



## **AGENDA**

### **Clean Water Advisory Committee**

**Thursday February 21<sup>st</sup> 4:00 – 6:00 PM**  
Central Vermont Regional Planning Commission,  
29 Main St., Suite 4, Montpelier, VT

- 4:00 PM: Welcome and Introductions  
Public Comments
- 4:05 PM: Changes to agenda
- 4:10 PM: Approval 1/10/19 minutes (enclosed)
- 4:15 PM: Discussion: Winooski Tactical Basin Plan Responsiveness Summary (enclosed)
- 4:45 PM: Surface Water Reclassification Outreach
- 5:00 PM: Clean Water Districts Proposed Legislation (enclosed)
- 5:30 PM: Upcoming ERP Grant Applications:  
CVRPC: Moretown Elementary School, Duxbury Ward Hill Rd, Woodbury  
Elementary School  
FWR: ?  
FMR: ?
- 5:55 PM: Wrap-up. Next Meeting Date 3/14/19? Upcoming topics 3 acre stormwater rule?

1                                   **CENTRAL VERMONT REGIONAL PLANNING COMMISSION**  
2                                   **CLEAN WATER ADVISORY COMMITTEE**  
3                                   **JANUARY 10, 2019**  
4                                   **Meeting Notes**

5  
6 A meeting of the Central Vermont Regional Planning Commission’s Clean Water Advisory Committee  
7 was held on Thursday, January 10, 2019 in the Central Vermont Regional Planning Commission Office.  
8

9 Committee Members Present:

- 10 Stewart Clark – Worcester Planning Commission  
11 Gianna Petito - Winooski Natural Resources Conservation District  
12 Michele Braun – Friends of Winooski River  
13 Ron Krauth – Middlesex/Board of Commissioners  
14 Dona Bate – Montpelier City Council  
15 Joyce Manchester – Moretown TAC  
16 Amy Hornblas – Cabot/Board of Commissioners  
17 John Hoogenboom – Moretown Selectboard

18  
19 Committee Members Absent:

- 20 Russ Barrett – Northfield Conservation Commission  
21 Karen Bates – ANR  
22 Larry Becker- Middlesex Conservation Commission  
23 John Brabant – Calais/Board of Commissioners  
24 Corrie Miller – Friends of the Mad River  
25 Brian Shupe – Friends of the Mad River

26  
27 Others Present:

- 28 Jonathan DeLaBruere – CVRPC staff  
29 Patti Casey – Vermont Agency of Agriculture, Food and Markets (VAAFAM)  
30

31 **CALL TO ORDER**

32 Pam DeAndrea called the meeting to order at 4:05 PM.  
33 Welcome and introductions  
34

35 **CHANGES OR AMENDMENTS TO THE AGENDA**

36 None.  
37

38 **PUBLIC COMMENTS**

39 None.  
40

41 **GUEST PRESENTATION – PATTI CASEY - VAAFAM**

42 Patti Casey provided history to the groundwater monitoring program:  
43 Goals: improve ag practices, protect gw, raise public awareness, and provide for clean drinking water  
44 Original focus was corn herbicide, expanded to nitrates.  
45 Considered public health management  
46 Funded by pesticide/herbicide registration fees  
47  
48 Recommendations from VAAFAM can include: sending roof water to clean area, crop rotation, no till,  
49 cover cropping, other BMPs. For the most part, farmers will be willing to implement practices.  
50

51 Responsive sampling – will occur from a complaint or concern

1  
2 Surface water studies are done as well

3 Current testing includes: organics – pesticides and degradates, neonics, glyphosate; nutrients, bacteria

4  
5 Patti collaborates with other agencies to sample streams and groundwater and to analyze samples

6  
7 Act 161 - July 1, 2019 – new water supplies will be required to be tested. New construction for single  
8 family home, new well, updated well construction, e.g. new casing. Well drillers are aware of this  
9 change as well.

10  
11 Concern of private wells and manure spreading on field nearby. Patti will get a call from a concerned  
12 landowner and she collects information: setbacks, soil type, distance to fields, well depth, well tag #, etc.  
13 If it's determined that there may be some impact, then a sample can be taken. They look at possible  
14 other contamination areas.

