

The Water Caucus | Clean Water Funding Principles

As of October 17, 2018

Introduction

The Water Caucus is a coalition of advocates working to protect and improve Vermont waters through the development and implementation of sound water policy and legislation. Clean water is essential to Vermonters' health, economy, and way of life. The Vermont Clean Water Act (Act 64) of 2015 was an important step forward in addressing water pollution statewide and meeting our legal obligations under the Lake Champlain TMDL (cleanup plan). A necessary component to the success of Vermont's Clean Water Act, the Lake Champlain TMDL, and addressing other impaired waters is long-term and stable state investment in clean water. However, Vermont is late in enacting long-term funding for clean water as required by the Lake Champlain TMDL. To ensure Vermont does not fail to meet its clean water commitments to the federal Environmental Protection Agency and to communities across the state, the Legislature and Administration must act this session to create additional funding for clean water.

Below, we outline principles for raising funds to support clean water protection and restoration efforts in Vermont, in ways that uphold the priorities of the Vermont Clean Water Act (Act 64). The Water Caucus stands ready to work with lawmakers and other stakeholders to develop and implement a long-term funding solution that works for Vermont based on these principles.

Raising Clean Water Revenue

Reports from the Vermont Treasurer and Agency of Natural Resources have estimated the cost of clean water obligations of at least \$115-\$156 million per year. While portions of these costs will fall to regulated entities or be addressed through federal funding, and some initial funding has been approved (from the property transfer tax, unclaimed bottle deposits, and general obligation bonds through the capital bill) we are clearly falling far short of meeting our state funding needs.

The Water Caucus supports the State Treasurer's recommendation of a minimum, initial investment of at least **an additional \$25 million per year in state investments beyond what is currently funded** to pay for clean water efforts in Vermont. The Water Caucus also supports an automatic review every 3-5 years, which will be crucial to assess whether funding is sufficient to achieve clean water in light of the complexity of the challenge, new information and approaches, the broad range of estimated costs and funding needs, and the strong likelihood that \$25 million will be not be sufficient to achieve clean water in Vermont. In addition:

- Vermont needs sufficient funds to achieve clean water statewide
- Funding sources must be stable, predictable, and reliable from year to year, to support ongoing, consistent clean water protection and restoration efforts
- A legislative commitment must be provided to sustain sufficient annual funding over at least the next 20 years
- Funding must be flexible in terms of its use, to meet the full and evolving scope of clean water needs across the state
- Funding mechanisms must minimize negative economic impacts on low-income Vermonters, who already bear a disproportionate burden of the consequences of contaminated water

- Funding should be raised from all areas of the state.

Spending Priorities

Clean water funding should prioritize projects that are consistent with the Vermont Clean Water Act (Act 64) and achieve the State's Water Quality Standards. Prioritized projects should:

- Restore waters that do not meet Vermont Water Quality Standards
- Protect and enhance waters that currently meet or exceed Vermont Water Quality Standards
- Support all phases of clean water protection and restoration projects, including identification, development, design, implementation, monitoring and maintenance, and education and outreach
- Maximize pollution reductions from nutrients, sediment, and other contaminants, including emerging contaminants
- Increase investments in natural resource projects and projects that achieve multiple co-benefits, among them climate and flood resilience; floodplain connectivity; improved aquatic and riparian habitat, and fish passage
- Implement Tactical Basin Plans

Distributing Funds

Significant change from the current manner in which Vermont distributes clean water funds is needed. Opportunities to improve the governance structure include:

- State oversight of how money is allocated to ensure accountability towards achieving clean water
- Required coordination in disbursement of funds among state agencies, regional planning commissions, conservation districts, watershed groups, land trusts, conservation organizations, and municipalities
- Entities that disburse money must play an active role in convening partners to identify, prioritize, and implement projects
- Entities that disburse money must have sufficient resources and training to fulfill required functions and ensure that entities receiving funds also have sufficient resources and training to successfully complete projects
- Enhance regional and local efforts to protect and restore clean water, in particular by engaging local leadership and knowledge of needs and opportunities

