



Testimony by:
Ed Larson, Lobbyist
To House Committee on Natural Resources,
Fish and Wildlife
February 13, 2019



**STATE OF VERMONT
GENERAL ASSEMBLY**

REPORT OF THE COMMISSION ON ACT 250:

THE NEXT 50 YEARS

PURSUANT TO 2017 ACTS AND RESOLVES NO. 47

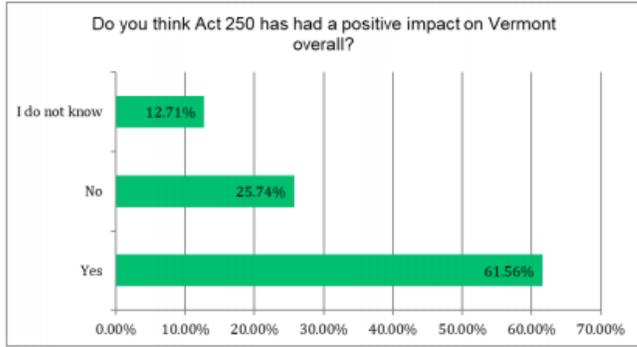
January 11, 2019



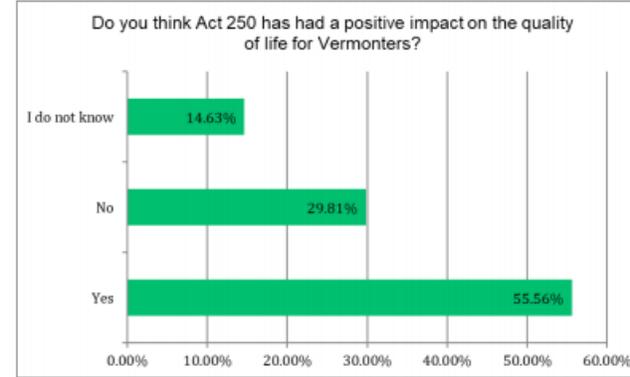
The Commission recommends:

- **Criteria be added to protect forest blocks and connecting habitat from fragmentation by adopting the changes contained in H.233 of 2017.**
- **The repeal of the exemption for farming, logging, and forestry below 2,500 feet when these occur in areas that have been designated as critical resource areas.**

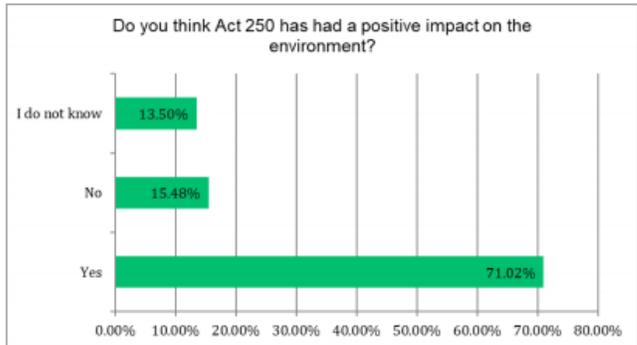




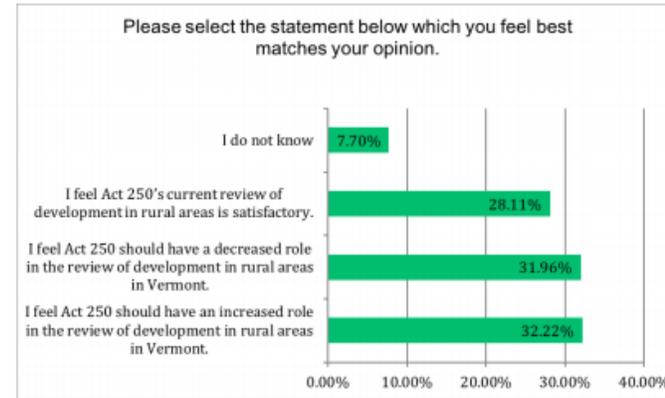
A majority of respondents also see Act 250 as having had a positive impact on Vermont overall. It is seen as legislation that promotes preservation of the best of Vermont and an expression of core values.



As the questions reframe this notion of impact a less significant majority view the impact on quality of life as positive. Over a quarter of respondents expressed a view that Act 250 has not had a positive impact on the life of Vermonters.

