

**Vermont Clean Water Board Working Meeting Minutes
Clean Water Budget Public Hearing**

Date/Time: Thursday, August 22, 2019, 10:00 am – 12:00 pm
Location: National Life Davis Building – 1 National Life Drive, The Winooski Room (M240)

Clean Water Board Members/Designees:

Susanne Young, Agency of Administration (AoA) Secretary and Clean Water Board Chair
Ted Brady, Agency of Commerce and Community Development (ACCD) Deputy Secretary (filling in for Michael Schirling)
Bob Flint, public member (present online)
James Giffin, public member
Christopher Louras, public member (absent)
Julie Moore, Agency of Natural Resources (ANR) Secretary
Joe Flynn, Agency of Transportation (VTrans) Secretary
Anson Tebbetts, Agency of Agriculture, Food and Markets (AAFM) Secretary
Chad Tyler, public member

Welcome, Overview of Agenda

10:00-10:05 am

Agency of Administration Secretary and Clean Water Board Chair Susanne Young

- Sign-up for public comment (five minutes allotted per individual)

Clean Water Fund Background and Budget Process

10:05-10:20 am

Department of Environmental Conservation (DEC) Clean Water Initiative Program Manager Emily Bird

- Clean Water Board
- Revenue sources
- Budget process and opportunities for public participation

Draft SFY 2021 Clean Water Budget Line Items by Agency

10:20-10:55 am

Agency of Agriculture, Food and Markets Water Quality Director Laura DiPietro
Vermont Housing and Conservation Board Director of Policy and Special Projects Jennifer Hollar
Agency of Natural Resources DEC Clean Water Initiative Program Manager Emily Bird
Agency of Natural Resources DEC Water Infrastructure Financing Program Manager Terisa Thomas
Agency of Transportation Municipal Assistance Bureau Director Sue Scribner
Agency of Administration Department of Finance and Management Budget Analyst Michael Middleman
Agency of Commerce and Community Development Community Planning and Revitalization Director Chris Cochran

Public Questions on Presentations

10:55-11:00 am

Secretary Susanne Young

Judith McLoughlin: Regarding line item #8, “Lakes in Crisis Fund.” We are from the only lake in crisis, yet our funding (\$50,000) is equal to the portable skidder bridge program. Can you explain why “Lakes in Crisis Fund” has such low funding?

Response from Emily Bird: Lakes in Crisis Fund is to support initial implementation of Lakes in Crisis response plan. Other funds are available to support work, but all funds must be administered on a competitive basis. That said, funds are targeted through Tactical Basin Plans to pollutant loading hot spots. Lake Carmi is certainly a priority area under the Tactical Basin Plan. In addition to the Lakes in Crisis Fund, significant investments have been made in Lake Carmi, including \$1.6 million for aeration system, \$150,000 for monitoring, and significant funds for implementation of agricultural conservation practices.

James Maroney: Referred to the State Auditor's report. Voiced the need to allocate more funds to agriculture. According to the budget, agriculture is getting about a third of the budget and agriculture is half of the problem.

Response from Julie Moore: State statute and federal obligations require an investment in all sectors. This is not as straightforward as you may have read in State Auditor's report. This budget attempts to balance competing priorities. Additionally, not all dollars at large are available for all projects. For example, CWSRF line item #18 are required to be used for wastewater and stormwater by virtue federal funds being leveraged. We are trying to strike the right balance. Note 10% increase in agriculture sector compared to the SFY 2020 budget.

Evan Makowski: Question for Laura DiPietro. You mentioned cover crops earlier. I am confused about this. Cover crops are primarily used to heal the ground. Heather Darby basically said they don't work in VT after September, effectiveness drops precipitously. The need for cover crop is predicated on us growing corn, so if we were not growing corn, we would not need to fund this practice. Herbicides are applied to kill cover crops.

Response from Laura DiPietro: Standards for state and federal programs aim to optimize timing of cover crops. Farmers have shifted practices and are applying more cover crops. Tools are available to apply cover crops early to optimize effectiveness, including helicopter application. Challenge is you cannot control the weather. Cover crops are good practice, plenty of documentation to show that. Not my area of expertise to discuss herbicides, but farmers are already using herbicide to grow conventional corn. Research is also underway to identify mechanical methods to end cover crop cycle as alternative to herbicides.

