

## Vermont Clean Water Board Meeting Minutes

Date/Time: Tuesday, October 22, 2019, 2:30 – 4:30 pm  
Location: National Life Davis Building – 1 National Life Drive, The Catamount Room (N215)

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### 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  
Bob Flint, public member  
Joe Flynn, Agency of Transportation (VTrans) Secretary  
James Giffin, public member  
Christopher Louras, public member (absent)  
Julie Moore, Agency of Natural Resources (ANR) Secretary  
Anson Tebbetts, Agency of Agriculture, Food and Markets (AAFM) Secretary  
Chad Tyler, public member (absent)

- 1) Welcome, Overview of Agenda, Approval of Meeting Minutes** **2:30-2:35 pm**  
Agency of Administration Secretary and Clean Water Board Chair Susanne Young
  - June 12, 2019 meeting minutes approved
  - August 22, 2019 working meeting minutes approved
  
- 2) Draft Clean Water Fund Current Year Unallocated Balance and Contingency Reserve** **2:35-2:42 pm**  
Agency of Natural Resources Secretary Julie Moore (information only)
  - The Clean Water Fund current year unallocated/unreserved balance is \$900,000 (recurring revenue) and prior year unallocated/unreserved balance is \$218,808 (non-recurring revenue) due to higher than anticipated revenues; if the Clean Water Board recommends adjusting the contingency reserve from \$950,000 to \$500,000, additional \$450,000 in non-recurring unallocated/unreserved revenue would be available
  - Noted unclaimed bottle deposit escheats reporting and revenue collection began October 2019; limited data/experience available to update anticipated revenues
  - Draft October 17, 2019 proposed SFY 2021 clean water budget provides recommendation for use of unallocated/unreserved revenue
  
- 3) SFY 2021 Clean Water Budget**
  - a. Budget Process, Public Comments, and Recommended Adjustments** **2:42-2:55 pm**  
Secretary Julie Moore (information only)
    - Meeting materials contain all public comments received in response to the draft SFY 2021 clean water budget via online questionnaire, August 22, 2019 public hearing, and other comments submitted by email
    - The Clean Water Initiative Program summarized public comment themes and suggested options to address public comment themes for the Board's consideration
  
  - b. Response to Agricultural Land Use Practices and Enforcement Concerns** **2:55-3:03 pm**  
Agency of Agriculture, Food and Markets Secretary Anson Tebbetts (information only)
    - AAFM is focused on agricultural nonpoint source pollution
    - Secretary Tebbetts explained that in 2018, AAFM:

- Held 366 educational events statewide with approximately \$1.3 million invested across the state to educate farmers and partners on new approaches to agriculture;
- Funded 87 BMPs; financing includes costs for cover cropping after corn harvesting and no-till practices, which focused on a new approach for not disturbing soils and improving soil health;
- Made 652 quality compliance visits; and
- Issued 118 enforcement actions totaling \$69,000 in penalties; thirty cases were referred to ANR and seven individual cases were referred to the Vermont Attorney General with a total of \$115,000 in fines
- The proposed budget redirects more resources to compliance and enforcement than the public comment draft

**c. Discuss and Finalize SFY 2021 Clean Water Budget Recommendation 3:03-3:17 pm**

Secretary Susanne Young

- Bob Flint asked if the proposed SFY 2021 clean water budget incorporates reducing the contingency reserve from \$950,000 to \$500,000; Secretary Moore responded yes, it proposes authorizing \$450,000 in non-recurring unallocated/unreserved revenue from the contingency reserve, \$218,808 non-recurring prior year unallocated/unreserved revenue, and \$900,000 reoccurring current year unallocated/unreserved revenue
- Secretary Young asked if the Board ever had to dip into contingency reserve; Secretary Moore responded the State accessed the contingency reserve once, required by statute, to fund initial response of \$50,000 for Lake Carmi’s designation as a “Lake in Crisis”
- Motion to approve SFY 21 budget made and seconded; discussion followed
- Bob Flint asked if level of clean water investment is aligned with what the State of Vermont can afford, and how the State is doing compared to other states, considering its size; Secretary Moore cited a U.S. Environmental Protection Agency letter indicating the level of investment is acceptable to support the Lake Champlain phosphorus reductions over an estimated 20-year timeframe
- Bob Flint asked if, given experience over last few years, the State is meeting its targets; Secretary Moore responded yes and cited the Vermont Clean Water Initiative Annual Investment Report that tracks state investments and reflected on substantial amount of work completed over the past few years
- Secretary Young reiterated next steps: the approved SFY 2021 clean water budget will be sent to the Department of Finance and Management, incorporated into the administration’s proposed budget and presented to the Governor
- Motion to approve recommendation passed

**4) Establishment of Clean Water Service Providers (Act 76 of 2019) 3:17-3:33 pm**

Department of Environmental Conservation Water Investment Division Director Neil Kamman

- Provided update on implementation of Act 76 of 2019
- Bob Flint commented that he did not remember this process being quite as convoluted and asked if ANR anticipates it will take this long; Neil explained the Act requires Clean Water Service Providers be established by November 1, 2020, which will allow Providers one year to establish before receiving funds to begin implementing projects November 1, 2021
- Bob Flint asked what the Regional Planning Commissions’ (RPC) role will be in the process; Neil answered that statute does not specify the entities that will

serve as Clean Water Service Providers; Secretary Moore clarified that a prior version of the bill proposed RPCs serve as Clean Water Service Providers but the bill enacted does not

- James Giffin asked if ANR expects there to be organizations willing to serve as Clean Water Service Providers in every region of the state; Neil anticipates there will be willing organizations, but if not, the State may need to operate “business as usual” or utilize other block grant models

**5) Status of Clean Water Fund Program Audit due January 15, 2021**

**3:33-3:40 pm**

Secretary Susanne Young

- AoA will post a Request for Proposals to select a contractor to complete the Clean Water Fund Program Audit this fall

**6) Public Comments**

**3:40-4:28 pm**

Secretary Susanne Young

- Public comment with four minutes allotted per individual (summary of public comments on pages 4-8)

**7) Next Steps, Closing Remarks**

**4:28-4:30 pm**

Secretary Susanne Young

- The Board agreed to schedule a February meeting if needed to review revenue updates
- Susanne Young entertained a motion to adjourn. Secretary Moore motioned; Bob Flint seconded the motion; meeting adjourned

**8) Adjourn**

**4:30 pm**

Supporting Materials:

1. June 12, 2019 Draft Clean Water Board Meeting Minutes (Page 1)
2. August 22, 2019 Draft Clean Water Board Working Meeting Minutes (Page 28)
3. Clean Water Fund Revenues vs. Appropriation (Page 4)
4. Clean Water Funding Factsheet (Page 5)
5. SFY 2021 Clean Water Budget Public Comment Package (Page 6)
6. Draft Updated SFY 2021 Clean Water Budget (Page 41)
7. Draft Updated SFY 2021 Clean Water Budget Line Item Descriptions (Page 42)
8. Act 76 Overview (Page 48)
9. Draft Clean Water Fund Program Audit Scope of Work (Page 52)

## Vermont Clean Water Board Meeting Minutes – Public Comment Attachment

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### Public Attendees Recorded

|                     |                          |
|---------------------|--------------------------|
| John Barrows        | Deborah Hartenstein      |
| Paulette Bogan      | Kent Hartenstein         |
| Katherine Brewer    | Catherine Lajeunesse     |
| Jared Carpenter     | Caterina Lamanna         |
| Laurel Casey-Ansley | Adam Lougee              |
| Jane Clifford       | Lyn Munno                |
| Michael Colby       | Kathryn O'Neill          |
| Andrea Englehardt   | David Putter             |
| Ernie Englehardt    | Dan Albrecht (Skype)     |
| Nancy Everhart      | Jess Buckley (Skype)     |
| Judith Fisher       | Eric Perkins (Skype)     |
| Elizabeth Gribkoff  | Holden Sparacino (Skype) |
| Reed Hampton        | Kathy Urffer (Skype)     |
| Vanessa Hampton     |                          |

### Public Comments

3:40-4:30 pm

Secretary Susanne Young

- Public comment with four minutes allotted per individual

**John Barrows:** We don't have enough money in the fund, probably need about 10 times the amount. Know we've done a lot since 2015, it's a small step and long ways to go, but don't think \$20 million goes far enough. Know there's other money, \$50 to 60 million, about the amount in a school budget. Thinks agriculture, Missisquoi Bay, etc., should be a part of Lakes in Crisis. Glad to hear Neil mention there is a protection grant program, think will be very critical in this process. Been promoting this idea for years for farms that drain on the side of hills like Lake Carmi. If the state bought rights for land, so there won't be any nutrients put in the land, would solve a lot of the problems. That would be a permanent solution you won't have to keep paying. BMPs Secretary Anson mentioned should be mandatory and not occasional. Another pet peeve is the Cyano-tracker, which is basically someone going out one to two times per week. Have sent pictures to the Department of Health. A lot goes unreported, specifically in Carmi, and not as accurate as it should be. Would hope that in areas like Button Bay, there should be someone there every day.

