

Legislative Report

UNIDENTIFIED CORRIDORS

Pursuant to

Act 178 of 2006, Section 12(a)

**By the
Vermont Agency
Of
Transportation
(VTrans)**



By: Policy and Planning Division

January 18, 2007

February 13, 2007

SUBJECT: Act 178 of 2006 – An Act Relating to Unidentified Corridors – Status Update

On July 1, 2006, Act 178 went into effect, which added additional requirements to towns for the accounting of mileage and mapping of Class 4 Town Highways and Legal Trails, along with other substantial modifications to Chapters 3 and 7 of Title 19 – Highways of the Vermont Statutes Annotated.

The Agency of Transportation Mapping Unit has been following the progress of Act 178 since it was enacted and is providing this report, as required in Act 178 of 2006, Section 12(a). Please find below the required sections and information regarding the status and observations regarding Act 178 of 2006.

(1) Evaluates the effectiveness of this act:

Over the course of the last seven months, there has been much activity related to “ancient roads” and Act 178. But at this point, the Act’s full impacts cannot be defined in detail, due to the Act being new and the towns requiring time to understand the new requirements, research and map the highway network, and provide the highway information to VTrans on the Mileage Certificates. In another year, more information will be available to better assess Act 178. To provide some insight and observation, municipalities are taking longer to submit the Mileage Certificates to VTrans this year. The certificates need to be filed at the town clerk’s office on or before February 10th, and then supplied to VTrans in the few weeks following that date. At the time of this report, VTrans has received 125 Mileage Certificates of the 271 sent to municipalities, whereas at the same time last year, 172 had been received. Municipalities are taking longer to review the highway network and provide the necessary documentation with the certificates. The new requirements to account for legal trail mileage has prompted some towns to not add the known legal trail mileage this year, but to do a thorough review of the trails and add the mileage next year. At the present time, VTrans is aware of 130 municipalities that have legal trails, so far; only 20 have submitted the trail mileage on the Mileage Certificates.

Based on the number of questions received by the Mapping Unit regarding Act 178, legal trails, changes to the Mileage Certificates, and ancient roads, those municipalities that are researching and mapping the ancient roads are taking the Act seriously and are working to map all town highways and trails.

Since Act 178 was newly enacted in 2006, baseline information did not exist and needed to be collected. In an effort to gain this baseline knowledge, a survey was sent to all the towns, cities, and villages that submit mileage certificates to the Agency. The survey was constructed to cover the key information requested by the Legislature, and to gauge what level of effort would be needed by the Mapping Unit to process the Mileage Certificate changes and update the Town Highway Maps.

The survey was sent to the Chair of the Selectboard or the President of the Trustees or Alderman for each municipality, totaling 271 surveys. It should be noted that it is not known who filled out the survey or if the survey reflects all the interests of the municipality; thus there is a potential for bias or margin of error for the responses. Since limited information existed, this

survey provides a “best guess” at the current time on the status of “ancient roads” at the municipal level. To date, 122 surveys have been returned, with varied responses.

(2) recommends additional measures necessary to meet the goals of this act;

The two main items that were a common theme provided on the surveys by the municipalities, and also heard through other feedback, is the need for additional time and funding to meet the necessary requirements. H.111 has been introduced in the 2007-2008 session to address each of these concerns; it would increase the timeline by two years, and add \$400,000 to funding of the grant program.

In the survey responses received by VTrans from the municipalities, there were comments regarding additional time was needed to do the work. To quantify the responses, 17 stated the work could be completed before July 1, 2009, whereas 42 municipalities, the remaining municipalities that have not mapped all the roads, either were unable to answer the time needed to complete the mapping, or commented they were uncertain to the amount of time needed.

Regarding funding, 87 municipalities responded “No,” they do not have adequate funding to map the highways, and only 37 were able to provide an amount needed to do the research and mapping, the other 50 were uncertain, mostly due to being too early in the process to know. The 37 that did provide amounts ranged widely from \$1,000 to \$50,000, with the bulk in the \$20,000 range. The funding issue can also be seen with the number of applications made for the research and mapping grants at the VT Department of Housing and Community Affairs, totaling a need for \$328,000 but having only \$100,000 in funds to grant.

The General Assembly may wish to consider a technical correction to 19 V.S.A. § 305(g) to include Class 4 town highways and legal trails on the General highway Maps produced by the Agency of Transportation. The language would be amended to the following:

(g) The agency shall provide each town with a map of all of the highways and trails in that town together with the mileage of each class 1, 2, ~~and 3~~, and 4 highway, trail, and such other information as the agency deems appropriate.

In the surveys, the municipalities provided recommendations, that include the following comments: *“Leave the issue up to the landowners”, “Require title searches to go back more than 40 years”, “Have state monies appropriated for the hiring of maybe (2) consultants per county”, “If the law is not amended or rescinded, more time to do the necessary work”, “Repeal Act 178”, and “You have done a great job”.*

It has been expressed by some municipalities that the term “not clearly observable” in the criterion for “unidentified corridor”, as defined in 19 V.S.A. § 302(a)(6)(A)(iii), is too vague to be practical and open to much interpretation. Clarification of this term and expansion of the definition may be a solution.

(3) identifies which municipalities have mapped all of their town highways and trails;

It is still early to fully know the extent to which the municipalities have mapped all the town highways and trails. Based on feedback to date, towns need time to work on research and mapping before the town highway network can be considered complete. Based on the survey, 58

municipalities stated they have mapped all the highways and trails, and 59 municipalities stated they haven't. As a generality, half of the towns have mapped all the roads, but exact number is yet to be determined.