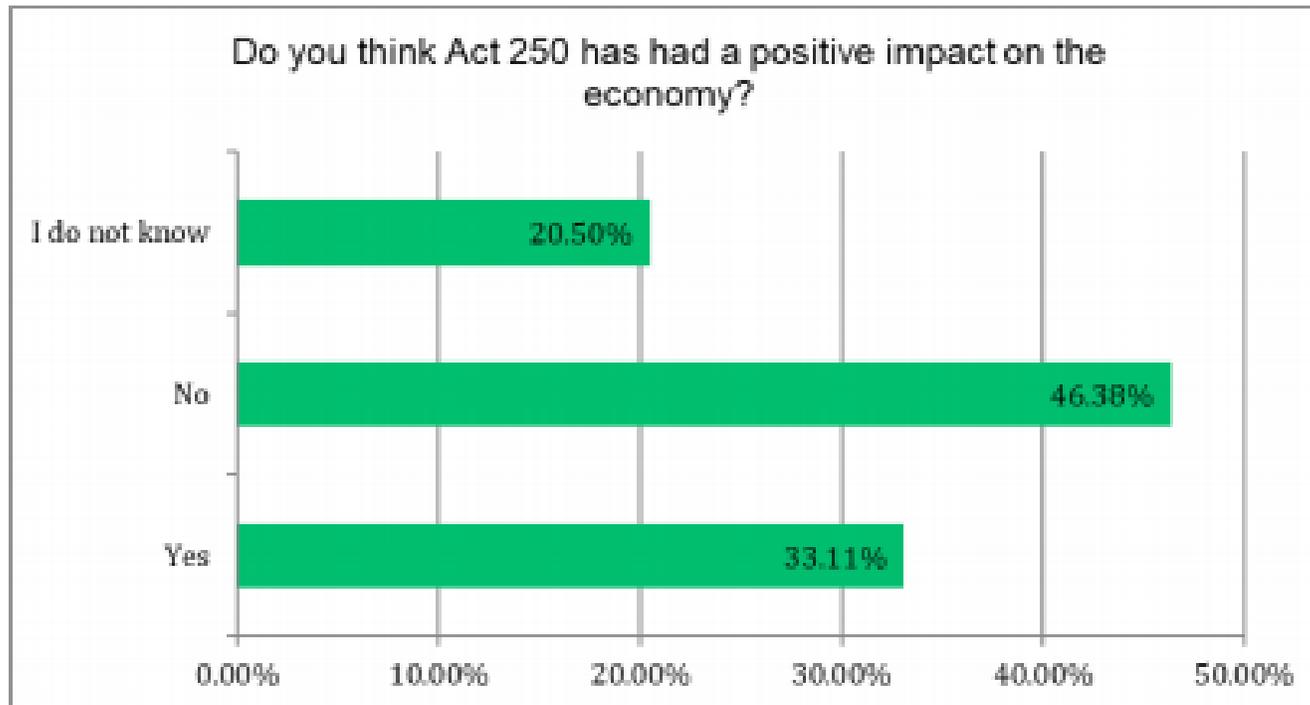


Overwhelmingly, respondents see Act 250 as having a positive impact on the environment. Narrative comments reinforce the quantitative survey data in speaking to the desire to maintain Vermont's natural beauty and accessibility.



As the legislation affects development more specifically, there is again a large percentage of respondents who believe that Act 250 should have a lesser role in development review.

