

Off Limits for Development? What You Need to Know About the Regulation of Forest Connectivity Blocks



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white + burke
VERMONT
DEVELOPMENT
CONFERENCE

Presenters



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Breaking Habitat



Glossary

Habitat Blocks

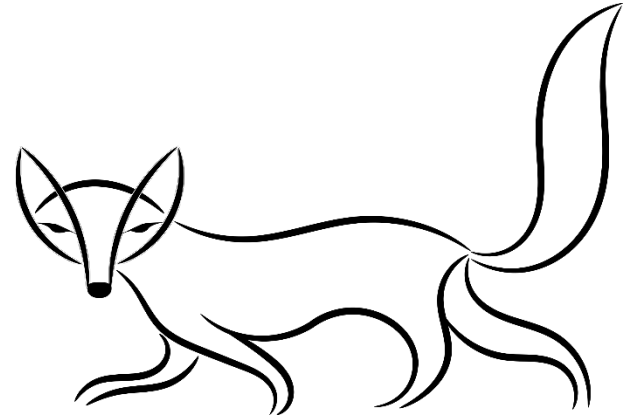
- At least 20 acres of contiguous habitat
- Unfragmented by road, human development or agriculture
- Most habitat blocks in Vermont are forest
- May also include wetlands, rivers, streams, lakes, ponds, cliffs and rock outcrops
- Class 3 roads cause fragmentation
- Class 4 roads don't



Glossary

Fragmentation

- What you would expect
- Dividing habitat blocks into smaller areas



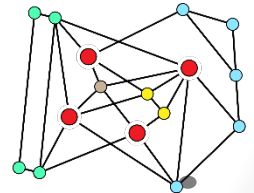
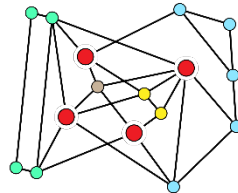
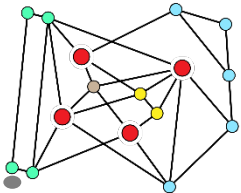
Connectivity

- Capacity of individual species to move between habitat blocks
- The degree to which similar landscape elements are connected to each other so as to facilitate the movements of organisms and ecological processes between them

Glossary

Landscape Connectivity/Connectivity Blocks

- A network that links large blocks of contiguous unfragmented habitat (interior forest blocks) with other forest blocks that are not large enough to maintain populations of wide-ranging species
- Connectivity blocks are necessary for wildlife movement, including animal migration and dispersal of plants
- Sometimes called “corridors” although they are not always linear



Why We Care

Benefits of protecting habitat blocks and connectivity corridors

- Forest Products
- Tourism
- Flood Protection
- Clean Water Supply
- Clean Air
- Wildlife Habitat
- Biological Diversity



Why We Care

Threats to habitat blocks and connectivity corridors

- Overdevelopment
- Inappropriate Subdivision or “Parcelization”
- Effects of Climate Change

What is the Controversy?

- ANR Has Designated 208 “Highest Priority” Habitat Blocks And Connectivity Corridors
- Those Blocks Comprise 40% Of The State
- Many More Thousands Of Acres Classified As “Critical Linkage Areas”

Is All Of That Land Off-limits To Development?

How Will We Know?

No Direct Regulation of Habitat Blocks and Connectivity Corridors

Not Regulated by Municipal Zoning

Not an Act 250 Criterion – more on this in a moment

No ANR Permit Process

Only Regulatory Cases Come from Public Utility Commission

Undefined Criterion – Effect on the “Natural Environment”

Jurisdiction limited

Communications Facilities (Verizon/Waterbury)

Solar Arrays (Otter Creek Solar)

Wind Turbines (Lowell Mountain)

• What About Other Types of Development?



Legislative Proposals

S. 165 Introduced March 2019:

Make “Forest Blocks” and “Habitat Connectors” part of Act 250 review under new Criteria 8(B) and (C).

This would only apply to projects subject to Act 250 jurisdiction

How does this jibe with “undue adverse effect” finding usually required in Act 250 cases?

- Burden on proof would be on applicant

- Would require ANR to adopt rules

- Would require ANR to adopt maps

Bill not passed; referred to Act 250 rewrite Committee

What will the jurisdictional threshold be?

(B) Forest blocks. (i) A permit will not be granted for a development or subdivision within or partially within a forest block unless the applicant demonstrates that: (I) the development or subdivision will avoid fragmentation of the forest block through the design of the project or the location of project improvements, or both; (II) it is not feasible to avoid fragmentation of the forest block and the design of the development or subdivision minimizes fragmentation of the forest block; or (III) it is not feasible to avoid or minimize fragmentation of the forest block and the applicant will mitigate the fragmentation in accordance with section 6094 of this title. (ii) Methods for avoiding or minimizing the fragmentation of a forest block may include: (I) Locating buildings and other improvements and operating the project in a manner that avoids or minimizes incursion into and disturbance of the forest block, including clustering

Legislative Proposals Cont'd



of buildings and associated improvements. (II) Designing roads, driveways, and utilities that serve the development or subdivision to avoid or minimize fragmentation of the forest block. Such design may be accomplished by following or sharing existing features on the land such as roads, tree lines, stonewalls, and fence lines.

(C) Habitat connectors. (i) A permit will not be granted for a development or subdivision unless the applicant demonstrates that: (I) the development or subdivision will avoid fragmentation of a habitat connector through the design of the project or the location of project improvements, or both; (II) it is not feasible to avoid fragmentation of the habitat connector and the design of the development or subdivision minimizes fragmentation of the connector; or (III) it is not feasible to avoid or minimize fragmentation of the habitat connector and the applicant will mitigate the fragmentation in accordance with section 6094 of this title. (ii) Methods for avoiding or minimizing the fragmentation of a habitat connector may include: (I) locating buildings and other improvements at the farthest feasible location from the center of the connector; (II) designing the location of buildings and other improvements to leave the greatest contiguous portion of the area undisturbed in order to facilitate wildlife travel through the connector; or (III) when there is no feasible site for construction of buildings and other improvements outside the connector, designing the buildings and improvements to facilitate the continued viability of the connector for use by wildlife.

Questions?