



October 15, 2015

Stephen Perkins
Lake Champlain TMDL Project Manager
U.S. Environmental Protection Agency, Region 1 – New England
5 Post Office Square, Suite 100
Mail Code OEP06-3
Boston, MA 02109-3912

Dear Mr. Perkins:

I am writing on behalf of the 246 member cities and towns of the Vermont League of Cities and Towns to comment on the draft Lake Champlain Total Maximum Daily Load (TMDL) that the EPA issued on August 14, 2015.

A TMDL “specifies the amount of a pollutant that a water body can receive and still meet applicable water quality standards.” Since 2008, when the Conservation Law Foundation sued the EPA to rescind the Vermont portion of the Lake Champlain TMDL, Vermont has been without a plan for meeting those water quality standards. Now, with Vermont Governor Shumlin’s signing of Act 64, Vermont’s legislation to clean up the waters of the state (not only Lake Champlain), as well as the Vermont Lake Champlain TMDL Phase 1 Implementation Plan and the issuance of this draft TMDL, we finally have the ingredients necessary for a comprehensive lake cleanup strategy. We thank you for working closely with the Vermont Department of Environmental Conservation (DEC) to develop the parameters of the TMDL. We appreciate the extent to which you have focused on non-point sources of phosphorus as part of the solution.

Much of the new draft TMDL, while not unexpected, is alarming. Once the TMDL is finalized, Vermont will have to implement it. According to this draft, municipalities will bear a burden that is disproportionate to the contributions made by municipal roads and wastewater treatment facilities. The draft TMDL anticipates that if other sectors responsible for enormous phosphorus discharges fail to meet their obligations, municipalities will be required to shoulder more expensive and onerous burdens for reducing phosphorus that are well beyond their proportional contributions and will not, by themselves, result in a clean lake. We are concerned that measurement of phosphorus reductions from developed land, streambank erosion, and other non-point sources is not clear in the TMDL. If those reductions are not accurately measured and accounted for, what will be the impact on municipal obligations?

Large portions of Lake Champlain are in bad shape, which was evident this past summer, and in those places the lake does not meet water quality standards. Clearly, Lake Champlain’s health is vital to the Vermont economy. Equally clearly, Vermont

municipalities are committed to doing their part to clean up the lake. Nonetheless, we need to ask if this plan is likely to be the most effective one at reducing phosphorus in the lake. How will progress toward phosphorus equilibrium in the lake be measured? How will we know when we have achieved a clean lake? We urge you to include clear benchmarks and measures of success in cleaning up the lake in the TMDL.

Almost half of the land in Vermont drains to Lake Champlain, and the sources of phosphorus therein include agriculture, streambank erosion, developed land (roads, parking lots lawns, buildings, athletic and industrial facilities), and wastewater treatment. Vermont wastewater treatment plants accounted for three percent of the total load of 922 metric tons of phosphorus per year from 2001 to 2010. Incorporating Vermont DEC's commitment to reduce phosphorus discharges from non-point sources, you determined that substantial reductions in wastewater treatment facility phosphorus discharges are a necessary component of the TMDL in some but not all segments of the lake.

The draft TMDL states that insufficient data exist to definitively establish phosphorus discharges from categories of developed land. Accurate historical phosphorus data are available for wastewater treatment facilities and really not much else. In essence, extensive modeling of contributors to the phosphorus problem represent best guesses. The draft TMDL includes a five percent margin of safety, "to account for any lack of knowledge concerning the relationship between load and wasteload allocations and water quality" in addition to making conservative estimates of work needed in each segment and with respect to each contributing source.

We understand the current lack of data. We can see that phosphorus loading produces extreme results in stressed portions of the lake. We are, however, concerned about the extent to which modeling of outcomes is relied upon in the TMDL as data become available. Some of the requirements established in the TMDL strike us as severe, given what scientists know about phosphorus contributions to the lake. We urge you to include a commitment to relying on actual data as our experience with reducing phosphorus discharges from all sectors increases. We also urge you to incorporate flexibility in the TMDL that allows for adjusting approaches to reflect what is learned as real data across all contributing sectors are made available.

EPA declared that 100 percent of hydrologically connected unpaved road segments would have to be retrofitted in all parts of the lake. The percentage of other "developed lands" that will require retrofits varies from one lake segment to another. Do all unpaved roads contribute so much to phosphorus loads (5.6%) that every one of them must be fixed? Who will pay for that? How will we know when we have done enough? This requirement needs to be refined and targeted specifically to evident problem areas.

Wastewater treatment facilities in Shelburne, Burlington, St. Albans, and Missisquoi Bay need to reduce their phosphorus discharges by 64.1, 66.7, 59.4, and 51.9 percent, respectively. The cost to bring wastewater treatment facilities into compliance with new discharge limits is estimated at \$70 million. Major reductions in phosphorus discharges could be secured if the TMDL provided for phosphorus trading between sources within lake segments. We urge you to adopt such a program for Lake

Champlain that is consistent with EPA's endorsement of water quality trading and models that are being implemented in other water bodies around the country.

As you well know, financial resources are currently an enormous concern for municipalities. As you have said on many occasions, how Vermont meets the requirements of the TMDL is not EPA's responsibility. However, we must note that the federal government – through EPA and the TMDL – is imposing enormous unfunded mandates on the state and local governments with very little in the way of new dollars to implement the required programs. At the least, we urge both EPA and the DEC to eliminate conflicting requirements of various grant and loan programs that make it difficult to target funds from a variety of sources to one project. We also urge you and DEC to implement integrated planning so that municipal governments can prioritize their projects to address the most pressing water quality issues first.

Once again, thank you for your efforts in developing this draft TMDL and for your commitment to including all stakeholders in the development process.

Sincerely,

A handwritten signature in cursive script that reads "Karen B. Horn".

Karen B. Horn, Director
Public Policy and Advocacy