

House Natural Resources and Fish and Wildlife Committee
February 5, 2020 Testimony of Ed Stanak

Having reviewed "Committee bill" draft 10.4 that became available yesterday, I write to provide comments in opposition to the proposed amendment to the provisions of 10 VSA 6007 regarding the issuance of Jurisdictional Opinions. The proposed amendment can be found at page 14, lines 3,5 and 6 of the bill.

I have been present at most of the Committee hearings since January 2019. I have reviewed the legislative study commission report several times. Nowhere in the public record is there any proof that this change is necessary. In fact, the record is silent on this topic. What is the problem that the amendment would purport to remedy?

The amendment would change 50 years of administrative practice without an iota of evidence that there is a problem with the current practice by which the District Coordinators issue the Jurisdictional Opinions.

This proposal has surfaced once or twice in previous sessions of the General Assembly over the years and, after opportunity for public scrutiny, the proposal has never been advanced by the committees of jurisdiction.

So the question must be asked: what is the origin of this 11th hour proposal following combined years of fact finding by the legislative study commission and the Committee? This proposal was not included in either "Committee bill" draft 9.2 or the VNRC/Scott Administration proposal.

With all due respect but speaking frankly, the proposal is absurd. It will result in administrative shock waves among Act 250 practitioners in the private sector. It will probably result in a spike of appeals at least in the initial years of implementation. Is the Committee aware that the hundreds of Project Review Sheets issued each year are Jurisdictional Opinions? Has anyone asked any volunteer District Commission members for their thoughts on this new task requiring them to become closely familiar with statutory and regulatory provisions and decades of case law?

Suddenly during the last few weeks of the Committee's work there has been much discussion about "on the record". The Committee should review what is in its record - if anything- to support this proposed amendment to 10 VSA 6007.

Respectfully, the Committee should reject this proposal.