Sylvia Knight: Learned recently that there is a requirement for farmers to use herbicide to knock cover crop down in order to obtain crop insurance. Can anyone clarify for us? We need to clarify this because AAFM data show a doubling of Round Up used between 2015 and 2016. Research shows that Round Up is 18.3% phosphorus. We are using tons of Round Up on the ground. If we don't face the factor in our water quality work, I do not believe we will reach our water quality goals.

Response from Anson Tebbetts: That is a question for the U.S. Department of Agriculture. The state does not offer insurance.

Reed Hampton: Can farmers obtain grant funds from this source to tile fields and tile drain removal?

Response from Laura DiPietro: These funds are not used for installing tile drain. However, funds are used to research tile drainage impact on water quality.

James Sherard: Regarding line item #13 "Municipal Stormwater Project Planning and Implementation." Municipal Separate Storm Sewer System (MS4) communities have benefited from these funds to address capital stormwater management needs. However, operation and maintenance costs are extensive, which are not paid for by the state and MS4s are required to provide 50% match. Is there any consideration of adjusting the match requirement considering the costs of operation and maintenance?

Response from Emily Bird: For those larger developed MS4 communities, we do have a 50% match requirement. This helps to make limited funds go further. MS4s can utilize CWSRF loans to fulfill the match requirement. These match requirements are typically set at the program level and are possible to be adjusted, but would require analysis, partner input, and leadership support.

Ernest Wright: Pertaining to wetlands. We purchased land to grow hemp and received a cease and desist notice due to Wetlands Rule violation, requiring not to use the land until a decision is made from the Wetlands Program. The land is not worth anything if I cannot use it. Are funds available for the state to purchase the wetland?

Response from Julie Moore: The natural resources restoration line item #7 can support protection of natural resources. Funds are allocated to projects based on several factors. Funds are prioritized for

blocks of land that function as a significant sink or sponge for water pollution. Will follow-up offline to provide more information.

Comments from the Public

11:00-11:55 am

Secretary Susanne Young

- Public comment in order of sign-up sheet with five minutes allotted per individual

James Maroney: Questions pertaining to Act 76/S. 96 of 2019. (1) Can you define the Secretary referenced in the Act? (2) On page three, the Act refers to targets. I understand the target has to do with the TMDL. (2) My understanding is that the Lake Champlain TMDL has a 59% reduction for agriculture lake wide. (3) Can you describe who is eligible to be a clean water service provider (CWSP)? Are individuals eligible to be a CWSP? (4) Why is the timeline in Act 76 for identifying CWSP and targets so slow? (5) Do you believe the state has a plan to meet the 59% agricultural reduction and can it be done under the conventional paradigm (meaning conventional farming)?

Response from Julie Moore: (1) Secretary is the Agency of Natural Resources Secretary since the Act is under Title 10. (2) Yes, I believe the agriculture reduction lake-wide in the Lake Champlain TMDL is 59%. (3) Have not prescribed what type of entity can be a CWSP. We will release a request for qualifications with more detail. There are limits to how much of the funds can be used for administrative purposes. There is nothing in statute stopping an individual from responding to the request for qualifications to be considered as a CWSP. (4) Much of the technical work and analysis of interim targets for non-regulatory work has not been completed yet and the timeline allows for this development work.

Response from Anson Tebbetts: (5) The TMDL reductions are certainly the goal and all partners (farmers, conservation groups, UVM Extension, USDA) are all focused on the goal. Farming takes many forms including organic, conventional, and others. There cannot be just one type of farming.

Michael Colby: First, I'd like to put a spotlight on Doug Hoffer's report, which states 95% of clean water expenditures do not yield measurable phosphorus results and this budget is more of the same. It's ignoring the main problem which is the kind of agriculture promoted in Vermont – confinement feeding operations. The AAFM's budget is \$25 million and they are promoting and enabling that contribution. It is not working for anyone not working for any of us, and we're continuing. Farmers are getting paid for less than cost of production. Ben and Jerry's and Cabot are each making \$1 billion in sales. The amount of money we are spending to clean up their messes is about 1.3% of their annual sales. So, they are taking billions from our farmers and our land. Where is Ben and Jerry's and Cabot in this funding plan? Nowhere. Their lobbyists got them out of it. We're cleaning up their messes. We're hearing more of the same from AAFM. Let's ask them, how many manure spreading exemptions they gave to farmers? At least 70 that I know of, and I have to file FOIA after FOIA to get this information. Anson you said you provided farmers with a blanket exemption to spread manure on snow because the farmers were not doing well economically. We need to transition agriculture from this, we're losing. 1,500 migrant laborers are working in the shadows in the state without protections. State said, let's have Ben and Jerry's come up with a program. New York State at least passed laws dealing with migrant works. We have to focus on transitioning the farmers that are causing the problem. There are about 33 farmers with over 700 cows. Enough – we need a plan for transition. We need to listen to what Doug Hoffer said, we are putting money through a shredder.

