



Statement of Phil Huffman
Director of Government Relations and Policy for The Nature Conservancy in Vermont
to the House Natural Resources, Fish, and Wildlife Committee
February 6, 2019

Thank you, Chairwoman Sheldon and members of the Committee, for offering The Nature Conservancy (TNC) the opportunity to share our perspective on the science and importance of river corridors and related recommendations for the Committee's consideration as you work to modernize Act 250. With the rescheduling of our testimony from this afternoon to this coming Friday afternoon February 8th, I unfortunately will not be able to participate in our testimony in person due to a prior commitment out of state. In lieu of that, I wanted to share in writing the gist of our policy recommendations that I would have presented in person. My TNC colleagues Rose Paul and Shayne Jaquith will be prepared to share these points with you in person during their testimony on Friday.

- For the science-based reasons that Shayne and Rose will articulate in their testimony on Friday, we support the State's established policy of generally trying to keep new development out of river corridors and flood hazard areas to allow river processes and functions to happen unimpeded.
- We also support giving river corridors heightened protection and review requirements under Act 250.
- We support the Act 250 Commission's recommendation to update the "Floodways" terminology in the definitions and Criterion 1(D) so it applies to "river corridors" and "flood hazard areas".
- We refer the Committee to a new white paper from the Department of Environmental Conservation's Rivers Program that I submitted electronically earlier today. We understand Rivers Program Manager Mike Kline and River Corridor and Flood Plain Manager Rob Evans have also submitted it to you and will be speaking about the substance of it in their testimony before you tomorrow. The recommended revisions to Act 250 on page 2 of the white paper align with proposals from the Act 250 Commission, and provide somewhat expanded wording for revised definitions of those terms relative to the proposed changes in the Commission's draft bill. DEC's recommended revisions will provide consistency with well-established science, state policy and DEC's current programmatic approach, which are backed up by four separate acts of the General

Assembly since 2010 and three VT Supreme Court cases as described in detail in the white paper.

- We suggest the Committee focus on addressing jurisdictional gaps that do not get consideration through existing permitting – i.e., avoid doubling up on permitting requirements in situations where the desired outcomes of river corridor and flood hazard area protection may be effectively achieved through other mechanisms.
- In addition to the existing attention in criterion 1(D) to not restricting or diverting flood flows or endangering the health, welfare, or safety of public and riparian owners, and the proposed additional attention in Commission’s draft bill (p.31) on not causing or contributing to fluvial erosion, we would suggest considering whether additional changes are needed to adequately consider potential impacts on ecological processes, functions, and values of river corridors – for instance, avoiding/minimizing restrictions of a river’s ability to move laterally over time.
- We note that Vermont Emergency Management is convening a workgroup to examine the Emergency Relief Assistance Fund (ERAF) incentives for towns to adopt policies and practices that make them more flood resilient (for example, state recommended bridge and culvert standards for town roads; town river corridor zoning). This will be a multi-stakeholder group including participation by TNC. We encourage you to obtain the recommendations of this workgroup when it is completed and factor them into your deliberations.
- We also would encourage you to consider giving attention to the upstream and downstream context and cumulative impacts of development (e.g., pollution, impacts on river processes and habitat, etc.) in a river corridor where new development is proposed.

Thank you for considering our perspective in these comments. In addition to the discussion that you all will have with Rose and Shayne on Friday, I’d be happy to discuss them with you in Committee or individually in the coming days if you’d like.