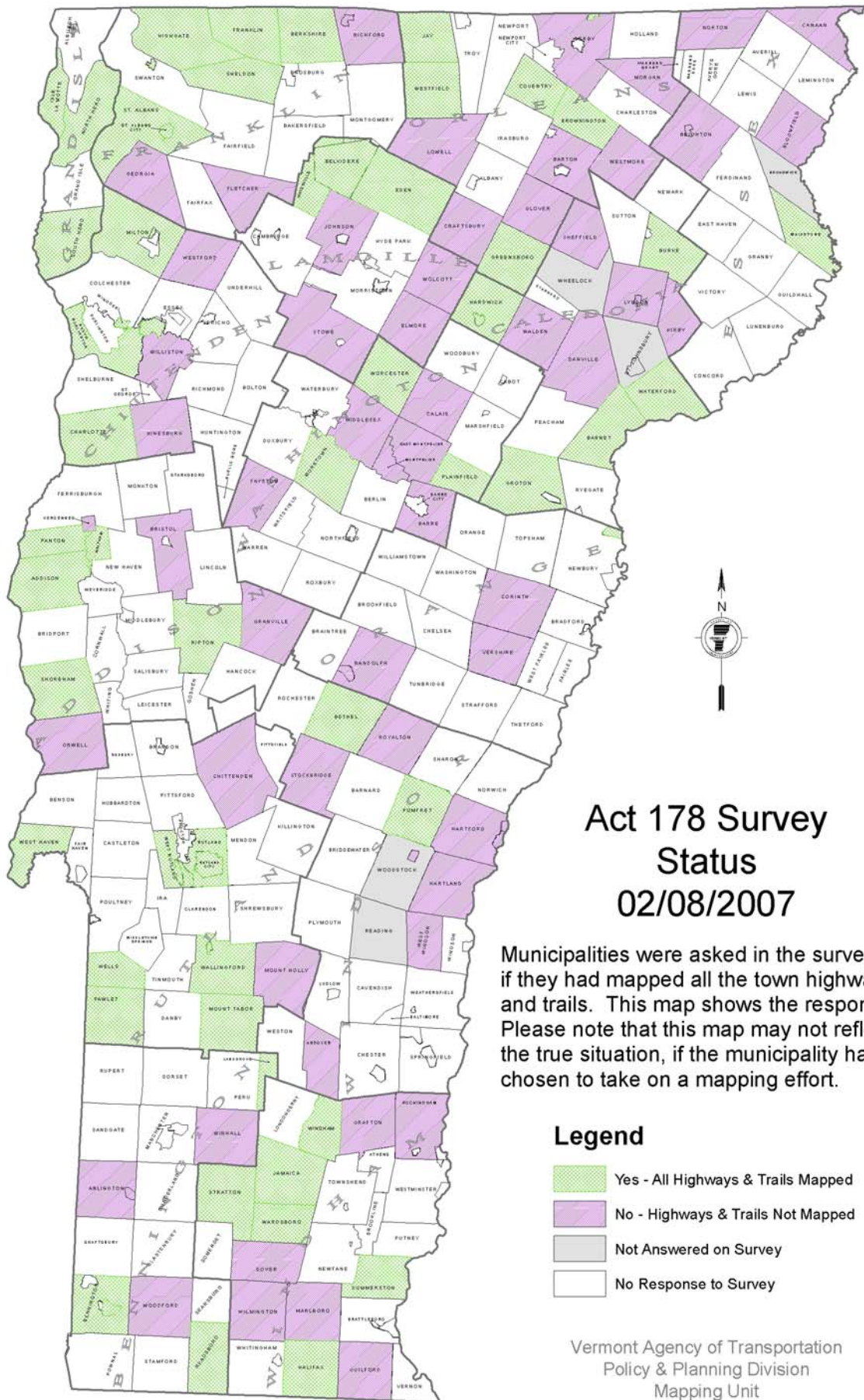
Please see the attached map of those municipalities that responded to the survey and status of the highway and trail mapping.

(4) identifies which municipalities availed themselves of the provisions of 19 V.S.A. § 305(h), relating to mass discontinuances of unidentified corridors.

The survey results show that 12 municipalities have conducted mass discontinuances of town highways, as defined by 19 V.S.A. § 305(h). There has not been follow-up with the 12 towns that have responded "Yes" to mass discontinuance of their town highways. This number is higher than expected, as the municipalities had only five months prior to the survey to do the discontinuance. Also received were comments that prompt questions whether the municipality fully understood the new process defined in 19 V.S.A. § 305(h), or the question on the survey. For example, a comment received from one town was "Yes, *In the early 1950's nothing since.*"

Summary

In summary, the full ramifications of Act 178 of 2006 are not clear, mostly due to the Act's being recent and the municipalities needing time to learn the nuances of the Act and prepare for any work that will be undertaken. It is apparent that there are differences between municipalities and their approaches to the issue. There are also many commonalities including the need for additional time and the majority of municipalities cited the need for more financial resources and, unless the grant program receives more funds in future fiscal years, all funding resources appropriated have been granted. In another year, more information will be available to better assess Act 178 and additional recommendations will take form to make the Act more effective.



Act 178 Survey Status 02/08/2007

Municipalities were asked in the survey if they had mapped all the town highways and trails. This map shows the responses. Please note that this map may not reflect the true situation, if the municipality has chosen to take on a mapping effort.

Legend

- Yes - All Highways & Trails Mapped
- No - Highways & Trails Not Mapped
- Not Answered on Survey
- No Response to Survey

Vermont Agency of Transportation
Policy & Planning Division
Mapping Unit
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