15  
16 Results can guide actions from nothing to remediation. Everyone gets a results letter that includes  
17 education on testing.

18  
19 Drought conditions can lead to higher levels in the groundwater due to lack of dilution. Farmer  
20 practices at certain times of year affect it more than the weather.

21  
22 If a farm was in place before a well, they only have to be 50 feet from a well, but the agency can ask  
23 them to move their buffer back.

24  
25 Geology: Waits River Formation – bedrock layers are in one direction and the fractures are in another  
26 direction. Difficult to determine the source due to this. Sandy, gravelly surficial material can be  
27 vulnerable to sources from rather far away, like ½ mile.

28  
29 Some gw moves very slowly – VGS has age dated water to 70 years.

30  
31 Sampling – nitrate, corn herbicides, neonics, others: bacteria (e-coli – septic), chloride (failed septic or  
32 road salt)

33 Phosphorus (by on-farm inspectors) – not a concern for gw, more for surface water.

34  
35 Nitrate is water soluble and very mobile: EPA standard is 10 ppm, VAAFMM takes action at 5 ppm.

36 Sources: manure, inorganic fertilizers, silage leakage. Septics, compost piles, hydrofracking. Concern  
37 for babies under 6 months and pregnant women. Unknown if in older kids and adults guts may lead to  
38 cancer.

39  
40 Agrichemicals sampled for: corn herbicides and breakdowns and neonics (insecticides)

41 Found: atrazine, metolachlor, acetochlor, alachlor

42 Have not found: glyphosate and degradates (300 samples since 2006). Very immobile, binds very  
43 quickly.

44  
45 Neonics – concern for pollinators. Used as an insecticidal seed treatment. 460 samples over 5 years, 15  
46 positive results. Of those 15 positives have not approached the LD50.

47

1 Site is a well or spring, not a farm. A location is a farm or residence. Samples are waters from sites.  
2 Total samples taken 386, 128 wells, 22 legacy sites (wells where they know there was a problem).  
3 Out of the remaining 106 wells – 4 wells with a nitrate over the drinking water standard. Of the 4, 3  
4 were on the farms and one was at a neighbors. <4% are over the drinking water standard and very few  
5 are affecting neighboring areas.

6  
7 Historic (since 1987) – 23 CVRPC towns – 123 wells sampled, 915 samples; 13 wells from 2 locations  
8 had  $\geq$  10 ppm nitrate.

9 11 wells had herbicide detections, 10 are associated with a farm in East Montpelier (farm and  
10 neighbors), and 1 is in Moretown. Maximum detections are way below the standards.

11  
12 CVRPC towns – 2018 – 14 wells sampled. 24 samples taken - 2 wells had high nitrates and two wells  
13 high pesticides – East Montpelier.

14  
15 CWAC towns – 7 towns – 10 sampled – no detections found.

16  
17 Take home messages:

18 Nitrate contamination is concentrated around a few large farms.

19 Pesticide detections are well below standards

20 Attributable to better ag practices

21 Bedrock geology can make it difficult

22  
23 Resources:

24 Private Well Class.org - online classes and webinars

25 VT Dept of Health, Environmental Health Division, Sille Larsen

26 Well Drillers Report

27  
28 Fact sheets: Pam will scan and distribute fact sheets

29  
30 Questions:

31 What percentage are drilled wells into bedrock?

32 Most are drilled wells, few are springs.

33 Have you found the groundwater contamination finding its way to the nearby streams in this area?

34 No not in this area. None have reached the LD50 for aquatic invertebrates.

35 No till farming, what does that mean? Does that mean no harrowing?

36 Do their cover crop for the winter and then they kill it. Harrowing is not considered no till.

37 Do you feel the coordination of all these other groups really occurring or is it really testing in a silo?

38 People really do coordinate well together.

39  
40 **APPROVAL OF OCTOBER 11 MINUTES**

41  
42 Dona makes a motion to move the edits made to the minutes at last meeting. Stew seconded. Minutes  
43 approved.

