

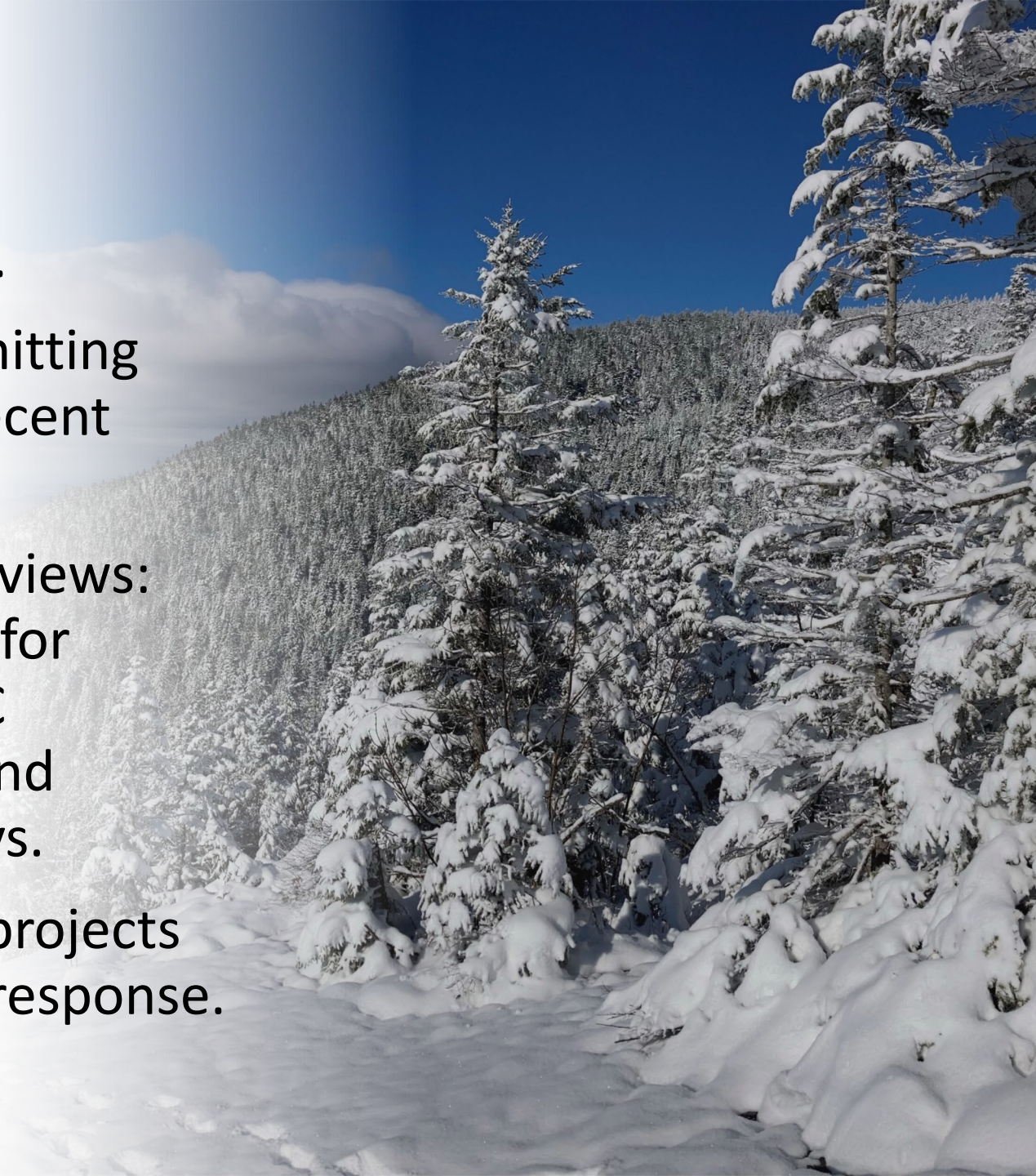


**Act 250 and the  
Natural Resources Board**  
Northeastern Vermont Development  
Association  
February 29, 2024



# Topics:

- Act 250 basics.
- Land Use Permitting statistics for recent years.
- Application Reviews: Opportunities for Municipal/RPC Involvement and Avoiding Delays.
- ARPA-funded projects and Act 250's response.



# **Key Messages to Act 250 Permit Applicants**

**(including municipalities, when municipal projects require an Act 250 permit):**

- **Discuss your project and the land use permit application process with your District Coordinator before you apply.**
- **Submit American Rescue Plan Act (ARPA)-funded project applications ASAP to reduce potential for application bottleneck later.**
- **Ensure that application proposals conform with Regional and Town Plans**

# Act 250 Basics

- The Natural Resources Board oversees Vermont's statewide land use review process known as Act 250.
- Act 250 review is a quasi-judicial process through which District Commissions review proposed jurisdictional projects for adherence to a list of criteria established in statutes by the Legislature.
- The review integrates water quality, wildlife, traffic, historic preservation, aesthetics, town planning and service capacity, and other reviews in one holistic permitting process.