**James Maroney:** Everyone in this room knows that there are essentially three sources of phosphorus pollution: stormwater runoff approximately 45%, wastewater treatment facilities 5% and agriculture 45%. The state doesn't seem to know there is a tremendous difference between the first two and the third. We're not going to stop driving and going to the bathroom, it's not going to stop raining. The only way to fix the pollution coming from stormwater runoff and WWTF is with money. We've got some money there, which I see is necessary to spend. The third one however, agriculture, is voluntary – we don't need to do it at all. We import 95% of our food in Vermont and dairy farmers present 1% of the national supply of milk. Vermont agriculture could disappear tomorrow and virtually nobody outside Vermont would notice, and probably most consumers wouldn't notice, putting aside cultural affinities. Eric Smeltzer, who did a study of the TMDL a couple of years ago, said this lake is capable of absorbing about 500 tons of phosphorus. It's getting now around 800 tons, 300 tons too much and 60% of that is coming from agriculture. Conventional ag is the problem. We didn't have this problem 25 years ago, something in the agriculture has changed. Vermont has said they've been working on it since 1984 and virtually nothing has changed but costs. Some of you may have seen a survey from VPR, said that 95% of Vermonters support dairy. Question was, do you think dairy farming is important to the state as it views itself. Survey that had to do with general questions about life in Vermont. In the article that come out in

Vermont Biz, Secretary Tebbetts you said you were working very hard to fix dairy farmers' problems. What are you going to do? Everyday I come in with a stack of bills and I can't pay them. Losing \$100,000 per year. What will you do about that?

**Reed Hampton:** Spoke a bit at the last meeting on Lake Champlain. Believe the Agency of Agriculture is failing with their enforcement. We've had numerous outbreaks every time we have any kind of a storm surge. You can call up, you can complain, and nothing happens. Certain large CAFOs and large farms out there that take advantage of this. There's no one watching and they're doing whatever they want to do. It's a disgrace.

**Vanessa Hampton:** Built home on Button Bay. Every day walk around Button Bay and pick up garbage, so it looks nice, good for wildlife. Last few years haven't been able to swim in the lake. Have become sick breathing in whatever in the manure that's different now. When picking up garbage, go up to Basin Harbor, go out to the point and go further down, Arnold Bay, go all the way down to marina that is coated green. Point is this, tourists are asking - what's with the lake. Forty percent of the GDP in the state of Vermont is tourism. Tourists are asking if they can go in the water, can't lie. We're right on Champlain, people will revolt, people won't pay taxes. Not against the farmer, came from farming background in England, know how it was done 40-50 years ago. It wasn't cows dying after three or four years, wasn't cows standing in their own [expletive]. Wasn't that at all. It was them eating grass. Then the farmers standing out bullying you and looking at you. Scared to live where I live for my own health, scared because the retribution of the farmer and just can't see agriculture overseeing itself. It should be overseen and enforced.

**Paulette Bogen:** From Panton, Bed & Breakfast owner on Lake Champlain. Very small part of tax goes into the budget. Again, would like to reinforce tourism brings in a lot more money than agriculture. Piece of information I would like to know - even though fines have been assessed to farmers, how much of those assessed fines have been collected? Again, the Department of Agriculture cannot self-monitor or self-evaluate. Representatives from ANR and AAFM came to Panton for small town hall meeting. Asked, how much of those fines assessed were collected? Those representatives from those departments did not know. In past two years have had to warn guests not to swim right off our dock, from a very deep part of our lake. Milfoil was in Button Bay and a little bit north of Button Bay, now it has come down almost to Arnold Bay and there are plants in Arnold Bay and we're at a very deep part of the lake. In past seven years we are now seeing milfoil where I haven't before, now having to warn my guests not to swim in lake. Guest are writing reviews (at least one) talking about quality of the lake. That's out there on internet, can't be pulled back and that's going to part of what damages the future in Vermont, because tourism and not agriculture is bringing in a lot more money into Vermont. Please do consider not having AAFM monitor itself and do put money into best practices for farmers.

**Rob Cormier:** Don't know any of these people here but hearing same reoccurring themes. Big reoccurring theme is not about money but it's about public policy. Money's going to help but if we do some simple things to change public policy will make a big world of difference. If you as a group can recommend to Lakes in Crisis bill like we did for Lake Carmi - we ran a great system on how to get money and attention. Think there are worse areas than Lake Carmi that don't have the resources. Have to get water out of agriculture, it's the biggest thing but we have the fox guarding the hen coop. Reoccurring theme, seeing it over and over again. Have to get a mutual entity evaluating. Need to get water out of agriculture and back to ANR. Not anti-farming, just anti-pollution. Here in the State of Vermont, pollution looks like two things: either a municipality's dumping into the lake or it's dairy, clear cut. We don't have huge industries. Needs to be a moratorium on banning of spreading and can use Lake Carmi as an example; it's a bowl it's all going down. If you ban spreading on Lake Carmi, it's going to drop outbreaks. We need some kind of tracking system on outbreaks. Need to start pivoting out of dairy. If agriculture drops out of Vermont, nobody would notice. Hemp is not the answer, need to figure out one way to pivot to a sustainable agriculture market that feeds our system and helps stops the pollution.

**Laurel Casey-Ansley:** Thank you guys for what you're trying to do, ironically, it's not a money issue, it is the laws we don't have. Cyanobacteria all over my property is making me sick, making my renters sick. It's getting worse, what's going to happen is someone is going to die. It'll make national news. Cyanobacteria goes

airborne for 18 miles. Eighteen miles inland of lakes in Vermont and everyone's going to get sick. Dairy is dying. People are stopping eating dairy, know it's not good for you. Even farmer friends are trying to sell properties. They keep spreading manure and keep their cows because they're trapped. Would be great if the state can buy property and turn into a land trust. Just saying, the good news for those of us are very upset – it's going to get bad fast. What's happened in just last three years with the gallons and gallons of rain coming down quickly and it goes right to the lake. There's nowhere else it will go. We thought this is something that might happen, and it's happening now. Good news is, it is going to get worse, people will get very sick, probably going to have to get together and sue the state. Not a small problem, a disaster, horrific. When it gets on the front page of the Times maybe we can go do something about it. Trust that sometimes we have to hit the bottom before we go up.

**Michael Colby:** Some other good news, one is the people in the room. I commend you for this patience. These people are on the front line of what is a war. It's not agriculture, what you're promoting Anson with these big CAFOs, it's agri-warfare. These people on the frontlines, they didn't ask for this war. But in their yards, in their waterfront, in their air, it is an assault. I've been to their properties; it breaks your heart to go there. Please, visit these places, seeing how they're living, it's an abomination, a disgrace. Good news, we know exactly why it's happening, no mystery. It's the CAFOs, the large farms. All across the country, map it out, where do these people live, where are the biggest CAFOs? It's a one and one relationship. Here's an obscenity – while we're trying to spend this money, AAFM is handing out more and more permits for large farms. In the last five years the number of farms with more than 700 hundred cows, at least the ones reporting, have doubled in past five years. People are living the way they're living and you're handing out permits. All small farms and medium farms, they're part of this assault too, this agricultural warfare going on. What happened with cyanobacteria outbreaks in that same five-year period? Increased 141%. There's no mystery here. Have to get Anson's agency to get their act together and do their job. Can anyone on the Board tell me how much pesticides were put on the land last year? You can't because he's not following the law and for the past six years, he hasn't told the public, which he's required to do. Required by statute to report to the public every year how many pesticides are being used in the state. Last time he did it, 2013. How can you talk about water and a plan when you don't have data? How can you talk about a plan when the cause is being encouraged? Again, good news, people are waking up, the state is waking up, we're telling this story and we're going to get action. Please help us sooner rather than later.

**Response from Secretary Young:** For the record, Tebbetts has not been AAFM Sectary since 2013.

**Deborah Hartenstein:** Live south of Button Bay. Since everyone's saying the same thing, would like to make one comment: the solution to the pollution is not dilution. Will also say, I've been in this property 20 years next week, and you never get used to the smell of manure. It doesn't smell the same way it did 15 years ago. It's burning, your eyes hurt. You don't want to hang your clothes out. You don't want to have guests over. Can't open windows at night, never get used to it. And we drink this water, we drink it and most people in our region have super high-end water filtration systems even though we have municipal water to drink. This is not an uncommon occurrence. This is a picture Paulette showed on June 21<sup>st</sup> which hit the airwaves on NPR and VPR.

**Andrea Englehardt:** From Lake Carmi. We do appreciate all the resources for Lake Carmi. It has to be \$2 million if you count the State Park. And the years of work – Neil wrote our TMDL in 2009. He's been in it for a decade, but today the lake is blooming and it's worse than ever. I think we can conclude we have to do something else. Consider banning manure in our watershed and see what happens. She mentioned something about a death – our camp is 50 feet from Dicky Brook. Lucky we don't live there. Dicky Brook was named after Dicky Reinveldt who died of ALS. The more I read; ALS is tied to cyanobacteria. We don't like smell of manure but what will state do if all of a sudden people are getting sick? Did you do everything you can do to make sure people don't get sick? Feel bad when the school bus goes by, students breathe it. At the retirement home, people can't leave. When we see the blooms, we do leave. Asking for manure bans in the watershed as a test case, to see if it helps. Landscape has changed but phosphorus has to go down. Even with our \$1.5 million aeration this fall it is still blooming constantly. We know you're trying, but I think you're going to have to step

out of the track and try something different. Becoming a huge health crisis, not just for us, but for Lake Champlain. Thank you for the work but it's not going to cost as much as a lawsuit.

