

Bulletin & Legislative Update

Published
by the
Vermont
Natural
Resources
Council,
Inc.

THIS YEAR'S TOP ISSUES

VNRC'S 2005 LEGISLATIVE SESSION AT A GLANCE

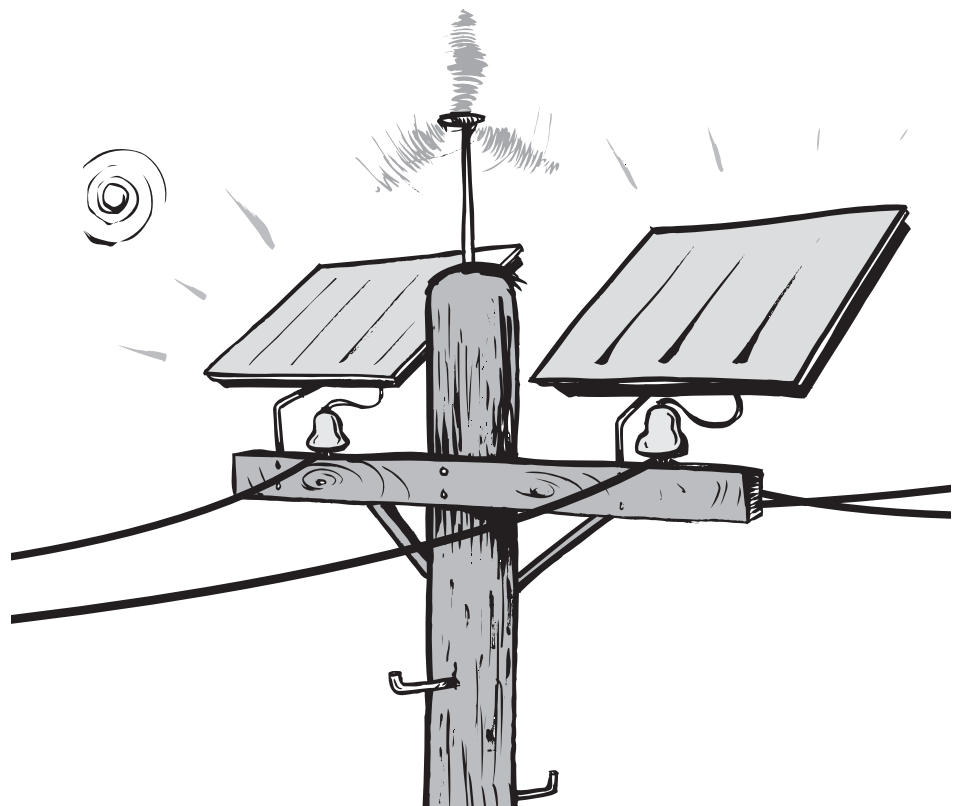
Taking account of various political realities, new legislative faces, and leadership changes, the expectation that the new majority in the 2005 General Assembly would be supportive of environmental issues was generally met.

Of course, legislation takes on a life of its own once it starts twisting and turning through the State House labyrinth, and the final version of any bill is what happens while you're making other plans. Policy discussions often resolve in unexpected places. Nevertheless, VNRC was successful in leading efforts to pass a variety of environmental legislation, or at least set the stage to move legislation for future sessions.

Energy issues clearly took center stage, but other issues rose to the surface as well, sometimes surprisingly. Certainly, it is always harder to push for passage of good legislation than it is to kill bad policy, so VNRC will look to build on this year's achievements in the months to come.

RENEWABLES AND EFFICIENCY

There was significant momentum heading into the 2005 legislative session to pass legislation promoting renewable energy and energy efficiency. During the three years prior, good energy bills had been passed by the Senate only to be buried in House committees. With a significant democratic majority in the House, however,





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The Vermont Natural Resources Council, Inc., is a nonprofit environmental organization founded in 1963 to protect Vermont's natural resources and environment through research, education, and advocacy.

VNRC is the Vermont affiliate of the National Wildlife Federation.

VNRC membership includes a subscription to the *Bulletin* and the *Vermont Environmental Report* (both published bi-annually). For an individual membership, send \$35.00 to VNRC.

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Speaker Gaye Symington crafted a House Natural Resources and Energy Committee specifically designed to tackle energy issues.