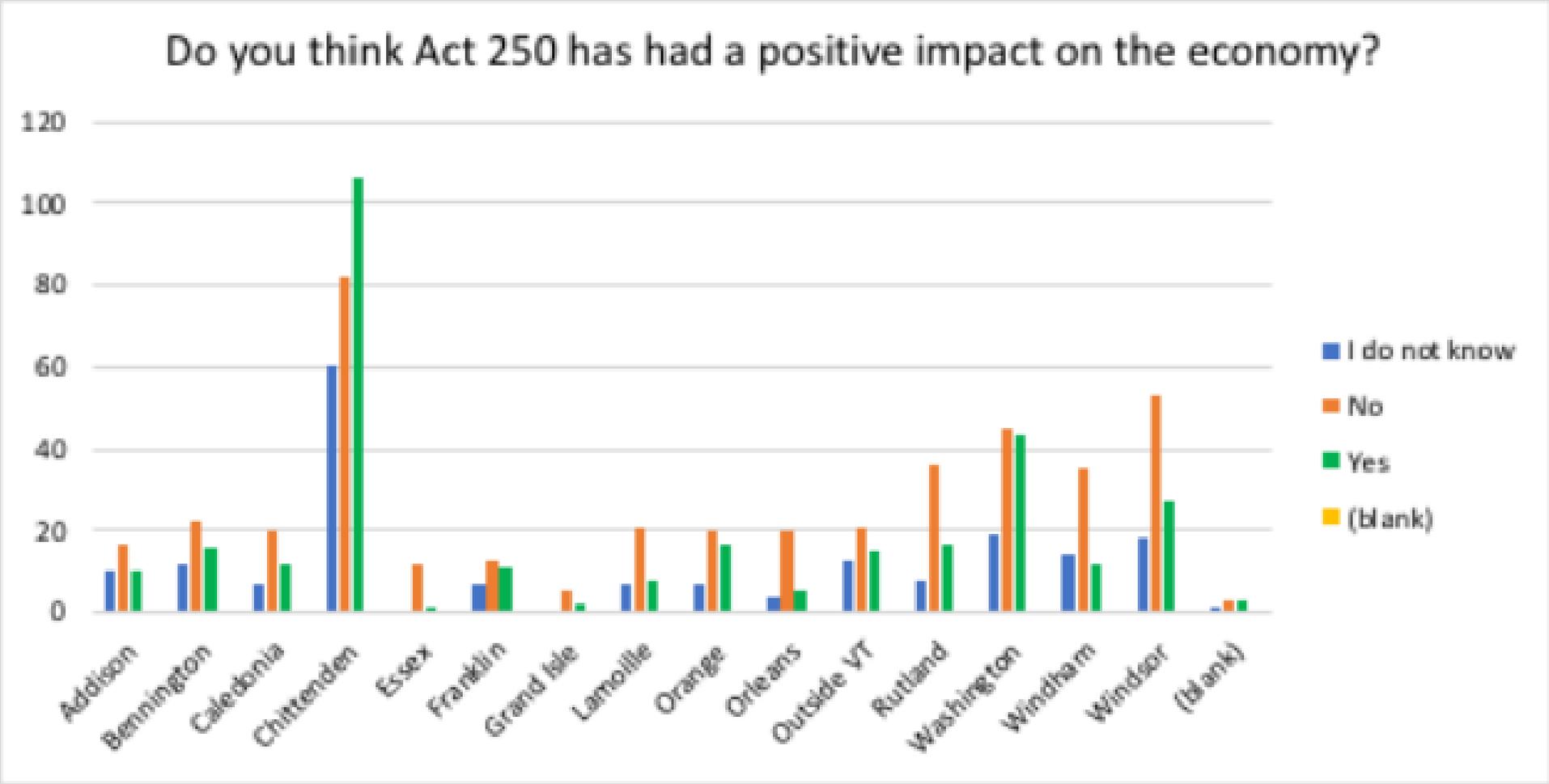




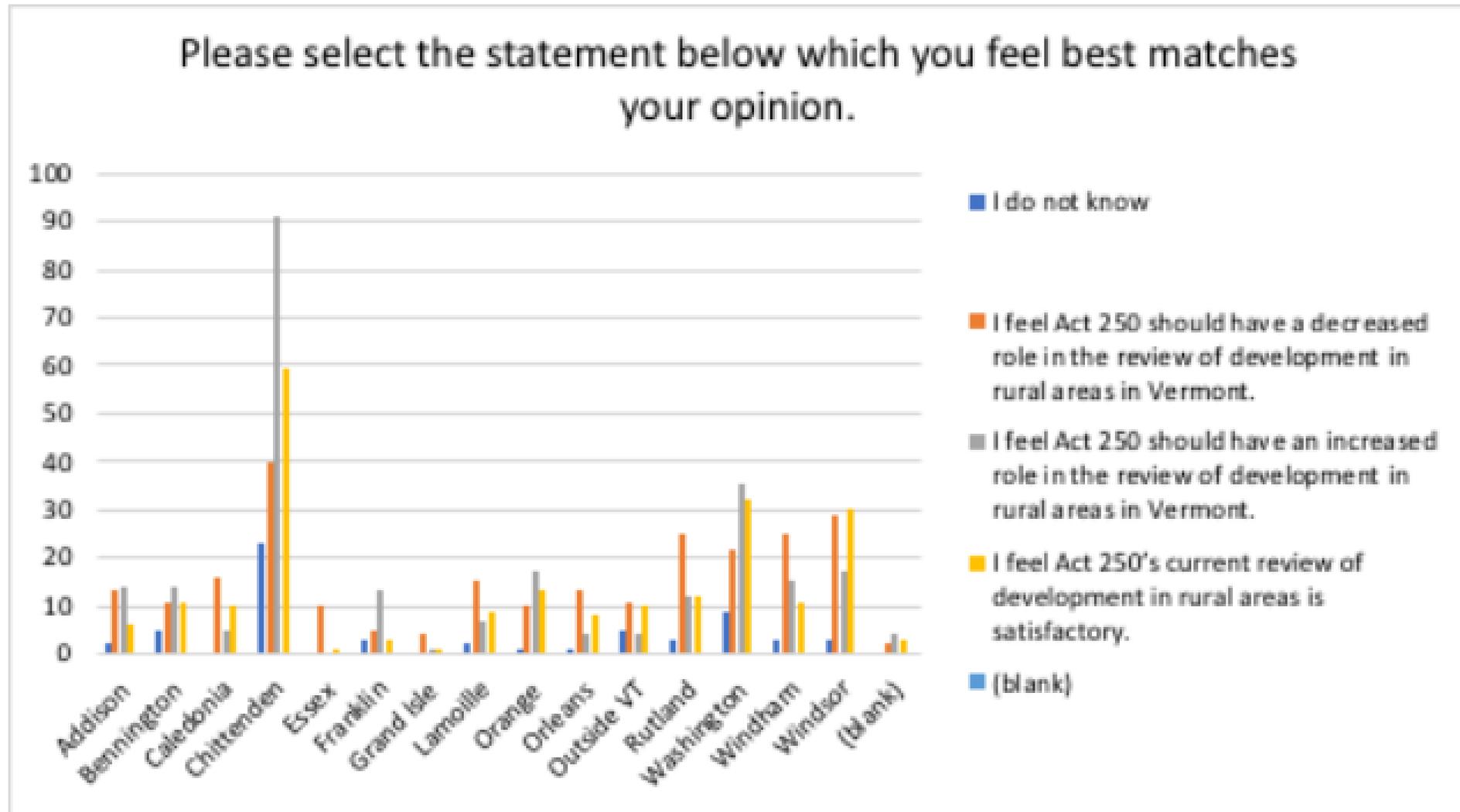
When the question turns to the impact of Act 250 on the economy, we see a different picture; almost half of respondents do not see Act 250 as having a positive impact on the economy.



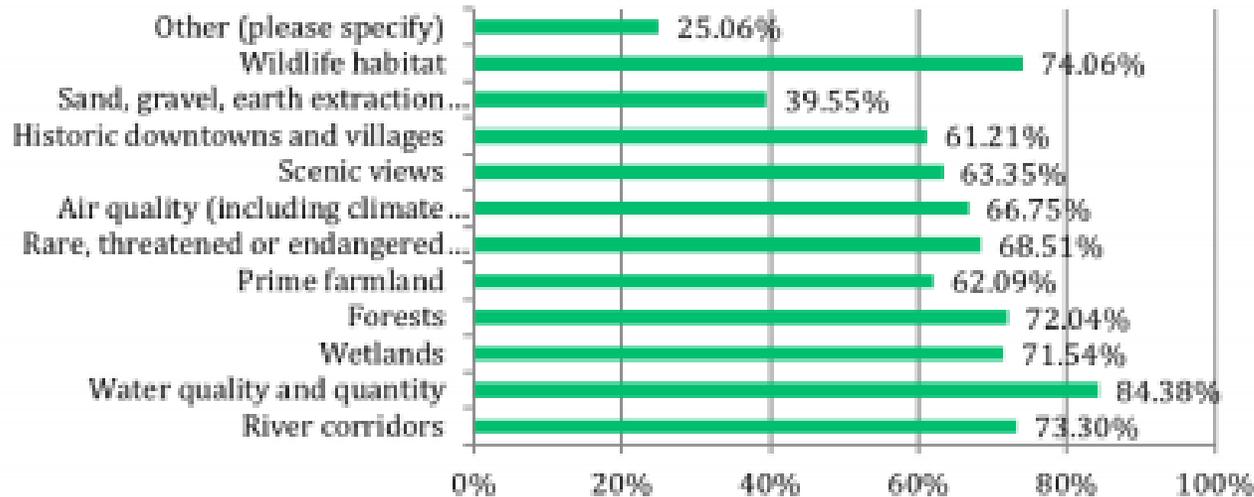
Aside from Chittenden County, all other counties reflect a greater number of respondents believe that Act 250 has not had a positive impact on the economy:



More broadly relating to rural areas, 7/14 counties had a higher response rate in support of an increased role in development review, 6/14 with a decreased role, and 1/14 indicating current state is satisfactory.



