

TO: House Government Operations Committee

Subject: Testimony on H.355, Forester Licensing

Date: April 6, 2015

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As I have a conflict for this coming Thursday's testimony in front of the House Government Operations Committee I would like to provide the following written testimony on H355 Forester Licensing.

I will apologize in advance for the length of my testimony but this is an important and critical decision for the future of the forests of Vermont.

Personal Background:

- I am a 35 year resident of Albany, Orleans County, VT. My wife is in her 36 year as a 5th grade teacher in Glover, VT. We own +/- 7 acres in Albany and +/- 1685 acres of conservation eased timberland in Glover and Greensboro, VT. I have been a practicing consulting forester for 37 years.
- My experience working in began in VT and know extends across the northeastern United States. I am responsible for my company LandVest, Inc. management on over 1.7 million acres in ME, NH, VT, NY, PA, MA & CT. We have licensed foresters in ME, NH & MA.
- I personally hold forester licenses in two states, Maine (1977 # 348) & New Hampshire (1998 # 243). I am a graduate of the University of Maine Orono in 1977 with a BS in Forestry.
- Finally I hold The Association of Consulting Foresters ACF accreditation and The Society of American Foresters (SAF) Certified Forester accreditation as well. I have served in many official positions for SAF in my career and just completed a 6 year term on the Executive Board of ACF, including serving as the national president.

Circumstances Surrounding Licensing and the Current Debate in VT and the Testimony You will Receive:

- 1) Forests and forestry are important ecological and economic considerations to the quality of life and economy of VT. At present there seems to be a lack of connectivity in VT as to the value of our forests. That is reflected in the fact that we have not clearly recognized the importance of foresters in the management of these important ecological and economic resources. Defining and providing these definitions to landowners, legislators and regulators can only serve to enhance the forest resources industry in VT. It will also serve to strengthen an appreciation as to its contributions to environmental quality and the state's economy. Vermont as you all know is over 75% forested and 13,000 people benefit from jobs in the forests products sector of VT. When one considers that forests provide the backdrop to so much of our economy the value of licensing of those who provide management of these assets seems relatively easy to justify.
- 2) I will not pretend that if licensing is implemented that there will suddenly be a great change in the practice of forestry in VT or the behavior of any bad actors. I have been licensed in Maine since 1977 & NH since 1998. In the Maine example I can tell you that it took many years to effect change for the positive. Improvement was gradual but it certainly has occurred. The clearest gain has been to elevate the importance of the profession of forestry in all venues (private, public and industrial). This increase in awareness does not simply benefit foresters. What is has accomplished is bringing a clearer understanding of the importance of forests and forestry within the State of Maine. The legislature better understands the profession and how the practice of forestry should be implemented. Landowners are for the most part (you will never reach 100% saturation of information) much better

- informed and knowledgeable as to who are qualified providers and who they can count upon to have achieved the proper qualifications to claim to provide forestry services.
- 3) Supporters of H355 are not claiming licensing will stop timber trespass or other criminal activities unrelated to the practice of forestry. Of course that is not the intention of a forester licensing bill. Let us not confuse unrelated issues with H355 as some who are testifying are attempting.
 - 4) I understand the legislature's dilemma of determining harm. Unfortunately in many instances landowners are often completely unaware that the individual purporting to provide forestry is not a forester or a forester is ethical. Licensing as proposed in H355 will not and it should not require the use of a licensed forester. However through education over time landowners will be made aware that a licensed forester brings a different set of qualifications and performance standards than others claiming that they can do the same.
 - 5) Licensing **absolutely will not drive up costs** as some have and will testify. There is no requirement to use a forester. Further there is ample competition in Vermont amongst qualified foresters already. Landowners can still choose, as they do now, to either hire a less expensive "forester" or choose to let their forests be treated without the input of a forestry professional. The creation of a board and licensing requirement will only provide better information for landowners as they determine how best to manage their land.
 - 6) Testimony I have seen and heard indicates that being a licensed forester will be expensive. It will require a great deal of continuing education. That will drive up costs to landowners shrinking the use of foresters and/or driving up the cost of forestry! Sadly this view I am certain will be presented by foresters who currently have the SAF CE certification, or are licensed in Maine, NH or MA, where continuing education is required and reciprocal. If licensing comes to VT the vast majority of foresters who qualify will have no cost increase to comply with the regulations outside of the annual fee and the filing of another copy of your continuing education records we all send to a variety of other organizations. Regardless of the requirement any true professional is participating in professional continuing education to maintain an up to date professional knowledge base. We do this with many other professions, why not forestry?
 - 7) The licensing of foresters is a cost that Vermont cannot bear. As I understand it no licensing board in VT receives state funds. The professional licensing fees cover those costs. A very good thing considering the budgetary constraints you all are facing in the legislature.
 - 8) You will clearly hear from members of the profession, as well as representatives of forest industry, and the public, that licensing is unnecessary. I think it is important to ask those who testify against H355 how they believe this bill will facilitate the problems they are describing. I will suggest that a large percentage of the testimony against H355 relates to a broader view that government is bad and this is a reach to gain control of the forests of VT. The proponents of the status quo would suggest that the legislature and the agencies responsible for oversight of forestry in VT cannot be trusted. That this licensing proposal is just a means for gaining more control on foresters, forestry and forest management. Unfortunately, this political view of the world is actually and unreasonably if the test is H355 and what in the end would result from its adoption. In my opinion this is a completely fabricated view of what licensing, as proposed in VT and enacted nearly everywhere in the US, would provide. As H355 is currently constructed in the end the profession, with the guidance of many stakeholder