# A Total of 32 Criteria & Sub-criteria:

- Criterion 1: Air and water pollution

- 1(A): Headwaters
- 1(B): Waste disposal
- 1(C): Water conservation
- 1(D): Floodways
- 1(E): Streams
- 1(F): Shorelines
- 1(G): Wetlands

- Criterion 2: Water supply

- Criterion 3: Impact on water supply

- Criterion 4: Erosion and capacity of soil to hold water

- Criterion 5: Transportation

- 5(A): Traffic
- 5(B): Transportation

- Criterion 6: Educational services

- Criterion 7: Municipal services

- Criterion 8: Aesthetics, scenic & natural beauty

- Historic sites

- Historic sites - archeology

- Rare and irreplaceable natural areas

- 8(A): Necessary wildlife habitat

- Criterion 9

- 9(A): Impact of growth

- 9(B): Primary agricultural soils

- 9(C): Productive forest soils

- 9(D): Earth resources

- 9(E): Extraction of earth resources

- 9(F): Energy conservation

- 9(G): Private utility services

- 9(H): Costs of scattered development

- 9(J): Public utility services

- 9(K): Public investments

- 9(L): Settlement patterns (*formerly* "Rural growth areas")

- Criterion 10: Local and regional plans

# What's in...

## Act 250 Jurisdiction

- Subdivisions of 10 lots or more, or 6 lots in towns without permanent zoning and subdivision regulations
- Commercial development on >1 or >10 acres, depending on a town's zoning and subdivision regulations
- State or municipal projects when >10 acres of land are used
- Housing projects with 10 or more units (higher unit thresholds for affordable housing in state designated centers)
- Communication towers >50 feet
- Commercial, residential, or industrial development above 2,500 feet elev.
- Material change to an Act 250-permitted project, and
- Substantial change to a pre-1970 project

# What's NOT in...

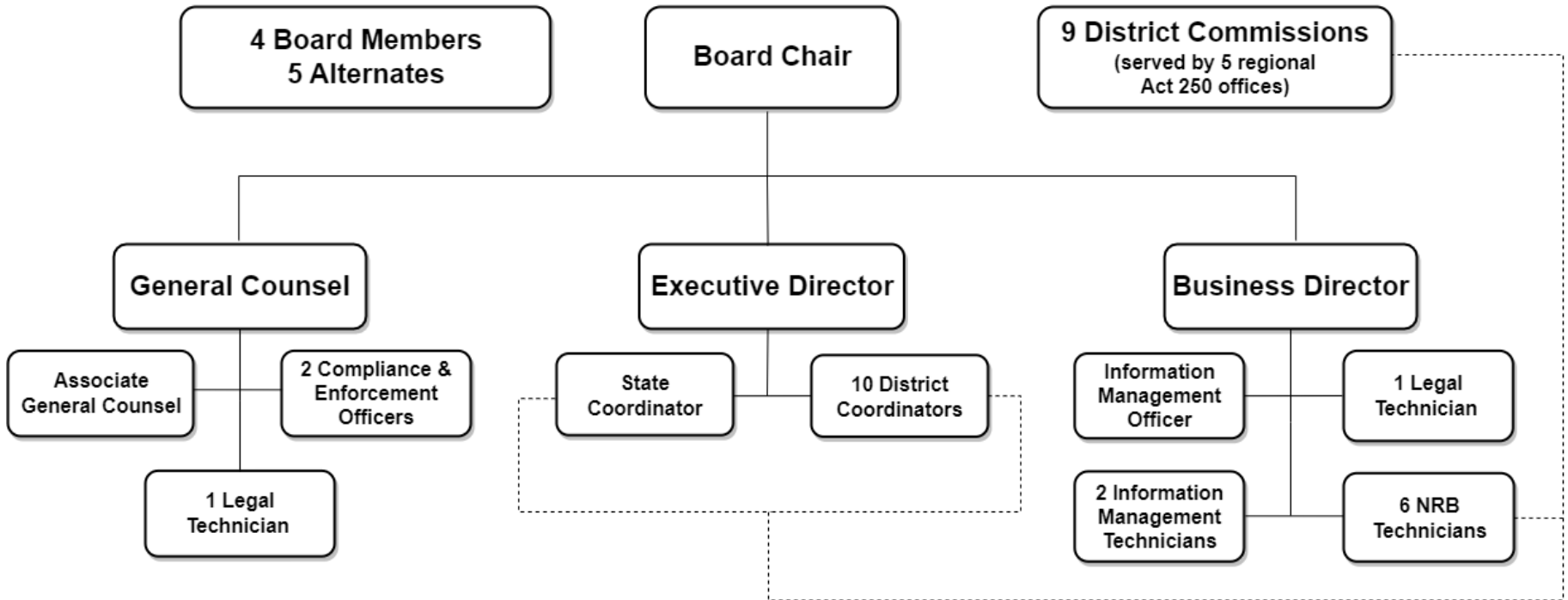
## Act 250 Exemptions

- Farming below 2,500 feet in elevation
- Logging below 2,500 feet in elevation
- Many other exemptions for specific project types

The NRB is an independent entity in state government that oversees the administration of Act 250. It is not part of any other state agency.

