

**From:** Miller, Elizabeth [Elizabeth.Miller@state.vt.us]

**Sent:** Saturday, December 13, 2014 10:52 AM

**To:** Mears, David; Gray, Laura

**CC:** Markowitz, Deb; Schuren, Alyssa; Martin, Trey; Johnson, Justin; Ross, Chuck; Cole, Chris; Minter, Sue; LaClair, Jolinda; Moulton, Pat; Mackay, Noelle; Allen, Susan; Reardon, Jim; Clark, Sarah; Spaulding, Jeb

**Subject:** RE: Governor's Briefing on Clean Water Strategy

**Attachments:** 2014-12-11 Governor's Briefing on Clean Water Strategy Liz comments.docx

David/Laura et al: This looks really good. Laura, I think we can use this for the Gov water Q specific briefing without much additional editing or other work. I have attached a few edits and comments that I think will enhance this document if, as I suspect, you begin to use it for external and legislative communication after Governor review. If one of you could implement the suggestions and then Laura and I will make sure to get it in front of the Gov for final review, I'd appreciate it. Liz

Elizabeth H. Miller

802-522-3090, cell

[elizabeth.miller@state.vt.us](mailto:elizabeth.miller@state.vt.us)

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**From:** Mears, David

**Sent:** Thursday, December 11, 2014 11:56 AM

**To:** Gray, Laura

**Cc:** Markowitz, Deb; Schuren, Alyssa; Martin, Trey; Johnson, Justin; Ross, Chuck; Cole, Chris; Minter, Sue; LaClair, Jolinda; Moulton, Pat; Mackay, Noelle; Allen, Susan; Miller, Elizabeth; Reardon, Jim; Clark, Sarah; Spaulding, Jeb

**Subject:** Governor's Briefing on Clean Water Strategy

Laura: Per your request, Trey and I (mostly Trey) put together the attached summary of a proposed Clean Water Strategy for your discussions with the Governor today. This document is a bit dense but is a good synopsis of the decisions that have come together over the past several weeks to form a solid and credible Administration clean water proposal.

I have high hopes that we will get a positive response from EPA and the public from this proposal. In addition, while this proposal will be modified by the General Assembly, this is a great starting point for the legislative process.

We are working as quickly as possible to finalize all the pieces of this proposal so that it can be rolled into the Governor's state of the state and recommended budget. Please let me or Trey know if you have any questions or need us to be available to answer any questions that may come up during the discussion with the Governor. David

**Governor's TMDL Briefing**  
**Clean Water Investment Strategy and**  
**Clean Water Bill**

12/11/14

**Commented [e1]:** Feel free to make the title more generic or delete first line altogether

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- I. Overview of Clean Water Fund and Clean Water Investment Report**
  - II. SFY 2016 Needs and New Revenue for Clean Water Fund**
  - III. Overview of Other Clean Water Spending**
  - IV. New Authority / Statutory Changes to Implement the Lake Champlain TMDL**
  - V. Other**
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**I. Overview of Clean Water Fund and Clean Water Investment Report**

- a. *Fund Creation and Purpose.* The Commissioner of Finance and Management will establish a Clean Water Fund in order to (1) receive state appropriations, federal grants, private donations, impact fees, environmental assessments and other monies; and (2) distribute those monies to state agencies in order to implement the Lake Champlain TMDL and other clean water initiatives.
- b. *Fund Administration and Governance.* The Fund will be administered by the Secretary of Administration who will establish administration and governance procedures in a guidance memorandum for a steering committee of cabinet appointees, including the Secretaries of Natural Resources, Agriculture, Food and Markets, Transportation, Commerce and Community Development. Fund expenditures will be authorized through the appropriations process, and the Fund will be subject to standard conditions that apply to special funds. The Fund steering committee will report annually, prior to the legislative session, to an external advisory committee composed of members of the General Assembly and other clean water stakeholders appointed by the Governor.
- c. *Clean Water Investment Report.* In consultation with the external advisory committee, the Fund steering committee will prepare a clean water investment report to the Governor and General Assembly, providing: (1) a detailed account of fund expenditures and other clean water investments made by the State of Vermont; (2) an annual progress report on progress towards meeting the goals of the Lake Champlain TMDL and other clean water initiatives; and (3) a description of resources needed for the upcoming fiscal year and recommended revenue sources to meet those resource needs.