**Ernie Englehardt:** Made a statement in the Lake Carmi Campers Association spring newsletter, said health alert signs were common on Lake Carmi last summer and fall of 2018. And in my understanding, there hasn't been any changes in past year. Wanted to remind people quickly that Carmi is a Lake in Crisis. Some of the discussion that lead up to that, is that it can be seen as a laboratory. Carmi is a small lake, surround by agricultural use. We know where point and nonpoint sources are, where phosphorus is coming into the lake. Request that AAFM and ANR take some pretty aggressive action on Lake Carmi, since it is small it can be a laboratory to see what can be done to reduce amount of phosphorus coming into the lake. A lot of RAPs (Required Agricultural Practices) in the lake and a lot of BMPs coming in line to help. Think there are a lot of other things that can be done. Perhaps for some of the fields in Lake Carmi there could be less manure spread, see what happens to the crops. May not be a significant difference. Eliminating manure, try it, see if you can get the same yield without as much manure. At same time realize, financial impact on farmers. Appreciate Secretary Young, that there is flexibility in the Clean Water Fund, and if some specific actions are tried, taking a farmland out of farming, or trying a different type of farming that's not very intensive – see what happens then. But part of that can be flexible to compensate the farmers to switch to something else. Please act aggressively in this little lake, hopefully will be results found that can be applied on a larger scale, like Lake Champlain, that are in terrible shape.

**Public Member:** Hospital Creek is near my house, surrounded by farms. It is a tributary to Lake Champlain. Angie Allen just completed a survey that covers 2017 and 2018. I think this Hospital Creek will be identified as an issue, maybe not quite in crisis, but almost there. Can trace all pollution to agriculture in the area. Marina on opposite side of creek, most boats covered in green goo. No real tourism, nobody really wants to move to this area, it's near the Crown Point Bridge. When bought the property we paid \$40,000 in land transfer taxes. We are here by choice; this is a holiday residence. That money – I want to know what happened to it, it's fraudulent. It's fraudulent to write checks like that and see the quality of the lake go down year after year. It's declined in the four summers I've been on the lake. This is our investment money and our retirement money in this house. It's our decision to be there but it's a scary bad decision if that's going to happen to us. Lot of people are here have a lot to lose and the state has a lot to lose. Not sustainable to continue to run a state like this. Vermont must lead, not follow by chasing laws and statutes. Just racing to the bottom. To lead is to start a legislative process that gets glyphosates, manure, all of these things, out of our supply. We tried voluntary, tried enforcement, but the laws have obviously been insufficient.

**Adam Lougee, on behalf of Vermont Association of Planning and Development Authorities (VAPDA):** My focus a bit different than other folks, a lot more focused on budget. Three things to talk about. First, going back to the 2020 budget and talk about funding for watershed groups. Then, Grants-in-Aid briefly, and lastly since Neil brought up Clean Water Service Providers wanted to briefly talk about that as well.

1. Funding for watershed groups: Take you back to December 2018 board meeting. Peter Gregory and some other people testified before you and requested you put in extra \$75,000 for watershed planning. That money went into the top line budget. Watershed groups haven't been able to access it yet. They will be able to access it by going through an RFP, but they haven't been able to get it yet, and if you look at the Clean Water Service Provider timeline, a lot is happening already. That money was intended, as I understand, to get them into a position for them to participate in the water quality planning process. Ask to get that money to the groups quickly; they're important partners to us in the watershed. They do a lot of good work, specifically in Addison County. Do a lot of water testing. Nobody knows the watersheds better than the watershed groups. They're locally active and will be able to help the Clean Water Service Provider in any region. Urge you to help them get more involved in the process.
2. Grants-in-Aid: Looking at clean water budget on page 41, footnote at very bottom of budget. Footnote says "ANR and VTrans leadership have requested staff evaluate efficiencies to be gained by VTrans managing the Municipal Roads Grants-in-Aid Program." RPCs work with municipalities to run that

program. Northwest RPC gets a grant from DEC and distributes to other RPCs who get the money directly to municipalities to help fix their roads. Program runs really well, don't want to see it change significantly, especially in front of an audit. In the past year in SFY 2019, had 193 municipalities participating, over \$2 million in grant funding and \$1.4 million of local match (town money) went into road projects, 836 road segments improved covering 56 miles. It is making a significant difference. Good program and essentially don't want to mess with it.

3. Clean Water Service Providers: RPCs are very interested in participating. In Neil's handout last line about Clean Water Service Providers being responsible for pollution reductions. You all make the rules and give the allocations, we're ready to work on contracts and we'll be held to the timelines for the contracts and bring projects in on budget but being held responsible for achieving reductions that are not yet established scares us.

**Lyn Munno:** Want to quickly echo some of the comments. Watersheds United Vermont represents community-based nonprofit watershed groups that have been key partners for DEC and the state in developing tactical basin plans and implementing clean water projects across the state. Wanting to ask, as we look forward into this year FY2021, 2022, rolling out Act 76, ensuring funds are available to support these community-based watershed groups to help the state achieve clean water goals. Specifically, been working with DEC tactical basin planning staff for years. Received support that watershed groups are key partners in developing these plans. One barrier, watershed groups, unlike RPCs and conservation districts, have not been in state statute as a basin planning partner eligible to receive funds. During 2019 legislative session, part of Act 76, legislature amended 10 VSA Chapter 1253 to include funds to support watershed groups participation in tactical basin planning via Watersheds United Vermont (WUV). Very pleased about opportunity to provide support. Change adds WUV and designees alongside RPCs and conservation districts as entities to receive performance contract for development and implementation tactical basin plans. Changed when legislation went into effect in July 2019. Looking forward to having watershed groups receiving funds in line with the change in statute in current fiscal year and years to follow. Tactical basin support, core of DEC's efforts to restore Vermont waters to reach goals of Act 64 and implementation of Act 76. Will be interesting to see how basin planning works out with CWSP to achieve clean water goals together, even with the regional model. Watershed organizations in conjunction with districts and RPCs are critical partners for the state in achieving these goals. We ask the Clean Water Board to allocate sufficient funds for three groups to work together for tactical basin plans and implementing clean water projects to ensure protection of all Vermont waters.

**Jill Arace:** We too would support the participation of the watershed groups in the basin planning process. Want to thank the board for the increase in funds for agricultural projects in SFY 2021. Agriculture for TMDL presents 40% of problems for Lake Champlain phosphorus and is being asked to contribute to 67-68% of the solution and so far, has contributed quite a bit to the solution, don't want to forget that. I am participating on the payment for ecosystem services workgroup, also looking at supporting the working lands by acknowledging contribution it's making to remediate pollution problems but also adding value environmentally and economically to community. Proposal to come probably before the legislature asking for funds to support a pilot project. Lastly, have some concerns for the Clean Water Service Provider model. Don't want to be set up to be competing with our partners. Don't want this context to be where we're all competing with one another. Have communicated with DEC and participating in process but do have a concern about conflicts of interest and how it will be managed. If people are both acting as implementing and money lenders, seems if there are conflicts of interest hoping it will be addressed in this process.

###

**DRAFT**

**Clean Water Fund Operating Statement - Appropriation Basis 2/14/2019**

|  | Jan. Eboard Update |                        | Gov Rec            | Jan. 2020 Rev. Update |
|--|--------------------|------------------------|--------------------|-----------------------|
|  | As Passed          | Update                 |                    |                       |
|  | FY 2020            | FY 2020                | FY 2021            | FY 2021               |
| <b>Revenue</b>                             |                    |                        |                    |                       |
| Clean Water Surcharge (PTT)                | 5,000,000          | 5,460,000              | 5,920,000          | 5,790,000             |
| Bottles                                    | 1,000,000          | 970,000                | 1,970,000          | 1,940,000             |
| Meals and Rooms Tax                        | 7,500,000          | 7,500,000 <sup>1</sup> | 12,010,000         | 11,982,000            |
| <b>Subtotal Sources</b>                    | <b>13,500,000</b>  | <b>13,930,000</b>      | <b>19,900,000</b>  | <b>19,712,000</b>     |
| <b>Appropriations</b>                      |                    |                        |                    |                       |
| DEC  | 10,175,000         | 10,375,000             | 11,340,809         | 11,340,809            |
| DEC Adjustments                            |                    |                        |                    |                       |
| ACCD                                       | 200,000            | 200,000                | 200,000            | 200,000               |
| VCGI                                       | -                  | -                      | -                  | -                     |
| VTRANS                                     | 770,000            | 770,000                | 4,700,000          | 4,700,000             |
| FPR  | -                  | -                      | 50,000             | 50,000                |
| AOA  | 150,000            | 150,000                | 200,000            | 200,000               |
| <b>Subtotal Uses</b>                       | <b>11,295,000</b>  | <b>11,495,000</b>      | <b>16,490,809</b>  | <b>16,490,809</b>     |
| <b>Revenue Surplus/Deficit</b>             | <b>2,205,000</b>   | <b>2,435,000</b>       | <b>3,409,191</b>   | <b>3,221,191</b>      |
| <b>Transfers (To)/From</b>                 |                    |                        |                    |                       |
| Transfer (to) Agriculture CWF              | (3,255,000)        | (3,255,000)            | (4,027,999)        | (4,027,999)           |
| Transfer (to) Lakes in Crisis Fund         | (50,000)           | (50,000)               | (50,000)           | (50,000)              |
| Transfer (to)/From Contingency Reserve     | -                  | -                      | 450,000            | 450,000               |
| <b>Subtotal Transfers</b>                  | <b>(3,305,000)</b> | <b>(3,305,000)</b>     | <b>(3,627,999)</b> | <b>(3,627,999)</b>    |
| <b>Current Year Unallocated/Unreserved</b> | <b>(1,100,000)</b> | <b>(870,000)</b>       | <b>(218,808)</b>   | <b>(406,808)</b>      |
| <b>Reserve</b>                             |                    |                        |                    |                       |
| Contingency Reserve                        | 950,000            | 950,000                | 500,000            | 500,000               |
| <b>Available Funds</b>                     |                    |                        |                    |                       |
| Prior Year Balance Unreserved/Unallocated  | 1,571,273          | 1,571,273              | 761,273            | 701,273               |
| Current Year Unallocated/Unreserved        | (1,100,000)        | (870,000)              | (218,808)          | (406,808)             |
| <b>Summary of Unallocated/Unreserved</b>   | <b>471,273</b>     | <b>701,273</b>         | <b>542,465</b>     | <b>294,465</b>        |

1 - Per Act 72 Sec. F. 100(a) the meals and rooms tax for the Clean water fund is capped at \$7.5m.

