

April 7, 2022

Testimony of William Burke before the House Committee On Natural Resources, Fish and Wildlife Re: S.226 and S.234

Thank you very much for the opportunity to testify again before the committee. I've testified in the past on the need to address problems with the governance of Act 250.

Your achievement in receiving House approval of H.492 cannot go without a note of gratitude on my part. I would like to thank both the members of the committee and Ellen Czajkowski & Lizzy Carroll for the tremendous effort and achievement of what I think is a very very sound proposed improvement to the governance of Act 250. If I were a member of the Vermont legislature I would urge Senate approval of your bill and then an override of any gubernatorial veto. Legislators can kick the can only so far down the road before reasonable people have to stop and say it's time to take action. You've done a remarkable job and whether or not the citizenry understands what you have accomplished, I do and I appreciate it very very much. Thank you.

Background: In July 2020 retired after 27 years as an Act 250 District Coordinator. That was preceded by 13 years on active duty with the US Coast Guard boarding Russian, Japanese and Korean fishing vessels in the Bering Sea and working on oil spill remediation including the Exxon Valdez spill in 1989 among other duty stations.

Testimony:

My testimony today will be brief. As cited below, I incorporate by reference Thomas Weiss and Edward Stanak's written testimonies to you on March 31, 2022.

To that testimony I would add the following brief comments:

S.226:

I incorporate by reference, Thomas Weiss's testimony on S.226 dated March 31, 2022.

<https://legislature.vermont.gov/Documents/2022/WorkGroups/House%20Natural/Bills%20in%20Other%20Committees/S.226/W~Thomas%20Weiss~S.226%20-%20Written%20Testimony~3-31-2022.pdf>

This bill has to do with addressing affordable housing issues in our state. In the interest of full disclosure, in my retirement I volunteered and currently sit on the Board of the Housing Trust of Rutland County. In that capacity, we are working hard to work with you on addressing affordable housing needs in our state. My comments today are made as a private citizen.

With regard to sections 19 and 20 of the current version of the bill, those sections have to do with eliminating state review of water supply and wastewater permits and leaving that review in the hands of the municipalities.

This is a bad idea and those sections should be eliminated.

Review of water supply and wastewater engineering requirements should be conducted by the regional engineers in ANR because we already know that local municipalities have been overwhelmed with discharges of untreated sewage from the combined sewer out flows (CSO's) in many towns. Rutland, where I've lived for 30 years, is certainly Exhibit A and for decades has discharged untreated sewage into Otter Creek where it flows north to Lake Champlain during large storm events.

While the Rutland wastewater treatment facility can't currently handle large storm events, it was reported by Gordon Dritschillo in the Rutland Herald on April 2nd that the 11 mile long private sewer pipeline referred to as the "Alpine pipeline" is seeking municipal approval for 120 new units of sewerage flow to add to the existing burden on Rutland's wastewater treatment facility.

A quote from that article:

"The mountain may not be staying open all year long, but the Alpine Pipeline is getting ready to have more people up there on a regular basis. The company, which operates the connection between Killington's and Rutland's wastewater treatment facility, got preliminary approval this week from the Public Works Committee to buy 120 equivalent residential units of capacity from the city for \$300,000."

We should maintain ANR and Act 250 reviews of major additions of sewerage flow to our existing wastewater treatment facilities statewide.

In summary I urge you to reject sections 19 and 20 of S.226.

*****/

S.234:

I incorporate by reference Thomas Weiss and Edward Stanak's written testimonies dated March 31, 2022.

Weiss:

<https://legislature.vermont.gov/Documents/2022/WorkGroups/House%20Natural/Bills/S.234/Witness%20Documents/S.234~Thomas%20Weiss~Written%20Testimony~3-31-2022.pdf>

For 27 years I observed the care with which then Rutland ANR Regional Engineer David Swift reviewed additional inputs to the Rutland wastewater treatment facility. Mr. Weiss has testified that this second review can catch errors. I observed Mr. Swift catching and correcting many engineering errors or omissions by commercial and private developers as well. With regard to the example of the Alpine Pipeline above, the city stands to gain \$300,000. On that basis city Public Works committee has recommended approval. Municipalities have a hard time turning down those monetary inputs. It's the sewage outputs that we need to be mindful of.

Mr. Weiss also pointed out the fundamental conflicts that will be born of creating small lots and having potential encroachment of one neighbor's isolation zone onto another neighbor's property by 50 to 100 feet.

Stanak:

<https://legislature.vermont.gov/Documents/2022/WorkGroups/House%20Natural/Bills/S.234/Witness%20Documents/S.234~Ed%20Stanak~Written%20Testimony~3-31-2022.pdf>

With regard to forest fragmentation, sections 7 and 8 of this bill require a clear statutory assertion of Act 250 jurisdiction and that should be over the subdivision of land above 1500 feet as your witness Ed Stanak has previously testified. It is well documented over the years that Act 250 jurisdiction over subdivision of land is not currently triggered in about 95% of the subdivisions made in the state.

<https://www.vpr.org/vpr-news/2018-11-26/act-250s-next-50-years-commission-looks-at-future-of-vt-development-review-law>

Conclusion:

Dated as it may be with regard to gender, I believe that Upton Sinclair was onto something when he stated in 1934 that:

“It is difficult to get a man to understand something when his salary depends upon his not understanding it.”

Environmental protection can be perceived as too complex a task to take on. But environmental protection is worth the effort going forward. Thank you again for all of your hard work. It's worth it.