



Vermont Agency of Natural Resources

Office of Planning

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January 13, 2023

Holly R. Anderson, Clerk

Vermont Public Utility Commission

112 State Street – 4th Floor

Montpelier, VT 05620-2701

Re: 19-0855-RULE – ANR Comments in response to Order and draft Rule 5.100 of 12/2/22

Dear Ms. Anderson:

The Vermont Agency of Natural Resources (“Agency”) has filed several rounds of written comments in Case No. 19-0855-RULE, the most recent of which on August 26, 2022. The Agency appreciates the Vermont Public Utility Commission’s (“Commission”) robust and inclusive process and has no additional comments on the Commission’s draft Rule 5.100, dated 12/2/2022, at this time.

Respectfully, the Agency has reviewed the Vermont Association of Planning and Development Agencies’ (“VAPDA”) 1/12/23 comments and offers a response below.

In their comments, VAPDA raises two technical concerns with the draft Rule 5.100 definition of ‘Significant Forest Clearing’. The first concern suggests that clearing a non-contiguous smattering of trees across an acre of land would trigger review under this definition if the cumulative canopy cover of those trees totaled more than 10% of the acre. This is not the case. In their 12/2/22 Order, the Commission states “Clearing of small areas of trees that are not contiguous to larger forested areas (i.e., at least one acre in size and 120 feet wide) would not count towards the one-acre limit on “significant forest clearing.””¹

The Agency’s 8/26/22 comments address this topic in depth and include a visual depiction that supports the Commission’s statement, above. Additionally, the

¹ PUC Case No. 19-0855-RULE, Order 12/2/22, page 4.

current draft Rule 5.100 confirms that review of Significant Forest Clearing focuses on contiguous areas of forest, not individual trees scattered across a site:

To qualify as forest, the area must be at least one acre in size and 120 feet wide. In determining whether an area is at least one acre or 120 feet wide, any portion of a group or contiguous area of trees that extends beyond the project or parcel boundaries shall be counted.²

VAPDA's second technical concern raises a temporal issue. Draft Rule 5.100 includes in the review of Significant Forest Clearing an area that:

... has had at least 10 percent canopy cover of live trees in the past and has stumps, snags, or other evidence indicating that it has not been converted to a non-forest use at the time of a CPG application filing.³ (emphasis added)

The intent here is to assess the state of the site at the time of application to determine if it has attributes of land currently managed for forest, rather than land already converted to non-forest use. Land in active, ongoing forest management can include live trees, early successional growth, snags, or evidence of a recent harvest such as stumps. This is not intended as an analysis of historic land use, rather an assessment of whether the site has been converted to a non-forest use at the time of application.

Thank you for the opportunity to comment throughout this proceeding. Please contact me if the Agency can be of further assistance in this matter.

Respectfully submitted,

/s/ Billy Coster

Billy Coster

Director of Planning

Vermont Agency of Natural Resources

cc: Service List (by ePUC only)

² PUC draft Rule 5.100, 12/2/22, page 12.

³ Ibid., page 12.