Sylvia Knight: Everything on earth is connected; what we do to the land, we do to ourselves, what we do to the land hurts water. We're putting tons of glyphosate and tons of atrazine on our land. In the Champlain Valley, every year, this model of agriculture does not work. It is positioning us. This year I received additional information that round up contains phosphorus and leaves phosphorus on the ground and puts it in the water. We have tons of phosphorus going into the water from our agricultural practices. In 2016, ~49.3 tons were used on Vermont lands, with a loading of 9 tons of phosphorus. This has been ignored. I hear nothing about this in the whole discussion, it's being completely ignored. I'm doubtful we can meet the TMDL without stopping the use of Round Up. Now we have GMO corn all over the place. This forces us to look at the model of agriculture we are supporting in this program. Our state needs to embrace a different paradigm. Need to embrace a paradigm of

regenerative organic agriculture and use the dollars in the budget towards that purpose. I am a taxpayer; I'm looking for change in this program.

Pete Zimmerman: I have a home on Button Bay about one mile south of the state park. My family have been involved in farming and forestry for generations. I am not anti-farming. However, water quality in Lake Champlain is a scandal. Dogs are dying on the lake from drinking water. I heard today from a parade of cheerleaders on how we are going to help the farmers with this budget. I have not heard anything discussed about enforcement of laws and rules we have already. It is coming from agriculture. Unless practices change, unless people pouring pollution into our lakes stop, that's not going to change. Cannot just shrug our shoulders. Cannot allow our natural resources to become cesspools.

Andrea Englehardt: Lake Carmi is the only Lake in Crisis. We appreciate all work people have done to help our lake. The state has invested a lot of funds to help Lake Carmi. This summer, along the lakeshore, manure is still being spread. It is probably meeting agricultural rules. They are spreading manure 10-feet from the road, 50-feet from the lakeshore. Perhaps we need to try banning manure spreading for the Lake in Crisis until the lake heals a bit. Last I heard, we have not seen phosphorus decreases since funds are being spent. The Lake is still blooming.

Roy Shea: Frustration, disgust. Lake Champlain. Samuel de Champlain reported waters so clear you can see 60-feet down. You, the Vermont government, you let this happen to the Lake. That's a crime. And even more of a crime, you continue to let this happen. Talk to our Legislators? They are totally intimidated by agriculture. You let poison into our waters. Neighbors and I have taken samples from the Lake. E. coli over 2,000 ppm, off the charts and AAFM says farms are fine. You're letting poison enter our drinking water source. How long until you let this poison into our wells? Then it'll be a problem. You continue to let it happen. You favor large agriculture farms over our Lake. Our Lake that can be a huge revenue for our state. The dairy industry contributes less than 2% GDP, but somehow you find it sacred. You don't do anything for the lake, you really don't. Our influence is spreading.

Robert Wright: I've lived 78 years in Vermont. I too am irate with what I see happening to our Lake. Where is the money to help farmers transition away from practices that damage the Lake? Where are the funds to help stop putting phosphorus bearing compounds in the Lake? There are funds I see to try and control and constrain some of the runoff out there now. Doesn't seem to be helping. Stop putting more and more in. Let's restrain and find ways to go back on the large industrial farm model. That is what is killing the lake.