**CLEAN WATER BOARD**  
**State Fiscal Year (FY) 2021 Clean Water Budget Updated Based on Governor Recommended Budget (1/21/2020)**

| No. | Sector          | Agency         | Activity  | Clean Water Fund | Capital Bill | Total FY21 |
|-----|-----------------|----------------|---|------------------|--------------|------------|
| 1   | Agriculture     | AAFM           | Agronomy Conservation Assistance Program (ACAP)   | 235,000          |              | 235,000    |
| 2   | Agriculture     | AAFM           | Water Quality Grants to Partners and Farmers  | 3,070,497        | 4,294,503    | 7,365,000  |
| 3   | Agriculture     | AAFM           | Operating   | 722,502          |              | 722,502    |
| 4   | Agriculture     | VHCB           | Water Quality Farm Improvement and Retirement Projects                                      |                  | 1,100,000    | 1,100,000  |
| 5   | Nat'l Resources | VHCB           | Land Conservation and Water Quality Projects  |                  | 1,700,000    | 1,700,000  |
| 6   | Innovation      | All            | Multi-Sector Innovation, Grant Administration and Partner Support                           | 3,052,498        |              | 3,052,498  |
| 7   | Nat'l Resources | ANR-DEC (CWIP) | Natural Resources Restoration   | 3,234,503        |              | 3,234,503  |
| 8   | Nat'l Resources | ANR-DEC (CWIP) | Lakes in Crisis Fund  | 50,000           |              | 50,000     |
| 9   | Nat'l Resources | ANR-FPR        | Forestry/Skidder Bridges  | 50,000           |              | 50,000     |
| 10  | Roads           | ANR-DEC (CWIP) | Implement BMPs at State Forests and Recreational Access Points                              |                  | 1,900,000    | 1,900,000  |
| 11  | Roads           | VTrans         | Municipal Roads Grants-in-Aid   | 3,700,000        |              | 3,700,000  |
| 12  | Roads           | VTrans         | Municipal Better Roads  | 1,000,000        |              | 1,000,000  |
| 13  | Stormwater      | ANR-DEC (CWIP) | Stormwater Project Delivery, Planning and Implementation                                    | 4,943,808        |              | 4,943,808  |
| 14  | Stormwater      | AoA            | Stormwater Utility Payments (\$25K each)  | 125,000          |              | 125,000    |
| 15  | Stormwater      | ACCD           | Better Connections (Stormwater Planning)  | 100,000          |              | 100,000    |
| 16  | Stormwater      | ACCD           | Downtown Transportation Fund (Stormwater Projects)  | 100,000          |              | 100,000    |
| 17  | Wastewater      | ANR-DEC        | Wastewater Treatment Facility Operators Support   | 110,000          |              | 110,000    |
| 18  | Wastewater      | ANR-DEC (FED)  | State Match to Clean Water State Revolving Fund Federal Grant                               |                  | 1,605,497    | 1,605,497  |
| 19  | Wastewater      | ANR-DEC (FED)  | Municipal Pollution Control Grants  |                  | 3,300,000    | 3,300,000  |
| 20  | Audit           | AoA            | Program Audit (10 V.S.A. § 1389b)   | 75,000           |              | 75,000     |
|     |                 |                | <b>Total Requested</b>  | 20,568,808       | 13,900,000   | 34,468,808 |
|     |                 |                | <b>Anticipated FY21 Revenue</b>   | 19,000,000       | 13,900,000   | 32,900,000 |
|     |                 |                | <b>Anticipated Unallocated/Unreserved Revenue (Current Year)**</b>                          | 900,000          |              | 900,000    |
|     |                 |                | <b>Anticipated Unallocated/Unreserved Revenue (Prior Year)***</b>                           | 218,808          |              | 218,808    |
|     |                 |                | <b>Unallocated/Unreserved if Contingency Reserve Reduced from \$950,000 to \$500,000***</b> | 450,000          |              | 450,000    |