- Ensure local accountability
- Coordinate with federal partners to optimize water quality outcomes and maximize leverage of state investments
- Improve the quality and specificity of Tactical Basin Plans and use the project priorities that come out of these plans to drive state investments

Comments and Questions on the proposed chapter 47 statutory changes

§ 921. WATER QUALITY IMPROVEMENT TARGETS

1. How will the sufficiency of the existing regulatory programs be evaluated?
2. Any evaluation will require greater data collection, including nutrient management plans from farms. Does the agency plan on requiring the electronic submission of this data?
3. ANR should also ensure sufficient data collect to evaluate stormwater treatment practice efficiency and wastewater reductions.
4. Why would a pollution reduction target be expressed as a best management practice? Why wouldn't there always be a numeric reduction?
5. What is the method for verifying practices will meet the reduction target?
6. Are allocations for municipalities strictly based on the boundaries of a watershed? Will the size of the population of that municipality be weighed as a contributing factor in this evaluation?
7. The analysis for all other pollutants in all other watersheds begins in 2022 - what is the timeframe for completion? Given the possibility that practices aimed at reducing phosphorus could (with forethought) be designed to tackle other pollutants as well, how will utilities be encouraged to plan holistically?

§ 922. QUANTIFICATION OF NONREGULATORY POLLUTION REDUCTION

1. How will pollution reduction values and useful life values be determined? Will rulemaking be used? If not, what will the process be and how will public input be factored in?
2. How does ANR anticipate resolving the wide range of phosphorus removal efficiencies, e.g. University of New Hampshire Stormwater Center's research on ponds versus the National Pollutant Removal Performance Database?
3. Any pollutant removal efficiency should be subject to regular review and update to reflect best available science. When would these re-evaluations occur?

§ 923. CLEAN WATER UTILITY

1. We support the mandatory requirement of creation of clean water utilities.
2. How will the creation of utilities occur for smaller, more rural municipalities?
3. What support can the state provide for the creation of clean water utilities? What technical support can be provided?
4. We support the purpose that clean water utilities are responsible for non-regulatory reductions.
5. The list of project sectors (wastewater, developed lands, CSOs, streams, forestry, agriculture) that are eligible for funding is too narrow. The list of sectors reflects the sectors in the Lake Champlain TMDL, but the goal of the water quality improvement target is much broader at meeting Vermont Water Quality Standards. Does ANR envision natural resource projects falling under the streams category? It should be clarified that floodplain protection, river corridor protection, wetland restoration and dam removals are eligible for funding.

§ 924. CLEAN WATER IMPLEMENTATION GRANT PROGRAM

1. We have significant concerns with this section, as there will not be funds left over to support regulatory programs if we are interpreting § 921 and § 1389 correctly. First, funds must be directed to non-regulatory phosphorus removal in Lake Champlain and Lake Memphremagog. Then, funds will support all other impairments in all watersheds. Finally, funds will support state agency programs that support water quality projects, education and outreach, innovation, floodplain protection, and tactical basin planning. Given this long list of need, we don't see how funds will ever be diverted to regulatory programs.
2. Because of this, are there circumstances under which ANR would divert funds from the aforementioned activities to support regulatory requirements and still consider this an efficient use of taxpayer dollars?

§ 1387. PURPOSE

1. We see it as problematic to strike out language that provides funds to nonprofit organizations, regional associations, and other entities without defining some role for these groups. RPCs, conservation districts, and watershed groups play an important role in shepherding clean water projects.
2. Many municipalities do not have the capacity to effectively administer funds. Will the agency provide support to ensure clean water projects occur in these areas?

§ 1388. CLEAN WATER FUND

1. We support a minimum of an additional, annual \$25 million beyond current funding levels in state investment in clean water
2. We encourage an automatic review every 3-5 years to assess whether funding is sufficient, beyond the steps laid out in § 1389 for what the board will do if there are insufficient funds in the Fund.
3. We ask the agency to consider adding a backstop measure that would begin if funds are insufficient, such as a rooms and meals tax or per parcel fee.