44  
45 **APPROVAL OF NOVEMBER 8 MINUTES**

46

1 Change the date on the top to read November 8 and not October 11. Dona made a motion to move the  
2 edits. Stew seconded. Minutes approved as amended.

3

4 **WINOOSKI TACTICAL BASIN PLAN RESPONSIVENESS SUMMARY**

5

6 Wait until next time to discuss.

7

8 **SCHEDULE**

9

10 Next meeting: Thursday, February 21.

D R A F T

## Appendix G – Responsiveness Summary and Regional Planning Commission Letters of Conformance

Vermont Agency of Natural Resources

Winooski River Tactical Basin Plan

### DRAFT PUBLIC COMMENTS RESPONSIVENESS SUMMARY

December 2018

On October 1, 2018, the Vermont Agency of Natural Resources, Department of Environmental Conservation (DEC) released a final draft of the Winooski River Tactical Basin Plan (TBP) for public comment. The public-comment period began on October 1, 2018 and ended on October 31, 2018 and included three public meetings. The public-comment meetings were held on:

- October 2, 2018 – 6:30-8:00 PM – Williston, VT
- October 9, 2018 – 7:00-9:00 PM – Berlin, VT
- October 17, 2018 – 6:30-8:00 PM – Essex Junction, VT

The DEC prepared this responsiveness summary to address specific comments and questions and to indicate how the plan has been modified. Unless otherwise noted, the comments were received from the Chittenden County, Central Vermont and Lamoille Regional Planning Commissions’ Clean Water Advisory Committees and/or Board members through their staff. The comments below (in bold) may have been paraphrased or quoted in part. The full text of the comments is available for review or copying at the Essex Junction Regional Office of the Department of Environmental Conservation, 111 West Street, Essex Junction, VT.

#### SUMMARY OF COMMENTS RECEIVED BY THE VERMONT DEPARTMENT OF ENVIRONMENTAL CONSERVATION (DEC):

##### Project Prioritization

1. **Comment: Project prioritization method should be based on high phosphorus removed benefit per cost ratio and consider co-benefits such as other TMDLs hazard mitigation, transportation improvement, aquatic organism passage. Projects listed in municipal comprehensive plans and capital plans should also receive additional consideration in making funding decisions.**

Response: The DEC is refining the project prioritization process based on environmental outcomes that incorporate water quality data, the outcomes of sector-based assessments, and BMP and land use modeling scenarios. Often the cost estimates associated with projects identified through sector-based assessments are not quantified until the projects go through preliminary and final design engineering, which can then be compared to potential pollutant load reductions that are calculated

using the [Stormwater Treatment Practice](#) (STP) calculator and/or once implemented using the [Lake Champlain BMP Accounting and Tracking Tool](#) (BATT). The mechanism for incorporating local (municipal) regional priorities, as well as co-benefits is under development through a stakeholder interface with the [Watershed Projects Database](#) (WPD) that will allow statutory partners to integrate these additional priority project scoring. Many projects identified in the WPD already have co-benefit scoring that reflect the project values that address the ten priority stressors identified in the [Vermont Surface Water Management Strategy](#).

- 2. Comment: Given that phosphorus-loading concerns are the most critical problem in the watershed and given the requirements in the Lake Champlain TMDL are the most pressing, the Basin Plan should make it clear that some of the 11 “Top Objectives and Strategies” are more important than others.**

Response: State and federal legislation require that surface water management plans, like the tactical basin plan, identify strategies that will achieve the “fishable and swimmable” goals of the federal Clean Water Act, as well as attaining the criteria set out in the Vermont Water Quality Standards for designated and existing uses for all surface waters. A surface water that has an approved TMDL will have more explicit goals established regarding pollutant load reductions and the timeframe associated with achieving those reductions. This may result in more resources directed towards implementation actions that will help to achieve the pollutant load reductions for that waterbody surface water. This may be enhanced by State and federal legislative actions that identify and support additional technical assistance, funding as well as new regulations. The Winooski River Tactical Basin Plan emphasizes the actions and attendant resources needed to achieve the goals and target load reductions set forth by the Lake Champlain Phosphorus TMDL in Chapter 3.