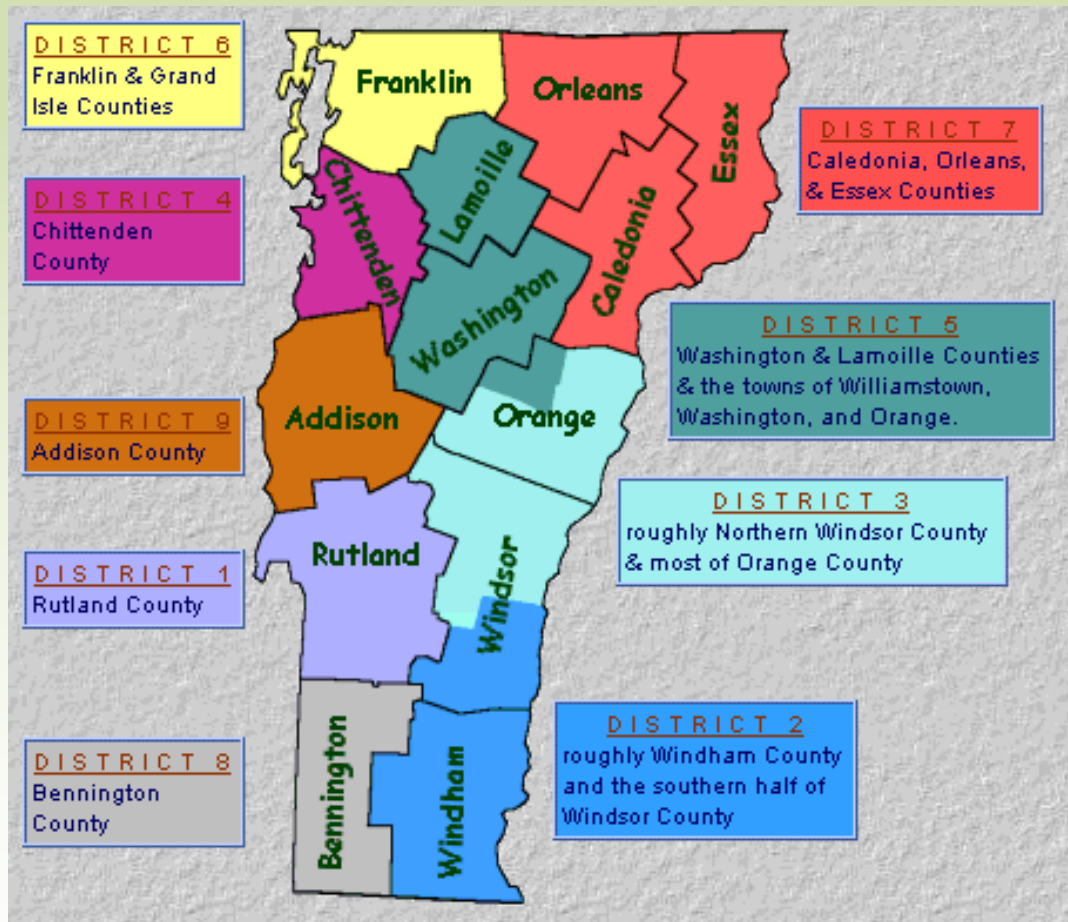
## Natural Resources Board

11-22-23





# 9 District Environmental Commissions



[District Staff and Environmental Commissions | Natural Resources Board \(vermont.gov\)](http://vermont.gov)



## **District Commissioners**

Our 10 District Coordinators work with 63 volunteer District Commissioners to review projects. Commissioners are appointed by the Governor for staggered 2-4-year terms.

# District 7 Environmental Commission

## Chair:

- Eugene Reid (Exp. 2/28/25)

## Members:

- Nicole Davignon (Exp. 2/28/27)
- Keith Johnson (Exp. 1/31/25)

## Alternates:

- Clark Atwell (Exp. 2/28/25)
- Dexter Randall (Exp. 2/28/25)
- Patricia Sears (Exp. 2/28/25)
- VACANT



## Your Act 250 District Coordinator is your navigator.

Their role in permitting is threefold:

- **Jurisdictional Opinions:** To determine whether a project requires a permit under the law.
- **Coordination:** To facilitate the review process for applicants, the Commission, & other parties (if any).
- **As a “Clerk:”** To draft the Commission’s written decision.



## If you are a municipal official,

- Feel free to reach out to [your district coordinator](#) at any time for guidance about whether a **municipal** project will require a permit or amendment.
- Please do not advise people about whether their project will require an Act 250 land use permit or an amendment.
- Feel free to refer people to their [Act 250 district coordinator](#) for guidance.
- To determine which ANR permits might be needed for a project, use ANR's online [Permit Navigator](#) tool. It asks a series of questions and generates a report with referrals to specific ANR programs. For further assistance, contact your [ANR Community Assistance Specialist](#).

# Local Contacts

District 7 Environmental Commission  
374 Emerson Falls Road, Suite 4  
St. Johnsbury, VT 05819-2099

- Kirsten Sultan, District 7 Coordinator

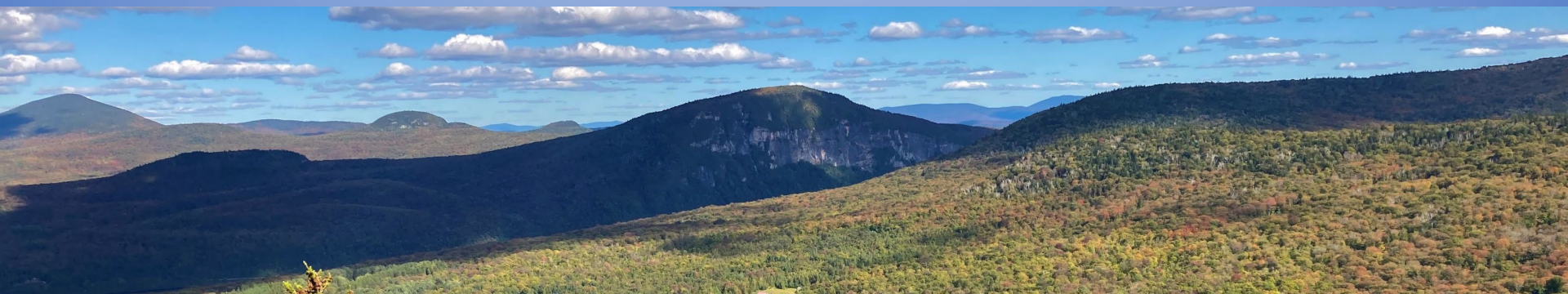
[Kirsten.sultan@vermont.gov](mailto:Kirsten.sultan@vermont.gov)