Which statewide resources should be protected for the present and future? Please select all that apply:



Regarding which resources are considered highest priority to protect, it is noteworthy that respondents saw value in all options listed, with a lesser concern for extraction. Comments here reference the exemptions and the lower priority placed on these aspects of legislative impact. Analysis of the responses to the “Other” option revealed that recreation and ecology were considered highly important to protect. Recreation refers to recreational opportunities such as trails and access for motorized vehicles such as four wheelers. Respondents felt that these opportunities were key to Vermont’s economy as they attract many tourists.



LIST OF ADVISORS

The Chair of the Natural Resources Board (NRB) or designee: **Diane Snelling**

A representative of a Vermont-based, statewide environmental organization: **Brian Shupe, Vermont Natural Resources Council**

A person with expertise in environmental science: **William Keeton, University of Vermont**

A representative of the Vermont Association of Planning and Development Agencies: **Peter Gregory, Two Rivers-Ottauquechee Regional Planning Commission**

A representative of the Vermont Planners Association: **Sharon Murray, Front Porch Community Planning**

A representative of a Vermont-based business organization: **Ernest A. Pomerleau, Pomerleau Real Estate**

A person currently serving or who formerly served in the position of an elected officer of a Vermont city or town: **Karen Horn, former member, Moretown School Board**

The Chair of the Environmental Law Section of the Vermont Bar Association: **Gerald R. Tarrant, Esq.**

The Secretary of Agriculture, Food and Markets or designee: **Diane Bothfeld (designee)**

The Secretary of Commerce and Community Development or designee: **Michael Schirling**

The Secretary of Natural Resources or designee: **Julie Moore**

The Secretary of Transportation or designee: **Joe Flynn**

A current or former district coordinator or district commissioner: **Tom Little, Chair, District No. 4 Environmental Commission**

Additional advisor appointed by the Commission on Act 250: **To be determined**

Additional advisor appointed by the Chair of the NRB: **Elizabeth Courtney**



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GOODRIDGE LUMBER, Inc.



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October 10, 2018

Act 250 Comments
Colleen Goodridge, President
Goodridge Lumber, Inc
Albany, Vermont

Many of us have attended the public forums concerning Act 250 - a review of where we have progressed since 1970, nearly 50 years and where we are today. We ask ourselves "what will the next 50 years look like?"

In reviewing the goals of Act 250-Protecting Vermont's Environment and Promoting Economic Prosperity, I feel we have protected the environment well - possibly at the expense of economic prosperity, where we fall short. Vermont is rated at the bottom of the list as far as being classified as "business friendly." Both the environment and the economy are important, however, we must maintain a balance between the two goals. Promoting economic prosperity must be a focus when reviewing Act 250 and strategies developed to address this need - perhaps less regulation vs. more regulation. In our zeal to "protect", unintended consequences may occur as a result, destroying the very thing we are trying to protect or preserve.

I am most familiar with forest based business since our family business, Goodridge Lumber has been in existence since 1974 - 44 years.

COLTON ENTERPRISES, INC.
1697 ROUTE 100, PO BOX 688
PITTSFIELD, VT 05762

October 9, 2018

Commission on Act 250 at 50 (Act 47)

Dear Commission,

Thank you for this opportunity. Please consider our Act 250 experiences as you review Act 250 Permit impacts on forest products businesses like ours. Changes to Act 250 have the potential to significantly impact Vermont forest product businesses.

COLTON ENTERPRISES HISTORY

Ray Colton is the founder and President of Colton Enterprises. Ray has been in the firewood business for 45 years and at his current site selling kiln dried firewood since 1983. Colton Enterprises is a family business that uses Vermont trees, Vermont foresters, Vermont loggers, Vermont truckers, Vermont employees and offers a quality Vermont product.

In addition to our line of firewood products, during the spring and summer months we also offer a high quality line of ground bark mulches, wood chips, and sawdust for farmers.

We are located in the center of the state, far from the major pulp mills in New York and Maine so our operation provides a critical market and adds value to hardwood that is not good enough for sawlogs but too good for pulp. Annually, we spend approximately \$600,000 dollars on low grade logs typically purchased from 45 loggers and truckers. We now have 7 full time and 4 seasonal employees; 3 have been with the



