

House Natural Resources and Fish and Wildlife Committee
February 6, 2020 Testimony of Ed Stanak

Having reviewed "Committee bill" draft 10.4 that became available on February 4th, I write to provide comments with respect to the proposed amended definitions in 10 VSA 6001 (Page 11 lines 5 through 21 in the draft bill) and the amendments to criterion 8 in 10 VSA 6086(a) (Pages 54 through 56 in the draft bill) with regard to safeguards for forest blocks and connecting habitat . These amendments, anchored in the recommendations of the legislative study commission report, are important and deserve praise.

However, the amended criteria will have a hollow effect because, as the Committee is aware, they will only apply to developments and subdivisions which come under Act 250 review pursuant to the jurisdictional provisions of 10 VSA Chapter 151 . The Committee has heard testimony (as did the legislative study commission) that only an estimated 30% of all development and subdivision taking place in Vermont is subject to Act 250 review . **Thus, the vast majority of developments and subdivisions in Vermont will not be subject to the new criteria .**

Some will respond by saying that the 6 lot jurisdictional trigger in existing law will encompass proposed subdivisions in high elevation settings where ample evidence shows that most remaining intact forest blocks and connecting habitat are located. That was not my experience during my 32 year career as a district coordinator. Instead, I saw many site plans of proposed subdivisions of large tracts of land depicting 5 or less lots in order to avoid jurisdiction.

Similarly, some will say that the "new road rule" in the VNRC/Scott Administration proposal will bring high elevation subdivisions under jurisdiction. I doubt it. Just as applicant consultants designed around the former 800 foot road rule so too will they design around the proposed 2,000 foot road rule.

Having said all that, there is a readily available jurisdictional proposal which will ensure that the new criteria will serve the intended purpose of protecting the compelling interests of Vermonters during the coming decades.

The proposed definition of "Fragmentation " in draft 10.4 reads in relevant part "*...by the separation of a parcel into two or more parcels...*" (Page 11 at line16) . In the calculus of land use regulation, fragmentation of forests and habitats = subdivision of tracts into lots.

H.633, as introduced by Representatives Peter Anthony and James McCullough, reads in relevant part :

(19)(A) "Subdivision" means each of the following:

(iv) A tract or tracts of land, located above the elevation of 1,500 feet, owned or controlled by a person, which the person has partitioned or divided for the purpose of resale into two or more lots within a radius of five miles of any point on any lot, or within the jurisdictional area of the same District Commission, within any continuous period of five years. In determining the number of lots, a lot shall be counted if any portion is within five miles or within the jurisdictional area of the same District Commission. (at lines 2-10 of H.633)

This portion of H.633 is wholly consistent with the excerpt of the proposed definition of "fragmentation" in the "Committee bill" cited above.

I urge the Committee to merge the subdivision jurisdictional provision in H.633 into the next version of the "Committee bill" so that the new criteria regarding forest blocks and connecting habitats will have tangible effect .