



America's Small Town Capital

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March 30, 2016

Mr. George Desch, Acting Division Director / Deputy DEC Commissioner
Drinking Water & Groundwater Protection Division
Department of Environmental Conservation
1 National Life Drive, Main 2
Montpelier, Vermont 05620-3521

RE: Montpelier WSID #5272

Dear Mr Desch:

I am writing to call your attention to a matter of great concern to me and to the customers of the Montpelier water system. It is my understanding the Vermont Drinking Water & Groundwater Protection Division (DWGWP) is aware the City of Montpelier no longer controls our raw water source, Berlin Pond. As the current Director of Public Works, I am identified as the responsible person for compliance reporting as required in the Water Supply rules and our operating permit. As such, I feel obligated to bring my concerns to your attention and to seek your guidance and assistance.

First, I wish to provide assurance to your division, as the state's regulatory authority of our Public Community Water System, that we are actively engaged in the investigation of the new potential sources of water supply contamination which has come about as a result of the recreational use of the pond as allowed by the Department of Environmental Conservation (DEC) following the VT Supreme Court ruling. The recreational usage of the water source has since been condoned by the State Legislature as evidenced by their failure to approve H 33, which was advanced by City officials and the local Legislative representatives, during the 2015 Legislative Session. Petitions submitted to DEC requesting appropriate safeguards be established through pond usage rule-making represent additional attempts to restore our first barrier of protection. Failure to grant the requests to prohibit recreational usage and associated potential sources of contamination has compelled the City to attempt another approach to obtain relief through a charter change that would convey control of the source water to the municipality. The Charter change was overwhelmingly approved by Montpelier voters and is now pending a hearing before the Government Operations Committee in the House of Representatives.

Being relatively new to my position without expertise in treatment facility operations but with concern about the extent of potential threats recreational of our water source represents, I have reviewed our files and reports and discussed the matter at length with our city engineer and the chief operator. What

I have learned about the operational methods and facility treatment capabilities, as well as its limitations, forms the primary basis of this letter. I have examined the Source Protection Plan and the Community Water System Vulnerability Assessment which carries with it an assessment certification to the US EPA office in accordance with the Safe Drinking Water Act, as amended by the Public Health Security and Bioterrorism Preparedness & Response Act of 2002. Throughout both of these documents, reliance on the fact that human contact with the source water and its tributaries is prohibited is given great weight to ensure source water protection. This reliance is identified as both a mitigating strategy and a means to ensure public confidence the water supply is "abundant and safe". If the City is unsuccessful in regaining source water control, I expect these documents must be updated and modified extensively, including implementation of new measures to protect the public.

In preparation for offering my testimony in support of regaining control of the source water through Legislative approval of our proposed Charter change, I again consulted with staff and engaged the services of Robert E. Dufresne, P.E. Mr. Dufresne is a highly qualified engineer who possess the technical expertise to apprise me of the capabilities of our treatment facility as its original design engineer. Although Mr. Dufresne has provided his guidance and offered testimony last year to the Legislature at no cost to the City, we have now secured his services through a contractual agreement to "assess alternative process additions or improvements at the facility, if necessary, to comply with the requirements of the Long Term 2 Enhanced Surface Water Treatment Rule." In the scope of services, Mr. Dufresne describes that "...the facility was designed to provide 99.9% removal/inactivation of giardia cysts based on control of the raw water source of supply". With the loss of this protection barrier of contamination, it becomes more likely that Montpelier may be moved from a Bin 1 classification to Bin 2 as identified in the LT2ESWTR. As designed, Montpelier's facility cannot achieve this higher level of treatment and would be faced with extremely costly facility modifications.

Given the above, if source water testing as required under the LT2ESWTR reveals the presence of contaminants we cannot remove or inactivate, we need to plan for implementation of our long term options to ensure safe water reaches our customers. Although long term planning is critical, we are concerned with events and actions in the short term. If raw water testing indicates e-coli exceeding BIN 1 levels, and since we would not have enhanced unit operations in place, would we be required to issue long term boil-water orders to our customers? Even if a boil-water notice is not required under state or federal regulations, we consider our duty to provide safe water to be paramount. Securing the necessary funds to design and construct enhanced treatment capabilities will take a considerable amount of time before the necessary protections are online. In my view, the possible consequences of recreational use should have been known and understood by DEC before the pond was opened, with enhanced processes already in place instead of a reactive position as supported by the former DEC Commissioner.