influences, will be at the table to determine what the licensing of our profession will entail and how we are regulated. A seat at the table is the real outcome. The regulated will be at the table and participating. This is not a top down system.

- 9) H355 is supported by many in the profession. I would call it a silent or reticent majority. This support is based on our belief that the profession, as well as the forests of VT, will benefit from a licensing program. Further licensing will serve to enhance our profession's ability to have a seat at the table. We want landowners, legislators and others to know what qualifications we have and how those qualifications provide a foundation of judgment of who we are and what we should provide as professionals. We desire to elevate the profession to the status of other resource professionals like surveyors. Licensing will serve to provide an educational opportunity and source of qualifications so that landowners can be better informed when they consider who to assist them in achieving their goals and objectives of ownership. Our system of government and debate in the legislature should not be driven by those who shout the loudest. I plead with you to carefully look at the Sunset Review and the facts that I believe makes a very clear and impelling case for licensing of foresters in VT.
- 10) I can honestly say that you will also hear negative view of licensing from the small minority of consulting foresters, or other unqualified providers, who are bad actors. Yes they exist, although fortunately a small number. If licensing is implemented there will be a much more effective means for making landowners aware and hopefully drumming these unethical individuals out of the forests of VT. Again it will be difficult to get a great deal of testimony out of wronged landowners due to a variety reasons. Everything from the unwillingness to admit they entered into a poorly defined business relationship to the much more common circumstance that they will likely not understand they have been mistreated. Fortunately if your roof leaks or your toilet flushes up you are quickly aware that the roofer or the plumber did not perform satisfactorily. That is often not the case in forestry. Unscrupulous characters can provide ample "excuses" or simply work with unknowing landowners. These individuals, and I have known some of them, simply take advantage. It is usually too late for a landowner to know or address a bad business practice.

I fully support the licensing of foresters in the State of Vermont. There are many sound reasons that VT should move to a forester licensing program:

- 1) **Qualifications:** Landowners who own and manage their land should have the means for objectively determining the qualifications of an individual putting themselves forward as qualified to be a forester. The common occurrence where landowners still confuse foresters and loggers is ample evidence of that. Forester licensing will serve to provide an objective and agreed upon set of qualifications.
- 2) **Timberland as a Valuable Asset:** The fact is that timberland and timber are very valuable assets. We should all keep in mind during this debate the significant value of timberland. Quite often the timberland owned by our clients is the largest or one of the most significant financial assets they possess. Therefore an individual providing what is now a combination of forestry and fiduciary advice and services should be credentialed and those credentials should be defined and overseen by a regulatory body such as the Office of Professional Regulation. Timber sales often run into many thousands of dollars of value (into 6 figures at times) and timberland can sell for more than \$1,000/acre. We manage as forester timber tracts worth multiple millions of dollars in VT. I think we often think of forestry as this quaint backyard enterprise. While in many instances parcels are small in

VT values continue to grow. This magnifies the positive and negative impacts on value the actions of foresters have on their client's land. These are important assets and bringing licensing of forest practitioners into place will further assist landowners in making educated and informed decisions as to the management of their land.