(802) 261-1946

- Gina St. Sauveur, NRB Technician

[gina.stsauveur@vermont.gov](mailto:gina.stsauveur@vermont.gov)

(802) 751-0120



# Potential Application Review Methods

- **Major Review Process**: the Commission convenes a hearing, invites persons to participate as parties, and takes testimony on the application.
- **Minor Review Process**: the Commission drafts a land use permit, puts the draft permit on public notice, and then considers any comments received in response to the draft.

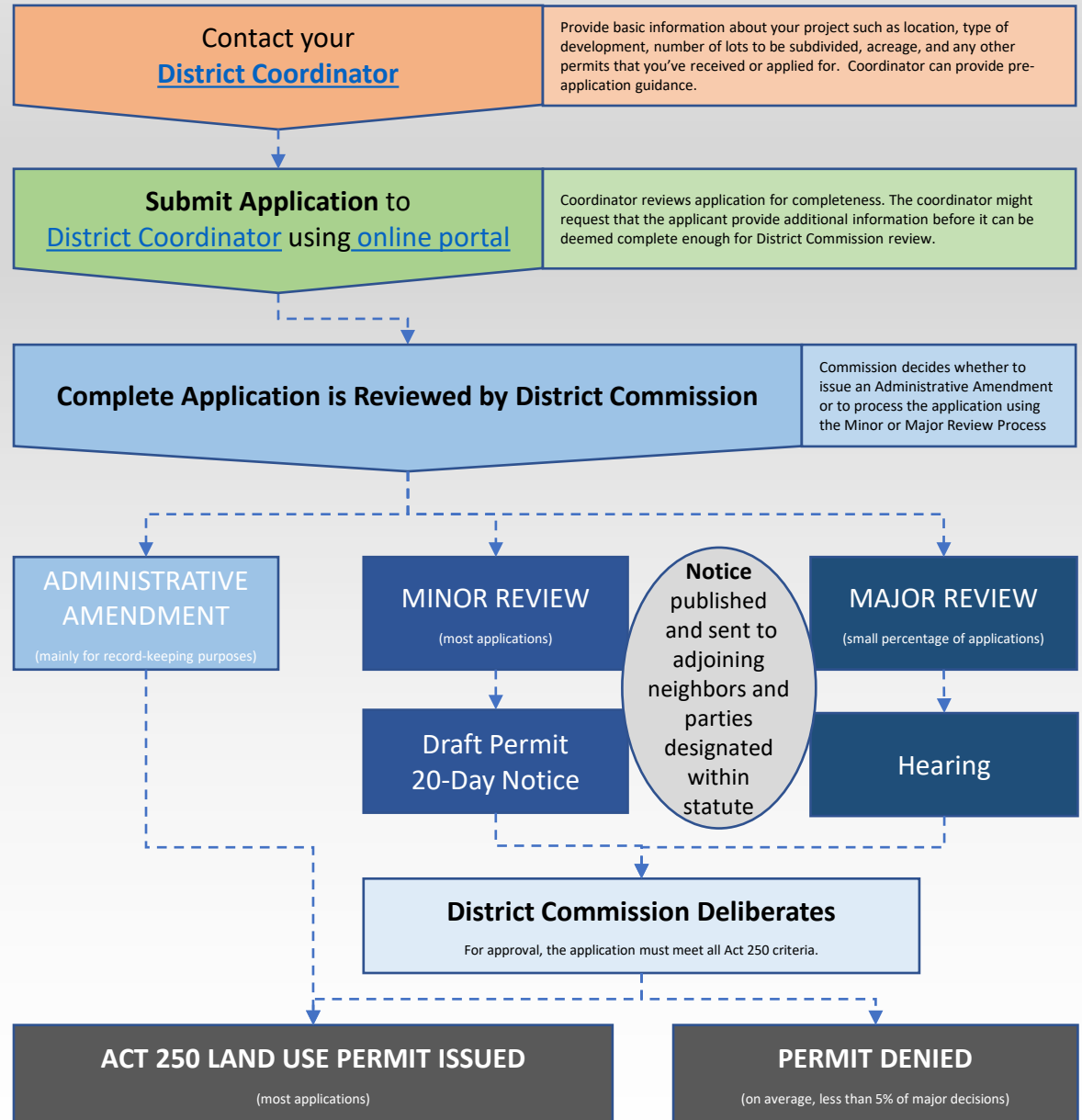
**Administrative Amendments:** exclusively for record-keeping purposes or to authorize minor revisions to permitted projects raising no likelihood of impacts under the criteria of the Act.