- 3. Comment: Development of projects in Critical Source Areas for phosphorus loading should receive priority.**

Response: Critical Source Areas (CSA) may be given priority by funding sources, such as currently established by the USDA Natural Resources Conservation District for EQUIP funding. At this time, projects in CSA are not prioritized in the tactical basin plan; however, assessments in CSA are supported. For example, AAFM will prioritize inspections in agricultural CSAs.

In addition, a list of highest priority catchments (the area draining to a surface water with an average size of 5 square kilometers) has been identified through the downscaled Soil and Water Assessment Tool, or “SWAT” modeling analysis, which allows geographic targeting as the highest priority for project (“BMPs” or best management practices) implementation, and the prospective locations for practices in a general sense (see [Winooski Tactical Basin Plan](#) Figures 15-20).

4. **Comment: The Regional Planning Commissions, through their Clean Water Advisory Committee should be allowed to provide input to DEC’s prioritization scoring system as intended by statute: Title 10, Chapter 47, §1253(d)(3)(D) ... [the regional planning commissions are to] assist the Secretary in implementing a project evaluation process to prioritize water quality improvement projects within the region to assure cost effective use of State and federal funds.**

Response: The mechanism for incorporating local (municipal) regional priorities, as well as co-benefits is under development through a stakeholder interface with the Watershed Projects Database (WPD) that will allow statutory partners to integrate these additional priority project scoring.

### Pollutants other than Phosphorus

5. **Comment: Include strategies and projects that address pesticides/herbicide, toxins, and nitrate from groundwater entering streams and wetlands that may impact water quality and aquatic life health.**

Response: The TBP includes specific strategies that address known or suspected sources and causes of impairment, alterations (from flow modification, etc.), and where there are known “stressors” to surface water quality, see the [Vermont Surface Water Management Strategy](#). These would include the above-mentioned pollutants where they result in impaired or stress surface water. At this time, there are no known sources of impairments or suspected impairments to surface waters from pesticides, herbicides, or other toxins. In response to interest expressed by partners in reducing use of toxins, the Implementation table does include the following general strategy: Assist land managers in managing or reducing use of toxins that adversely impact aquatic biota

To determine the potential for these pollutants to be the source of surface water impairment, the DEC depends on state-wide monitoring or assessment of these pollutants. Programs that support monitoring of the above pollutants include the [Agency of Agriculture Food and Markets Pesticide and Groundwater Monitoring Program](#), which supports the monitoring of wells adjacent to agricultural operations to identify any potential threats to human health.

In the Lake Champlain Basin, several investigations over the last 20 to 30 years area on Organic contaminants of Emerging Concern has also inform DEC’s monitoring work. The work is summarized in [“Organic Contaminants of Emerging Concern in the Lake Champlain Basin: A Review of Current Knowledge”, 2016, LCBP Technical Report #85.](#)

The public can also bring any concerns to the [Vermont Pesticide Advisory Committee](#) for additional discussion regarding support of additional monitoring.

**6. Comment: Implementation table should address other stressors such as chloride, mercury, thermal stressors and flow alteration.**

Response: All of the degraded surface waters in the basin are listed in Table 4, along with the associated stressors, including those listed above. In addition to listing degraded surface waters, Table 4 includes the ongoing regulatory action to address the identified stressors. Additional explanation of how stressors are addressed are outlined in the [Vermont Surface Water Management Strategy](#).

The Implementation table (Table 37) includes strategies that are in addition to actions supported by regulatory programs and therefore do not include remediation or protection strategies for all of the degraded surface waters in the basin. Chloride (Toxins) and thermal modification are two of the above stressors that are identified in the Implementation table.

