

**Testimony to the House Natural Resources Committee re: S.234
Wednesday April 6th 2022**

For the record: Charlie Hancock, consulting forester working across the norther tier of the state; vice chair/private sector lead on the Working Lands Enterprise Board, and president [Cold Hollow to Canada](#) (a regional conservation partnership which has worked for the past decade around issues of forest stewardship and conservation in the 7-town region along the northern spine of the Green Mountains in Vermont)

Thank you for the broader conversation you're having this session around our forests and the importance of our forest products industry (with special thanks to the legislators who were part of the Rural Economic Development Working group who made a tour of the state this summer meeting with folks in this sector). Thank you to the committee and Chair Sheldon for the specific invitation to speak to you today regarding S.234, specifically around the provisions which

- Amend Act 250 to Criteria around Forest Fragmentation and Habitat Connectivity
- And the provisions which Amend the Act to adjust Permit Conditions for wood product manufacturers; hours of operation and hours of delivery

Included with the Testimony is a letter of support for these provisions in S.234, signed by a number of other licensed foresters working across the state

I think S.234 demonstrates the importance of Act 250 as a tool in land use planning to ensure that we keep our forests as forests, and presents an opportunity in this process to strengthen our working lands economy, which also has a conservation effect in and of itself. We need to emphasize the importance of the balance here—it's not conservation vs. support of the industry, we can and must do both as these two ends of the conversation cannot be separated, and re-enforce each other.

Context: 75% Vermont forested; With approximately 80% of Vermont's land privately-owned, so management and stewardship of private lands will be an essential path to success in maintain priority interior forest blocks and connectivity areas, and the foundation for our working lands economy and the communities of Vermonters which depend on it.

We know forest fragmentation is occurring across our landscape. We've seen the reports going back almost a decade, including the 2015 report for FPR and subsequent work by VNRC.

One example of the impact this has had is a 200 acre parcel in my own community of Montgomery, which started with a 9 lot subdivision, that over time increased to a 16 lot subdivision within both a Highest Priority Forest Block and Highest Priority Connectivity Area adjacent to Rt. 242. Now we have a massive road system accessing, 16 twelve acre lots which has managed to leapfrog any review under Act 250.

The Fragmentation criteria in S.234 are a significant step in addressing this sort of development and it's impacts. Importantly, this bill:

- Retains exemption for farming and forestry below 2,500 ft. in elevation
- Bill outlines a robust, thoughtful, rule making process with greater attention to definitions and next steps around how this would work programmatically

- The bill proposes resource mapping *not* as a jurisdictional trigger (this was a concern in the past); but rather looks to resource mapping as a means to inform review, and assist landowners in planning.

Having *road construction as the jurisdictional trigger* rather than location-based jurisdiction is also an important consideration here. **This leaves opportunities for property owners to design development/roads to avoid triggering jurisdiction.** That's an important point. This still allows for the small scale development we typically see, often cited as example of selling a lot to pay for collage, or transferring a lot to a child or family member. Again, this bill exempts roads for farming and forestry purposes, with provisions excluding maintenance activities, as well as exemptions in designated growth areas.

Interesting parallel here: Montgomery and Enosburg both worked on and passed zoning amendments in 2017 looking to address forest fragmentation. Enosburg adopted their own parallel road rule (mirroring the 800 ft. language). In the five intervening years no permit application has triggered this provision. While Montgomery did not adopt the explicit road rule (adopted other measures) a review of applications in that same time frame shows a similar story. This is not evidence that develop isn't occurring (because it is, with seven permit applications for new house construction already pending in Montgomery for this spring), but rather that development occurring in this rural landscape can be accomplished under these conditions.

On the Forest Products PERMITTING end of things

Provisions such as what's presented in S.234 around Hours of Operation are important solutions for forest based working lands businesses which achieve the goals articulated in the Act, while recognizing the unique aspects and challenges of working lands enterprises businesses, which must be considered in a different context than the other forces of commercial or industrial development that impact our rural communities.

Our Forest Products enterprises are critical to the economy of our rural communities, and to maintaining the character that defines Vermont's iconic landscape. Yet these industries are facing increasing challenges in operational conditions, driven principally by the impacts of **climate change, as well as pretty dramatic shifts in commodity markets precipitated by forces well beyond our control.** In the face of these challenges, many engaging in the activity of diversifying production or adding value to products which are traditionally minimally processed can ensure that they remain viable and productive. These changes will be critical if we, as a state, are to succeed in the task of strengthening our forest-based enterprises, diversifying and building resilience, and ensuring that they continue to be a cornerstone of our state's economy and way of life.

