

## **Anti-Degradation - Pre- Rulemaking Meeting – January 26, 2010**

### **St Leo’s Hall, Waterbury – Comments, Questions & Answers**

#### **Process**

- Bill Bartlett - Were the discussions as part of SPAC taken into account in this process?
  - Pete – we will benefit from what we discussed before, but we are taking a step back.
- Gina Campoli – Warren Coleman laid out a detailed outline. We should at least look it.
  - Pete – Yes, we will certainly look at it, but I think we need to go back a step further and look at some of the underlying concepts. We are examining what is going on in the rest of the country and seeing how that applies to VT.
- Bill Bartlett – please include the meeting minutes and post record of who attended on the website. Also, can we have a record of who was invited and didn’t show up? Also, can we have e-mail updates when stuff is posted to the website?
  - Pete – we will do this, and we will attempt to send out emails when the website is updated.

#### **Existing Agency Guidelines for Determining Existing Uses**

- Bill Bartlett – requirement for existing uses is to “maintain and protect” rather than “not eliminate” it. I think the original wording is stronger.

#### **Tier 2 Protection and Maintenance of High Quality Waters**

- Mark Lucas – Tier 1 applies to waters on 303(d) list. The impaired waters are still high quality for some constituents (and not others).

#### **Tier 3 – Protection of Outstanding Resource Waters**

- Mike Kline – of the 4 ORWs in VT, none of them are designated because of their water quality. They are designated for other uses such as recreation, historic, scenic.
- Bill Bartlett – basically, VT doesn’t have any tier 3 waters
- Anthony Iarrapino – Doesn’t agree that just because they weren’t designated for water quality that they aren’t tier 3 waters for anti-degradation purposes.
  - Pete – will pull together materials on existing uses and ORWs

#### **“Classic Anti-Deg” POTW and Direct Discharges**

- Bill Bartlett – in classic anti-deg how does ANR assess cumulative impacts?
  - Pete - mathematical investigation must include background levels, which includes upstream facilities

- Ellen Weitzler - when looking at upstream inputs, do you consider upstream POTW at max capacity or do you use ambient conditions?
  - Pete – it rarely happens in fact, but we do base it on the max design load allowable from the upstream facility. Ambient conditions are hard to assess.

### **Stream Alterations – Dredge & Fill SAP and 401 WQ Certification**

- Andrew Geffert – Does anti-deg apply to a change in stream morphology? Eg. If a morphological change causes a change in use, does this fall under anti deg?
  - Mike – we will be look at this more closely at future meetings
  - Mary – New Hampshire is also working on this

### **Next Steps**

- Andrew Geffert – Can you also discuss on-site treatment?
  - Pete – other side of IDR, so they have been determined to be “de minimus”
- Scott Homsted - Are there going to be discussions of anti-deg applying to projects that are not currently regulated because they do not meet the thresholds?
  - Pete – we see anti-deg as being applied within permitting programs. So, no, at this point, but we will be discussing how anti-deg works for programs, including how the requirements for those may be changed.