

Act 250 Commission Public Input 2017_10_25

AJ Rossman

Thanks for the opportunity to speak my thoughts. As a tech entrepreneur in VT for the past 17 years, I have normally stayed apolitical.

Being actively engaged in an Act 250 case, I would like to present the perspective of an abutting neighbor and the complexities involved in the process. The current Act 250 process is prohibitive to most of the affected neighbors and others in the area affected by large projects. Unless they happen to be a lawyer with time or a tech entrepreneur passionate about the lake water quality like myself that can use technology to organize and process large amounts of information with web applications. I literally needed to hire a grad student this summer to bring me up to speed on the process so I could focus on my job. I figured I would better spend my money with a grad getting his MPA than a lawyer to start up. Not sure if this approach is reasonable for most.

I sincerely thank the Governor for asking for this review. I think the Act 250 process defines the state as a responsible steward of the land, and unfortunately, may no longer accomplishes its goals. It is also not fair to developers. It is important to me, and others in the tech sector that are here for a clean environment, that Act 250 be refined so that it is fair to developers who can properly prove they will will not have undue negative impacts that aren't properly mitigated.

Science does not appear to be applied on a site by site basis when needed. While averages and unchecked assumptions may be appropriate for projects with a small impact, it is not for city-scaled projects with long-term repercussions. For example, there is an active case that did not require any site modeling for the contaminated stormwater runoff for nearly a half mile of new roads and rooftops of 15 large commercial buildings. The City of Burlington and ANR did not think it was appropriate to model this project. When I brought up to professors at UVM and other experts in stormwater and groundwater remediation, they were a bit surprised no modeling was done based on the risk involved. Also, the conversation has changed from recharge to discharge for the 'headwaters of North and Texaco beaches' given its unique geology.

This ends up not properly protecting the lake, neighbor traffic safety or wildlife habitat in ecologically sensitive areas. For example the aforementioned Act 250 application is looking to permit over 1M sf of lower-than-average cost construction and dispose of over 20 acres of new polluted stormwater through 100' feet of sand for 'treatment' before it enters the water table and flows directly to the beach shoreline 100 yards to the West. For more info on this case, I encourage you to go to CambrianWatch.org

The information exchange for Act 250 needs to be modernized. Anyone affected should be able to easily understand what is being proposed without having to sit through lengthy DRB meetings to see things for the first time and be expected to comment, understand what the concerns are, and see other subject matter experts input. The current

applications from both the city and state are archaic by today's web standards and they ARE A BARRIER for active engagement of Vermont's working families and others with too much going on to devote 20+ hours a week to just figuring out what is going on, much less what the real impact is. There is a 50/50 chance that random letters like the Act 250.

I personally have been building out a web application that shows neighbor concerns, the applicant response, city analysis through permitting documents, state Act 250 responses and 'testimony' by subject matter experts. Please stay tuned.

A couple of notes from today's discussion on report.

Where Act 250 is needed most -> please do not ignore Burlington assuming a proper evaluation will be done. It has a huge impact on the lake water quality and right now focused on other things - Burlington Telecomm, the 14-story mall logistics, increased large development applications, teacher / school board animosity, etc. Act 250 is my only hope to make sure the lake health, traffic and natural areas are properly addressed. They city DRB gave me 2 minutes total and my concerns were never addressed. The city does not have the resources to properly vet projects - this was very clear from current process and requests for public records.

As far as where permits can satisfy criterion - please make sure the permit processes are up to date. For example, scientific testimony in a current case clearly shows the stormwater permit is only a piece as the infiltration 'green' practice is polluting the groundwater directly connected to the lake. Someone needs to look at the system as a whole to do a sensibilities check.

It is important to note that an ANR stormwater discharge permit provides a presumption of compliance under Rule 19E) only to the extent that the permit addresses the specific requirements of Criterion 4.

As far as appeals go, it would be great if there was a way to not go there - another iteration that gives time for redesign. It would also be useful for the ability to scale down projects without full permit denial.

I also think that in a world of the IIoT, it is prudent to require continuous monitoring and quarterly / annual review so we can learn as a state on how some of the new innovative technologies can be assessed (i.e. stormwater)

ciao,
aj