



H. 687 TESTIMONY

Vermont Ski Areas Association

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The Vermont Ski Areas Association is a non-profit trade association representing 21 alpine and 27 cross-country ski areas across Vermont. Ski areas are major economic drivers and employers in the rural communities where most are located, and skiing is also an important part of the state's outdoor recreation tourism, heritage, and culture. Ski areas have successfully conserved and protected lands through master planning and careful management to benefit our state, its natural resources, and the environment over many decades.

Ski areas are part of Vermont's working landscape; they are stewards of the land, and their managers take this responsibility seriously, spending millions of dollars in planning and permitting to accomplish this to support the state's recreation economy.

Outdoor recreation, celebrated just last Friday at Outdoor Recreation Day, brings many benefits to Vermonters and to our state, such as quality of life, physical and mental wellbeing and is an important driver to help support vibrant rural economies. It is a gateway for Vermonters and visitors to understand the importance of our environment and why it needs to be protected. Skiers come to the mountains for recreational opportunities but also to experience the mountain environment. Ski areas strive to manage that environment properly and well, so people will continue to visit and the capacity to support and promote outdoor recreation will be enhanced. We understand that our outdoor recreation economy depends on a healthy and thriving environment.

Act 250 governs the use, development, management, and protection of lands where ski areas operate, and often other state and federal land use policies govern their management as well. As a result of Act 250 and ANR permit conditions that guide how ski areas are operated, ski areas have successfully managed lands in harmony with the goals of ANR and in support of the land, plant, and wildlife resources we seek to protect.

Master planning is a lengthy and expensive process for ski areas, but it is a proactive way for them to increase their certainty, by creating a framework to ensure that they, the local community, the region, and the state all have a vision of and agree on the goals and preferred outcomes. Efficiency and predictability of the permitting process are very important because time is money. Ski areas must line up the capital resources and complete the permitting process in a similar timeframe to then schedule project work in what often are very short construction windows due to weather and permit conditions.

FOREST BLOCKS AND CONNECTING HABITAT:

This testimony is consistent with earlier testimony we have offered when these criteria have been considered in the past.

While we see significant potential issues for ski areas with the addition of forest block and connecting habitat review criterion under Act 250, a successful outcome would ensure the appropriate long-term protection of forest resources in Vermont, while recognizing the importance of investments made by ski areas.

H. 687 would amend Act 250 to prohibit development in “forest blocks” or “connecting habitat areas” unless “fragmentation” of such areas is avoided or sufficiently mitigated.

Forest blocks and connecting habitat comprise over 72% of the land area in Vermont and ANR mapping (as of August 2023) shows that most lands at ski areas are within “Highest Priority Forest Blocks” and “Highest Priority Connectivity Blocks.” As a result, these new criteria would create tremendous uncertainty for ski areas and could result in application of these criteria in areas that are already developed and within ski areas’ existing boundaries, as well as a prohibition on new or upgraded ski trails, lifts, or other facilities at existing ski areas, which is not our understanding of the intent.

The proposed definitions of “Connecting Habitat”, “Forest Block” and “Fragmentation” are overly broad, and some elements of significance and size threshold should be applied to forest blocks and habitat. Existing ski area infrastructure including trails, lifts, work roads and existing golf courses should be included under “allowed uses” and a buffer of at least one quarter mile surrounding existing ski area boundaries should be created, within which these new criteria would not be applied. I will also note that the mitigation compensation multiplier of 3:1 will have an outsized impact on the ski industry and could drive project costs to be prohibitively expensive. We need be protective of the environment, but not hinder a thriving outdoor industry.

We understand that the NRB and ANR rulemaking process is designed to create greater specificity around these definitions. Prior to that process, we believe two things are critical:

- 1) To have updated mapping to provide more accurate depictions of forest cover and land features,
- 2) To convene a robust and meaningful process to bring together a broad range of stakeholders to determine how to further identify and define the location, size, and significance of forest blocks, connecting habitat and particularly the highest priority, or Tier 3, areas, and to develop a draft rule.

The current bill specifies just over a year to the final rule proposal, which we believe does not offer adequate time to do this work. Finally, the effective date for the proposed new Act 250 criteria should be triggered by the adoption of the of the final rules.

We believe that this process is necessary to result in a successful outcome, ensuring the appropriate long-term protection of forest resources in Vermont, while recognizing the importance of and investments by ski areas in the state.

This concludes my remarks on forest blocks and connecting habitat, but if I may, I'd like to offer several brief comments on Governance and Efficiency of the Act 250 process.

As I said at the outset, an efficient, consistent, and predictable permitting process is very important for ski areas and other applicants.

We agree with the NRB report that a professional board could provide more oversight and guidance to improve accountability, consistency, and predictability of the overall process. The Board should have rulemaking authority to establish policy to guide district commissions to consistently apply Act 250 across the state.

The Board, or Executive Director, should also have the authority to develop and implement clear standards and timelines for staff, and the Board or the Executive Director should also have the authority to oversee and ensure staff are conforming to these standards and timelines. The current board and executive director do not seem to have this authority, which creates a significant gap in oversight and creates a lack of efficiency, timeliness, and fairness in the process.

We support appeals of Act 250 decisions remaining with the Environmental Court. The new board would have to remain neutral to be able to hear appeals, which would be difficult if they are also managing the Act 250 process, supporting, and advising the District Commissions and establishing policy. Environmental Court judges bring neutrality and the necessary ability to apply the law to the appeals process. We recognize that the appeals process has been slow, and this can be solved by giving the court more resources.

The NRB report also recommended streamlining permitting processes at the state level by having certain ANR permits dispositively fulfill all or portions of certain Act 250 criteria rather than current rebuttable presumption that they have now. This would allow for public participation in the process without subjecting applicants to multiple rounds of public participation on the same issues which can negatively affect the efficiency of the overall process.

This concludes my remarks. Thank you.