VERMONT CONSERVATION DESIGN

MAINTAINING AND ENHANCING AN ECOLOGICALLY FUNCTIONAL LANDSCAPE



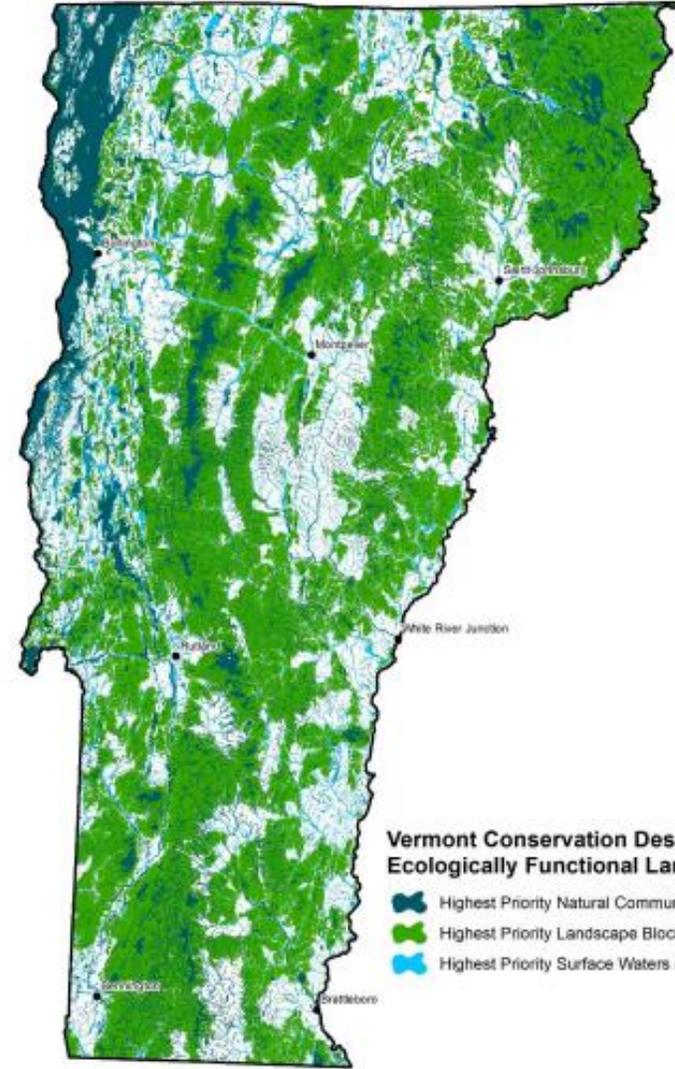
Summary Report for Landscapes, Natural Communities, Habitats, and Species

February 2018

Eric Sorenson and Robert Zaino

Core Participants:

Jens Hilke, Doug Morin – Vermont Fish and Wildlife Department
Keith Thompson – Vermont Department of Forests, Parks and Recreation
Elizabeth Thompson – Vermont Land Trust



Vermont Conservation Design Ecologically Functional Landscape

- Highest Priority Natural Community & Habitat Features
- Highest Priority Landscape Blocks
- Highest Priority Surface Waters and Riparian Areas

Executive Summary Map: The Highest Priority Features identified by Vermont Conservation Design. A wide variety of management and conservation strategies can be used to maintain the ecological functions of each feature.

Addressing Gaps in Regulation Members of the Forestry Community want to know:

What problems are we trying to solve?

Is Act 250 the Answer?

How will landowners respond?

Who pays?

What has happened since 1970?



(45) “Critical resource area” means a river corridor, a significant wetland as defined under section 902 of this title, land at or above 2,000 feet, and land characterized by slopes greater than 15 percent and shallow depth to bedrock.

The repeal of the exemption for farming, logging, and forestry below 2,500 feet when these occur in areas that have been designated as critical resource areas.

The use of 2,000’ elevation to determine jurisdiction is arbitrary, as was establishing the 2,500 foot elevation



Major Federal Environmental Permit Programs:

- Clean Air Act (1970). Regulates emissions from stationary sources. Establishes national air quality standards.
- Clean Water Act (1972). Regulates pollutants from point sources, dredge and fill activities, and some stormwater discharges.
- Safe Drinking Water Act (1974). Regulates persons who provide drinking water to 25 or more persons.
- Resource Conservation and Recovery Act (1976). Regulates the generation, transport, storage, treatment, and disposal of hazardous waste.
- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund) (1980).

Major State Environmental Permit Programs:

- Vermont Water Pollution Control Act (Act 103 of 1973); Vermont Clean Water Act (Act 64 of 2015)*.
- Vermont Air Pollution Control Act (Act 212 of 1971)*.
- Vermont Waste Management Act (Act 78 of 1987)*; Universal Recycling Act (Act 148 of 2011).
- Vermont Safe Drinking Water Act (Act 71 of 1991)*.
- Vermont Flood Hazard Area, River Corridor and Stream Alteration Act (Act 138 of 2011).
- Vermont Shoreland Protection Act (Act 172 of 2013).
- Vermont Wetlands Permit



MAJOR STATE FORESTRY ENVIRONMENTAL PROGRAMS

- Vermont Use Value Appraisal Program (UVA) (1979) Forest Management standards
- Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont (AMPs) (1987)
- Heavy Cut Act 15 (1997) 40 acre jurisdiction
- AMPs requirement on UVA enrolled lands (added 2007)
- Chip Harvesting Requirements for Vermont Public Utilities
- Stream Alteration General Permit (2011).
- Voluntary harvest
- Licensed Foresters (2015)
- Voluntary Harvesting Guidelines For Private Landowners (2015)
- Multi-Sector General Permit sawmills and other forest product operations (Stormwater)
- Vermont Skidder Bridge Program





VT WETLANDS PROGRAM

LOGGING ACTIVITIES AND WETLANDS

Vermont Wetland Rules & the Silviculture Allowed Uses

Activity in a Class I or Class II wetland or its associated buffer is prohibited unless it is an allowed use under the Vermont Wetland Rules or authorized by a permit or order issued by the Secretary of the Vermont Agency of Natural Resources.

Silvicultural activities in wetlands are considered an 'Allowed Use' under the Vermont Wetland Rules (Section 6) as long as certain conditions are followed. This document is intended to provide guidance for anyone interested in operating within the silvicultural allowed use when logging within State jurisdictional wetland and buffer. Within this document are clear examples which are not to be considered all-inclusive. It is advised that you contact the Wetlands Office if you have any questions.

Silvicultural Activities, as defined in the Vermont Wetland Rules, means those activities associated with the sustained management of land for silvicultural purposes including the planting, harvesting and removal of trees.