\*\* Reoccurring revenue  
\*\*\* Non-recurring Revenue

**DRAFT Overview of Funding to Support Clean Water Activities (Updated February 19, 2020)**

| Sector/Agency <sup>1</sup>                                   | Activity   | Average Total FY18+19 (CWF & Capital Bill) | Total FY20 <sup>2</sup> |                   |                   | Total FY21 Governor's Recommend |                   |                   | FY21 Compared to FY20 |
|--|--|--|-------------------------|-------------------|-------------------|---------------------------------|-------------------|-------------------|-----------------------|
|  |  |  | Clean Water Fund        | Capital Bill      | Total             | Clean Water Fund                | Capital Bill      | Total             |                       |
| <b>a Agriculture</b>   |  |  |                         |                   |                   |                                 |                   |                   |                       |
| 1  | AAFM Agronomy Conservation Assistance Program (ACAP)                                 | 117,300                                    | 235,000                 |                   | 235,000           | 235,000                         |                   | 235,000           | -                     |
| 2  | AAFM Water Quality Grants to Partners and Farmers                                    | 5,605,000                                  | 2,470,000               | 3,450,000         | 5,920,000         | 3,070,497                       | 4,294,503         | 7,365,000         | 1,445,000             |
| 3  | AAFM Operating <sup>3</sup>  | 375,000                                    | 550,000                 |                   | 550,000           | 722,502                         |                   | 722,502           | 172,502               |
| 4  | VHCB Water Quality Farm Improvement and Retirement Projects                          | 1,050,000                                  |                         | 1,100,000         | 1,100,000         |                                 | 1,100,000         | 1,100,000         | -                     |
| <i>Subtotal Agriculture</i>                                  |  | <i>7,147,300</i>                           | <i>3,255,000</i>        | <i>4,550,000</i>  | <i>7,805,000</i>  | <i>4,027,999</i>                | <i>5,394,503</i>  | <i>9,422,502</i>  | <i>1,617,502</i>      |
| <b>b Natural Resources</b>                                   |  |  |                         |                   |                   |                                 |                   |                   |                       |
| 5  | VHCB Land Conservation and Water Quality Projects                                    | 2,775,000                                  |                         | 1,700,000         | 1,700,000         |                                 | 1,700,000         | 1,700,000         | -                     |
| 6  | ANR-DEC (CWIP) Natural Resources Restoration <sup>4</sup>                            | 3,140,200                                  | 2,510,000               |                   | 2,510,000         | 3,234,503                       |                   | 3,234,503         | 724,503               |
| 7  | ANR-DEC (CWIP) Transfer Lakes in Crisis Fund & Lake Carmi aeration system (FY18/19)  | 125,000                                    | 50,000                  |                   | 50,000            | 50,000                          |                   | 50,000            | -                     |
| 8  | ANR-FPR Forestry/Skidder Bridges   | 25,000                                     |                         | 50,000            | 50,000            | 50,000                          |                   | 50,000            | -                     |
| <i>Subtotal Natural Resources</i>                            |  | <i>6,065,200</i>                           | <i>2,560,000</i>        | <i>1,750,000</i>  | <i>4,310,000</i>  | <i>3,334,503</i>                | <i>1,700,000</i>  | <i>5,034,503</i>  | <i>724,503</i>        |
| <b>c Roads</b>   |  |  |                         |                   |                   |                                 |                   |                   |                       |
| 9  | ANR-DEC (CWIP) Implement BMPs at State Forests & Recreational Access Points          | -  |                         |                   |                   |                                 | 1,900,000         | 1,900,000         | 1,900,000             |
| 10   | VTrans Municipal Roads Grants-in-Aid   | 1,545,000                                  | 3,200,000               |                   | 3,200,000         | 3,700,000                       |                   | 3,700,000         | 500,000               |
| 11   | VTrans Municipal Better Roads (and other municipal roads appropriations)             | 2,412,500                                  | 770,000                 |                   | 770,000           | 1,000,000                       |                   | 1,000,000         | 230,000               |
| <i>Subtotal Transportation</i>                               |  | <i>3,957,500</i>                           | <i>3,970,000</i>        | <i>-</i>          | <i>3,970,000</i>  | <i>4,700,000</i>                | <i>1,900,000</i>  | <i>6,600,000</i>  | <i>2,630,000</i>      |
| <b>d Developed Lands</b>                                     |  |  |                         |                   |                   |                                 |                   |                   |                       |
| 12   | ANR-DEC (CWIP) Stormwater Project Delivery, Planning and Implementation <sup>4</sup> | 3,488,650                                  | 2,000,000               |                   | 2,000,000         | 4,943,808                       |                   | 4,943,808         | 2,943,808             |
| 13   | AoA Stormwater Utility Payments (\$25K each)   | 100,000                                    | 125,000                 |                   | 125,000           | 125,000                         |                   | 125,000           | -                     |
| 14   | ACCD Better Connections (Stormwater Planning)  | 50,000                                     | 100,000                 |                   | 100,000           | 100,000                         |                   | 100,000           | -                     |
| 15   | ACCD Downtown Transportation Fund (Stormwater Projects)                              | 50,000                                     | 100,000                 |                   | 100,000           | 100,000                         |                   | 100,000           | -                     |
| <i>Subtotal Developed Lands</i>                              |  | <i>3,688,650</i>                           | <i>2,325,000</i>        | <i>-</i>          | <i>2,325,000</i>  | <i>5,268,808</i>                | <i>-</i>          | <i>5,268,808</i>  | <i>2,943,808</i>      |
| <b>e Wastewater</b>  |  |  |                         |                   |                   |                                 |                   |                   |                       |
| 16   | ANR-DEC (CWIP) Wastewater Treatment Facility Operators Support                       | 100,000                                    | 110,000                 |                   | 110,000           | 110,000                         |                   | 110,000           | -                     |
| 17   | ANR-DEC (FED) State Match to Clean Water State Revolving Fund Federal Grant          | 1,100,000                                  |                         | 2,500,000         | 2,500,000         |                                 | 1,605,497         | 1,605,497         | (894,503)             |
| 18   | ANR-DEC (FED) Municipal Pollution Control Grants                                     | 4,863,308                                  |                         | 3,300,000         | 3,300,000         |                                 | 3,300,000         | 3,300,000         | -                     |
| <i>Subtotal Wastewater</i>                                   |  | <i>6,063,308</i>                           | <i>110,000</i>          | <i>5,800,000</i>  | <i>5,910,000</i>  | <i>110,000</i>                  | <i>4,905,497</i>  | <i>5,015,497</i>  | <i>(894,503)</i>      |
| <b>f All/Cross Sectors</b>                                   |  |  |                         |                   |                   |                                 |                   |                   |                       |
| 19   | ANR-DEC (CWIP) Multi-Sector Innovation, Grant Administration and Partner Support     | 1,057,939                                  | 2,555,000               |                   | 2,555,000         | 3,052,498                       |                   | 3,052,498         | 497,498               |
| 20   | AoA Clean water project signs  | 3,650                                      |                         |                   |                   |                                 |                   |                   |                       |
| 21   | AoA Program Audit (10 V.S.A. § 1389b)  | -  | 25,000                  |                   | 25,000            | 75,000                          |                   | 75,000            | 50,000                |
| <i>Subtotal All/Cross Sectors</i>                            |  | <i>1,061,589</i>                           | <i>2,580,000</i>        | <i>-</i>          | <i>2,580,000</i>  | <i>3,127,498</i>                | <i>-</i>          | <i>3,127,498</i>  | <i>547,498</i>        |
| <b>Subtotal Capital and Clean Water Fund (CWF)</b>           |  | <b>27,983,547</b>                          | <b>14,800,000</b>       | <b>12,100,000</b> | <b>26,900,000</b> | <b>20,568,808</b>               | <b>13,900,000</b> | <b>34,468,808</b> | <b>7,568,808</b>      |
| <b>Transportation, Federal Funds and Other Special Funds</b> |  |  |                         |                   |                   |                                 |                   |                   |                       |
| <b>g Transportation Bill</b>                                 |  |  |                         |                   |                   |                                 |                   |                   |                       |
| 21   | VTrans State Highway Compliance <sup>5</sup>   | 4,925,000                                  |                         |                   | 5,000,000         |                                 |                   | 5,000,000         | -                     |
| 22   | VTrans Transportation Alternatives (Storm Water) <sup>6</sup>                        | 2,200,000                                  |                         |                   |                   |                                 |                   | -                 | -                     |
| 23   | VTrans Municipal Mitigation/Better Roads <sup>7</sup>                                | 1,240,000                                  |                         |                   | 830,000           |                                 |                   | 650,000           | (180,000)             |
| 24   | VTrans Municipal Mitigation from Federal Highway STBG Funds                          | 5,442,342                                  |                         |                   | 1,428,000         |                                 |                   | 1,428,000         | -                     |
| <i>Subtotal Transportation Bill</i>                          |  | <i>13,807,342</i>                          | <i>-</i>                | <i>-</i>          | <i>7,258,000</i>  | <i>-</i>                        | <i>-</i>          | <i>7,078,000</i>  | <i>(180,000)</i>      |
| <b>h Appropriations Bill (Federal Funds)</b>                 |  |  |                         |                   |                   |                                 |                   |                   |                       |
| 25   | ANR-DEC DEC Federal Match for Clean Water State Revolving Fund <sup>8</sup>          | 7,859,000                                  |                         |                   | 7,779,000         |                                 |                   | 7,779,000         | -                     |
| 26   | ANR-DFW Fish and Wildlife Watershed Grants <sup>9</sup>                              | 35,000                                     |                         |                   | 35,000            |                                 |                   | 32,500            | (2,500)               |
| 27   | AAFM Farm Agronomic Practices Program, WQ Grants/Contracts                           | 429,500                                    |                         |                   | 412,000           |                                 |                   | 412,000           | -                     |
| 28   | ANR-DEC Federal Lake Champlain Basin Program <sup>10</sup>                           | 1,726,000                                  |                         |                   | 6,150,000         |                                 |                   | 6,390,000         | 240,000               |
| <i>Subtotal Appropriations Bill</i>                          |  | <i>10,049,500</i>                          | <i>-</i>                | <i>-</i>          | <i>14,376,000</i> | <i>-</i>                        | <i>-</i>          | <i>14,613,500</i> | <i>237,500</i>        |
| <b>Total Funding to Support Clean Water Activities</b>       |  | <b>51,840,389</b>                          | <b>-</b>                | <b>-</b>          | <b>48,534,000</b> | <b>-</b>                        | <b>-</b>          | <b>56,160,308</b> | <b>7,626,308</b>      |

1. Agency represents agency receiving appropriation in SFY 2021. Agency may vary by line item historically.  
2. The FY20 Clean Water Budget includes \$200,000, proposed to be allocated from the Clean Water Fund to DEC through an Excess Receipt.  
3. FY16-19 AAFM Operational Funds included in Clean Water Fund amounts (FY16-17: \$450,000 and FY18-19: \$375,000). Carryforward from two years (FY16-17) of program development and staff onboarding allowed for a reduction in appropriations in FY18-19 to \$375,000 each year.  
4. Assumed 50/50 split between natural resources (line 6) and stormwater (line 12) for appropriations to Ecosystem Restoration Grants and Multi-Sector Block Grants.  
5. VTrans state highway compliance includes project development, construction, operation and maintenance and personnel.  
6. While no funding is set aside for stormwater, municipalities may apply for stormwater funding through a competitive process along with other eligible project types such as bicycle and pedestrian facilities.  
7. Municipal Mitigation/Better Roads includes \$204,000 state funds for VTrans to make municipal stormwater utility payments for VTrans owned/operated impervious surfaces.  
8. Federal pass through authorized in the Appropriation Bill. State match provided in the Capital Bill DEC Clean Water State Revolving Fund (SRF). CWSRF loans are repaid by municipalities.  
9. This budget conservatively estimates 50% of Dept. of Fish and Wildlife Watershed Grant dollars will be used for clean water projects, versus habitat, fish, and wildlife projects.  
10. Additional Lake Champlain Total Maximum Daily Load (TMDL) implementation funds from U.S. EPA through the Lake Champlain Basin Program FFY18-20 budgets. FFY20 pending Basin Program and U.S. EPA approval.



# Request for Proposals

## SELECTION OF CLEAN WATER SERVICE PROVIDERS FOR SEVEN VERMONT WATERSHED BASINS, PER ACT 76 OF 2019

**Release Date: February 3, 2020**

**Proposals Due: May 8, 2020**

**Contact for Proposals:** Chris Rottler, ANR, Department of Environmental Conservation,  
Watershed Investment Division, (802) 461-6051, [chris.rottler@vermont.gov](mailto:chris.rottler@vermont.gov)

**THE STATE WILL MAKE NO ATTEMPT TO CONTACT VENDORS WITH UPDATED INFORMATION. IT IS THE RESPONSIBILITY OF EACH VENDOR TO PERIODICALLY CHECK <http://www.vermontbidsystem.com> FOR ANY AND ALL NOTIFICATIONS, RELEASES AND AMENDMENTS ASSOCIATED WITH THE RFP.**

### **Introduction and Purpose**

The Clean Water Service Delivery Act of 2019 (Act 76) establishes a water quality project delivery framework to support Vermont's clean water goals. Act 76 establishes new regional organizations called Clean Water Service Providers (CWSPs). With policy and priority support setting from their related Basin Water Quality Councils (BWQCs), CWSPs will administer formula-based State grants for the purpose of identifying, constructing, and maintaining non-regulatory water quality projects necessary to achieve the Lake Champlain and Lake Memphremagog phosphorus TMDLs and other pollutant reduction targets both inside and beyond these specific basins. Formula grants received by CWSPs will be based on a standard allocation reflecting targets for non-regulatory phosphorus and other pollutant reductions to be established by the State of Vermont for all basins. Operation and maintenance funds will also be provided to CWSPs as a formula grant, based on projects implemented. CWSPs will neither be restricted from applying for other competitive grants, nor receive preference for receiving other competitive grants simply on the basis of being a CWSP.