**7. Comment: Toxins related to commercial and industrial pollution should be included.**

Response: Commercial and industrial entities that discharge polluted waste water to rivers are required to meet the federal permit process (NPDES) that is managed by Vermont as a NPDES-delegated state. In addition, they would be required to meet the State [Multi-Sector General Permit Stormwater Discharges Associated with Industrial Activity \(MSGP\)](#), which authorizes operators of stormwater discharges associated with industrial activity to discharge to waters of the State. The permit requires industrial facilities in 29 different industrial sectors to, among other things, implement control measures and develop site-specific stormwater pollution prevention plans (SWPPPs) to comply with NPDES requirements. The DEC Environmental Assistance program also works with businesses to facilitate compliance as well as to consider additional voluntary pollutant reduction actions. The TBP acknowledges in Chapter 3 that these processes exist and are in place to ensure surface water protection. No additional strategies are needed.

*Commenter: Kai Mikkel Forlie*

**8. Comment: Plan doesn't mention any of the thousands of non-nutrient-related contaminants commonly associated with wastewater treatment plant effluent like antibiotic-resistant bacteria, pharmaceuticals, regulated and unregulated industrial chemicals, radionuclides, etc. Is there a plan to tackle these issues in some other report? If so, what is the rationale of leaving them out entirely from the one document that is supposed to be comprehensive in its coverage?**

Response: The contaminants noted above are referred to as Contaminants of Emerging Concern (CEC). These CECs from wastewater treatment facilities (WWTF) are of statewide concern and will be regulated through the State wastewater discharge permits as we determine the acceptable level of risk to human health and the environment and as advanced treatment options are developed. The [Vermont Surface Water Management Strategy](#) includes discussion of these Contaminants of Emerging Concerns as well as the State's efforts to

continue monitoring to assist in determining risk to human health and the environment (see response to comment 5 for additional explanation).

The tactical basin plans are required to address documented impairments or stresses to surface waters and describing current or proposed actions to protect or remediate surface waters.

**9. Comment: Discuss impact of Chloride use and alternatives in plan.**

Response: Table 37, the summary of implementation actions, does include a strategy that supports education and outreach about appropriate winter management with the goal of reducing chloride use. Alternatives to chloride would be included in educational material. The plan directs the reader to Vermont Surface Water Management Strategies for background information and the VSWMS includes a discussion of chloride in Appendix B.

**10. Comment: Note impact of beaver dams on fish habitat and spawning in the plan**

Response: The focus of the plan is to address the physical, biological and chemical condition of surface waters that in turn allow the surface water to protect uses, which does include aquatic habitat. The question as to the impact of beaver dams on fisheries would be more appropriately discussed in a [fisheries or wildlife management plan](#), which would address the specific threats to fisheries that were outside the monitored and assessed condition of surface waters.

**Format of Plan**

**11. Comment: Incorporate more lay-person language to increase readability and understanding by the general public. Especially avoid using acronyms, such as TMDL or TP.**

Response: The TBP has been developed to meet State and federal requirements, which require the use of terms that may be unfamiliar to the lay person. To enhance the readability of the plan, the plan includes a link to a glossary as well as a list of acronyms.

**12. Comment: Add conclusion statements at the end of each chapter or section that would provide a summary of the data and provide a basis for the subsequent objectives and actions.**

Response: The immense amount of information provided by the assessments and monitoring data would make it difficult to summarize in one paragraph. A reader may look to the [VSWMS](#), which provides the basis for the strategies that are identified through water quality monitoring data, sector-based assessments, and through modeling and tracking tools.

**13. Comment: Organize the Top Objectives and Strategies listed on page ix with those listed within Table 36 (on page 139) would also help strengthen and reiterate the desired outcomes of the plan. Both page ix and Table 36 list objectives and strategies but they are not consistent. The**

**next table, Table 37 is more detailed but does not necessarily line up with the other tables. It can be confusing to the reader to decipher which are the strategies and the priorities.**

Response: Each of the lists have a different purpose. The top objectives and strategies are a subsection of Table 37, which includes all objectives and strategies. Table 36 focuses on identifying general strategies that are associated with each of the objectives in Table 37.

