



TO: Members of the VT House Committee on Environment and Energy
FROM: Zack Porter, Executive Director, Standing Trees (zporter@standingtrees.org)
DATE: 2/22/24
SUBJECT: Testimony re: the [Worcester Range LRMP](#) and Issues Pertaining to State Land Management

TOP-LINE ISSUES:

1. The WRMU encompasses some of the healthiest forests in Vermont, and contains the largest functional (but as yet unprotected) Ecological Reserve under state ownership.
2. Since 2015, VT ANR has been legally-obligated to complete rulemaking for state land management, but thus far has failed to promulgate rules.
3. Despite its legal obligations, VT ANR has failed to analyze carbon emissions, flood risk, and water quality impacts from proposed logging activities in the draft WRMU LRMP.
4. Act 59 will influence and guide future management decisions on state lands, but VT ANR is refusing to complete the 30x30/50x50 planning process prior to finalizing the WRMU LRMP.
5. VT FPR misinterprets its statutory duties re: multiple use management and timber harvest. There is no legal mandate to harvest timber on state lands. FPR has an obligation to prioritize flood risk reduction, clean water, endangered species protection, and other public goods and services over the production of wood products.

ASK:

Please introduce the following legislation, or add this language to an existing bill:

The Agency of Natural Resources and its Departments of Forests, Parks, and Recreation and Fish and Wildlife shall not approve any Management Unit Long Range Management Plans or approve of any timber felling, cutting, removal, or sale on state lands, except for emergency or public safety purposes, until the Departments have promulgated rules governing unit management planning and timber harvesting; these rules shall address, at a minimum: consistency with all relevant and applicable state and federal statutes and regulations, as well as the public trust obligations set forth in the Vermont Constitution, attainment of the emissions reductions required by the GWSA, reduction of pollutants into impaired waters, including phosphorus into Lake Champlain, reduction of flooding impacts through implementation of Hydrologic Reserve and Conservation Zones and other recommendations described in the 2015 report commissioned by Forests, Parks and Recreation, "Enhancing Resiliency of Vermont State Lands," protection and restoration of threatened and endangered species, consultation with Vermont's indigenous communities and protection of indigenous cultural resources, evaluation of management alternatives, assessment of the quantity, quality, and value of ecosystem services provided by the lands

and waters within a management unit, standards for analysis of and public review and comment on project-level decisions considered in long range management plans, including timber felling, cutting, removal, or sale, identification of areas to be managed as Ecological Reserves as defined in Act 59, public disclosure of all significant factors that will be considered during a comment period, and creation of a record of decision that must set forth substantial evidence in support of each decision.

BACKGROUND:

The WRMU encompasses 18,772-acres stretching from Middlesex to Elmore, and is comprised of the CC Putnam State Forest, Elmore State Park, and several smaller parcels.

Unlike most other state lands, the VT Agency of Natural Resources (VT ANR) has never previously issued a comprehensive management plan for the Worcester Range Management Unit. The vast majority of the WRMU has escaped timber harvest for 90-120 years, and – in the absence of a valid management plan – the area currently functions as the largest functional, but as yet unprotected, Act 59 Ecological Reserve under state management.

Vermont Fish and Wildlife [describes the Worcester Range](#) as one of the most important areas under state management: “This is the linchpin, right here. The Worcester Range is the only place that’s left in central Vermont that is large in scale and almost completely unfragmented,” and is remarkably “unique...because it remains almost completely wild and undeveloped.”

The Worcester Range harbors headwaters for the Winooski and Lamoille Rivers, both of which flooded catastrophically in July 2023, coming within inches of overflowing the spillway at Wrightsville Reservoir above Montpelier. [Researchers at Dartmouth have found](#) that “the amount of extreme precipitation—rain or snow that results in one to two inches of water in a day—over the past 25 years has been almost 50% greater than from 1901 to 1995.” [In a study published in May of 2023](#), Dartmouth researchers estimate that “extreme precipitation events—defined as at least 1.5 inches of heavy rainfall or melted snowfall in a day—are projected to increase in the Northeast by 52% by the end of the century.”

The WRMU is home to numerous rare, threatened, and endangered species, including the Northern Long-eared Bat, Bicknell’s Thrush, and possibly the Pine Marten, and is also known to contain among the healthiest brook trout fisheries in Vermont. The WRMU LRMP notes that, “Given the expansiveness of the major forest types comprising the [management unit], the property supports the range of bird and mammal species that depend and even thrive on the interior forest that can’t easily be found elsewhere in the state” (p30).

In a survey conducted in 2020 by VT ANR, during scoping for the proposed management plan, 85% of respondents indicated that their highest value and priority for the Worcester Range was "resource protection."