Pursuant to Act 76, in 2023 the State will publish a schedule of additional impaired waters for which non-regulatory pollution reduction targets are to be established in other basins. CWSPs will also be eligible to receive formula grants for work in their assigned basin once these targets are established, and the Vermont Clean Water Board recommends funding allocations. Once selected, and beginning SFY2022, CWSPs will receive formula grants for clean water implementation work, to address phosphorus, and in future years, for other impairments subject to the above-mentioned schedule. CWSPs, where active, will also serve to coordinate statutory partner engagement and BWQC engagement in the tactical basin planning process, with support from the State's basin planning staff.

Act 76 does not prescribe the type of host organization that may serve as CWSPs, nor all their capabilities. Considering that significant State resources from the Clean Water Fund will be directed to CWSPs in a formulaic manner, the State is establishing base-level capabilities that will be examined by this RFP in order to direct the selection of CWSPs. These criteria were developed by considering existing requirements for State granting and contracting pursuant to the Vermont Agency of Administration's policies. The criteria were further informed by a detailed examination of the process by which the Vermont Agency of Human Services appoints "Designated Agencies" who serve to implement public health services in a decentralized manner, similar to the intent of Act 76. Lastly, these criteria were developed in consultation with an advisory stakeholder group, and finally, a draft of this RFP was made available for public comment. Key qualifications sought, as outlined in the selection criteria below, include experience in grants and contracting management, experience in facilitating multi-stakeholder decision-making, technical and project management capacity to oversee and ensure project delivery and maintenance, and strong experience with existing relevant partner networks.

The outcome of this RFP will be the selection of entities that will serve as a CWSP for one or more of seven planning basins in the State of Vermont: Lamoille, Memphremagog, Mississquoi, North Lake, Otter Creek, South Lake, and Winooski (see Appendix 1 for a map and list of the basins). Once selected by this RFP, CWSPs will be proposed for assignment in a new chapter of the Vermont Environmental Protection Rules, required to be promulgated by Nov. 1, 2020 under Vermont's Administrative Procedures Act. Applicants may propose to serve as a CWSP for a single planning basin, or a set of planning basins. Entities that are selected and assigned as a CWSP may, upon mutual agreement of the CWSP and State, serve as a CWSP on an interim basis in any other basin should a vacancy emerge. CWSPs shall be required to support distinct BWQCs for each basin they propose to service.

More information about Act 76, planning basins, non-regulatory projects, CWSPs and BWQCs, may be found here: <https://dec.vermont.gov/water-investment/statutes-rules-policies/act-76>.

## **Scope of Work**

DEC seeks proposals for the following:

The successful applicants will administer formula grant funded programs under 10 VSA §925, the operation and maintenance funding under 10 VSA §1389(e), and other applicable funding within Act 76 in one or more watershed basins. In collaboration with BWQCs and with technical and financial support from the State, successful applicants will have responsibility for overseeing project identification, prioritization, development/design, construction, verification, inspection, and operation and maintenance to be administered in accordance with statute, DEC rules, guidance, and grant documents. Basin specific pollution reduction values and allowable project costs to determine formula grant amounts will be developed by November, 2021 for Lake Champlain, by November, 2022 for Lake Memphremagog, and pursuant to the schedule required by November, 2023 for all other previously listed impaired waters. While the statutory deadline for developing basin-specific pollution reduction values for the Memphremagog basin is 2022, the Department will strive to complete this work in concert with the target-setting work for Lake Champlain basins (i.e., by November 2021).

Applicants interested in serving as a Clean Water Service Provider shall submit a proposal that addresses their plan for/commitment to the following:

## 1) Responsibilities of a Provider: Adherence to Applicable Law, Rulemaking and Guidance

Per Act 76 of 2019, the State of Vermont's Department of Environmental Conservation shall adopt rules and develop guidance, instructing and informing CWSPs of their responsibilities and requirements. Act 76 states that, in collaboration with the BWQC and with technical and financial support of the State, CWSPs shall be required to oversee the identification, prioritization, development, construction, verification, inspection, operation and maintenance of clean water projects in accordance with the requirements of the subchapter.

The forthcoming rules and guidance will address all areas covered by Act 76, including CWSP governance principles (such as site control, dispute resolution, procurement, payment, fiscal management, audits, compliance with Vermont's Open Meetings laws, non-discrimination, and decertification, among other topics), the process for project selection, anticipated design life for maintenance and operation purposes, and other requirements to implement the goals of pollution reduction through non-regulatory projects. Selected entities that agree to be CWSPs will need to comply with the final rules and guidance, as a condition of relevant grants issued under Act 76. The expected timeframe for adoption of rules is November, 2020.

## 2) Program Delivery

Applicants shall describe their plan/vision for how they will implement the requirements and responsibilities of being a CWSP in the basin or basins for which they are applying. While most of these concepts will be addressed by the rule and guidance that is issued by the State, at a minimum, the plan should address non-regulatory project identification, prioritization, selection, maintenance, reporting, and governance, including staffing, project tracking, subgrantee selection and payment. While many of these efforts will be done in cooperation with the BWQC and with technical and financial assistance from the State, applicants should focus on demonstrating knowledge of key concepts, a vision for implementation, and presenting a feasible plan that is efficient and effective. Program delivery might include sub-granting or sub-contracting CWSP work to eligible entities.

## 3) Basin Water Quality Councils

Act 76 says that a CWSP designated under the Act shall establish a BWQC for each basin in which a CWSP operates. Successful applicants will be expected to develop their BWQC in accordance applicable statute, rules and guidance. Per §924(g)(1) of Act 76: "The purpose of a basin water quality council is to establish policy and make decisions for the clean water service provider regarding the most significant water quality impairments that exist in the basin and prioritize the project that will address those impairments based on the basin plan." The membership of the BWQC should have sufficient technical ability and diversity to achieve this purpose, as required by law. By statute, a BWQC includes a minimum of two persons representing of the natural resource conservation districts in that basin; two persons representing regional planning commissions in that basin; two persons representing local watershed organizations; one representative for an applicable statewide land conservation organization; and two persons representing municipalities from that basin.

#### 4) Payment

Program delivery costs, including those costs incurred by subcontractors and subgrantees cannot collectively exceed 15% of the formula grant, per 10 VSA §925. Note that the Agency's Clean Water Initiative Program's current funding policy can be found in their FY20 Funding Policy Document, which is updated annually, here: [https://dec.vermont.gov/sites/dec/files/WID/CWIP/2019-08-15\\_FINAL\\_FY20\\_CWIPFundingPolicy.pdf](https://dec.vermont.gov/sites/dec/files/WID/CWIP/2019-08-15_FINAL_FY20_CWIPFundingPolicy.pdf). This document contains examples of currently eligible costs. It is expected that there will be 'start-up' funds for CWSPs assigned as a result of this RFP. Recognizing that formula grants will not be available until SFY22, the Agency is considering approaches for supporting start-up funds during the latter half of SFY21. Payment for project implementation for phosphorus reduction projects will follow a formula, based on the number of pounds of phosphorus the project is designed to capture. Payment for operations and maintenance will follow a separate schedule that will be established in the forthcoming rule/guidance.

See Deliverables Table in **Deadlines and Content of Proposals** section for all deliverables that must be included in the proposal.

### **Funding and Method of Payment**

No funding is to be immediately awarded under this RFP. However, entities identified and subsequently assigned by rule as a CWSP will have access to available start-up funding from the Clean Water Fund to initiate operations and work with the Agency in the development of relevant aspects Act 76, after the rule is adopted. Funding availability is subject to recommendations from the Clean Water Board and Governor, as appropriated by the General Assembly.

### **Project Timeline**

CWSPs service will be governed by the forthcoming CWSP rulemaking and guidance document. The ongoing service of a CWSP will be subject to periodic reviews, to be established in the forthcoming rulemaking. It is anticipated that CWSPs selected under this RFP may be eligible to serve for a defined period of time that can be renewed subject to a review process (likely to be five years), or until circumstances require selection of a different CWSP. The actual period of service may align with the issuance of the interim or final tactical basin plan for the basin in question, so actual service term for the first CWSP term of operation will vary depending on where the tactical basin plan is currently in this process. Act 76, at §924(f), spells out the accountability of CWSPs to achieve pollutant reductions, including those options the Secretary may undertake for redress. Specific deliverable deadlines and payments will be established by rule and guidance and incorporated into grants to be issued to CWSPs.

### **Procurement**

Awardees will be expected to maintain written procedures for procurement transactions. Any equipment, supplies, and/or services procured outside of an awardee's organization will need to be obtained per the awardee's procurement or purchasing policy.

## **Deadlines and Content of Proposals**

**Questions:** All questions are required to be submitted electronically via email to Chris Rottler at chris.rottler@vermont.gov by **April 16, 2020 at 12:00 pm (noon) EDT** using the subject line “CWSP RFP Questions.”

**Submittal:** All proposals must be submitted electronically via email to Chris Rottler by **May 8, 2020, at 4:00 pm EDST** using the subject line “CWSP RFP Proposal.”