Evan Makowski: I'm from Panton. I'd like to reiterate things said by Michael, James, and my neighbors in the Panton area on the out of hand nature of what we see conventional industrial dairy to be. It paints a very different picture from how we hear it represented as under control with our best practices in place. It is a runaway ship. It is not under control. We had a meeting in Panton to address a manure spill that I photographed and recorded. It got some airtime on VPR and it raised the issue. That issue is to hone one thing – the exemptions that happen. We can make excuses that it was a seasonal thing and the weather did its thing, but the weather always does its thing. There is always going to be a weather incident. We cannot fall back on that excuse time and time again. The situation I photographed highlights it because it shows the temporary status that when you spread manure on snow and frozen ground in any situation it inevitable that it is going to go to the Lake. At our town meeting I tried to get an understanding with Agency of Agriculture to just ban the practice. In my view it would be better to have a manure pit overflow so we can pinpoint what farm that was and we can hold that farm accountable rather than spread it over the landscape where no one can see it and pretend it is not happening. I was not able to get an answer at the meeting from Laura but the Addison Independent did a story on it and the farm was given verbal permission I believe of 104,000 gallons of manure they could spread which was reported as five days' worth of manure on a lakeshore farm. The farm spread 540,000 gallons which also affected Dead Creek. So, if the state gave verbal permission to spread 104,000 gallons, to me that is an incrimination of your department. You are okay with 104,000 gallons of manure going into the lake because if you are putting it on snow and frozen ground it is going into the lake. If anyone wants to respond to me how that is not an inevitability, I am open to hear that.

Reed Hampton: I live on Button Bay, right adjacent to the State Park. Last week we had a huge algae outbreak that covered the whole bay. I think the root of the problem is why did the State Legislature, in all of its wisdom, make AAFM self-policing? As somebody who started a business with two people that has now grown to 225, I've been through Act 250 12 times and I have worked with DEC And everybody. I believe they're doing stuff the right way, but this is just horrendous. I've seen tons of trees come down and sculpting of the land and the discharge that took place next to my property at road culverts and all this water goes down to the swamp and goes down right into the Bay and there is a big chocolate bloom for a week.

Ernie Englehardt: I am a Camp Owner on Lake Carmi and a member of the Board of Directors for the Lake Carmi Camper's Association. I want to first appreciate what the state has done for us and made a commitment to and installed an aeration system in Lake Carmi. As I understand it is one of few in the country. Lake Carmi is sort of a laboratory and the moto is that if the state can't fix a small lake like Lake Carmi... woe is us. A lot of farming practices have changed around the shore that is helpful we believe. I used to think we have too many cows on the lake and that's the problem. I'm changing my view a little bit, knowing that there are a lot of acres in the watershed not generating manure, but it is imported from other sources. I mentioned I thought it was unusual that if you have an impaired lake, you would import manure. Main focus today is – what mechanism or data are available as we go forward so we can track how Lake Carmi is doing? We have a model for the TMDL, and project reductions based on modeling. Hope that we could receive data on annual basis on what model says and actual result is in the field to indicate improvements and phosphorus load in the lake is decreasing. Not quite sure how anyone will say when Lake Carmi meets the standards. Please develop a straightforward format so we can know what is happening such as acres of practices, reduction of manure on annual basis coming into the watershed. There needs to be clear information at the end of the TMDL because we are told that practices are being used and the aeration system is a temporary stop gap measure or band aid. We need to know at the end of that period whether the TMDL is reached and if not, we need to go back and evaluate.

Robert Cormier: I am from Franklin Vermont and Board of Directors for Lake Carmi watershed. Thank you for coming. It is us, the people in this room, that will make changes and we need to work together and fix this. I'm from Massachusetts and when you walk into the State House in Massachusetts you touch the sacred cod. The cod hasn't been caught since the 1950s. We're misinterpreting the statute on top of the State House. It is agriculture. We've got to start to pivot to a different crop right here. Agriculture is not our problem, it is dairy. Dairy waste. It is waste quality waste. We are stuck in this rut in dairy. Yet the country is going down on dairy consumption. The millennials are driving the food train right now. They don't drink milk. They don't eat Cabot cheese. They eat high end cheeses from small dairy operations. What this budget is, is a waste of money of \$36 million. If we took that \$36 million and invested in Global Foundries along with the agriculture budget, we'd make a billion dollars in profit which you could tax at 10% we'd make \$100 million and we are already in the profit range right there. We've got to look at what we do with the money and stop things for free. Need to stop the spreading and concentration spreading. We have a lake in crisis, yet they are spreading and saturating right on the lake in crisis – biggest irony we have – talk about insanity. State sponsored pollution – the state is encouraging them to pollute such as spreading on snow and leaky pits, we're seeing on every single thing they do. You want to stop this is get water out of agriculture – you have fox guarding hen house. Their mission is to encourage agriculture. You get water out of agriculture and put teeth in DEC with water and start solving this and stop blaming everyone and blame the point sources – it is not the guy growing tomato and hemp – it is the CAFO [concentrated animal feeding operation] growing the wrong food in the wrong places. It is the giant apathetic CAFO that is on the river. That is a business, and how do you know it is a business? They put LLC on trucks. This is what corporations look like in Vermont, polluting and contaminating everything we have. I am not anti-farming. I am anti-pollution. These people are going around and polluting and need to stop that and pivot out of dairy. What next do we go into? We need to start having hard conversations with the cities they are a problem to. With Carmi, it is agriculture. With Burlington, it is probably Burlington itself. Need to have hard honest conversations. If we don't start working together and sharing data, we are not going to solve the problem.