Nevertheless, in December 2023, VT ANR issued a draft Long Range Management Plan that designates nearly half of the WRMU, or 8,641-acres, “available, accessible, and appropriate

for commercial vegetation management activities,” including more than half of Elmore State Park. Logging would occur on 1,935-acres over the next twenty years, primarily in low-to-mid-elevation stands in the towns of Worcester and Middlesex. A portion of the land proposed for logging was recently acquired by the state in the “Hunger Mountain Headwaters Project,” partially paid for through the VT Department of Environmental Conservation’s [Water Infrastructure Sponsorship Program](#) (WISPr), which is solely administered “for the purpose of providing water quality benefits.”

According to US Department of Agriculture data, Vermont harvests 47% more wood than it consumes within its borders on an annual basis. Meanwhile, the data show that state lands provide just 2% of Vermont’s total wood supply.

Put simply: Vermont doesn’t have a timber supply problem. It has a flooding problem in our towns and cities. It has an endangered species problem. It has a water quality problem.

State lands, including those in the Worcester Range, comprise just 5.6% of Vermont, but play an outsized role in maintaining the quality of our environment, our quality of life, and the safety of our communities, especially in the face of climate change. In 2023, the state land timber program [brought in \\$350,000 to state coffers](#). How does that compare to the cost of administering the program, or to the loss of ecosystem services caused by logging? How much money are Vermont taxpayers losing, each year, to needlessly cut down state forests? Could those funds be better spent?

Our current approach to state land management asks: “how can we keep extracting resources for private benefit while minimizing harms to the environment?” But this approach is merely treading water. The climate and extinction crises demand that we change this paradigm. Instead we should be asking: “how can we do a better job of supporting nature, so that nature can do even more for us?”

The status quo isn’t working for Vermont, and yet the Worcester Range management plan is even worse than the status quo: it proposes extensive forest degradation in a landscape that is, today, functioning at a higher level than most others across Vermont.

DETAILED LEGAL CONCERNS:

No matter your personal opinions or positions regarding the best uses of state lands, I hope that – as lawmakers – you will prioritize the importance of ensuring that state agencies follow the letter of the law and serve the public interest.

1. VT ANR falsely claims to have a logging mandate.

In a [Seven Days story](#) from 1/24/24, FPR Commissioner Danielle Fitzko remarked that “it’s legislatively mandated...that we produce forest products” on state-owned lands. This is false. 10 V.S.A. § 2603(b) states that “The Commissioner *may* sell forest products and other resources on public lands” [emphasis added]. There is nothing that requires logging on any public lands managed by FPR, much less a specific requirement to log in the Worcester Range Management Unit.

2. **VT ANR has failed to issue rules for state land management.**

10 V.S.A. § 2603(c)(1) says: “The Commissioner, subject to the direction and approval of the Secretary, shall adopt and publish rules in the name of the Agency for the use of State forests, or park lands, including reasonable fees or charges for the use of the lands, roads, camping sites, buildings, and other facilities and for the harvesting of timber or removal of minerals or other resources from such lands...”

To date, the state has adopted three rules pertaining to forest management: a Heavy Cut Rule, the Acceptable Management Practices for maintaining minimum water quality, and rules pertaining to fees for uses of state lands. No rules balance the “use[s] of State Forests, or park lands,” or “the harvesting of timber or removal of minerals or other resources from such lands.” Instead, the state relies in part upon policy documents, none of which have ever undergone public scrutiny, some of which are in draft form, and some of which are unavailable except by records request. Today, there are no rules governing or setting standards for:

- a. the revision and amendment of long-range management plans, including where to allow logging or road building, and how to balance other uses of state lands;
- b. consistency of long-range management plans with relevant statutes and the Vermont Constitution;
- c. public review and comment on long-range management plans;
- d. public review and comment on timber sales;
- e. consultation with Vermont’s indigenous communities and protection of indigenous cultural resources;
- f. the transparent consideration of alternative management strategies, to compare and contrast possible actions;
- g. management goals for State Parks in contrast to State Forests.

3. **VT ANR is violating its statutory and constitutional obligation to protect water quality and reduce flood risk:**

In the draft WRMU LRMP, VT ANR argues that “Inclusion [of a Water Resource and Flood Resiliency Assessment] [is] at [the] discretion of [the] Stewardship Team. Not currently required. Size and complexity of parcel and watershed condition are factors that could influence inclusion” (p54). The draft WRMU LRMP makes no attempt to analyze the potential impact of proposed management actions on flooding downstream, or to propose management actions that would increase the flood mitigation potential of the management unit. Nor does the LRMP assess impacts on downstream phosphorus loading. This is a dereliction of constitutional and statutory duty. The state’s public trust doctrine requires Vermont’s agencies to safeguard the quality and quantity of State waters for the public’s benefit (VT. CONST. ch. II, § 67). Furthermore, 10 V.S.A. § 2601 stipulates that it is the policy of the State to ensure that “floods and soil erosion are alleviated, ... impairment of its dams and reservoirs is prevented, ... and the health, safety, and general welfare of its people are sustained and promoted.”

