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Senate Committee on Finance
State House
Montpelier, Vermont

Subject: H.709, Miscellaneous agricultural subjects

Dear Committee:

Thank you for holding a hearing on the financial provisions of H.709.

We need to preserve our farms and the land on which they depend. You have likely heard of the pressures to our rural resources due to: climate and COVID immigration; economic development initiatives to bring more people into the state; transportation problems that inhibit bringing food into Vermont. Thus it is necessary to retain in Act 250 its present capabilities to require agricultural mitigation and conservation of farmland. Thus, I request that you remove section 12 from H.709.

Act 250 requires mitigation when primary agricultural soils are converted. That mitigation can include conservation of primary agricultural soils elsewhere. Section 12 of this bill will prevent that from happening when the primary agricultural soils being converted are located at the Franklin County State Airport in Highgate. The ultimate goal of the supporters of section 12, stated in testimony, is to apply this exemption to all State-owned airports. Section 12 has been scaled back from other bills this session until it now would apply only to this one airport.

Section 12 will deprive the Vermont Housing and Conservation Board of several hundred thousand dollars over the next few years and even more beyond that. If section 12 is removed from this bill, then the money will allow Vermont, through the VHCB, to conserve more of our precious and limited farmland.

The airport has an area of 346.60 acres, according to the parcel layer in the Agency of Natural Resources' Natural Resources Atlas. The airport is the parcel indicated using the light blue shading on Exhibit 1. This exhibit also shows the primary agricultural soils. Almost all of the parcel contains primary agricultural soils. Perhaps 110 unbuilt-upon acres could be developed.

The Agency of Transportation prepared a business plan for the airport in 2009. That report still shows on the AOT site as being current. The development plan proposes acquiring an additional set of parcels totaling 140 acres. These parcels are outlined in black on Exhibit 1. Perhaps 110 acres of these parcels could be developed without interfering with flight clearances.

When primary agricultural soils are converted, Act 250 (§6093 (a)(2)(B)) requires that mitigation or conservation be done at a ratio of 2:1 to 3:1, depending on the quality of the agricultural soil being converted. Exhibit 1 shows that almost all the soils on the airport and the proposed additional parcel would need a mitigation ratio of 2:1.

Perhaps 220 acres of primary agricultural soils could be converted at the airport, including the proposed additional parcel. At a ratio of 2:1, that means that 440 acres of similar (or higher) quality primary agricultural soils would need to be mitigated, most likely by conservation through the VHCB.

A fee is established annually by the Agency of Agriculture, Food, and Markets. Exhibit 2 provides the fees to be used in 2022. Fees are based on the Act 250 district where the project is located. Highgate is in district 6. The cost per acre in that district is \$3,013.

Testimony before other committees on this topic (Senate Natural Resources and Energy, House Agriculture and Forestry, House Natural Resources, Fish, and Wildlife, and Senate Agriculture) has been that there is significant interest from developers to convert 50 acres soon. That would require mitigation of 100 acres. If all is off-site, then the fee would be about \$300,000.

Section 12 would apply long into the future. Testimony has been that there is interest in more projects. Those projects would convert even more primary agricultural soils. By leaving section 12 in H.709, we would be losing the opportunity to obtain the funds needed to conserve 400 or more acres of primary agricultural soils.

Testimony has also been that the mitigation at the airport means the State is paying the State. That is an incorrect characterization of the transaction. The transaction is really from the developer of the project at the airport through the VHCB to the farmers whose lands are being conserved. As landowner, perhaps AOT puts up any mitigation fees when the Act 250 permit is granted. I hope that the lease of the land under the development requires the owner of the building (hangar, warehouse) to pay back the cost that AOT might have initially paid.

And please remember, the State owns 10 airports. And the initial goal of the supporters of Section 12 was to have the exemption from mitigation apply to all 10 airports. By retaining section 12 (and later expanding the exemption to all ten airports), we are losing the opportunity to obtain the funds needed to conserve several thousand acres of primary agricultural soils.

Please recommend that section 12 be removed from H.709.

Sincerely,
Thomas Weiss

Exhibit 2

To: District Coordinators, Natural Resources Board
 From: Agency of Agriculture, Food & Markets
 RE: Act 250 Criterion 9(B), 2022 Off-Site Mitigation Fees¹
 Date: February 1, 2022

The below price-per-acre off-site mitigation fees are in effect from the date of this memorandum through December 31, 2022:

<i>District</i>	<i>Cost per Acre</i>
1	\$3,459
2	\$4,145
3	\$3,120
4	\$4,783
5	\$3,814
6	\$3,013
7	\$3,017
8	\$1,577
9	\$2,349

These fees are subject to change on January 1, 2023

¹ See 10 V.S.A. § 6093(a)(1)(C) [price-per-acre value in Criterion 9(B) off-site mitigation is based on "recent, per-acre cost to acquire conservation easements for primary agricultural soils in the same geographic region as the proposed development or subdivision"].