The Senate, led by Senator Ginny Lyons (D-Chittenden), built on past efforts and, once again, passed a bill with a key provision requiring Vermont to meet a renewable portfolio standard, or RPS. The RPS would require Vermont utilities to offer a certain percentage of renewable energy in their portfolio. Under the leadership of Rep. Robert Dostis (D-Waterbury), the House modified the Senate version, allowing utilities to skirt the RPS if, by 2012, they had invested in renewable energy projects in the interim. This would allow utilities to profit by selling their renewable energy credits out of state, and provide great potential for lowering rates in Vermont. The amount of energy generated from those projects would have to add up to 10 percent of the current base load of power, or equal the incremental power load growth from now until the deadline in 2012.

The House also added language that removes the funding cap on the amount of money that surcharges can generate for energy efficiency programs, but stripped out a requirement that certain appliances would have to meet new efficiency standards. The final bill closely resembled the House version, and passed both chambers decisively.

It is expected that both House and

Senate Natural Resource Committees will continue their work on energy issues next year by taking up the appliance efficiency standards provisions as a stand alone bill and working on greenhouse gas reduction measures.

VERMONT YANKEE

The Legislature passed controversial legislation which permits the Vermont Yankee nuclear power plant (VY) to store spent nuclear fuel in "dry casks." VY is owned by Entergy Nuclear.

Part of the agreement, negotiated by Representatives Robert Dostis (D-Waterbury), Joyce Errecart (R-Shelburne) and Tony Klein (D-East Montpelier), allows the Vermont Public Service Board to play a significant role in determining appropriate measures to protect public health and the environment.

In addition, the dry cask bill sets up a program where Entergy will pay \$2.5 million per year into a renewable energy development fund. However, payment into the fund is contingent on the

approval of a recently proposed "uprate" in power production at VY that is currently under review by state and federal regulators. An "uprate" would allow VY to increase their power output 20 percent beyond what they are currently legally allowed to produce.

AGRICULTURAL RUNOFF

VNRC was instrumental in the passage of a bill that will start the process of abating sources of previously ignored agricultural pollution. Throughout the session, VNRC advocated for safeguards to ensure that all farms, not just large farms, are managed in compliance with Vermont's water quality standards and that farmers are protected if the state fails to meet its obligations.

VNRC successfully fought for provisions in the bill that require the Vermont Agency of Natural Resources (ANR) to adopt rules addressing agricultural discharges to Vermont waters. ANR will have the authority to regulate farm discharges and protect farms from liability under the federal Clean Water Act (CWA) if a discharge is identified.

Both ANR and the Agency of Agriculture (AOA) are required to report back to the Legislature on the effectiveness of their respective programs at protecting Vermont's waters and serving the needs of farmers.



Blake Gardner

BIG-BOX DEVELOPMENT

VNRC jumpstarted an important dialogue this session by advocating for legislation that would help Vermont communities properly prepare for large-scale retail development. The lead sponsor of the bill is Senator Vince Illuzzi, (R-Essex-Orleans), chairman of the Economic Development, Housing, and General Affairs Committee.

The bill would impose an interim cap on the square footage of large retail developments until towns took appropriate steps to determine the impacts to the local and regional economy. It would also serve to facilitate more local control in where and how new Big Box development is built. Crafted in consultation with a variety of partners and backed by strong bipartisan support, the bill would set a national precedent. A key component of VNRC's work over the summer and fall will entail a grassroots and education campaign to garner increased support for the bill.

GROWTH CENTERS

Under the leadership of the Senate Natural Resources Committee, VNRC and our allies successfully advocated for the creation of a 10-member summer legislative study committee called the "Working Group on Growth Centers." The committee is designed to tackle the tough task of crafting policies that will protect downtowns and maintain Vermont's rural character.

The creation of the committee was an outgrowth of a

short-lived discussion on developing farmland. VNRC was successful in heading off a flawed proposal to mitigate the loss of agricultural soils in development proposals which come under Act 250 review. VNRC believes that mitigation may be appropriate, but cannot be solved in a vacuum. The matter will be studied by the legislative summer study committee which will craft growth center legislation for the 2006 session.

DOWNTOWN BILL /VEPC REFORM

A bill to strengthen support for the downtown program narrowly missed enactment, when it was included in the Vermont Economic Progress Council (VEPC) reform package designed to tighten the rules for giving tax credits to businesses in Vermont. Both issues will be taken up early in the 2006 session, and prospects for passage of both look good. There is interest in strengthening VEPC reform to include energy efficiency and smart growth performance standards.

HOUSING AND CONSERVATION TRUST FUND AND MUNICIPAL AND REGIONAL PLANNING FUND

The Legislature continued to make a strong commitment through dedication of a significant part of the property transfer tax to these two funds which support land conservation, affordable housing and municipal and regional planning and enhanced GIS mapping for Vermont.

