

Agriculture and Working Lands Stakeholder Meeting Notes 8/31/2023

Steering Committee overview

- Focused on location-based jurisdiction; tier system; thought around development in the area being the trigger for jurisdiction
- Governance conversation

Tier 3 discussion

- What falls in this natural resource area?
- Seems very broad, what would the criteria be to define these areas?
- If we dropped jurisdiction down to 2,000ft 45,000 acres of 86,000 acres currently managing (9700 currently under jurisdiction)
 - o These are working forests
- How do we have real practical application of the criteria?
- Which tier does ag fall under? Tier 2 for farming and tier 3 for prime ag soils
 - o To clarify – tier 3 would be large forest blocks, wildlife habitat connectivity and possibly high value waters; tier 2 rural villages and hamlets, onsite septic; and then surrounding country side, ag land falls into tier 2
- Prime ag price/acre is based on soils and can be a deterrent to get housing on that land; other issue is archaeology reports
- Seems like there's a road block every time you go to do something on the land, hearing more jurisdiction and seems counter productive to wanting development here, making it harder
- Not sure how tier 3 would work without a lot of redundancy with existing state laws and policies
- Would the tier system change jurisdiction of working lands below 2500ft.
- Issue of driveways and how a road rule trigger might be applied, important consideration about not stifling development while
- Elevation trigger, if it drops would absolutely go to bat to keep ag and working lands exempt
- For lands that are already conserved do we really need hoops to jump through?

Forest Bloc dive

- Want to protect these, what is the trigger for development here?
 - o Road rule; if it went into a block certain amount of distance would trigger review; wouldn't stop it. Trying to tease this out
 - o Over time had different road rule lengths, ended up with some perverse outcomes; incentives more dispersed development to stay under jurisdictional trigger
- Not sure why we are trying to regulate this, seems like trying to stop development; want responsible growth
- Seen conversion of forest from historic agricultural use (75-80% forested now vs. beginning of 1900s was opposite)
- Idea of how do you create a system where people can use smart design to avoid act 250 but still catch the projects that are development we don't want to see
- Trying to frame this in view of climate change and people coming here
- Road rule and agriculture – when been in contrast with development, there are preferred circumstances where people have built driveways and built along woodline versus dividing the

agricultural land; might mean that road is longer than 800ft; could this be an unintended benefit with a road rule? Cumulative distance v cumulative impact

- Road rule would be trigger in priority forest block areas; wouldn't trigger in agriculture land
 - o This would have to go through rule making with ANR

On farm/forestry related businesses - How do you think these could be allowed and not have to go through act 250 process; some kind of exemption level on site

- "on site" - Not sure it works with forest businesses, saw mills can't get all the wood from parcel they are on
- Lumber mills usually located in rural areas
- Agriculture business usually located on farm and use products produced on farm itself; they should have their own category in Act 250; shouldn't be viewed as commercial business, should be viewed as viability of farm itself
 - o Limit in size? Processing products on site, might have waste water/water supply issues
 - Have struggled with what the size means
 - o When farm product business gets going, they have to move off farm to keep growing the business
- AOFB designations; NRB report from last year proposed a few options for treatment in Act 250
- Instances where farm based businesses have not succeeded through Act 250 process, or haven't happened because of the cost and time of going through process
 - o Examples of both
 - o Businesses have gone ahead with expansion or change of use without consulting Act 250
 - o Objective is to avoid act 250 review
 - o Desire to expand operation, diversify, that they haven't done because of fear, anxiety, cost of Act 250 process
- Would 1 acre exemption solve those problems?
 - o Not sure we know for certain the percentage of projects that fall under this, but it's a significant number
- How is 1 acre impact defined? How is it calculated? Are there parallels in the forestry space?
 - o Any square footage of construction (parking, access road, soil disturbance of project)
- What makes you eligible for exemption?
 - o Being a farm(need a farm determination from Agency of Ag) or being an accessory on farm business; this process already exists
 - o How would this apply to a sawmill – no one is determining it's a saw mill, it just is
- 10acre or less impact on the environment, still subject to stormwater regulations
- 1 acre seems too small; we want to see people selling products they produce on their land; trigger should be higher 3-5acres
- Farming currently has a definition in the Act 250 statutes; we need definitions for forestry and logging, could make comparable treatment more possible
- Involved land doesn't always mean disturbed land, NRB attorney's are best resource to help understand this
- Automatic permit condition about onsite/offsite mitigation forest mitigation, similar to ag land
 - o We've talking about replacing forest soils criterion with forest frag criterion
 - o Process for ag soils but no process for forest soils

- Forest products businesses, permit conditions added that may require UVA management plan to change to comply with act 250 permit

Governance

- How are the people put on the board if they are doing rule making?
- One way is NRB chair who is appointed by the governor and district chairs appointed by the governor
- Board should be from county it has jurisdiction over
 - o This is how the commissions work right now; have to live in district to be on commission
- Support having a more supported board to help provide structure to the staff
- Administrative amendment applications are quick and easier to do, have to give all the information but was a more simple process
- Checklist for completeness and predictability
- Recommendation about advocate/ombudsperson
 - o Future of agriculture has recommended this; would advocate for this in the act 250 place
 - o They have this in NH; someone who helps people through the process versus an adversarial role
- More capacity within the NRB would be helpful
- Coordinators do provide assistance to applicants going through the process; and provide assistance to commissions making decisions, high burden on them to provide assistance
- Would “new” board hear appeals like old environmental board?
 - o There is no agreement on this question.
- Appeals – anyone can appeal for a small amount of money and by time get to environmental court it can take a year or more and costs and be 10\$K+ seems kind of unfair; someone should have to put up more to be able to appeal
- Notice to abutters can be many people when working in forest blocs
- Environmental court process takes a very long time

Scheduling conflicts moving forward

9/14 is Vermont Forest industry summit, pulling folks across working lands mostly forestry; might need to reschedule this meeting