- The District Commission does not sign the permit amendment.
- No notice to the public or other State Agencies.
- No notice to adjoining until amendment issues.
- Not suitable for enlargement or reconfiguration of the footprint of any component of a project.
- Example: a short-term extension of a permitted construction completion deadline, subject to 10 V.S.A. § 6091(d) and Act 250 Rule 32(B)(1).
- Link to [Guidance](#).



# Act 250 Application Process

If you are planning construction or subdivision of land in Vermont, you might need to obtain an Act 250 Permit. The steps outlined here provide a simplified overview of the application process. For more detailed information, visit [nrb.vermont.gov](http://nrb.vermont.gov) or contact your [Act 250 District Coordinator](#).



# The Statistics

On average, in recent years, statewide,  
402 decisions issued per year.

22 applications (5%) go to a hearing each year.

380 permits are issued without a hearing.

Over 65% of decisions issued within 90 days.

7 decisions are appealed each year.

1 decision (0.2%) is denied each year

# Act 250 Permits by the numbers

## 2023:

392 decisions issued

22 major reviews

224 minor reviews

146 Administrative Amendments

## 2022:

379 decisions issued

22 major reviews

209 minor reviews

148 Administrative Amendments

# Beyond the numbers

## 2023:

Primary Agricultural Soils protected by permit conditions	59.94 acres
Primary Agricultural Soil Mitigation Payments assessed	\$941,838
Traffic Mitigation Payments assessed	\$233,028
Archeological sites addressed	14 permits
Historic structures addressed	8 permits
Wetlands and wetland buffers protected	77 permits
Riparian zones (river and stream buffers) protected	92 permits
Lake, pond, or large river buffers protected	4 permits
Drinking water Source Protection Areas addressed	26 permits
Habitat areas addressed	34 permits
Noise limitation conditions	192 permits
Quarry or gravel pit reclamation conditions	8 permits

# Application Reviews: Opportunities for Municipal & RPC Involvement

## Criteria 6 & 7: Educational & Municipal Services

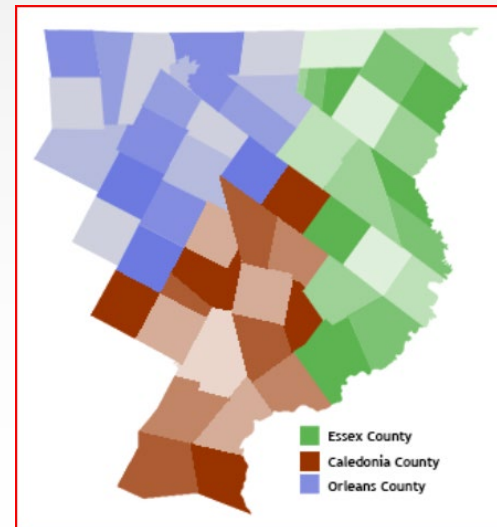
- Projects may not place an unreasonable burden on the ability of the local governments to provide municipal or governmental services.
- Education, fire, police, water, sewer, roads, etc.
- A permit cannot be denied under Criteria 6 or 7, but the Commission may impose conditions to alleviate any burden created by the project.



## Criterion 10: Local & Regional Plans

Commissions look for mandatory and specific language in those plans.

- “*Should*” and “*strongly encourage*” indicate non-mandatory language.
- “*Shall*” and “*must*” indicate mandatory language.
- Plan provisions must pertain to the area proposed for the project and be clear to the average person.



# Statutory Parties

**10 V.S.A. §  
6085(c)(1):**  
**“The following  
persons shall be  
entitled to party  
status:”**

The applicant

The landowner

The municipality in which the project site is located, and the municipal and regional planning commissions for that municipality

Municipalities and regional planning commissions adjacent to the project

State agencies affected by the project

# **Opportunities for Participation in Application Review: Municipalities, RPCs, and other Statutory Parties**

- Will receive email notice when an application is received.
- Once district coordinator deems application complete, the district commission will determine whether a hearing is necessary.
- Statutory parties will receive email notice of a 20-day public notice period.
- Statutory parties may provide written comments and/or request a hearing during that notice period, based on application's compliance with the Act 250 criteria.
- If a hearing is scheduled, statutory parties automatically have status to participate in the hearing.

## How to help facilitate a smooth Act 250 review and approval process

Encourage applicants to engage project **neighbors & stakeholders** early in process.

- Listen.
- Address their concerns in design.

Applicants meet with **district coordinator** during scoping.

- Design project to address all Act 250 criteria.

Towns fill out Municipal and School Impact Questionnaires.

- Document Town's capacity to provide services to the development.





# Engagement on the front end can help to avoid . . .

- Letters from the coordinator or district commission requesting additional materials.
  - to ensure that [all Act 250 criteria](#) are addressed, and that application is complete enough for commission review.
- Hearings.
  - Scheduling delays.
  - Findings of Fact and Conclusions of Law.
- Appeals.
- Future land use permit violations.
  - Design projects to minimize the potential for violations.