§ 1389. CLEAN WATER BOARD

1. One of the responsibilities of the Board is to administer a program to fund water quality improvement projects in municipalities where no clean water utility has been designated. Our understanding is that designation of a clean water utility is mandatory so the need for this provision is unclear. Would this be to assist the above-mentioned municipalities that do not have the capacity to administer funds? Or, if this is only in the case where the designation has been revoked, this should be clarified.
2. Can the Secretary revoke a clean water designation without a recommendation from the Board?
3. What happens after the designation has been revoked? It should be clarified if ANR intends to then take over meeting the targets and whether funding will be withheld from municipalities.



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Comments on ANR Water Funding Proposal

1 message

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To: "Chapman, Matt" <Matt.Chapman@vermont.gov>

Wed, Jan 2, 2019 at 3:05 PM

Matt - As we discussed, I only heard from a few members of the Water Caucus. I understand that you are working on potential revisions to the draft proposal and need feedback ASAP. Accordingly, here are comments I received from several water caucus members to inform your continued work on the bill. You already have the comments that VNRC, CLF and LCC submitted on the proposal.

In addition to the attached and the VNRC/CLF and LCC comments, I received the following comments from Water Caucus:

* There are concerns about how ANR will allocate funding for multiple pollutant sources. For example, why address only phosphorus for the Lake. A receiving water body likely has nitrogen, phosphorus and bacterial loading. When and how do all three become integrated in the grant allocation to utilities?

* We continue to see it as problematic to strike out language that provides funds to nonprofit organizations, regional associations, and other entities without defining some role for these groups. RPCs, conservation districts, and watershed groups play an important role in shepherding clean water projects.

Many municipalities do not have the capacity to effectively administer funds. Will the agency provide support to ensure clean water projects occur in these areas? **_This funding is vital – it keeps the NGOs eligible on equal footing with municipalities. We are concerned that if NGOs (including land trusts) are not eligible for funds, the clean water funds could become a source of money exclusively for municipal projects.**

Jon

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Thank you for the opportunity to comment on the draft proposal. We want to start by saying that we believe that any delivery model must address the following priorities developed by the Water Caucus in order to achieve clean water goals.

- Restore waters that do not meet Vermont Water Quality Standards
- Protect and enhance waters that currently meet or exceed Vermont Water Quality Standards
- Support all phases of clean water protection and restoration projects, including identification, development, design, implementation, monitoring and maintenance, and education and outreach
- Maximize pollution reductions from nutrients, sediment, and other contaminants, including emerging contaminants
- Increase investments in natural resource projects and projects that achieve multiple co-benefits, among them climate and flood resilience; floodplain connectivity; improved aquatic and riparian habitat, and fish passage
- Implement Tactical Basin Plans

In addition, any delivery model, either state wide or regional, needs to make sure to have the following key elements in disbursement of funds.

- State oversight of how money is allocated to ensure accountability towards achieving clean water
- Required coordination in disbursement of funds among state agencies, regional planning commissions, conservation districts, watershed groups, land trusts, conservation organizations, and municipalities
- Entities that disburse money must play an active role in convening partners to identify, prioritize, and implement projects

Please see the Water Caucus Funding Principles Document (dated: October 28, 2018) for the full description.

While we think it is possible to develop a regional model for at least some of the clean water dollars, we have concerns that the current proposal does not address many the priorities listed above nor meet the requirements or the intention of Act 64.

While we still have a number of questions regarding the current proposal, these are initial concerns we feel need to be addressed before a proposal is presented to the legislature.

1. **Protection of Natural Resources and the importance of Ant-Degradation.** We are concerned that the current proposal only focuses on already impaired waters. In order to meet Water Quality Standards and meet anti-degradation requirements, that state must protect waters that are not yet impaired instead of only spending funds once waters have a TMDL. We have all

learned that natural resources protection is a cost-effective way to maintain and improve water quality. And even in impaired areas, if we are only giving credit for reductions in phosphorus and not preventing increased phosphorus, we will always be working on expensive fixes.