Judith McLoughlin: I'm from Lake Carmi. I want to thank you for doing what has been done at Lake Carmi. But I will caveat that it was not without a fight. You guys fought us the entire way and we had to go ugly and you even brought up armed guards to one of our TMDL meetings because you thought we were going to rebel when we were simply just angry. So that is Lake Carmi and what you've done, and it wasn't without a fight. My point is we are not done yet. Just simply because that aeration system went in, we are now seeing it is kind of like "job done let's focus elsewhere." So, the lake in crisis bill did put Lake Carmi as a lake in crisis because it

had organized people who were willing to stand up and work hard – I mean this is a full time fighting for water cleanliness in this state. Now we worked hard. We got our lake in crisis. The Secretary is supposed to tell us what we are going to do and here is our answer. In 2021, you're basically telling us there is no such thing as a lake in crisis and we don't need to put specific monies dedicated to that lake in crisis but go fight for it all over again. You want to see us fight for clean water up at that lake – you ain't seen nothing yet because we are committed. We're going to talk to Button Bay and all these people, and we are going to come back and you're going to hear the message – it is not working. What you are doing is not working. So, our Lake Carmi after declared lake in crisis and installed \$1 million aerator – you know what the installer told you? It is not going to work if you don't stop the flow. As soon as you turn it off it is going to stop working. Well it has been breaking down. Take it as a test we understand that but I sat there and watched 2 weeks ago while, if I check the source, it may be that illegal CAFO on Potato Hill Road we told you about 2 years ago – I believe you are in court trying to figure out what it is because it was built without any oversight. They came in and I would swear up to 100,000 gallons of manure were dumped on the eastern shore of the lake in crisis. Where is sense in that? It could have been a simple practice to ban manure in a lake in crisis or we are going to head to another solution which is putting money into a lake in crisis and maybe we can go to landowners who are renting out land to be a manure dump – maybe we can talk to the landlords and say, “hey, how about leasing your land to us and we will turn it into a pollinator field?” But we can't because we have to spend all our time competing for the no dollars you are putting toward lake in crisis. Please rethink that and use the assets you have because we do have organized groups – Watershed Committee, Campers' Association, Farmers' Watershed Alliance – we're working with everybody but we're a lake in crisis and now we have to go back to the drawing board and get angry again and start calling you guys out for the job you aren't doing. It is a simple solution. If it is a lake in crisis, put money toward it.

Jess Buckley: Thank you all for your efforts in negotiating this budget. I work for the conservation districts as Agriculture Program Manager. I want to also highlight that we appreciate the support coming through the FAP [Farm Agronomic Program] to support rotational grazing, which we think keeping land in grass is an important practice. We also want to say we appreciate block grants. The model reduces administrative overhead of granting processes. It is great to hear everyone's perspective and we all have the same goal to reduce phosphorus in the lake and it is a very big task. I just want to acknowledge that we are all doing our best.