# RESOURCES

[Application Submission Overview](#)

[Application Guide](#)

[District Commissioner Training Manual](#)

**Act 250 Database:**  
<https://anrweb.vt.gov/ANR/Act250/default.aspx>

**ANR Act 250 Review:**  
<https://anr.vermont.gov/planning-and-permitting/planning-tools/act-250>

**ANR Permit Navigator:**  
<https://permitnavigator.my.vermont.gov/s/>

**Agency of Agriculture Act 250 Review:**  
<https://agriculture.vermont.gov/land-use-renewable-energy/act-250-criterion-9b>

**VTrans Act 250 Review:**  
<https://vtrans.vermont.gov/planning/development-review-services>

**ACCD Division of Historic Preservation Act 250 Review:**  
<https://accd.vermont.gov/historic-preservation/resources-rules/laws-regulations/act-250>

# Subscribing to the Weekly Act 250 Agenda

Stay up-to-date with what's going on in Act 250 by signing up for weekly Act 250 Agenda updates via email. Here's how to sign up:

- Visit the [Act 250 Agenda Page](#). You can get there by clicking on "AGENDA" at the top of the [Act 250 database portal](#).
- Scroll down to the bottom of the AGENDA page.
- Click on "Subscribe to Act 250 Notifications."
- Enter your email address.
- Click "Subscribe."

The AGENDA page displays a list, updated daily, and links to the following information:

- All Act 250 jurisdictional opinions (JOs) and district commission decisions issued during the current week, the prior week, and the week before that.
- All Act 250 land use permit applications that are currently subject to a public notice period.

If you subscribe, you will receive an email every Monday morning, including a link to the most current Act 250 Agenda. However, you don't need to subscribe to check the Act 250 Agenda. You can [check it online](#) at any time.

# Act 250 Database

<https://anrweb.vt.gov/ANR/Act250/default.aspx>

The screenshot shows the search interface for the Act 250 Database. At the top, the browser address bar shows the URL [anrweb.vt.gov/ANR/Act250/default.aspx](https://anrweb.vt.gov/ANR/Act250/default.aspx). The page header includes the Vermont Natural Resources Board logo and the tagline "Fair...Consistent...Predictable!". Below the header, there are navigation links for "HOME" and "AGENDA".

The main content area features a green informational box with the following text:

**Search the entire database for Act 250 Projects: Be as specific as possible in your request, the search is limited to 500 results.**

The addition to this database of all existing permit, Jurisdictional Opinion, and Project Review Sheet records associated with Act 250 projects is ongoing and a work-in-progress. In October 2016, the NRB introduced a paperless permit application workflow in which application and permit-related documents are processed electronically; these records and files are available here. This database also contains a portion of older Act 250 projects, but the data results are limited. To access any Act 250 projects not listed in this database, request staff assistance from the designated district office here: <https://nrb.vermont.gov/act250-program/district-staff-and-commissions>

The construction of improvements for some telecommunications projects and certain energy generation and transmission projects may have been authorized by Vermont's Public Utility Commission rather than an Act 250 District Commission. Individuals looking for such authorizations should contact the Public Utility Commission or search its ePUC filing system (<https://epuc.vermont.gov/?q=User>)

Below the informational box is a search form with the following fields:

- Project Number:
- Project Name:
- Project Address:
- Town:  All Towns
- Participant Name:
- District:  All Districts
- Criteria:
- Description:
- Status Date From:
- Status Date To:

The form includes two sections for filtering results:

**Status: You may check more than one.**

<input type="checkbox"/> Abandoned	<input type="checkbox"/> Denied	<input type="checkbox"/> Dismissed	<input type="checkbox"/> Expired	<input type="checkbox"/> Findings
<input type="checkbox"/> Inactivated	<input type="checkbox"/> Incomplete	<input type="checkbox"/> JO issued	<input type="checkbox"/> Pending (Awaiting Information)	<input type="checkbox"/> Pending (Comment Period)
<input type="checkbox"/> Pending (Decision)	<input type="checkbox"/> Pending (Hearing)	<input type="checkbox"/> Pending (in Review)	<input type="checkbox"/> Pending (Major/Minor Determination)	<input type="checkbox"/> Permit
<input type="checkbox"/> Received	<input type="checkbox"/> Submitted	<input type="checkbox"/> Withdrawn		

**Application Type: You may check more than one.**

<input type="checkbox"/> Adm. Amend	<input type="checkbox"/> JO	<input type="checkbox"/> Major	<input type="checkbox"/> MajorMinor	<input type="checkbox"/> Minor	<input type="checkbox"/> PRS
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At the bottom of the form are two buttons: "Search" and "Reset".

- More ways to search for documents.
- JOs and application decisions.

# Act 250 Database Example

<https://anrweb.vt.gov/ANR/Act250/Details.aspx?Num=7R0854-19>

- Project summary.
- Location Map.
- Status Info.
- Document search filters.
- All exhibits.


[Back to Search](#) Party Status Petition

Project Details	
Project Number	7R0854-19
Project Name	
Number of Lots	0
Acres	30.7
Project Address	830 Jay Peak Road
Project Town	Jay
Description	New snowmaking pipelines along the Queen's Highway ski trail
Application Type	Minor
Project Type	Commercial - Ski Resort
Latitude	44.9376013
Longitude	-72.5047723
ChangeAppNum	

Project Status	
Date Application Received	Aug 03, 2023
Date Deemed Complete	Aug 15, 2023
Agenda Date	Oct 18, 2023
Permit Agenda Date (agency)	
Notice Issued	Aug 15, 2023
Pre-Hearing Date	
Hearing Date	
Response Deadline	Sep 05, 2023
Date Decision Issued	Oct 11, 2023
Current Status	<b>Permit</b> - Status Definitions
Days to Review - all app types (from Received to 1st Review) (1):	13
Days to Issue from End of Comment Period>Last item received - Minor only (2):	0
Days to Issue after Adjudgment - Major only (3):	
Days from Deemed Complete to Prehearing/1st Hearing - Major & Major/Minor only (4):	
Days from End of Comment Period to Prehearing/1st Hearing - Major/Minor only (5):	