**14. Comment: Clearly identify and highlight priority locations for treatment and resource protection, to ensure alignment of local and regional resources investment.**

Response: The Summary of Implementation Actions (Table 37) includes geographic specificity where available. Where towns are required to direct resources through legislative mandates, they will have the specific assessments and prioritization process that allows them to determine resource needs and to provide documentation to request additional regional assistance, e.g., Road assessments for the State Municipal Road General Permit and the Flow Restoration Plans to meet the federal Stormwater (MS4 stormwater) permit.

**15. Comment: Two basin plans are being developed concurrently within the region and while these plans only overlap in three of our towns, if the plans followed the same format it would increase the relationship between the plans and the objectives they strive to attain. Similar formats would also decrease confusion within those communities.**

Response: DEC is in the process of revising the TBP format to ensure consistency and across all TBP Plans going forward.

## Resource Allocation

**16. Comment: Soften language in below sections to make it clear that only a relatively small proportion of the actions can be implemented given not only the relatively low level of funds available but also the sheer human capital needed to scope, design and implement the projects within the next five-year period.**

*“t)he Tactical Basin Plan actions are described in Chapter 5’s implementation table summary and the Watershed Projects Database and will be addressed over the five-year life of the Winooski Basin Tactical Basin Plan.” (p.2) and “(i)t is envisioned that the action items currently in the database as of the signing of the plan will be accomplished within the next five years as resources allow.” (p. 135).*

Response: Additional language will be added to clarify that completion of projects is dependent on resources that include landowner support, as that is an additional limiting factor to consider. Overall, the tactical basin planning process cannot predict future decisions of the legislature or partners regarding resource allotment to address actions. The intent of the above quoted language

is to set an expectation that the extent of project implementation over the next five years is dependent on available resources, include funding sources and partner support.

- 17. Comment: Allot more funding towards project development at this early stage so that in subsequent years it will be easier to determine which projects reduce the most phosphorous per dollar.**

Response: The intent of the plan is to support project development, which is reflected in strategies (Table 37) that include the identification followed by remediation or restoration activities; however, the allotment of funding is established by processes outside of the tactical basin planning process. Examples of funding are those programs overseen by the Vermont Clean Water Fund Board, as well as NGOs, and State and federal legislation.

- 18. Comment: Provide mechanisms for municipalities and other property owners with permits to invest in Natural Resource or Agriculture sector phosphorus reduction, which would clearly provide for much more phosphorus reduction per dollar spent. While the “all-in” approach to phosphorus reduction has a certain marketing appeal, it is clear both from a financial efficiency and efficacy standpoint that requiring multi-million-dollar upgrades to municipal wastewater plants to remove a relatively low amount of phosphorus is counterproductive to achieving the targets established in the Lake Champlain TMDL. Simply put, the imposition of additional costs (at a poor phosphorus per pound removal rate) on municipal wastewater systems (and to some extent municipal stormwater systems) will make it difficult for Chittenden County communities to develop appropriately and to meet key Strategies outlined in the 2018 ECOS Plan.**

Response: The State legislature has acknowledged this need with the passing of Act 185 in 2018, which will allow municipalities to support natural resource restoration projects at a substantially reduced cost through loan forgiveness over time when upgrading wastewater and infrastructure through the Clean Water State Revolving Loan Fund and [DEC’s “Sponsorship” Program](#). This new program will be added as a funding source to appropriate strategies in the Summary of Implementation Action (Table 37).

Act 185 expanded the previous definition of “water pollution abatement and control facilities” to a more inclusive “clean water project” definition. This definition encompassed the previous eligibilities, added natural resource project definition, and included projects that provide water quality benefits. The definition for natural resources project, under section 4752 (17) reads: a project to protect, conserve, or restore natural resources, including the acquisition of easements and land, for the purposes of providing water quality benefits.”

