

November 8, 2018

**Act 250 Permit # 5W1017-1 (altered)
Protection of the Water Quality & Shoreline of Coburn Pond**

Introduction to the pond (Photos):

- 6-acre sand & gravel-bottomed, contained swimming hole formed by excavation into the aquifer
- Generations of use as community resource
- Identified in the Town Plan appx. 25 times

Act 250's holistic, multi-faceted approach to examining a project:

- 10 Criteria are inclusive of a wide range of important resources, services, etc.
- Incorporates broad participation from community sectors, including municipal bodies—EM SB & PC joined us throughout the Act 250 process
- Access to citizens as parties
- Ability to rebut other permits (rebutted CUD- "swimming not an Existing Use")
- Role of District Environmental Commission Administrator as neutral and generally supportive to all parties

***** VTrans' proposal to construct wetlands in the pond is part of a federally funded highway project: Why I am here today**

VTrans is suggesting Act 250 should not have oversight to FFHPs. I am here to present one project that clearly shows how important Act 250 is, and especially when the developer is a state agency.

Of Note: During our initial research into public VTrans' documents pertaining to the project planning, we discovered that meeting memo notes **starting in the 90s** indicated repeatedly that VTrans **knew** of Existing Use in the swimming hole that we call Coburn Pond.

-- The swimming hole known as Coburn Pond was identified repeatedly in the East Montpelier Town Plan as a well-loved community resource for swimming and fishing.

Imbalance of power / money / experience:

Especially when state agencies are the developer, citizens are facing of—on their own time, usually unpaid—against highly-skilled professionals on salaries funded by taxpayers. It is important that they be held accountable and responsive to the public. Act 250 provided the forum that allowed citizen voices to be heard and facilitated responsive accountability.

Supervision during construction & Enforcement: Absent supervision immediately before and during construction, violations occurred and—as yet—have so far not been fully enforced. (Although, through enforcement action last summer, unpermitted, overtly prohibited Glyphosate use in the constructed wetlands was ended.)

What I am asking for **Today** regarding the future of Act 250 is specific to VTrans' request to minimize Act 250 oversight of some of their projects. I hope I have highlighted and emphasized why is it overly important for Act 250 to retain oversight, especially of projects where the State is the developer.

Through the Act 250 Process, their original permit proposal to fill in Coburn Pond as a constructed wetland was denied. However, they appealed that decision. When the environmental court judge directed us to mediation, VNRC stepped up to the plate on our behalf and helped to facilitate a negotiated settlement agreement, which became the court order. VTrans was permitted to construct wetlands south of Coburn Pond to mitigate for Highway segment 1, and so protected Coburn Pond, its shoreline and water quality.

The cost of a full court Appeals process was prohibitively expensive. Even mediation would have been beyond our means had not VNRC stepped up to the plate. We are thankful.

-The testimony I submitted on October 22 is my overall testimony as an individual and neither specific to VTrans' request nor is it intended to represent the views of *Friends of Coburn Pond*. However, since it clearly articulates some of the points I'm trying to make today, I am including that now along with this testimony.

I am requesting that this Future of Act 250 Commission retain those aspects of Act 250 that helped us to protect the important resource that is Coburn Pond as well-loved naturalizing swimming hole and recreation area for central Vermont, and to consider some of the obstacles we surpassed in our process.

I am requesting that:

- Act 250 retain jurisdiction over highway projects
- Act 250 retain at least its current accessibility to citizen participation, and consider possible ways to improve party status access for citizens and community groups, including wider notification to alert citizens and communities in the first place. (FPF)
- Act 250 to retain its jurisdiction over resources, even when covered by other permits and/ or agencies

I am also requesting that the Commission explore the possibility of additional staff to monitor the implementation of permit conditions through construction, and to better follow through with enforcement of violations when they do occur.