- 3) **Long-term Impacts on Ecology and Economic Values:** Timber harvesting, and the practice of forestry, have very long-term implications both economically and ecologically. Far too often landowners who are duped by those purporting to be foresters or capable of practicing forestry don't have a clue they have sold wood for too little or incurred damages to the current and future value of their land. That is because they have no objective 3rd party source of who is and who is not a professional forester.
- 4) **Regulatory Compliance:** Do we really want to continue to leave landowners unaware that the party they are entrusting their lands to is qualified and responsible for assuring that their forest management activities are compliant with a wide variety of regulations. Due to changes in environmental regulations over the last 30 plus years landowners now are at greater risk if they are not completely aware of all of the possible regulatory compliance issues they need to address if they proceed with forest management activities. For example, in Use Value Appraisal alone the mandatory compliance with our Acceptable Management Practices for Water Quality needs to be addressed on each and every timber sale. With large environmental penalties for non-compliance landowners should be able to know that an individual they hire is a forester, understands the law and would be responsible for disregarding the law or not protecting the landowner from damages. If the VT legislature desires enhanced science based sustainable forest management then assuring that landowners can more effectively determine qualifications seems only reasonable.
- 5) **Landowners Awareness:** As the demographics of landownership has changed many current VT owners do not have the historical or cultural landowning background. Too many landowners are convinced by unscrupulous loggers that they can provide "forest" management. At present in VT anyone legally can call themselves a forester. I have seen loggers prepare management plans that lead to a landowner losing thousands of dollars as well as being left with a damaged forest and possibly with large environmental violations. If a list of licensed foresters and their required qualifications were available this would raise awareness as well as provide landowners with a regulated profession. There are more and more landowners who do not come from a landowning background and assume that loggers and foresters are one in the same.
- 6) **Positive Impacts of Licensing:** I have seen the very positive results in both Maine and New Hampshire that licensing has brought to the profession and practice of forestry. Individuals practicing as licensed foresters who engage in illegal, unethical or unscrupulous behavior have been identified and punished. If these individuals lose their license they lose their ability to represent themselves as a "forester" and to practice forest management as a "forester" for private landowners. This is a great incentive for the profession to increase its quality and performance. The publishing of these names and the removal of their license has a positive impact that forestry matters, the state and the profession care and ultimately landowners have a forum to air and have grievances addressed.
- 7) **Lack of Identified Harm Question:** One thing that I have personally heard from clients who have been wronged by consultants (private foresters) is that there is no reasonable recourse. Yes they can file a civil suit. However that is often a case of chasing bad money (losses they have already suffered) with

additional costs (legal). Further since the unscrupulous party often confuses their client with a poorly drawn contract they may not have legal recourse. However a licensing board could find that the licensed forester misled their client with the poor contract and find that they had violated not legal buy ethical standards of practice. This is a powerful tool. Without a 3rd party review process of the professional licensing board I have often found the landowner's response is simply to avoid chasing a bad situation and instead simply avoid forestry again. In states with licensing the party believing they have been wronged can at least bring a charge to the professional licensing board and have a hearing. If the board determines there is harm or no harm at least the landowner and the forester come to some point of resolution. If the board finds fault in the licensed forester's actions there can be a variety of resolutions.

- 8) Economic Impact of Vermont's Forests:** Forestry and the management of forests is very critical to the economy and environment of VT. The damage done by unlicensed individuals cannot be repaired. We license electricians to insure that building codes are followed and that unknowledgeable homeowners have some level of assurance that an electrician is qualified to wire their house. We license a variety of engineers, surveyors, attorneys, architects, and real estate agents. Why, because they all represent themselves as having important skills that separate them from untrained professionals. These skills are required, not optional, to achieve a set of scientifically sound or regulatory compliant results that are done ethically and to achieve specific desired outcomes. These other professions have clearly been identified as important to a variety of public interests. Considering that over 75% of the Green Mountain state is covered with forests and there are many threats from poor forest management let alone climate change and invasives it seems patently absurd that we do not license forestry professionals.
- 9) Restraint of Trade:** Despite the importance of forests in Vermont we have not deemed it necessary to license foresters. This has been in my view often based on a cultural history of how forest and forestry have been implemented historically. I have heard that licensing will force people to use a forester, it will drive up costs it will force individuals who don't meet the test of qualifications to lose their income. None of these are true and all of them are alarmist's attempt to delay or prevent licensing. Further, this debate is clouded even further because even regulators don't understand that poor or illegal forestry can have decade's long negative economic and environmental impacts.
- 10) Hairdresser versus Forester:** I have always been surprised in VT that hairdressers are licensed but foresters are not. A bad logging operation is a much more significant problem for the people of VT versus a bad haircut. I understand that the licensing of hairdressers also addresses items they use in their work due to sanitation and chemicals etc. In contrast though foresters are entrusted by landowners and society to care for our natural resources. An individual claiming to be a forester could ruin a stream or an environmentally sensitive wildlife or plant habitat very easily. The landowner utilizing that individual might have been told I can practice forestry since currently anyone can in Vermont. They would have thought a forester will take care of my land. Despite our decades of educational efforts to inform landowners there is still in VT no definitive definition of what a professional forester is. That again seems unreasonable considering the potential positive and negative impacts forestry and unmanaged timber harvesting can have on the environment and individual's personal economic circumstances. I have seen how the licensing in Maine and NH has made landowners more aware that there are specific qualifications of education and experience that