**II. SFY 2016 Needs and New Revenue for Clean Water Fund**

- a. *SFY 2016 Needs.* Demands on the Fund for SFY 2016 are roughly \$4M in order to provide (1) funding for increased water quality program capacity at AAFM; (2) support for an increment of increased water quality program capacity needed at DEC and not covered by DEC's SFY16 Fee Bill; and (3) funding for additional

**Commented [e2]:** Overall, it isn't clear whether you are asking in FY 16 for \$4M or a greater amount of money. Do you mean for Section II b-d to be really Section II a 1-3 – in other words, subsumed under SFY 16 Needs? If so rework it because it doesn't clearly read that way

**Commented [e3]:** Put these in terms of what they will give Vermonters or the program, not what they will give the departments. For example, this one should be "funding for increased water quality technical assistance and enforcement through AAFM" and next one should be "support for enhanced DEC technical assistance and monitoring support for WQ programs not covered by DEC's FY16 fee bill" or something. Number 3 is fine – that is a good model for what I mean

assistance to municipalities through increasing the capacity of Regional Planning Commissions and Vermont League of Cities and Towns to support water resources management including water quality and flood resilience.

- b. ***Impervious Cover Fee.*** DEC estimates that roughly \$4M would be raised in SFY 2016 through an impervious surface fee imposed on all non-residential parcels in the Lake Champlain Basin, including commercial, industrial, institutional, institutional and agricultural lands. Annual fees would range from \$60 for small farms to \$600 for large industrial parcels though we are still refining these numbers. We propose to allow for a reduction or offset of the fees for landowners who will already be paying for stormwater pollution control through state or municipal stormwater fees.
- c. ***Fertilizer Tonnage Fee.*** An increased tonnage fee would apply to all fertilizer distributors in the State of Vermont. The current fee is \$0.25/ton and hasn't been increased since 19XX. At the time it was imposed, the fee was approximately X% of the price of fertilizer. Applying that percentage today, the fee would be \$X per ton. DEC recommends that the legislature consider a % fee rather than straight dollar figure so that the fee keeps pace with changes in fertilizer price. Alternatively, the \$/ton fee should be raised substantially to account for the passage of time since it was first introduced. For reference, an increase to \$2.50/ton would generate roughly \$100,000.
- d. ***Keurig Donation, Environmental Impact Fees.*** Keurig will announce an investment of \$5m over 5 years for implementation of the Lake Champlain TMDL. Any impact fees or other revenue associated with the TDI transmission line project will not be available in SFY 2016, however TDI's 12/9/14 filing with the public service board proposed an investment of \$42M over 40 years for phosphorus reduction practices in the Lake Champlain Basin.

### III. Overview of Other Clean Water Spending

- a. ***Federal Support.*** Federal partners have announced the following new or enhanced support for implementation of the Lake Champlain TMDL:
  - i. In August, 2014, USDA Secretary Vilsack announced that his agency would make \$45 million available over the next five years through the Natural Resource Conservation Service (NRCS) to continue to support implementation of agricultural nonpoint source controls specifically in the Lake Champlain Basin. ADD Small EPA money announced after this; also add additional NRCS farm fencing/etc. money provided separately from 45M announcement. In other words, include everything we heard about this summer, even if more minor or for recent/this year spending
  - ii. In September, 2014, VAAFM submitted a \$20 million, 5-year proposal to the NRCS Regional Conservation Partnership Program, in collaboration with the State of New York, to increase implementation of agricultural water quality projects in the Lake Champlain Basin. If successful, this grant will allow Vermont to leverage up to \$25 million additional dollars from a variety of public and private partners for a total \$45 million investment in water quality protections.
  - iii. In November, 2014, ACCD, with VTrans and ANR, submitted a threshold request to the U.S. Department of Housing and Urban Development

**Commented [e4]:** See note above – is this really subsection a1?

**Commented [e5]:** Remove this paragraph from any version of this released or shared. We don't want to announce this until we are ready. Make this a generic paragraph re: "The CWF will have capacity to take in and utilize private donations and impact fees. For example, the TDI transmission project recently filed for a CPG at the Public Service Board, and asserted that the project would offer a proposed investment of \$42M over 40 years for phosphorus reduction practices in the Lake Champlain Basin. Should the PSB find that an impact payment is in the public good, such payment should be paid into the CWF to coordinate with other state programs to comply with the TMDL." Or something similar

pursuant to the National Disaster Resilience Competition Notice of Funding Availability (NOFA). If selected to continue in the next round of the competition, Vermont anticipates presenting a proposal to fund resilience efforts in eligible communities, with expected benefits for water quality.