VT ANR commissioned a study in the aftermath of Tropical Storm Irene entitled [“Enhancing Flood Resiliency of Vermont State Lands.”](#) Published in 2015, the report

noted that: “To date, the primary mechanism for ensuring protection of water resources on State Lands has been the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont (AMPs)... [AMPs] are not designed to enhance flood resiliency specifically, or to address more extreme storm conditions experienced with greater frequency in recent years and anticipated in coming decades.” The report calls for many procedural and substantive changes to be made to long-range management plans, including adding a hydrologic resource component in determining the sensitivity of a management area, delineating hydrologic reserve and conservation zones to preclude or restrict logging in sensitive areas, articulating specific targets for management areas to achieve enhanced flood resiliency, and downsizing “legacy” roads so they no longer contribute stormwater runoff to the intense degree in which they do currently. None of these recommendations were included in the Draft Plan, and the report isn’t referenced. We are not aware of any VT ANR long range management plan that has cited the 2015 report.

A records request by Standing Trees [revealed comments on the flood resiliency report made by FPR foresters](#). These comments expressed concerns by the foresters that applying the recommendations in the Report would dramatically curtail logging on State lands. Specific FPR forester comments include: “If flood resiliency was the highest or only priority for management, the concepts and practices contained in the report could be effective at increasing flood resiliency on state forest lands. . . .”; “Fully adopting the recommendations in this report, as written, will completely gut FP&R’s long standing State lands silvicultural timber management program”; “If AMPs are disregarded and difficult to enforce, what kind of compliance can be expected with [Optimal Conservation Practices]?”; “If flood resiliency is that critical, and there is no other way to accomplish it, then that is fine. I just want to be sure that those who make the decisions on these matters understand the impacts it will have. My biggest fear is that this report will somehow be adopted as policy by ANR leadership while FPR will be expected to continue to manage state lands as usual with a few tweaks to our methodology. That will not be possible.”

4. **VT ANR has failed to perform an analysis of carbon emissions from its proposed management actions, or to consider how to leverage the WRMU to reduce Vermont’s greenhouse gas (GHG) emissions.**

Section 3 of the Global Warming Solutions Act requires State agencies to “consider any increase or decrease in GHG emissions in their decision-making procedures.” However, the Draft Plan contains no analysis whatsoever of the GHG emissions that will come as a result of the Plan.

5. **VT ANR has failed to consult with Vermont’s Abenaki community and to demonstrate how it will avoid harm to indigenous cultural resources.**

There is no indication that VT ANR engaged with Vermont’s Abenaki community in developing the Worcester Range management plan, or that any search has been or will be conducted to identify culturally-important sites or resources.

6. **VT ANR should complete the Act 59 inventory and planning process before proceeding with drafting any long range management plan.**

At the hearing on Thursday February 15th, it was suggested by VT ANR staff that the Worcester Range management plan is consistent with Act 59. This is a misleading statement at best. Act 59 does not merely consist of an inventory of conserved lands, including state lands. It also requires a conservation plan to meet the goals of Vermont Conservation Design, including “An assessment of how State lands will be used to increase conserved ecological reserve areas.” This assessment and planning process could have a significant impact on reprioritizing uses of state lands, and is sufficient reason for VT ANR to pause implementation of the WRMU LRMP.

7. **ANR has not yet designated critical habitat for the endangered Northern Long-eared Bat and other imperiled species.**

VT ANR acknowledges that the WRMU provides habitat to many rare, threatened, and endangered species, especially species that depend on interior and older forests. The draft LRMP proposes to reduce the amount of interior forest and mature forest, but provides no analysis of the potential impact on vulnerable species. H812, introduced by Rep Satcowitz and co-sponsored by many members of the Committee, would require the designation of critical habitat for endangered species. The state should not begin road construction and harvesting operations until critical habitat has been designated to facilitate species recovery.

CONCLUSION:

Vermont ANR must be held accountable to the law. The public deserves transparent decision-making for state lands. Choices that we make today for state land management will have real-world implications for flooding, water quality, and endangered species within the twenty-year time horizon of this management plan. Our environment and our communities deserve better than what is being offered by Vermont’s state land management agencies. The legislature can help to rectify these failures by demanding that statutorily-mandated rulemaking is completed prior to finalizing any long-range management plans and timber sales on state lands.

Sincerely,



Zack Porter
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Standing Trees