Comments on
State of Vermont Proposal for a Clean Lake Champlain

These comments are made in response to the *State of Vermont Proposal for a Clean Lake Champlain; Draft for Discussion dated November 20, 2013*. It is important to say, first, that the State's latest effort is the first plan put out by any Governmental agency to credibly address the pollution in Lake Champlain.

The points below are my recommendations made to strengthen the State's plan. As currently constructed, the plan does not go far enough and adopting the ideas below will, I believe, increase the probability of success.

To loosely quote a great man, "This plan is not the beginning of the end, more the end of the beginning." I welcome the opportunity to discuss this further. – Eric Wolinsky

1. **Turn DEC into a true regulatory agency.** Vermont will not achieve the goal of a clean lake unless people start changing their behavior in ways that are inconvenient and go against their economic interest. This will not happen unless the expected costs of ignoring these regulations are greater than the cost of compliance, which is not the case today. Farmers, in particular, can ignore regulations, pollute the lake and be fairly certain that the penalty will be minor at worst. Compare this to the attitude of compliance with the IRS and OSHA regulations. Without this change in attitude at the DEC all the other good work in this plan will not lead to successes.

2. **Transition State regulations from specifications based to performance based.** Currently, the regulations for stormwater and agricultural practices are generally specifications based; for example, buffers must be 25 feet from lakes and rivers. A performance based specification would address what we want to happen; for example, there should be no direct flow from fields to streams. Performance based specifications are harder to write and enforce, but would allow for more economical, creative and effective solutions to pollution.

3. **Transition from a permitting system to a compliance system.** Currently, when DEC sees a problem they create a system for permitting a behavior. In many cases a more effective system for enforcement would be to write a set of specifications and require individuals to meet them, followed by a system to check compliance. This is the model the IRS and OSHA use. They put out requirements and have a robust enforcement process, with penalties at a level that ensures compliance even though the chance of inspection is very low.

4. **After years of damage, nature needs a helping hand.** Some in the DEC are loathe to alter 'naturally' occurring phenomena. This attitude works against cleaning the lake. We need to repair stream banks that are eroded. We should aggressively work to eliminate neurotoxins in the water, naturally occurring or not. Excessive weed blooms should be harvested away. Waiting for 'mother nature' to fix manmade problems puts us on a path to no progress.

5. **Response to Blue/Green algae needs to become more aggressive.** Currently, the reaction to outbreaks is to put up signs. We must do better than this. The state should be working on a protocol to address these toxic outbreaks. The targeted and directed use of algaecides should be examined. Are there other actions we can take to deal with these outbreaks?

6. **The goal of a clean lake won't be achieved until invasive species are addressed.** For much of the summer, Saint Albans Bay is unusable due to infestations of Eurasian Milfoil and Water Chestnuts. Without an effective way to deal with these infestations, the State's plan will not change the usability of the lake.

7. **The phosphorus at the bottom of Lake Champlain and its polluted bays needs to be addressed.** After years of heavy phosphorus discharge from our watershed, the bottom of the lake has heavy concentrations of phosphorus that need to be cleaned up. Though the science is not clear or certain, the problem of phosphorus laden mud creating its own discharge will have to be addressed. The State plan must address the phosphorus accumulation already in water bodies.

8. **Are Nutrient Management Plans an adequate vehicle to address farm runoff?** The Vermont plan relies on NMPs to reduce pollution. Are they adequate for that purpose? Do they have all the components of the Erosion and Sediment Control Plans?

9. **We should institutionalize programs that create farm- and land-based solutions to pollution problems.** Flood plain restoration can be an effective way to attenuate stormwater flow and reduce sediment. We need a system where these projects are developed and funded systematically, not on an ad hoc basis. Storm water utilities, charged with responsibility of finding these projects, would be an effective vehicle to develop them. Relying on volunteer organizations to develop effective projects is inadequate relative to the scope of the problem and the benefits to the lake and to farmers that would be gained through systematic project implementation.