Project Participants		
Role	Name	Address
Applicant	Walter Clender Jay Peak Pacific, LLC	830 Jay Peak Road Jay VT 05659
Land Owner	Walter Clender Jay Peak Pacific, LLC	830 Jay Peak Road Jay VT 05659
Primary Contact	Walter Clender Jay Peak Pacific, LLC	830 Jay Peak Road Jay VT 05659

[View the Case Application on ANR Adas Map](#)



Associated documents. Select a directory or tag to filter results or click a column header to sort. You can also search the title of the document by text. Open files by clicking [View]. If using Google Chrome, you will need to enable Pop-ups. (see <https://support.google.com/chrome/answer/90772?co=GENIE.Platform%3DDesktop&hl=en>)

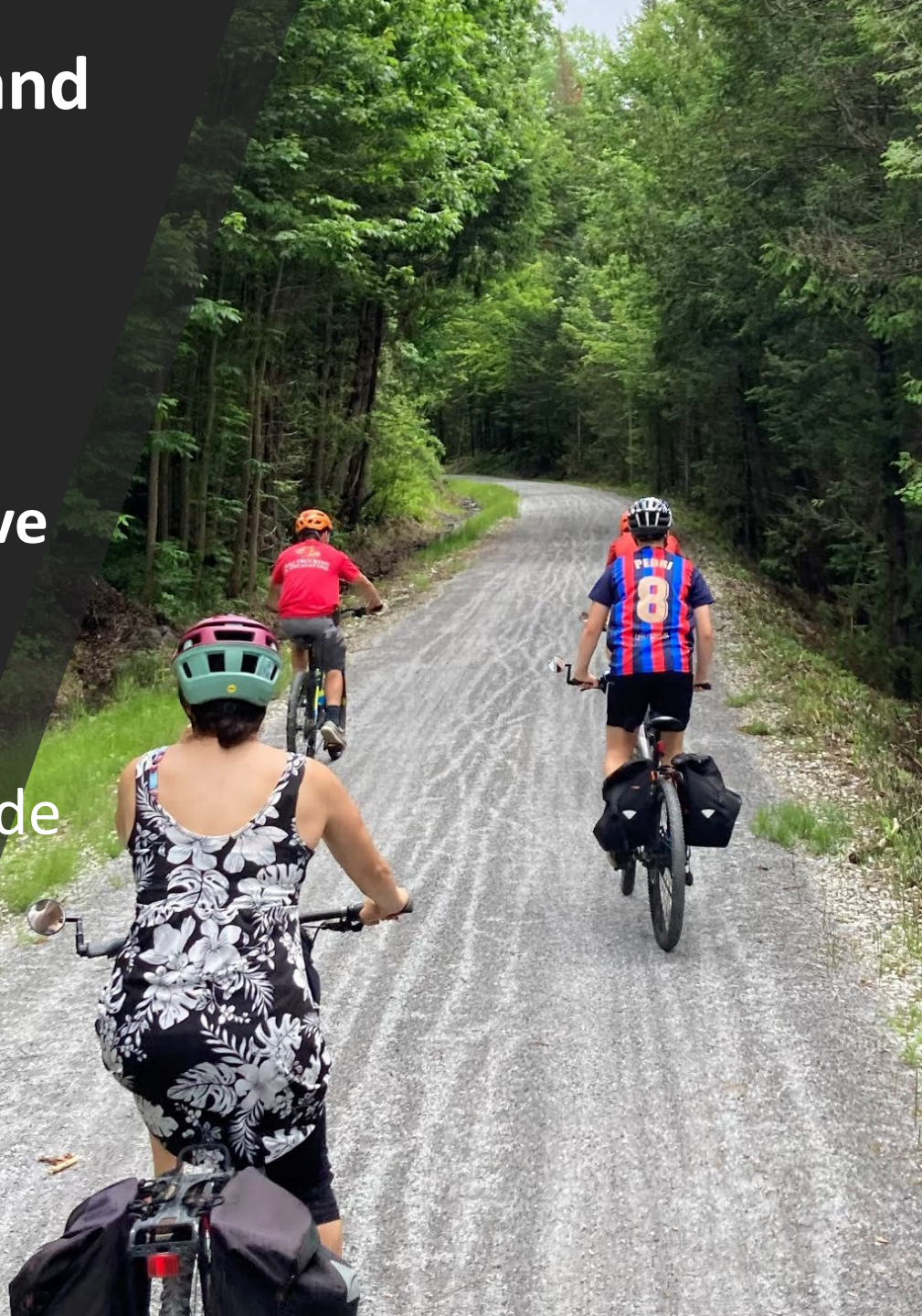
Filter Type:  Application Documents  District Commission Documents

Filter Sub-Type:  (Blank)  Land Use Permit & Findings

Search Document Name:

# Federal ARPA Funding and Program Updates:

- ARPA funding used to secure two additional **District Coordinator** positions and an **Executive Director** position.
- **Goal:** manage workload across districts and provide additional support for review of ARPA-funded projects without impacting review of other project applications.