When we look at provisions such as what are proposed in this bill, we're not looking for a pass on regulation but rather an acknowledgement of these facts. Again, we're not a Walmart—and our Land Use Laws need to take that into account if we want Working Lands Enterprises to remain viable and to thrive in the future.

The hours of operation criteria in the bill are important:

The harvesting of timber and the transportation wood products to market is a critical component of Vermont's working landscape. Timber harvesting, and the transport of materials, must be conducted in most instances when the ground is frozen or dry, conditions which are becoming increasingly variable and challenging to predict in the *face of climate change, with sporadic, often rapid, shifts in temperature and precipitation*. The unpredictability of weather often necessitates operating in short windows of time, at all hours and days of the week, requiring flexibility for trucks to deliver raw materials after traditional businesses hours. This can be in conflict with a business' Act 250 permits hours of operation. We in the industry have significant concerns regarding operational limits and impacts placed on existing permittees, as well as how it might affect potential permit amendments, or the expansion of an enterprise. This concern negatively impacts the confidence needed to make investments in new facilities in Vermont, causing some businesses to forgo growth opportunities.

So, I fully support the changes proposed in this bill, however I'd urge the Committee to go further:

I'd ask the Committee to consider the provisions around the **conversion of primary agricultural soils** by a forest-based enterprise, and how the mitigation fee is computed. Recently permitted forest products processors have reported incurred costs from \$100,000 to \$200,000. Already struggling, these operations do not have the capacity to cover the costs of this magnitude, and they serve as a deterrent to new investment. By their nature, these businesses are often sited in rural areas where no other land base is available. We feel that the positive impact of these businesses on our working lands through the purchase of raw materials, supporting the countless acres of working forests, and the Vermonters that work in them, far offsets the potential impact to prime agricultural soils. *These enterprises, by their nature, have a conservation effect by maintaining the economic viability of our sustainably managed woodlands.*

Options to address this include past proposal advanced by FPR to create a conservation credit system whereby some percentage of the effectively conserved land should be credited back to the operation, serving as an alternative form of mitigation. Given the direct supporting relationship that these businesses have to our working lands, they effectively conserve more land than any mitigation fund could reasonably be credited with doing. Another option would be entitling these enterprises to a ratio of 1:1 protected acres to acres of affected primary agricultural soil, rather than a higher ratio which can make an enterprise's establishment or expansion unaffordable and unviable. An (even simpler) option, and one that has broad support, is simply making Forest-based Enterprises exempt from the prime agricultural soils mitigation fee. I would strongly support this last option.

I'd also ask the Committee to consider adding **permit exemptions for small forest-based businesses**. Between 1990 and 2020 sawmill production in Vermont dropped from around 191,000,000 bf to around 89,000,000 bf., over a 50% reduction. We're still using wood (and I'd argue we're using more of it), but it's not coming from here. These should be considered critical infrastructure to the state, with impacts positive impacts on climate, employment, and rural economic development. I would offer that no permit or permit amendment should be required for either:

- a sawmill that produces three and one-half million board feet or less annually; or
- an operation that involves the primary processing of forest products of commercial value and that annually produces 3,500 cords or less of firewood or cordwood; or 10,000 tons or less of bole wood, whole tree chips, or wood pellets.

The problems facing the industry may seem marginal, and examples of such being one-problems, especially when looking at rate of approval for applications, but would urge Committee to understand that

for an industry on the brink a *marginal* issue can be a breaking point, and when looking at the stats of permit approval we can't account for those applications never filed for fear of costs, etc.

In closing, I would like to acknowledge the importance of the signal that's being sent with the positive work around the forest economy in the legislature this year. From the Future Forest Program advanced through H.566 (or whatever vehicle it's currently attached to) to the amendments to Act 250 addressed here, the legislature is elevating the importance of the forest products industry in the eyes of Vermonters. While most (all?) Vermonters appreciate the importance of the Agricultural sector, too many still look at the forest sector with apprehension or confusion. They don't really get us. We need to celebrate that our side of the working lands economy is foundational to our state's rural economy, our iconic character, and our resilient future in the face of climate change and economic disruption. This work is an important step in that direction.

Thank you for your consideration.