GROUNDWATER PROTECTION

At the start of the legislative session, VNRC flagged groundwater protection as a vital issue in Vermont that is simply not being addressed. In the era of an expanding commercial water bottling industry that utilizes groundwater as its product, and mounting development pressure that poses threats to groundwater, Vermont has virtually no regulatory oversight for groundwater withdrawal and contamination. And while the vast majority of Vermonters get their drinking water from groundwater sources, the state knows very little about the status of the resource in general.

To address this problem, VNRC promoted the introduction of bills in both the House and the Senate that would reaffirm and expand the requirement that all of Vermont's groundwater aquifers be mapped, declare groundwater to be held and managed in the public trust by the state for the benefit of all Vermonters, and create a task force to establish a regulatory system to protect Vermont's groundwater supply.

This year, some steps were taken to enhance groundwater protection including passage of a bill that bans the gasoline additive MTBE, as well as passage of legislation to help clean up sources of aquatic pollution from agricultural sources. VNRC intends to

capitalize on the enhanced awareness of groundwater issues, and make a push for the enactment of significant groundwater protection legislation in 2006.

MERCURY

After four years of futility to pass a comprehensive mercury bill that would better protect the environment and public health, the Legislature finally made some progress. With the help of other organizations, VNRC successfully advocated for passage of a mercury bill that bans certain types of mercury-containing products, augments mercury labeling requirements, and significantly steps up efforts to abate mercury pollution from dental offices.

AGENCY OF NATURAL RESOURCES RESTRUCTURING

The Agency of Natural Resources (ANR) is responsible for administering permit programs that affect our air and water, managing our state lands, ensuring the health of the state's fish and wildlife populations, and protecting Vermont's threatened and endangered species and significant natural areas. VNRC recognizes that a healthy and productive ANR is crucial for maintaining a healthy natural environment in Vermont. To that end, VNRC played a significant role in shaping a bill that is designed to make ANR more



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efficient in carrying out its mission to protect Vermont's natural resources.

In the bill, VNRC successfully advocated for the establishment of a non-governmental committee to conduct a restructuring review. VNRC believes it is critical for the committee to actively engage the dedicated ANR staff in the restructuring process, and obtain their perspective on what works and what does not. VNRC hopes to serve on the committee as one of two representatives from the environmental community.

MINING WASTE

The issue of whether or not solid waste byproduct from mining operations should be taxed became a tempest in a teapot. Mining waste had not previously been subject to the solid waste tax, and if the Legislature chose not to act on a bill this

session, the tax would have shot up to \$6 per ton. With solid arguments both for and against a tax seeming to tie legislators in a knot, VNRC played a pivotal role in crafting a creative and productive legislative "green tax" solution that served the needs of all interests.

A driving concern was the possible threat to natural resources and public health from tailing piles at the Omya plant in Florence. The final compromise increases the permitting fees to be paid by larger mining operations, requires Omya to conduct a variety of studies regarding the presence and toxicity of certain chemicals, and sunsets a short-term tax exemption in 2008. The final bill passed with strong bipartisan support in both chambers. Special thanks to Senators Claire Ayer (D-Addison), John Campbell (D-Windsor), and Matt Dunne (D-Windsor).

ENVIRONMENTAL REVIEW FOR TRAIL DEVELOPMENT

Two years ago, the Legislature passed a budget bill that included a rider exempting snowmobile and other recreational trails from environmental review under Act 250. The loophole was scheduled to sunset this year. The Legislature was in the midst of considering a compromise bill when the Environmental Board (Board) responded to an appeal filed by VAST challenging environmental review for previously constructed trails over the spine of the Green Mountains.

In a disappointing decision, the Board ruled that VAST could construct up to eight miles of trail without triggering environmental review. Furthermore, the Board declined to enforce its long-standing rule regulating development above 2,500 feet

in elevation. VNRC filed a motion with the Board to alter its decision. In early June the Board reversed itself concluding that trail development above 2,500 feet requires environmental review under Act 250.

At the end of the session, the Legislature appropriately declined to permanently extend the Act 250 exemption for trail construction. However, because of the impact of the Board decision, VNRC will be advocating for a solution geared toward creating an efficient and cost-effective program that accomplishes both meaningful environmental review and sustainable trail growth.

With regard to the safety, illegal use, and trail construction for All Terrain Vehicles (ATVs), the governor declined to offer an expected piece of legislation. It is anticipated that the Legislature will take up the issue next year.