2. **All in and need to protect all waters of the state.** Since the passage of Act 64, DEC, AAFM, the Treasurers office and other involved state agencies have been emphasizing the importance of protecting all waters of the state and that we are “all in” (by sector and by region). Act 64 clearly states the need to maintain water quality standards in all waters of the state. We believe this narrow focus of dollars for pounds of phosphorus removed focused on Lake Champlain and Lake Memphremagog ignores maintaining and improving the Connecticut River and Hudson Drainages and will lead to degradation in the future. While we understand the need for focus on achieving the TMDLs, we do not believe that cutting off funds for the rest of the state is the right trade off. And while we understand that the intention is to eventually develop funding guidelines to meet targets for other impaired water, we think delaying efforts until these targets are developed risks further impairment of these waters.
3. **Narrow Focus on Phosphorus.** We believe that the focus on clean water should be broader than just phosphorus. We need to make sure that we are addressing all nutrients and pollutants of concern. Watersheds are complex and changing and there is risk to focusing on one target while ignoring potential risks of others.
4. **Health of our waters and watersheds.** While the state must reduce nutrient loading and meet the TMDLs, it is also critical that the state protect other functions of our rivers, streams, lakes and ponds. Climate change and flood resiliency are critically important for the state to address as are aquatic organism passage, healthy riparian and in stream habitat and floodplain restoration and protection. While achieving these goals often goes hand in hand with nutrient reduction projects and nutrient reduction has been a necessary component of all clean water projects in the past, we are concerned that this narrowed focus will not prioritize important projects if they do not meet the targeted phosphorus reduction.
5. **Funding for all stages of project development.** In order to implement on the ground projects, it is necessary to develop those projects. This includes project scoping, education, outreach to landowners, municipalities and communities, and design work. Any cost allocation must keep in mind these development costs. DEC has been responsive to understanding this important need to have funds for the development of projects and this is reflected in several new block grants. We ask that the state not back away from this necessary step to develop “shovel ready” projects.
6. **Tactical Basin Planning and coordination with DEC staff.** Tactical Basin Planning has been the key assessment and prioritization tool used by DEC and the role of tactical basin planning has been established in Act 64. It is important that the clean water initiative is well aligned with tactical basin planning.
7. **Partners:** Watershed groups, NRCs, RPCs, land trusts and municipalities are key partners in implementing community-based water quality programs or projects. If there is a regional utility, funds must also support the work of groups developing and implementing tactical basin plans and implementing on the ground water quality improvement projects. We do not support striking the language that would provide funds to watershed groups, Conservation Districts,

nonprofit land trusts to accomplish this work and feel that any plan must support the engagement of these partners.

8. **Organization of Regional Utility:** Watersheds cross municipal and regional boundaries. Any regional effort will be far more effective and efficient focused on watersheds and aligned with Basin Plans. We are concerned that having utilities at the wrong scale will prevent watershed wide planning and action and will prevent important collaborative efforts. Actions in one part of a watershed impact another and it is critical that any proposal will allow for watershed scale thinking.

9. **Maintain funds for non-stormwater projects and statewide collaborations at DEC**

If concerns are addressed, there could be benefits for addressing stormwater issues at a watershed scale. However, we believe that DEC has the expertise and should have the funds to support natural resources protection (and restoration) for areas not directly tied to nutrient management or projects where there are broader clean water benefits that might not fall under the narrow definition of the TMDLs. This includes but is not limited to: river corridor easements, train the trainer and other direct education and outreach, project development, riparian buffer planting, aquatic organism passage projects, water quality monitoring and analysis, in-stream habitat work, state wide work crews. Many partners have worked over the years to coordinate and align work at the state level because there is value and efficiency to coordinating certain efforts across the state.