A simple review of the City's financial capability to develop enhanced treatment would have revealed this user-funded utility is in financial difficulty, saddled with extreme debt service and a decreasing demand through loss of industrial businesses and highly effective conservation efforts. Implementation of an enhanced process is not financially achievable nor does it seem a wise investment when reasonable barriers to contamination are achievable. I do not believe it appropriate that the cost to support recreational use of the pond should fall on the backs of our rate payers.

If true, I would be both surprised and dismayed to learn that a representative of the DWGWPD did not participate in any of the City's efforts to protect the source or lend support as we have attempted to ensure our water supply system is not adversely impacted by the loss of source protection control. I have come to understand that in addition to a lack of involvement in this issue by DWGWPD staff, and in spite of the fact our Source Protection Plan and Vulnerability Assessment are a matter of record in your office, no water supply staff has offered us guidance or consultation as to preventive and pro-active measures necessary to guard against a potentially compromised raw water supply. Actually, quite to the contrary; statements by ANR staff have been made to the general public that our "state of the art" water treatment facility is fully capable of delivering safe potable water by combating all potential threats that may arise from recreational use. As the water supply permit holder, such public statements should come only from our office, and we have not reached that same conclusion. We hold that the public assurance was premature and possibly unfounded, which has since generated a negative impression of Montpelier officials and has apparently given rise to the Department of Fish & Wildlife's intention to develop a public boat launch and pond access.

While Montpelier officials have a deep respect for the public's rights to the enjoyment of our state's bountiful natural resources, this respect is most appropriately preempted by our responsible obligation to protect the health and safety of our water system customers. Our customer base includes the very young, the frail and the elderly, and well as people with immune-deficiencies, the patients and staff of Woodridge Rehabilitation & Nursing Center, and the Central Vermont Hospital complex.

As the City's responsible person for our water system, I am professionally compelled to take all action necessary to ensure the water supply is safe. And, as the regulatory authority overseeing Montpelier's compliance with the Safe Drinking Water Act, I enjoin officials from the DWGWPD to extend beyond your regulatory role by taking an active position in support of the City's charter change. Furthermore, we respectfully request that public acknowledgment be issued that the City's water treatment facility has not been deemed fully capable of delivering safe water when recreational use is permitted. In the event of contamination by Cryptosporidium or high levels of Giardia Lamblia, the facility is not capable of providing the required treatment. The treatment plant is also incapable of treating some volatile organic compounds and is not equipped with early warning systems to alert us to a willful or accidental contamination event.

Perhaps we should have taken a more active position in seeking your Division's assistance. Quoting from your own on-line publication "Phew, My Sanitary Survey is Over"; "The Water Supply Division (WSD) wants to help you, the water system, stay in compliance with the Federal Groundwater Rule (and the Surface Water Treatment Rule, and the Total Coliform Rule,..." On behalf of all of the customers of the Montpelier PCWS, I now ask for your assistance. Isn't it likely the DWGWPD will sanction the City should we fall out of compliance and require a higher order of treatment? If the public health and wellbeing is truly the objective purpose of water supply rules, wouldn't a proactive and preventive approach be more in line with the vision, mission statement, and guiding principles of DEC and the DWGWPD? Quoting from the Water Supply Rule, I call your attention to the authority and purpose statement to add emphasis to my points, particularly with regard to affordability: *"The purpose of this rule is to protect the public health by assuring safe, affordable drinking water from Public and Non-*

Public Water systems, and to implement and enforce the provisions of the Federal Safe Drinking Water Act and Vermont statutes."

Thank you for considering this request for assistance! Can we count on the DWGWPD's assistance in support of our proposed Charter Change intended for the sole purpose of helping us remain in compliance with our operating permit? If not, I respectfully request a written response describing the reasons why such support will not be extended to us.

Sincerely,



Thomas J. McArdle
Director of Public Works

C: Hon. John Hollar, Mayor & Montpelier City Council
Alyssa B. Schuren, Commissioner of Environmental Conservation
William J. Fraser, City Manager
Kurt Motyka, P.E. City Engineer/Assistant Director
Geoff Wilson, Chief Operator
Robert E. Dufresne, P.E., Dufresne Group Consulting Engineers