



Kirby Mulch Company, LLC

661 US Route 2  
Kirby, VT 05824

TO: The Commission on Act 250: The Next 50 Years  
FROM: Heath W. Bunnell, Owner Kirby Mulch Company LLC & HB Logging LLC  
DATE: October 12, 2018  
RE: **Act 250 Public Comment Forest Products Processing**

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Thank you for the opportunity to comment on the impact that the Act 250 permit conditions have on Vermont forest processing operations. As a business owner with over 20 years of experience in the logging and forestry industry, and as an owner of HB Logging LLC which employs a crew of 13 and grosses approximately \$4 million in annual revenue, I am now preparing to apply for an Act 250 permit for a forest processing operation.

Kirby Mulch Company LLC will provide a viable local market for wood byproducts and disposal waste options in the rural Northeast Kingdom. These new markets are being created by shifts in the existing logging and woodchip markets, the new Federal E-Log rules that impact short haul drivers, and the 2012 Vermont universal recycling and composting law that redefines waste and seeks to keep it out of the Vermont landfills. Located in Kirby Vermont, a town that has virtually no commercial industry, Kirby Mulch Company LLC will employ an initial crew of four employees, provide property tax revenue to the town, and bring economic opportunity to a part of Vermont that is economically depressed.

We are just starting the Act 250 pre-application process and have identified challenges including the removal of an old barn, wetlands, flood plains, prime agricultural soils, and the uncertainty around hours of operation and operating conditions. The barn on the property is over 100 years old, is dilapidated, structurally unsafe, and has been significantly modified in the past 25 years by prior owners. Even though extensive documentation concerning the poor condition of the barn was provided to the Vermont Division of Historical Preservation, a site visit was scheduled, and further research was conducted until the Division eventually agreed with my original position that the barn is no longer historically significant.

The Vermont Advisory Council on Historic Preservation then had to review the Division of Historical Preservation opinion. The Council discussed at length if an additional engineering study should be required (at a cost of approximately \$4,500 with engineering and consulting fees) prior to determining the historical significance of the barn. With further input from my hired representative and the Division of Historical Preservation representative, common sense prevailed, and the Council voted that the barn is no longer historically significant. However, one member of the Council abstained from the vote, claiming that under no circumstances could he ever vote in favor of a determination that would result in demolishing a barn. This small example clearly displays the uncertainty and potential additional cost (\$4,500) of addressing just one of the Act 250 criteria. Multiple the process by the 10 criteria and it is easy to understand how the Act 250 application process becomes an impediment to sustainable business development in Vermont.



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Prime agricultural soil is another significant issue that will impact the establishment of Kirby Mulch Company LLC. The property was part of a working agricultural farm along the Moose River and busy Route 2 for many years until it was utilized as a brick making factory from the mid-60's to the late 80's. The owner of the brick factory did not comply with state law and seek an Act 250 permit, and the soil was significantly disturbed by the business. The fields have been used for over a hundred years for farming, which significantly disturbed the soil. We seek to use the same land for locating and processing mulch and compost rows, a process very similar to farming, but we must comply with the expense and uncertainty of the Act 250 application process and will likely be faced with the significant cost of a payment to offset impacting the prime agricultural land.

The cumulative cost of the Act 250 application for Kirby Mulch Company LLC is estimated to be between \$50,000 to \$75,000. To date I have had to hire a consultant to assist me through the Act 250 application process, hire an expert to delineate the land, and hire an engineer to map the delineation. These costs add to my business start-up costs and impact my ability to operate the new business in an economically sustainable manner in the first few years of operation when a new business is most vulnerable.

Markets for forest products and wood byproducts are shifting and it is important to encourage new local opportunities for these markets to promote economic development and discourage land fragmentation. Innovative business models like Kirby Mulch Company, LLC provide valuable new forestry markets within the supply chain. The Commission needs to consider alternatives that improve the **efficiency** and **predictability** of the Act 250 application process to promote forestry processing operations in Vermont.

Thank you for considering my comments as you work on this important initiative.

Sincerely,

Heath W. Bunnell  
Owner  
Kirby Mulch Company LLC  
HB Logging LLC