- iv. In December, 2014, Senator Leahy's office announced that \$3M of new funding for Lake Champlain through EPA has been included in the comprehensive budget package that will be considered by Congress. The total allocation under the program for Lake Champlain is \$4.399M. In addition, the budget includes \$3.5M in Great Lakes Fisheries Commission funding, a significant share of which will be allocated to clean water investments in Lake Champlain.
- v. DEC applied for funding through the AmeriCorp Program for our ECO Vermont Program. We proposed 15 full-time and 10 half-time AmeriCorps members to be placed at local host sites throughout the state, focused on implementing strategies to protect and improve water quality in the Lake Champlain watershed. Grant funds would be approximately \$265K, with a required state match of \$105K and municipal match of \$113K. We anticipate hearing if our proposal will be forwarded for national competitive funding by December 17.
- b. *Capital Investments*. The following clean water capital investments are proposed for SFY 2016:
  - i. ANR has proposed a clean water capital budget for SFY 2016 including \$1.9m for the Clean Water State Revolving Fund, \$5.35M for the Ecosystem Restoration Program and \$4.087M for municipal pollution control grants.
  - ii. AAFM has proposed a clean water capital budget for SFY 2016 including \$2.9M for the Best Management Practices Cost Share Program, \$300K for livestock exclusion, and \$100K for small farm best management practice implementation.
  - iii. VTrans has proposed \$3.2M for stormwater retrofits and other clean water projects in the SFY 2016 Transportation Capital Bill.
- c. *DEC Fee Proposal*. DEC has proposed a mix of new and enhanced fees for clean water permits in order to raise \$1.5M in SFY 2016 for enhanced program capacity to the purpose of offsetting increased operations costs related to implementation of the Lake Champlain TMDL and other clean water initiatives.

#### IV. New Authority / Statutory Changes to Implement the Lake Champlain TMDL

- a. *Agency of Agriculture, Food and Markets*. (1) mandate to adopt enhanced AAPs for protection of water quality; (2) mandate to create a small farm certification program; (3) enhanced nutrient management requirements; (4) civil penalty authority for enforcement of AAPs; (5) transfer authority for backyard farming regulations to municipalities; and (6) eliminate funding requirement for BMPs required to address threats to water quality on farms.
- b. *DEC*. (1) Clarify DEC authority to require stormwater best management practices on developed lands within impaired watersheds; and (2) repeal of state funding

**Commented [e6]:** Indicate whether this capital funding request exceeds similar prior requests – if so play that up “In total, this capital bill request exceeds prior similar requests for clean water investments by \$X m.” or something.

**Commented [e7]:** Same comment if applicable

**Commented [e8]:** Same comment. If true of all three, could add an intro sentence at b.

**Commented [e9]:** Section IV and V need to be rewritten to be narrative, not just incomplete phrases. An intro sentence with a colon would work at start of a. and b. for both IV and V

**Commented [e10]:** FYI the Gov supports this particularly if we can state that we will impose BMPs and will enhance existing NRCS / other fencing and other exclusion/barrier programs that provide loans or grants to help farmers comply

**Commented [e11]:** What is the impact of this one – it raised my eyebrows.

obligation for wastewater treatment facilities required to meet concentration limits below 0.8 milligrams per liter.

**V. Other**

- a. *Water Resources Coordinators in RPCs and VLCT.* (1) Establish new duties for RPCs and VLCT in state statute to: assist ANR with basin planning, including outreach and education for member municipalities; coordinate municipal planning and regulations to support implementation of the Lake Champlain TMDL and other clean water initiatives; and develop regional / local stormwater management plans, coordinated with regional / local transportation plans and land use plans. (2) Appropriate \$1.1M to ANR in order to establish contract with RPCs and VLCT for planning coordination described above.
- b. *Clean Water State Revolving Loan Fund Eligibility.* Expand eligibility for these low interest loans to include private entities under new authority from the Water Resources Reform and Development Act of 2014.

**Commented [e12]:** Through what fund? How are we paying for this one ?