



December 8, 2018

Clean Water Board
Vermont Clean Water Initiative
Watershed Management Division
1 National Life Drive, Main 2
Montpelier, VT 05620-3522

Re: Comments on the Clean Water Fund FY20 Draft Budget

Sent via email

Dear Clean Water Board:

Conservation Law Foundation, Lake Champlain Committee, Vermont Chapter of the Sierra Club, the Nature Conservancy in Vermont, Vermont Conservation Voters and the Vermont Natural Resources Council submit the following comments to the Clean Water Board (Board) on the Clean Water Fund FY20 Draft Budget (Draft Budget). We appreciate the Board's ongoing efforts to fund clean water projects.

The budget process is an important opportunity to evaluate the State's progress toward achieving clean water and the benchmarks set forth in the Lake Champlain Total Maximum Daily Load.¹ The success of reducing phosphorus pollution by 34 percent in the Lake Champlain basin depends on State investment in clean water.² The Accountability Framework of the TMDL includes the establishment of a long-term revenue source to support water quality improvement as a key milestone.³ However, the State has failed to fulfill this obligation as noted by a letter from the U.S. Environmental Protection Agency drafted earlier this year.

The revenue source must not only be long-term, but also generate significant funds. The annual cost of compliance with Vermont's water obligations is estimated to be at least \$115 million.⁴ Existing funding sources contribute \$53 million annually for water quality, which leaves a gap of \$62 million

¹ Phosphorus TMDLS for Vermont Segments of Lake Champlain (June 17, 2016) (hereinafter Lake Champlain TMDL).

² *Id.* at 45.

³ *Id.* at 56.

⁴ Clean Water Report Required by Act 64 of 2015 (January 15, 2017)(hereinafter State Treasurer Report).

per year. The Clean Water Fund (CWF, or Fund) was established to help close this gap by financing water quality improvements.⁵ Funding priorities include addressing impaired waters, repairing riparian conditions, investing in watershed basin planning, and establishing stormwater utilities, among others.⁶

We urge the Board to make a long-term funding source recommendation. In addition, we offer the following specific comments on the Draft Budget.

The Draft Budget Includes a \$7.25 Million Shortfall

Currently, the Fund consists of revenues from the Property Transfer Tax Surcharge and unclaimed beverage container deposits, which are forecasted to raise \$4.5 million and roughly \$1.5 million, respectively. While the total amount anticipated in the Fund is \$6 million, the Draft Budget includes a Fund request of \$13.25 million, leaving a \$7.25 million gap.

Despite the discrepancy between the anticipated and requested funds, the Draft Budget does not include a recommendation on the source of revenue to fill in this gap. We are concerned the Board is relying on funding without identifying a source or working with stakeholders and the Legislature to ensure the additional \$7.25 million is secured. Further, there appears to be no Plan B if the funding is not secured, just that the proposed budget will be cut in half.

The State Treasurer recommends that the state spend \$25 million annually, which represents half of the \$48.5 million needed to comply with the regulatory costs of the federal and state clean water plans.⁷ We ask that the Board work with stakeholders and the Legislature to identify new sources of revenue for an additional \$25 million in clean water funding, rather than determining where to remove \$7.25 million from a budget that is already stretched thin.

The Draft Budget Incorporates Capital Funding at an Unsustainable Level

For the past two years, the State has invested additional capital funds in clean water. Increasing from a baseline of \$10 million in FY17, the FY18 and FY19 budgets invested \$21.9 and \$25.6 million respectively in clean water from the capital bill. The significant reliance on capital dollars for FY18 and FY19 represented an important injection of bridge funds with the intention that the State would develop a long-term revenue source for clean water within this time period. This long-term plan has not yet materialized, but the reliance on capital dollars continues. However, the uptick in capital funding is not sustainable. There are multiple competing uses for capital funds, and while an increase over historical levels in capital funds for water quality projects is appropriate, we encourage the Board to make a commitment to establish long-term funding without over-reliance on capital funds.

The Draft Budget Should Invest More Heavily In Natural Resource Projects

Natural resource protection is paramount to clean water, safe communities, and healthy ecosystems. Natural resources, including wetlands, floodplains, and river corridors, play a critical role in filtering pollutants, controlling erosion, storing floodwater, recharging groundwater, and providing habitat for fish and wildlife. The co-benefits to public safety and fiscal stability are equally important, particularly in light of more extreme and frequent storms associated with climate change. Moreover, natural resources projects – often referred to as “green infrastructure” – offer long-term / permanent

⁵ 10 V.S.A. § 1387

⁶ 10 V.S.A. § 1389(e)

⁷ State Treasurer Report, *supra* note 4 at 8.

benefits without further investments, unlike traditional “gray infrastructure” projects that require ongoing maintenance and have a defined lifespan. We therefore urge the Board to significantly increase investment in these critical projects for FY20.

The Draft Budget Process Is Not Transparent

We are concerned with changes to the budget process that curtail transparency and public input. Until this year, there were two opportunities to review a draft budget. This included two month-long public comments periods following the release of the initial draft budget goals in June, and revised draft recommendations in August. The FY20 budget process represents a significant departure from this procedure. This year, the Board has allowed a single opportunity to weigh in on the draft budget with comments due in December.

A condensed and delayed comment period limits the public’s ability to review a draft budget and provide meaningful comments. Further, we have concerns with the lack of transparency in the decision-making process used by the Board, as well as clarity from the Board on successes or challenges with distributing funds to needed projects. For the FY21 budget process, we encourage the Board to revert back to the original budget process to ensure transparency and uphold a process that maximizes clean water benefits.

Conclusion

The undersigned groups thank the Board for the opportunity to comment on the proposed FY20 Draft Budget.



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