Jurisdictional Wetlands

The State protects wetlands which are:

- ◇ on the Vermont Significant Wetland Inventory (VSWI) [map](#)
- ◇ contiguous or connected to the VSWI mapped wetland
- ◇ 1/2 acre or larger in size
- ◇ adjacent to a stream, lake, pond, or river
- ◇ vernal pools (amphibian habitat)
- ◇ special and unique wetlands - i.e. bogs or fens

- ◆ where beaver dams need to be removed because they impact existing haul roads;
- ◆ where existing haul roads are expanded up to a one-time 20% increase in width in wetlands;
- ◆ where new haul roads are constructed in buffer zones;
- ◆ and when activities occur within deer wintering yards



Vermont's Acceptable Management Practices (AMP) Monitoring Program Annual Statewide Summary 2017

This report summarizes statewide results of Vermont's Acceptable Management Practices (AMPs) Monitoring Program from January 1 to December 31, 2017.



| | DISTRICT | | | | | |
|---|------------------|-----------------|--------------|-------------|--------------------|-------|
| | Springfield I | Pittsford II | Essex III | Barre IV | St. Johnsbury V | Total |
| Number of Cases With Evidence of Discharge | 3 | 1 | 2 | 7 | 4 | 17 |
| Number of Cases Resolved* | 3 | 1 | 2 | 7 | 3 | 16 |
| Number of Cases Involving ANR Enforcement Division Action | 0 | 0 | 0 | 0 | 0 | 0 |
| Number of Requests For Technical Assistance | 1 | 2 | 4 | 4 | 1 | 12 |
| Number of Cases With No Evidence of Discharge | 0 | 1 | 1 | 6 | 6 | 14 |
| Total Number of Cases Investigated** | 3 | 2 | 3 | 13 | 10 | 31 |

*Resolved either by the AMPs' being implemented or the operation closed out to the satisfaction of the State.

**This figure is the sum of "Number of Cases With Evidence of Discharge" and "Number of Cases With No Evidence of Discharge".

Total number of AMP activities in 2017 (Tech assists plus complaints) = 43



2016 SUMMARY OF AMP

| | DISTRICT | | | | | |
|---|---------------|--------------|-----------|----------|-----------------|-------|
| | Springfield I | Pittsford II | Essex III | Barre IV | St. Johnsbury V | Total |
| Number of Cases With Evidence of Discharge | 2 | 6 | 0 | 5 | 5 | 18 |
| Number of Cases Resolved* | 2 | 6 | 0 | 5 | 3 | 16 |
| Number of Cases Involving ANR Enforcement Division Action | 0 | 0 | 0 | 0 | 2 | 2 |
| Number of Requests For Technical Assistance | 1 | 0 | 0 | 9 | 1 | 11 |
| Number of Cases With No Evidence of Discharge | 2 | 3 | 2 | 4 | 2 | 13 |
| Total Number of Cases Investigated** | 4 | 9 | 2 | 9 | 7 | 31 |

*Resolved either by the AMPs' being implemented or the operation closed out to the satisfaction of the State.

**This figure is the sum of "Number of Cases With Evidence of Discharge" and "Number of Cases With No Evidence of Discharge".

Total number of AMP activities in 2016 (Tech assists plus complaints) = 42

**2014 SUMMARY OF AMP
TECHNICAL ADVISORY TEAM ACTIVITIES**

| | FORESTRY DISTRICT | | | | | |
|---|-------------------|--------------|-----------|----------|-----------------|-------|
| | Springfield I | Pittsford II | Essex III | Barre IV | St. Johnsbury V | Total |
| Number of Cases with Evidence of Discharge | 2 | 1 | 1 | 3 | 4 | 11 |
| Number of Cases Resolved* | 2 | 1 | 1 | 2 | 3 | 9 |
| Number of Cases Involving ANR Enforcement Division Action | 0 | 0 | 0 | 1 | 0 | 1 |
| Number of Requests for Technical Assistance | 6 | 3 | 1 | 5 | 0 | 15 |
| Number of Cases with No Evidence of Discharge | 3 | 0 | 0 | 8 | 2 | 13 |
| Total Number of Cases Investigated** | 5 | 1 | 1 | 11 | 6 | 24 |

*Resolved either by implementation of AMPs or the closing out of the logging operation to the satisfaction of the State.

**2015 SUMMARY OF AMP
TECHNICAL ADVISORY TEAM ACTIVITIES**

| | FORESTRY DISTRICT | | | | | |
|--|-------------------|--------------|-----------|----------|-----------------|-------|
| | Springfield I | Pittsford II | Essex III | Barre IV | St. Johnsbury V | Total |
| Number of Cases with Evidence of Discharge | 2 | 3 | 2 | 6 | 3 | 16 |
| Number of Cases Resolved* | 2 | 3 | 2 | 6 | 3 | 16 |
| Number of Cases Involving Assistance from Environmental Compliance Officer | 1 | 0 | 0 | 0 | 0 | 1 |
| Number of Requests for Technical Assistance | 2 | 0 | 4 | 3 | 2 | 11 |
| Number of Cases with No Evidence of Discharge | 5 | 1 | 3 | 2 | 10 | 21 |
| Total Number of Cases Investigated** | 7 | 4 | 5 | 8 | 13 | 37 |

*Resolved either by implementation of AMPs or the closing out of the logging operation to the satisfaction of the State.

**The total equals the sum of Number of Cases with Evidence of Discharge and Number of Cases with No Evidence of Discharge.

**2013 SUMMARY OF AMP
TECHNICAL ADVISORY TEAM ACTIVITIES**

| | DISTRICT | | | | | |
|--|---------------|------------|-----------|----------|-----------------|-------|
| | Springfield I | Rutland II | Essex III | Barre IV | St. Johnsbury V | Total |
| Number of Cases With Evidence of Discharge | 0 | 4 | 4 | 12 | 7 | 27 |
| Number of Cases Resolved* | 0 | 4 | 3 | 11 | 3 | 21 |
| Number of Cases Forwarded to DEC Compliance and Enforcement Division | 0 | 0 | 1 | 2 | 2 | 5 |
| Number of Requests For Technical Assistance | 2 | 2 | 4 | 7 | 2 | 17 |
| Number of Cases With No Evidence of Discharge | 0 | 1 | 1 | 6 | 5 | 13 |
| Total Number of Cases Investigated** | 0 | 5 | 5 | 18 | 12 | 40 |

*Resolved either by the AMPs' being implemented or the operation closed out to the satisfaction of the State.