constitute a suitable foundation of knowledge and experience that one offering forestry services should have achieved.

- 11) Regulatory Streamlining and Cost Reduction:** In many states, Maine is a close example, licensed foresters can sign their management plans testifying that they meet regulatory compliance. In VT the Department of Forests, Parks and Recreation has concerns over staffing and budget as do you all due to budget problems we face here in VT. In many instances this is due to the fact that County Foresters have ever increasing regulatory compliance responsibilities. This takes away from the time that these public foresters used to be employed on information and educational efforts with landowners. It can also slow the implementation of forestry due to delays in UVA plan approvals. The licensed forester could sign his plan and there would still be periodic oversight, as it is in Maine, to assure that compliance is real and not only an image. This could free up FP & R staff and remove budget stress simultaneously. The system works very well in Maine. To the best of my knowledge neither the state of Maine nor outside watch guard groups have felt that foresters signing their own plans has led to lesser quality forest management. There are regulations to follow there as we have with UVA & AMP's in Vermont. Finally we do not have state surveyors who review and approve every survey map. No the regulation of surveyors has set their professional standards and allowed for a legal process of oversight and compliance standards to address unprofessional or unethical surveying practice.
- 12) Financial Implications:** As noted above the financial implications of the value of their timber and land is growing for landowners. A logger claiming to practice forestry may do a very nice and aesthetically pleasing job. However, they may have paid a third of what the timber was worth, high-graded (taken all the current value) and left a residual forest with damage and very little potential for growth and value improvement. If a licensed forester did this they could be charged, lose their license and possibly charged with criminal and or civil action as well. If a logger does it is deemed buyer beware and the owner was foolish but the logger just made a good business deal for himself. Without the licensing of foresters the ability of landowners to hire a qualified professional is not impossible but much more difficult. Right now all the state could do is tell a landowner well you should have known better and buyer beware. I think this demonstrates a lack of concern and understanding of the risks associated with having anyone who chooses call themselves a forester.
- 13) Errors & Omissions Insurance:** While this is not addressed in H355 I would strongly suggest that foresters should be required to carry errors and omissions insurance. This is designed to insure the public that if a licensed forester is found guilty of errors in court that there is a means for a wronged individual to be financially compensated. Again this relates to the value of timber, forests and land that foresters are responsible for. This requirement would further protect landowners and others who hire unqualified or unscrupulous service providers.
- 14) Bonding of Loggers:** I realize this is not a component of H355 but it goes to the case I am making that these are important issues and relate to large sums of money being considered and addressed during the management and harvesting of timberland. As a secondary issue I would strongly suggest that individuals wanting to be logging contractors should be required to be registered and bonded for the very same reason. Too often the bad actors have shielded their assets from wronged landowners and simply move onto the next target with no financial damage to them.
- 15) Harvest Notification:** I would strongly suggest as a component of this process that a Harvest Notification system like Maine and NH have should be put in place to further increase the scrutiny of

all participants in this very large and valuable industry. These notifications provide a record of who is the forester and who is the logger for each timber sale implemented. That record of who planned and did the work would help towns, regulators and landowners have a consistent record of the harvesting of timber in VT. This source of data would be useful for Forests, Park & Regulation and the VT Legislature as natural resource issues are regulated and debated.

16) Reciprocity: If we move forward I would strongly suggest we have reciprocal agreements that allow licensed foresters from other states gain licenses in VT. I would also strongly suggest that to facilitate as cost efficient a program we look at the models available in Maine & NH. They have been in place for many years (Maine since 1976 or 1977 for example)

17) Standards: I support the use of the Society of American Foresters (SAF) Certified Forester test as the standard test. Maine has adopted this as well. I also concur with the current definitions of qualifications that currently are found in the proposed H355 bill.

I would be pleased to follow up with any member of the House Government Operations Committee or with the office of Professional Regulation.

Thank you for this opportunity to participate in this public information gathering effort.

My best,



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