**Bid opening:** Proposals are anticipated to be opened **May 11, at 9:00 am EDST.**

**Notification:** Proposal preliminarily accepted by the State are anticipated to be notified no later than **May 20, 2020.**

### **All proposals must include the following information:**

- a) Proposals must clearly address each of the selection criteria identified in this RFP below.
- b) Proposals must identify the basin or basins for which the applicant is seeking to serve as a CWSP.
- c) A detailed scope of work, no more than 10 pages in length, describing how the deliverables will be met. The plan shall include at a minimum:
  - A proposal for how the entity will implement the items listed in the Scope of Work section, above, including how the applicant will oversee identification, prioritization, development, construction, verification, inspection, operation, and maintenance of clean water projects
  - A description of support systems – systems currently in use or proposed by the applicant to support their IT and financial systems, and, and a statement committing to use DEC-developed IT solutions for project tracking and reporting.
  - A description of current and proposed staffing and partnerships to meet CWSP obligations
  - A description of current or proposed operating policies, including internal controls, personnel, procurement, accounts payable, accounts receivable, fixed assets, reconciliation, governing board oversight (for corporate/corporate non-profit entities), records, implementation of Vermont Open Meetings laws, and payroll. Documented policies may replace descriptions as appropriate.
  - Identify staff and organization experience with facilitation, consensus building, water quality projects, and project management.
- d) Qualifications, experience, or other criteria qualifying the applicant to perform the scope of work described above in the particular basin(s) for which they are applying.
- e) Information showing that the applicant is solvent, liquid, and not overly leveraged, including financial statements for the last three years of operations (audited, if available).
- f) Letters of reference/support from at least three entities eligible to serve as a member of the basin’s BWQC. Letters from a diversity of entities are encouraged. Additional references/letters from other entities, such as from may also be submitted.
- g) A statement identifying individuals who were involved in the preparation of the proposal as well as a single point of contact.
- h) A detailed description of the organization’s experience with grant management and project staff qualifications and experience. This can include resumes, reports, and descriptions of expertise.
- i) A detailed description of the organization’s experience with facilitation, consensus building, project management and project staff qualifications and experience. This can include resumes, reports, and descriptions of expertise.
- j) A detailed description of the organization’s experience with water quality projects, including non-regulatory project implementation.

- k) A certificate of insurance, indicating that the entity or entities have met the insurance requirements listed in Attachment C. Professional liability insurance may be required for CWSPs or their subcontractors/subgrantees; proof of professional liability coverage is not required at this time.
- l) A completed Certification of Good Standing (Appendix 2, see attached).
- m) A completed Risk Assessment Questionnaire (Appendix 3, see attached).

## **Selection Criteria**

Proposals will be reviewed and evaluated by three or more DEC staff members. Applications will be reviewed on a basin by basin basis; applicants will only be evaluated against other applicants for the same basin. Selection will be based on the following criteria:

- **30 points – Operations Plan/Vision**
  - Scope of work, per the requirements in this RFP
  - Support systems – IT/project tracking
  - Existing operating policies or plan for developing same
  - Existing or planned staffing, including their experience overseeing the identification, design and construction of water quality projects, project management, and meeting facilitation and consensus building.
- **20 points – Experience in/Plan for Project Management**
  - Experience in managing multiple projects with overlapping timelines
  - Approach for ensuring complete and on-time deliverables
  - Facilitating and organizing meetings
  - Strong financial management experience
  - Project accounting and reporting
- **15 points -- Experience in/Plan for Grant Management**
  - Procurement, contracting and disbursement/management of subgrants or subcontracts
  - Management of received grants and contracts, and experience with implementation as well as financial performance reporting
- **15 points – Technical Capacity**
  - Ability to ensure quality control over projects or subcontract/subgrant to do same
  - Ability to ensure development, implementation, operation and maintenance of impactful and cost-effective water quality projects or subcontract/subaward to do same.
- **20 points – Letters of Reference/Support**

Should there be a need in any given basin, a CWSP from a different basin will be eligible to implement projects in that other basin, as determined by the State. Factors that the State will consider in selecting the backup CWSP include geographic location, fiscal condition of the CWSP, familiarity of the CWSP with the other basin, past service of the CWSP in their own basin, and capacity.

Applicants may be asked to interview with the selection team as a part of the selection process. If this occurs, questions will be provided ahead of time. The decision to interview applicants will be made on a basin by basin basis.

## **Eligibility**

Successful applicants shall at a minimum, demonstrate that they are solvent, sufficiently liquid, and not overly leveraged. Applicants shall provide applicable financial statements, including a: Profit/Loss Sheet, Balance Sheet, and a Form 990. Audited financial statements are preferred, if available.

A current Vermont state employee responding to this RFP as a sole proprietor or owner of other form of business must obtain a waiver from the Vermont Department of Human Resources prior to entering into contract with the State.

## **Reservation of State's Rights**

The State reserves the right:

- to accept or reject any and all bids, in whole or in part, with or without cause in the best interest of the State;
- waive technicalities in submissions; (A technicality is a minor deviation from the requirements of an RFP that does not impact the substantive terms of the bid/RFP and can be considered without a material impact on the RFP process, etc.). If uncertain of whether a condition qualifies as a technicality, consult with the Office of Professional Conduct (OPC) or Attorney General's Office (AGO) for clarification. For example, a late bid is NOT considered a technicality;
- to make purchases outside of the awarded contracts where it is deemed in the best interest of the State; and
- to obtain clarification or additional information.

## **Insurance**

Respondents to this RFP should be aware that they will need to agree to the State of Vermont Customary Contract Provisions (Attachment C) in order to execute an agreement for this project.

Special care should be paid to Workers' Compensation coverage for out-of-state Vendors. Vermont statute requires insurance carriers be specifically licensed to write Workers' Compensation coverage in Vermont. Out-of-state Vendors may have Workers' Compensation coverage valid in their home state, but their carrier may not be licensed to cover workers' compensation for work actually performed by their employees in Vermont.

## **Confidentiality**

After conclusion of the contracting process, Proposals are a matter of public record. If an application includes material considered by the applicant to be proprietary and confidential under 1 V.S.A., Chapter 5, the application shall clearly designate the material as such and explain why such material should be considered confidential. The Vendor must identify each page or section of the Proposal that it believes is proprietary and

confidential with sufficient grounds to justify each exemption from release, including the prospective harm to the competitive position of the applicant if the identified material were to be released.

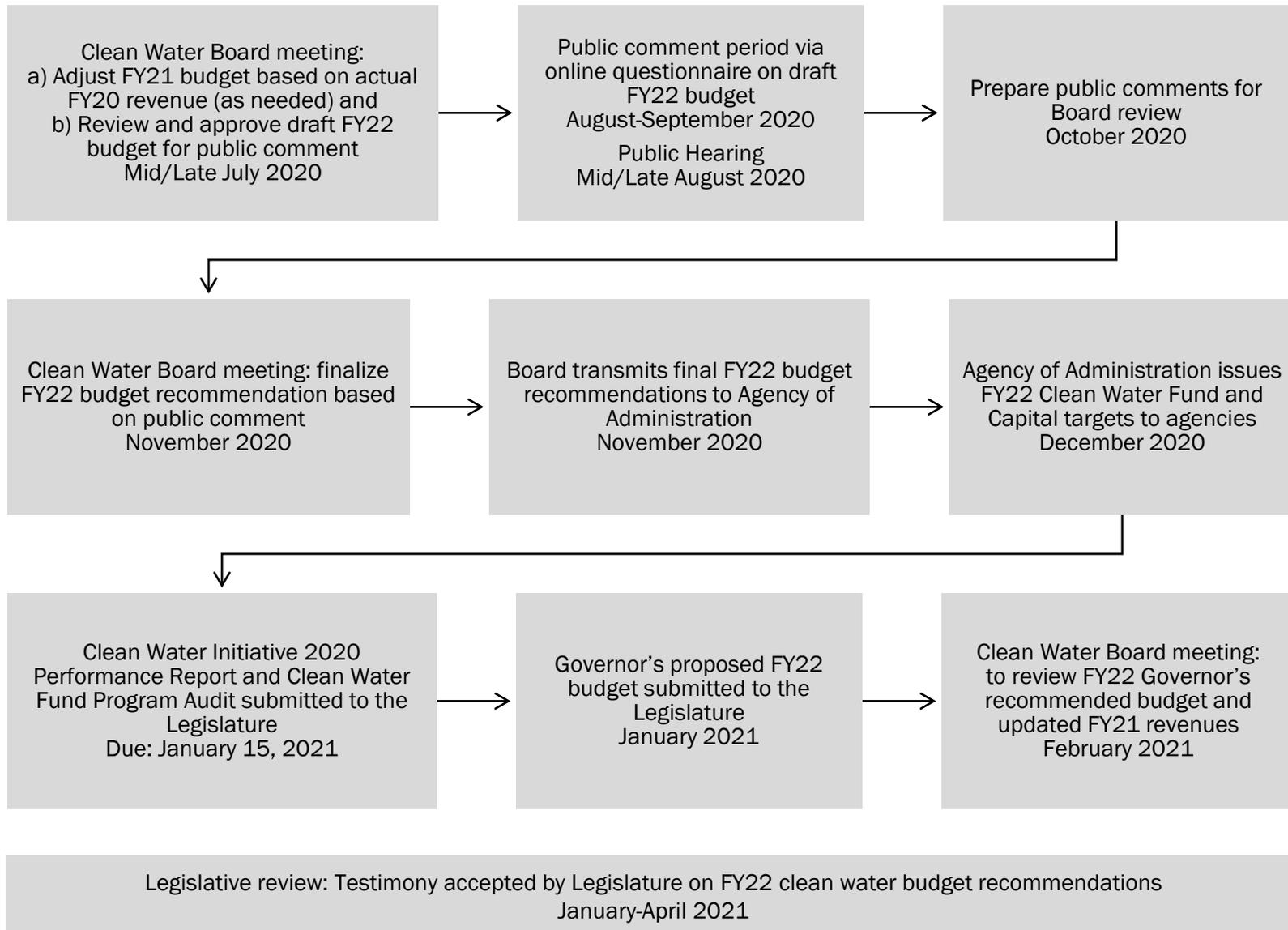
Under no circumstances shall the entire Proposal be designated as proprietary or confidential. If the Vendor marks portions of the Proposal confidential, the Vendor shall provide a redacted version of the Proposal for release to the public. Notwithstanding the above, the Secretary has an independent obligation under Vermont law to determine whether any proposal material is subject to public inspection and copying upon request, which may include material that has otherwise been designated as proprietary and confidential by the Vendor. The Vendor's designation of material as proprietary and confidential, and submission of a redacted Proposal, are provided to the Secretary for informational purposes in the event the Agency receives a public records request and will not result in withholding of materials by the Secretary unless expressly supported by Vermont law.