2015 Vermont Forest Fragmentation Report



VERMONT DEPARTMENT OF FORESTS,
PARKS AND RECREATION

AGENCY OF NATURAL RESOURCES

APRIL 2015

Since 2016 Forest fragmentation rate was only 2% over the previous 20 years (1/10 of 1% per year).

The rate of fragmentation is not increasing rapidly (Dr. Keeton).

Rural permit applications are down
Peter Gregory -Three Rivers
Regional Planning Commission.

Last Forest Integrity working group – no consensus on using Act 250 to regulate fragmentation.





VFPA Goals

- Keep landowners we have now, they know us and we know them
- Encourage landowners to minimize fragmentation thru education as they make decisions on what to do with their land.
- Improve business environment for the industry to grow and thrive

Forest Products Industry is the Solution

- Not just a part of the solution, but **the** solution
- We can show them the money, sustainably
- Wants landowners to participate in working forest

Forestland ownership is a major long term investment that has traditionally delivered a low yield return, but at least fairly stable. With a wide "bundle of rights", various values such as certain wood products, recreational use, and development options cycle up or down influenced by social and economic changes. The long-term trend has been a gradual increase in value, which is acceptable to long term investment. Landowners are growing a crop that takes 60-120 years to mature, and decisions are made on this timeframe. The continuing unpredictability of forest land taxation and regulation is also a major issue to be considered.



Statement of Concern

Were land use regulations changed to limit development as a way to combat forest fragmentation, it would reduce the equity and consequently the borrowing power of forestland owners. This would limit their options and lower their balance sheet in a time of financial need. Without the ability to borrow, they may need to subdivide their land to recover their capital with the outcome being the opposite of the intention to prevent fragmentation.



Borrowing Power



College
Retirement
Additions
Repairs
Medical
Family



Start a Business, Expand Increase Efficiency



Improve Infrastructure





Upgrade Equipment Invest in Growth



EAST MIDDLEBURY FOREST

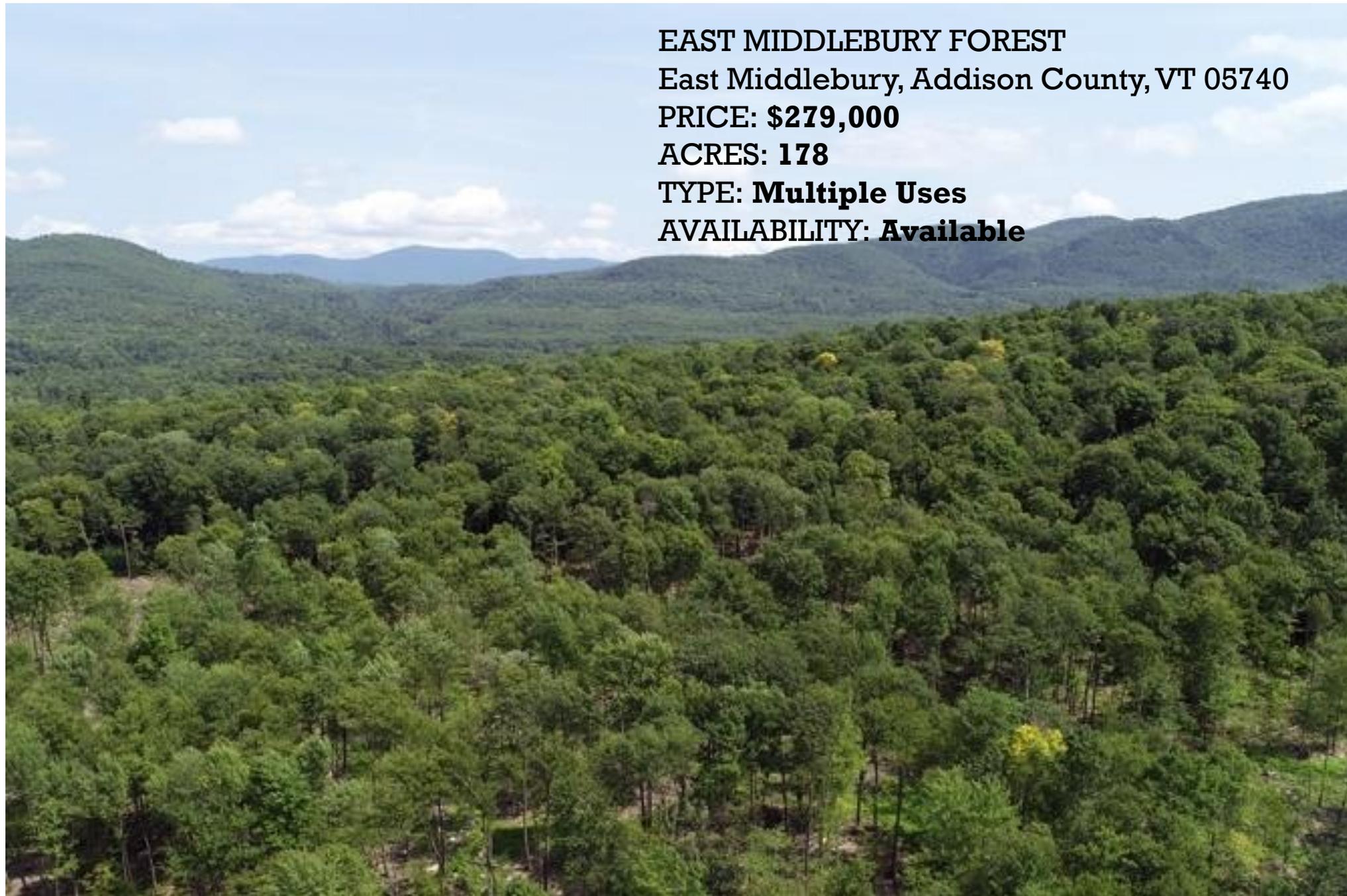
East Middlebury, Addison County, VT 05740

