



April 5, 2018

**Testimony RE: H. 554
Vermont Ski Areas Association
Molly Mahar, President**

The Vermont Ski Areas Association represents 20 alpine and 30 cross-country ski areas across the state.

Snow is the lifeblood of the ski industry, and thus snowmaking is a critical need for alpine ski areas and some cross-country ski areas, too. Without it, ski areas would not be able to open terrain early in the season, the ski season would not be as long, and we would not be able to count on the reliable availability of terrain during the core season -- all of which are key competitive advantages not only for individual ski areas, but for the state's powerful ski brand. Vermont is the number one ski state in the eastern US and fourth largest in the country. The industry is a significant contributor to Vermont's economy, bringing \$900M in direct spending each season, two-thirds of which occurs off mountain in surrounding towns and communities. This spending generates over \$120 million in tax revenues for the state.

Water intake structures are critical pieces of each ski areas' snowmaking infrastructure and H. 554 would set a new regulatory requirement that creates uncertainty over these facilities which have been previously engineered and permitted with ANR approval. Thus, we are requesting two changes to this bill:

First, we are requesting that language specifically and separately defining an "intake structure" (for purposes such as snowmaking, potable water and irrigation) from a "dam" be added to the Definitions section of this bill, Section 1080:

““Intake structure” means a dam that is constructed and operated for the primary purpose of minimally impounding water for the measurement and withdrawal of streamflow to enable use of the withdrawn water for snowmaking, potable, irrigation, or other purposes in accordance with regulatory approvals by the Department.”

Second, in the Rulemaking section of the bill, Section 1110, we would like to request that language be added setting out a rebuttable presumption of compliance with Chapter 43 (Dams) for existing structures, so that the rules would include:

“a rebuttable presumption of compliance with this chapter for existing intake structures that continue to operate in accordance with the conditions of existing permits or approvals of the Department that contain provisions for inspection and maintenance subject to Section 1105. “

The inclusion of this rebuttable presumption is very important for ski areas whose existing facilities already operate under conditions set forth by existing ANR approvals, including in some instances Flow Determination Letters, Water Quality Certifications, Dam Orders, and Act 250 Permits

As an example of requirements currently in place for monitoring, maintenance and reporting, here are three conditions included in a recently issued ANR approval for a new water intake at one of our member ski areas:

16.

Flow diversion devices shall be checked and cleared of ice and debris on each day that diversion of water occurs and as necessary on other days to assure collection of good streamflow records. Additional monitoring and maintenance shall be conducted as needed to maintain the flow diversion devices free of obstructions. If the system has been dormant for more than 24 hours, the diversion shall be checked for obstructions before activating the withdrawal. A daily log shall be maintained noting work that is performed to keep the systems functioning as designed. Chronic problems shall be brought to the attention of the Department, and alternatives to correct the problems proposed for approval and implementation.

17.

After the first winter of operation, the diversion shall be resurveyed by a registered land surveyor or a registered professional engineer to determine whether there has been any movement of the instream diversion structure due to frost or high flows. The results of the survey shall be filed with the Department no later than August 1 of that year. Thereafter, the structure shall be checked periodically to assure that there has been no movement that may affect gaging or the flow devices.

22.

The diversion structure shall be removed to the satisfaction of the Department when it is no longer serving its intended purpose. If the diversion has not been operated for two consecutive seasons, the structure shall be considered as no longer serving its intended purpose. Within two months following the second consecutive season of non-use, a removal plan shall be filed with the Department. The plan shall include detailed information on removal of all instream structures and restoration of topographic contours to approximate those of the surrounding natural terrain at the time of removal, deconstruction procedures and a removal schedule. The plan shall be subject to Department approval prior to implementation.

These structures are regularly monitored, maintained and reported on because they are critical pieces of snowmaking infrastructure and these are the conditions of their existing ANR approvals and permits.

We have worked with Jeff Nelson, a hydrologist at VHB on drafting this language, and also coordinated Neil Kamman at DEC to make sure that the Agency could support these requested changes before bringing them before this Committee.

We would be happy to answer questions or further discuss these requested changes. Thank you for your time and attention this morning and your consideration of this request.