## **Attachments**

- SFA – Standard Grant Agreement (template)
- Attachment C – Standard State Provisions for Contracts and Grants, Revised December 15, 2017
- Appendix 1 – Map of Vermont Watershed Planning Basins
- Appendix 2 - Act 154 Good Standing Certification
- Appendix 3 – Risk Assessment Questionnaire

# State Fiscal Year (FY) 2022 Clean Water Budget Process (July 2020 – April 2021)

DRAFT February 19, 2020



## Act 76 of 2019 Updated Clean Water Budget Priorities

### 10 V.S.A. § 1389 (e)

(e) Priorities. In making recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Board shall prioritize as follows:

(1) As a first priority, make recommendations regarding funding for the following grants and programs, which shall each be given equal priority:

- (A) grants to clean water service providers to fund the reasonable costs associated with the inspection, verification, operation, and maintenance of clean water projects in a basin;
- (B) the Water Quality Restoration Formula Grant under section 925 of this title;
- (C) the Agency of Agriculture, Food and Markets' agricultural water quality programs; and
- (D) the Water Quality Enhancement Grants under section 926 of this title at a funding level of at least 20 percent of the annual balance of the Clean Water Fund, provided that the maximum amount recommended under this subdivision (D) in any year shall not exceed \$ 5,000,000.00; and
- (E) funding to partners for basin planning, basin water quality council participation, education, and outreach as provided in subdivision 1253(d)(3) of this title, provided funding shall be at least \$500,000.00.

(2) As the next priority after reviewing funding requests for programs identified under subdivision (1) of this subsection:

- (A) funding to programs or projects that address or repair riparian conditions that increase the risk of flooding or pose a threat to life or property;
- (B) funding for education and outreach regarding the implementation of water quality requirements, including funding for education, outreach, demonstration, and access to tools for the implementation of the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation;
- (C) funding for the Municipal Stormwater Implementation Grant as provided in section 928 of this title;
- (D) funding for innovative or alternative technologies or practices designed to improve water quality or reduce sources of pollution to surface waters, including funding for innovative nutrient removal technologies and community-based methane digesters that utilize manure, wastewater, and food residuals to produce energy; and
- (E) funding to purchase agricultural land in order to take that land out of practice when the State water quality requirements cannot be remediated through agricultural Best Management Practices

(3) As the next priority after reviewing funding requests under subdivisions (1) and (2) of this subsection, funding for the Developed Lands Implementation Grant Program as provided in section 927 of this title.

# Clean Water Project Explorer



## About the Project Explorer

The Clean Water Project Explorer is an interactive application that displays clean water project information, including funding, results, and nutrient reductions from the State of Vermont's clean water tracking database. Users can search clean water project data from six state agencies and download individual project reports. The Explorer complements the *Vermont Clean Water Initiative 2019 Performance Report* containing projects funded or completed from State Fiscal Year (SFY) 2016 to 2019. In addition, the Explorer includes potential projects in various stages of development, identified through Tactical Basin Planning and listed in the Watershed Projects Database (WPD).

Clean Water Project Explorer: <https://anrweb.vt.gov/DEC/cleanWaterDashboard/projectExplorer.aspx>

Vermont Clean Water Initiative 2019 Performance Report: <https://dec.vermont.gov/water-investment/cwi/projects>

## Explorer Functions

Access details of clean water projects funded by state agencies through a search engine and an interactive map.

**1** Clean Water Project Explorer <<  
Project Status

Potential Projects | Projects In Progress | **Completed Projects**

Keyword: ex. storm water pond

Sector: [Dropdown]

Step: [Dropdown]

Type: [Dropdown]

Agency: [Dropdown]

County: [Dropdown]

Include Multi County Projects

Town: [Dropdown]

Basin: [Dropdown]

Include Multi Basin Projects

WPD ID: [Text Box]

**1** A multiple parameter search tool search-able by "Potential", "In Progress," or "Completed" project status. Filter results further by using a keyword, location, type, step (e.g., design), or agency.

**2** **List View:** Displays a summary of information on each project meeting search criteria. Click teal title to view an individual project report.

**3** **Map View:** Displays projects as points on a map meeting search criteria. Click on pins to view project information. Select "Project Report" to view an individual project report (see reverse).

**2** Project Listing Export to CSV

LIDAR Mapping of the State of Vermont, Next Phase to Support Agriculture, Stormwater, River, and Forest Road Mapping  
Project Type: Mapping and Analytical Support  
Program: ACCD Vermont Center for Geographic Information - Agency of Commerce and Community Development  
Partner: Vermont Center for Geographic Information  
County: Addison, Bennington, Franklin  
Basin: Batten Kill, Wallamoosac and Hoosic, Lamolle, Missisquoi Bay, North Champlain, Otter Creek, South Champlain  
Funded SFY: 2018  
Completion SFY: 2020  
State Funds: \$460,000

Community Based Riparian Restoration and Recreation Enhancement Project  
Project Type: River - Planting  
Program: Vermont Fish and Wildlife Watershed Grants - Agency of Natural Resources  
Partner: Vermont River Conservancy  
County: Statewide  
Basin: Statewide  
Funded SFY: 2016  
Completion SFY: 2017  
State Funds: \$8,750

Valley Quest Watershed Institute and Curriculum  
Project Type: Education & Outreach  
Program: Vermont Fish and Wildlife Watershed Grants - Agency of Natural Resources  
Partner: Valley Quest  
County: Statewide  
Basin: Statewide  
Funded SFY: 2016  
Completion SFY: 2017  
State Funds: \$5,000

Widening Circles: Expanding the Effectiveness of Lake Protection Strategies  
Project Type: Lake Shoreland - Education & Outreach  
Program: Vermont Fish and Wildlife Watershed Grants - Agency of Natural Resources  
Partner: Federation of Vermont Lakes and Ponds  
County: Statewide  
Basin: Statewide  
Funded SFY: 2015  
Completion SFY: 2016  
State Funds: \$6,000

**3**

Zoom to

Hyde Park Stormwater Improvement Project

Type: Stormwater - Implementation  
Program: Clean Water Initiative Program  
State Funds: \$75,000  
Funded SFY: 2015  
Completed SFY: 2017

[Project Report](#)

# Project Report Pages

Municipal Wastewater Improvements – Construction  
**St. Albans City – Wastewater Treatment Facility Upgrade –**

Water Quality Sampling  
**Water Quality Monitoring - Tributary monitoring- Memphremagog**

Lake Shoreland - Implementation  
**Lake Wise Practice Implementation- Lake Carmi, Franklin**

Agricultural Pollution Prevention - Implementation  
**Cover Crop**

Stormwater - Implementation  
**Hyde Park Stormwater Improvement Project**  
 AGENCY OF NATURAL RESOURCES

**State:** Towns: Hyde Park

**Fund:** County: Lamoille

**Desc:** Watershed: Lamoille

**Fund:** State Funding: \$75,000

**Funding Source:** Capital Fund

**Description:** This project, located in the Town of Hyde Park, seeks to reduce nutrient and sediment loading and increase nutrient and sediment storage by targeting two major stressors; land erosion and nutrient loading, as outlined in the Vermont Surface Water Management Strategy. The project includes both the design and construction of the following stormwater management practices: stabilizing a headcut on a private Depot Street culvert, restoring an eroded gully on Depot Street, and constructing a bioretention area on Morey Road.

**Partner:** Lamoille County Conservation District



**Project Status:**  
 Funded SFY 2015  
 Completed SFY 2017

**Results:**

- 4.4 Acres of existing impervious surface treated
- 1 Final designs completed
- 3.46 kg of phosphorous reduced annually, over 20 years

*An eroded gully on Depot Street in Hyde Park before restoration.*



*The restored gully on Depot Street after constructing and post-planting.*



Data Source: <https://dec.vermont.gov/water-investment/cwi/projects>

For more information visit: <https://dec.vermont.gov/water-investment/cwi>




To learn more visit: <https://dec.vermont.gov/water-investment/cwi/projects>