

Testimony on Act 59 Draft Inventory Report
House Committee on Environment and Energy
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I attended your July 15 session via livestream video, and I appreciate the Committee taking a look at how this important law that you enacted last year is being implemented. I testified when H.126 was being considered in the Senate and have participated actively on multiple occasions throughout the public input process conducted by VHCB and Nature for Justice. I want to offer some comments as a forest landowner with a background in natural resource management and land conservation. I make these individually and not representing any organization.

First, let me say that the testimony delivered orally and in writing by Eric Sorenson, Liz Thompson, and James Dumont stated far better than I can the inappropriateness of inclusion in the Draft Inventory of all agricultural land under easement in the “conserved” land category. Counting cropland, cornfields, and pastures (those not “grasslands” of biodiversity value) is clearly contrary to statute and must be rectified in the Final Report.

Not discussed on Monday was whether all land in the “Natural Resource Management Area” which the Draft counts as “conserved” meets the statutory requirement to be in “long term sustainable land management”. This presents a similar definitional problem to the agland issue noted above, and the question of what is “ecologically sustainable” needs much fuller attention in the Inventory and moving forward into the Phase II Plan.

As Chair Sheldon pointed out, the absence of maps, or even lists, of the land counted as now-conserved makes it impossible to assess the current status of progress towards Act 59’s 30x30 goals. These details are needed.

Another flaw buried in the Draft relates to the role of State lands in achieving Act 59 goals. On pg. 36, the Inventory calls for ANR to “Create new land management sub-classes, called ‘Ecological Representation Areas’ and ‘Reserve Development Areas’”. It’s unclear why the term “Ecological Reserves” cannot be used, but the problem with this recommendation is that it rests on the premise that the “suite of tools” to designate Ecological Reserve Areas will be expanded “primarily and initially through existing State lands planning processes”. As Committee members are certainly aware, ANR’s existing “Land Classification System” is an

internal process which was developed with no public input and which is a core issue in litigation that seeks rulemaking by ANR to establish a formal and publicly accountable process for managing Vermont's public land. The Committee should require the Draft to be revised so it calls for an agency planning process that is statutorily based rather than one that relies on ad hoc and legally questionable procedures that "currently exist".

Vermont Conservation Design: VCD is a science-based, highly regarded approach to conservation. It is cited throughout Act 59 as the framework for achieving the Act's 30x2030 and 50x2050 goals. The Act codifies use of VCD to provide "the conservation targets" for the "approximate percentages of each type of conservation category". It is important for the Committee to send a clear message to VHCB and ANR that where VCD proposes percentage or acreage targets for representation of ecological conditions by bioregion in order to achieve an "ecologically functioning landscape", these targets are not intended to limit the maximum amount of land in one of the Act's three conservation categories, but to ensure that at least a minimum amount of land of certain characteristics is conserved.

A missing objective: It is notable and gratifying that this major Legislative enactment is premised on ecological values and based on science. At the same time, it is unfortunate that the importance of wildlands per se is not addressed in the Act. The rejuvenation and inspiration that wilderness - "areas of the earth and community of life untrammelled by man" - provide to the human spirit should be expressly recognized as an objective of Act 59. Conserving wildland and its natural processes is essential in achieving community resilience, biodiversity protection, and ecosystem services. I hope the Committee will be attentive to this in its ongoing jurisdiction.

Agency responsibility: Act 59 assigned lead responsibility for developing the Conservation Inventory and Plan to VHCB, but one witness called for ANR, with its natural resource management authority and expertise, to take a greater role going forward. The Committee should make this happen.

Need for action: You also had a request from VHCB for funding in 2025 for its work on VCSI and for a delay in the submission date for the Conservation Plan from December 31, 2025 until June 30, 2026. By chance, I recently came across a 2002 publication *Vermont's Natural Heritage: Conserving Biological Diversity in the Green Mountain State* (citation to Elizabeth Thompson, forward by Charles Johnson, numerous

partner organizations including Vermont ANR). This document speaks of “core reserves and natural areas”, “stewardship lands” and “connecting lands” - the central concepts of Act 59 which are still being inventoried and planned for 22 years later. Yes, this Act 59-mandated exercise, with public participation, takes time, but I would argue that no extension is appropriate or needed. We have to stop kicking the can and begin doing in earnest what we’ve known for two decades must be done and how to do.

Need for caution: Act 59 calls for more planning but makes no provision for do-no-harm administration of State lands in the interim before the Plan is submitted to the General Assembly by Dec. 31, 2025 - and then debated, possibly legislatively enabled by statute, perhaps requiring promulgation of regulations, and of course funded, all taking time. Meanwhile FPR Annual Stewardship Plans (ASP’s) continue to be adopted and implemented, with areas that may well qualify for one of the three conservation categories (Ecological Reserves of greatest concern) facing the danger of being irretrievably impaired before they can be assessed and designated. I urge the Committee to address this vulnerability by requiring in 2025 program or budget bills that ANR minimize risk of loss by identifying and protecting potential ecological reserves before any management occurs.

Baseline cost estimate: The draft Inventory contains a summary of available conservation practices, but no information on the annual cost of existing efforts for land conservation in Vermont (e.g., annual staff costs for the state, federal, academic, and NGO organizations that work acquiring, stewarding, and managing conservation lands and initiatives). Producing even a rudimentary estimate early in Phase II will be important in providing a baseline of the current conservation budget against which the cost of the expanded conservation activities to achieve Act 59 goals can be measured.

Jonathan Gibson
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