

Regional Planning Commission Thoughts on S.213 - An Act Relating to the Regulation of Wetlands, River Corridor Development, and Dam Safety

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- It is good that the bill recognizes that watersheds don't stop at town boundaries, and that river corridor planning should be inherently intermunicipal in nature. This requires more leadership and coordination at the state level working with regions and towns.
- Floodplain protection and access involves both land use policy and regulation, and project development and implementation. As a state we need to develop an approach that can create outcomes that protect life and property, recognize the dynamic nature of river and stream systems, and the importance of riparian ecosystem vitality as a flood mitigation strategy.
- Transferring floodplain and river corridor regulation to the state, and providing delegation authority to towns that have bylaws and administration capacity, makes sense. This is life-safety policy from which all Vermonters should benefit rather than relying upon municipal capacity to both adopt and successfully administer flood hazard and river corridor bylaws. By administer I mean not only permitting and enforcement, but ongoing education and outreach as well. Towns have limited political and operational capacity to both adopt river corridor bylaws and implement them. We have found that towns without professional zoning administration staff capacity are challenged to effectively administer flood hazard bylaws, and river corridor bylaws are potentially even more complex. It's fair to say that most towns adopt flood hazard bylaws so their citizens have the ability to access flood insurance through the NFIP and may not give a lot of thought to what it takes to administer and enforce the bylaws, especially those towns that have no other land use bylaws. Flood hazard bylaws benefit from the National Flood Insurance Program framework and related training. River corridor bylaw administration has the potential to be even more complex.
- Headwaters protection is essential to both buffer floodwaters and to recognize the changing dynamic of smaller headwaters streams as intense rainfall events increase in both frequency and intensity. These smaller tributaries are carrying more water and debris resulting in damage to transportation infrastructure and property. We need to do more planning around these systems and consider possible regulatory tools to maintain headwaters ecosystem functions and reduce future damage.

- Dams – While focus is on the safety of dams and the impacts caused by partial or complete failure, it seems there would be substantial public benefit to understand the extent to which dams, especially non-functional dams, exacerbate flooding upstream and/or downstream. Dams that could be good candidates for assessment could be prioritized by ANR river engineers, scientists, and watershed coordinators and we suspect most would be identified in basin plans.
- Wetlands – Consider possible allowance for trails or boardwalks that serve an educational purpose by allowing access to wetland areas.
- The bill’s wetlands rulemaking provisions go into considerable detail. The river corridor rulemaking would benefit from similar detail and parameters.
- With regard to river corridor rulemaking, the goal should not be perfection but rather substantially moving protections forward in order to enact rules in a timely manner. This is a lesson-learned from the Clean Water Service Provider process.
- Is it possible to consider a holistic “waters” strategy? Rather than having a stratified approach that addresses flood and river corridor hazards, water quality, and ecosystem health separately, could the state pursue a strategy that recognizes the interrelationships among these aquatic system dynamics and policy areas?

*“Such pondering on the facts of gravity and the fluidity of water shows us that the golden rule speaks to a condition of absolute interdependency and obligation. People who live on rivers – or, in fact, anywhere in a watershed – might rephrase the rule in this way: **Do unto those downstream as you’d have those upstream do unto you.**” - Wendell Berry from “Watershed and Commonwealth” in *The Citizenship Papers*.*