Jennifer Decker: I am here to stand for water that is healthy for all of life. I really appreciate everybody's comments. In addition to all concerns raised here today, there is PFAs laden firefighting foam at the Burlington Airport due to the military uses. F35 planes will add pollution to our region. The PFOA/PFOS are forever chemicals that don't break down in the environment. They are associated with cancer, infertility, miscarriages, and immune system and early childhood development disorders. Curious if you can think of someone you know who has a developmental disorder, cancer, a neurological condition that has developed and do not know where it came from, Crohn's disease, epilepsy. My niece grew up in the Old North End of Burlington with has high levels of lead. Then moved to Addison County where we spent time in the water, eating local VT produced food. She moved to near the Burlington Airport where firefighting foams were used and then developed epilepsy. Are we considering all the costs of not doing enough? I'm here to speak for the children. I have friends who enrolled children into camp for the summer, continually swim in Lake Champlain. I used to swim there, but not anymore. I drive to Waterbury Reservoir and swim there all the time, but I've thought about giving it up because I don't want to make the drive and add more to the load carried by next generation. We have a whole generation inspired right now to take care of earth and end climate change and to clean up the beautiful world we all share. We could take whatever money and resources we have and pay people to do the work to clean our incredibly beautiful state. Some people might be paid to uphold obstacles of change. Please try not to be one of those people. I learned recently that there are some regulations at the federal-level that make it hard to change things on the local-level. That sounds like a really great excuse to me for the peaceful political revolution that we know that Vermont stands for. We cannot uphold human walls that contradict good science. What we invest in we get back in return. I would love to see the next generation inspired by steps that start here today. I would love to be a part of the change. Thank you.

Jane Clifford: My name is Jane Clifford and I am a dairy farmer in Starksboro, VT. My husband and I own and operate Clifford Farm. It has been in my husband's family since 1793. It is the longest continuous dairy farm in the state. I am very proud of our farm. We work very hard to meet the regulations. We work very hard to follow the rules, and yes there are some people that – in every walk of life – do not follow the rules. We also own a

piece of property in Hinesburg on Lake Iroquois. This year it so infested in milfoil and so cloudy, swimming is not an option. There is not a farm, not an animal, not manure being spread within a very large radius. But there is a significant amount of dirt road runoff. Significant amount of camps that have not upgraded their septic systems. The lake, Lake Champlain, the watershed. It's all of us, we all have a responsibility to do the right thing. I am disappointed that you think it's okay to always point the finger at me, at my farm, and say you have to stop it, stop milking cows, stop spreading manure. You want us to stop producing a high-quality product we take pride in, my livelihood? We employ seven people full and part time. My husband works seven days a week, 365 days a year. He loves it. He's dedicated to it. When I sit here and hear, "Just get rid of them, just tell them to change and do something else." I am very insulted. I agree it is a problem and not everyone is doing the right thing, but to totally discount an industry that definitely is the backbone of this state. Vermont is the most dairy dependent state in the country. \$3 million per day of new money from selling dairy product. Yes, the fluid consumption is down, but consumption of cheese and soft dairy products is up considerably. Does this country make too much milk? Absolutely. Do we need to do something about it? We are in the process of working on it now and creating a growth management system. But again, to discount people. I'm a person. I love what I do, and I am really proud of it, and again all of us have a responsibility. Thank you.

Geoff Batista: One brief question on what happens next. How does this public consultation, event, other comments, the survey still out, going to formally factor into the decision-making process on the budget?

Response from Suanne Young: All the comments will be pulled together in a lengthy and detailed document for the Board and public. It will be posted. We will draw conclusions from the comment and this hearing into our final decision-making, and we have heard a lot today. A lot of opinions on where to shift funding and we will take that all into account. Then we will finalize the budget and will present to the Governor for final budget development. It will go to the State Legislature. There will be another round of hearings on this budget and the Governor's proposed budget and at some point, the Legislature will decide on the final budget bill.

Is there ever a time to have this meeting on a weekend because a lot more people could come if you would allow that?

Response from Susanne Young: Certainly, something we should consider and may have time before the final budget meeting. Every meeting of the Clean Water Board is public, and we publicize meetings. There is always time for public comment at those meetings.

Next Steps/Future Meeting

11:55 am-12:00 pm

Secretary Susanne Young

- Public comments due September 6, 2019 via online questionnaire
- October 2019 Clean Water Board meeting to finalize SFY 2021 budget recommendation

Adjourn

12:00 pm

Supporting Materials:

1. Clean Water Funding Factsheet
2. Clean Water Fund State Fiscal Year 2021 Questionnaire
3. Draft SFY 2021 Clean Water Budget
4. Draft SFY 2021 Clean Water Budget Line Item Descriptions