of RSA 227-J:5, RSA 227-J:6, and RSA 227-J:15.

7. Respondent consents to the Board imposing the following discipline, pursuant to RSA 310-A:112 and 310-A:114:

A. Respondent is required to meaningfully participate in six (6) units of CONTINUING EDUCATION in the areas of wetland conservation and/or restoration. These six (6) units shall be in addition to the units required by the B0a1-d for renewal of licensure and shall be completed within two (2)

years from the effective date of this *Settlement Agreement*.
Within fifteen

(15) days of completing these units, Respondent shall notify the Board and provide written proof of completion.

B. Respondent is assessed an ADMINISTRATIVE FINE in the amount of four thousand dollars (\$4,000). Respondent shall pay this fine in full within thirty (30) days of the effective date of this *Settlement Agreement*, as defined

further below, by delivering a money order or bank check,
made payable to "Treasurer, State of New Hampshire," to
the Board's office at
121 South Fruit Street, Concord, New Hampshire 03301.

8. Respondent's breach of any terms or conditions of this *Settlement Agreement* shall constitute unprofessional conduct pursuant to RSA 310-A:112, II (c) and a separate and sufficient basis for further disciplinary action by the Board.
9. Except as provided herein, this *Settlement Agreement* shall bar the commencement of further disciplinary action by the Board based upon the misconduct described above. However, the Board may consider this misconduct as evidence in the event that similar misconduct is proven against Respondent in the future. Additionally, the Board may consider the fact that discipline was imposed by this Order as a factor in determining appropriate discipline should any further misconduct be proven against Respondent in the future.
10. This *Settlement Agreement* shall become a permanent part of Respondent's file, which is maintained by the Board as a public document and subject to any disclosures that may be required by law.
11. Respondent voluntarily enters into and signs this *Settlement Agreement* and states that no promises or representations have been made to him other than

those terms and conditions expressly stated herein.

12. The Board agrees that in return for Respondent executing this *Settlement Agreement*, the Board will not proceed with the formal adjudicatory process based upon the facts described herein.
13. Respondent understands that his action in entering into this *Settlement Agreement* is a final act and not subject to reconsideration or judicial review or appeal.
14. Respondent has had the opportunity to seek and obtain the advice of an attorney of his choosing in connection with his decision to enter into this agreement.
15. Respondent understands that the Board must review and accept the terms of this *Settlement Agreement*. If the Board rejects any portion, the entire *Settlement Agreement* shall be null and void. Respondent specifically waives any claims that any disclosures made to the Board during its review of this *Settlement Agreement* have prejudiced his right to a fair and impartial hearing in the future if this *Settlement Agreement* is not accepted by the Board.
16. Respondent is not under the influence of any drugs or alcohol at the time he signs this *Settlement Agreement*.
17. Respondent certifies that he has read this document titled *Settlement Agreement*.

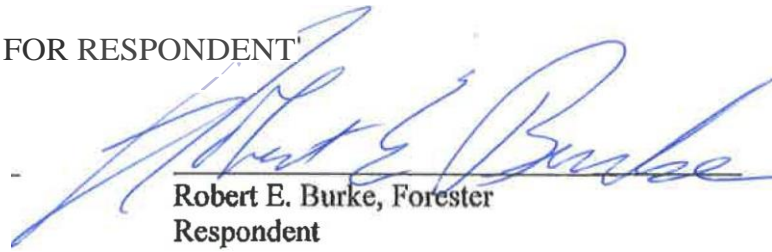
Respondent understands that he has the right to a formal adjudicatory

hearing concerning this matter and that at said hearing he would possess the rights to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on his own behalf, to contest the allegations, to present oral argument, and to appeal to the courts. Further, Respondent fully understands the nature, qualities and dimensions of these rights. Respondent understands that by signing this *Settlement Agreement*, he waives these rights *as* they pertain to the misconduct described herein.

18. This *Settlement Agreement* shall take effect as an Order of the Board on the date it is signed by an authorized representative of the Board.

Date: S-5/S-

FOR RESPONDENT'


Robert E. Burke, Forester
Respondent

FOR THE
BOARD/•

This proceeding is hereby terminated in accordance with the binding terms and conditions set forth above.

(Signature)

—

(Print or Type Name)

Authorized Representative of the
New Hampshire Board of Foresters

Louise Lavertu

In 1989 when I received the New England Society's Award for Excellence as a Forest Practitioner

I wrote this:

I'm proud to work in the forest

Be its ally and often its guest

Watch them grow and feel inner peace.

But I no longer just think of trees

More and more of creatures that move as they please

Most of all I enjoy the challenge

Of combining my belief and knowledge

So, I listen to what landowners and logger demand

Balance that with the needs of the stand

The result – I'm energized by what I do

And enjoy walking in a forester's shoe

And now before you in 2016 I would add

It's harder than ever to stride in those boots

To help the straining forest produce

So, Vermont can no long make an excuse

Not to license foresters to stop its misuse

We need **you** to stand up for our forests

The power of your vote is enormous