# ARPA Funding and Program Updates continued:

- New and Improved Database and Application Platforms

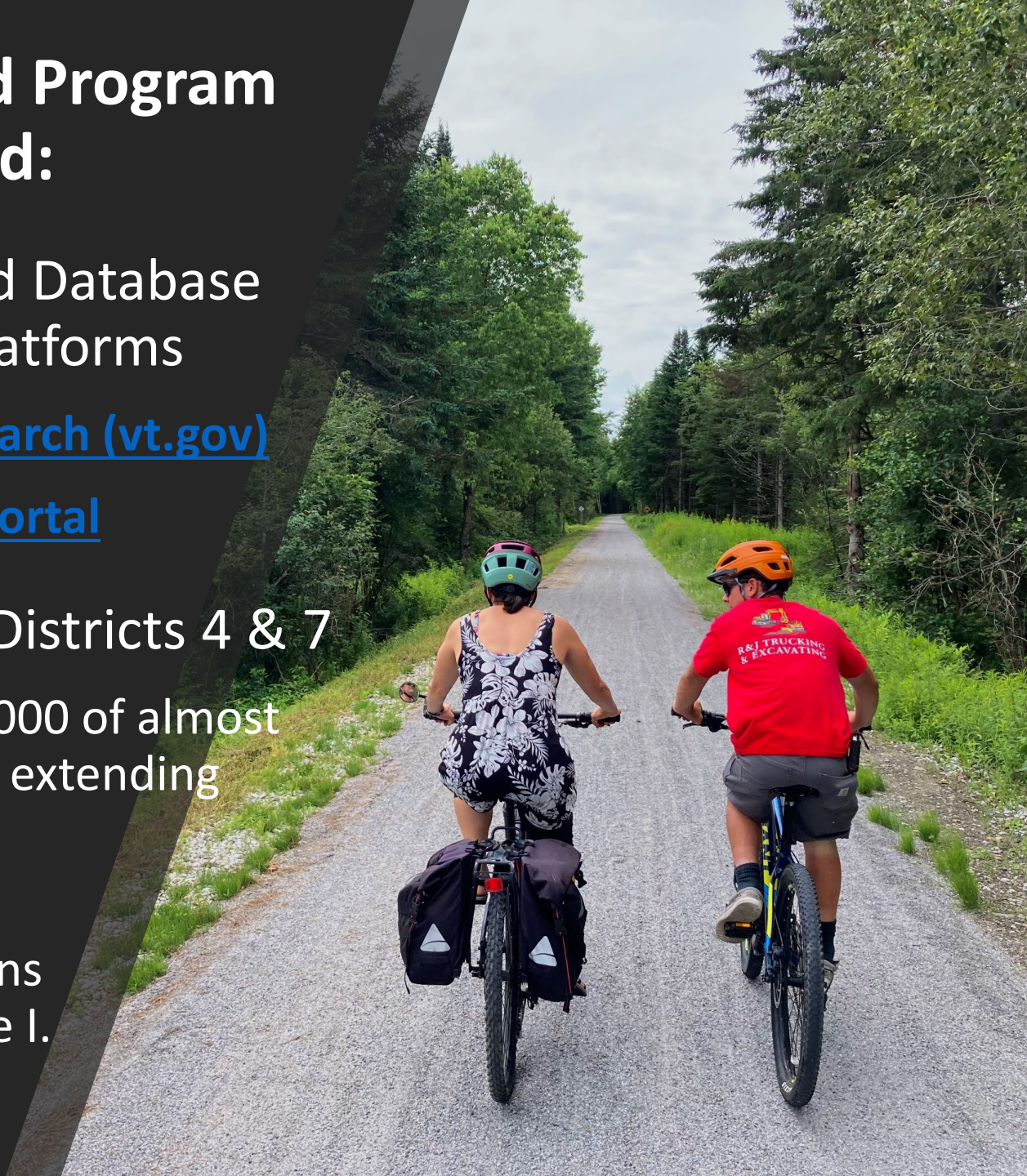
[Act 250 Database Search \(vt.gov\)](#)

[Online Application Portal](#)

- Scanning Project: Districts 4 & 7

Will scan the first 11,000 of almost 30,000 paper records extending back to 1970.

2 million+/- pages of documents & site plans will go digital in Phase I.



# **Key Messages to Act 250 Permit Applicants**

**(including municipalities, when municipal projects require an Act 250 permit):**

- **Discuss your project and the land use permit application process with your District Coordinator before you apply.**
- **Submit American Rescue Plan Act (ARPA)-funded project applications ASAP to reduce potential for application bottleneck later.**
- **Ensure that application proposals conform with Regional and Town Plans**



# Additional Contacts

Natural Resources Board  
10 Baldwin Street  
Montpelier, VT 05633-3201



- Sabina Haskell, Chair  
[Sabina.Haskell@vermont.gov](mailto:Sabina.Haskell@vermont.gov)  
802-461-8072
- Peter J. Gill, Executive Director  
[Peter.Gill@vermont.gov](mailto:Peter.Gill@vermont.gov)  
802-522-7150
- Aaron J. Brondyke, State Coordinator  
[Aaron.Brondyke@vermont.gov](mailto:Aaron.Brondyke@vermont.gov)  
802-595-2735
- Kevin Anderson, District Coordinator  
[Kevin.Anderson@vermont.gov](mailto:Kevin.Anderson@vermont.gov)  
802-522-6074

A photograph of a rocky stream with white water rapids. The water is turbulent and white with foam as it flows over dark, layered rock formations. The surrounding area is rocky and has some sparse, dry vegetation. The text "Questions?" is overlaid in the center of the image.

**Questions?**