PRICE: \$279,000

ACRES: 178

TYPE: Multiple Uses

AVAILABILITY: Available



Its all about equity



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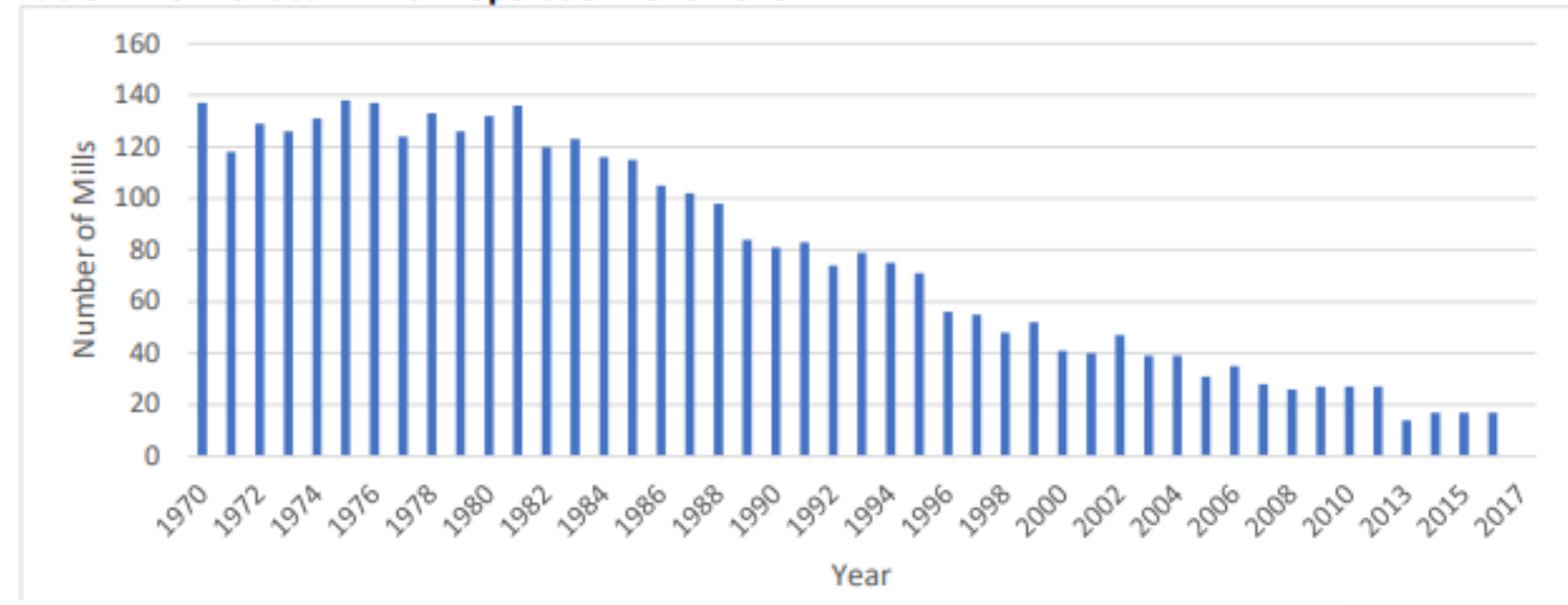
"Is it better to invest during a bull market or bear market?
Depends...would you rather be gored or mauled?"

How is Vermont's Forest Products Industry Doing?

Table 1. Markets for forest-derived commodities in the Northeast³

| | Sawmills ⁴ | Paper and Clean Chip Mills | Pellet Mills | Biomass Electricity Plants |
|---------------|-----------------------|----------------------------|--------------|----------------------------|
| Connecticut | 8 | 1 | 0 | 1 |
| Massachusetts | 15 | 5 | 0 | 1 |
| Vermont | 17 | 0 | 1 | 2 |
| Maine | 42 | 6 | 5 | 6 |
| New Hampshire | 49 | 6 | 3 | 8 |
| New York | 77 | 2 | 8 | 3 |
| Pennsylvania | 82 | 7 | 11 | 2 |
| Quebec | 131 | 6 | 8 | 7 |

Table 2. Vermont sawmills in operation 1970-2016



³ Compiled from the most recent data available from each region.

⁴ Sawmills using over 1 million board feet annually. Note that *individual* mill sites in Quebec process up to 150% of the cumulative production of *all* of Vermont's sawmills.



Positive Changes to Act 250

Permit Conditions

Hours of operation

Transportation issues

Noise,

Residual storage such as sawdust and bark.

- Create new guidance document that builds flexibility for forest operation projects.

Prime Ag Soils and Fragmentation Mitigation

A wood processing facility that would use 10,000 cords of wood annually (or equivalent) provides a service to 2,700 acres each year.

The existence of this facility can conserve far more land than the mitigation requirement in current Act 250 law.

- Adjust or eliminate the need for mitigation requirements.



Forest Landowner Needs

- Stability
- Predictability
- Ability to make Choices

One Example:

Landowner Friendly Use Value Appraisal Program

Use Value Appraisal has been a political football with much uncertainty, increasing costs and adding more regulations. The recent drastic increase in the Land Use Change Tax is one example. This was particularly directed at reducing forest fragmentation. How is that working out?





Thank you

**Ed Larson, Lobbyist
Vermont Forest Products Association
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Montpelier, VT 05602
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