- 19. Comment: Many towns do not have the ability to pay match requirements for expensive stormwater remediation projects beyond in-kind contributions. Reduce the match to make funding through grant programs more accessible to these municipalities.**

Response: Although, the plan does include strategies to support municipalities in their efforts to remediate and protect surface waters, grant programs and supporting legislation or organization boards determine match requirements. See the [DEC Clean Water Initiative Program funding policy](#), which is (in part) determined by the legislature

## Additional Comments

### **20. Comment: Separate out surface water in tables to low, middle and upper region of watersheds**

Response: The grouping of surface waters is helpful to the reader who may be interested in a region. For that reason, most strategies are organized by subwatersheds that tend to encompass communities that are united by geography or organizations. The Mad River may be the best example, where a regional planning entity, the Mad River Planning District supports economic and natural resource planning in a valley. To assist the reader who may be more focused on municipal boundaries, the plan identifies the town associated with surface water. As lower, middle or upper regions in the basin are not called out in any planning documents, the regions may not be as of interest to communities as the town or smaller subbasin.

### **21. Comment: Regarding Table 12, split into separate tables based upon TMDL status rather than lumping together, delete Agriculture as a Priority Stressor on MS4 impaired streams if it is not a priority stressor; Split Cobb and Hollow Brooks into two separate rows if issues are different.**

Response: Recommendations were considered but were not incorporated into plan. Regarding the first and last question, the surface waters in the table are broken out by geographic proximity and not cause of impairment, which the TMDL would refer to. Agriculture is a priority stressor in some sections of streams located in MS4 communities.

### **22. Comment: Chapter 3, Lowland “Urban” Watersheds section: flesh out section and made more prominent by inclusion of Table showing the 4 impaired streams, which towns are affected, the date of the respective FRP and the status of PCP development for each of the MS4 towns in the watershed.**

Response: A reference to Table 4 will be added to this section, which identifies stormwater-impaired streams and provides some of the above additional information. The previous paragraph also includes a link to the [Stormwater TMDL page](#), where all of this information would also be available.

- 23. Comment: Include language within the Basin Plan that recognizes the presence of historic Regional and Town (and Village) Centers in river corridors and floodplains and clarify how DEC will work with regional organizations and municipalities to accommodate these special circumstances. Add recognition of historic development pattern on page 10, within the Rivers section and on page 32, within the Stream Geomorphic Assessment section.**

Response: The following language will be added in Chapter 3, Flood Resilience Efforts section on Page 117:

“DEC recognizes that Vermont’s historic settlement have resulted in a significant level of river corridor encroachment in densely developed areas. The DEC model hazard bylaws contain provisions to facilitate infill and redevelopment in designated centers and densely developed areas within river corridors and flood hazard areas. DEC regional floodplain managers routinely provide technical assistance to municipal and regional planning staff on incorporating these provisions into town regulations.”

The DEC encourages communities to take protective measures that will restore, maintain and enhance water quality in all areas, and plan strategies do not preclude any development that is consistent with municipal bylaws, regional and municipal plans, and with applicable state and federal regulations.

- 24. Comment: Include further discussion and analysis of the National Flood Insurance Program (NFIP) base requirements compared to the recommendations of the State River Program model flood hazard regulations and model river corridor regulations. The model river corridor regulations make an allowance for infill within state designated historic downtowns and villages. This information could be added into the Flood Hazard Regulation section on page 121.**

Response: A comparison of NFIP requirements relative to those recommended by the Rivers Program is beyond the scope of the Plan. The DEC Hazard Area Bylaws and Emergency Relief and Assistance (ERAF) section of the Plan (page 117) does provide a link to the [model hazard bylaws webpage](#) where a “Higher Standards Cross-walk” document provides a side-by-side comparison of NFIP minimum standards and the higher standards recommended by the Rivers Program:

[https://dec.vermont.gov/sites/dec/files/wsm/rivers/docs/rv\\_ModelFloodHazardBylaws\\_HigherStandardsCrosswalk\\_2018.pdf](https://dec.vermont.gov/sites/dec/files/wsm/rivers/docs/rv_ModelFloodHazardBylaws_HigherStandardsCrosswalk_2018.pdf). See responses above for additional text appended to *Chapter 3, Flood Resilience Efforts section, page 117*

- 25. Comment: Recommended edits to clarify definition of public water supply class A2**
- a. In table 31, expand on the A2 classification definition of use by noting it can be a water supply in active use or previously used**

- b. Modify the title of Table 32 to read “surface waters classified as A(2) that are currently managed as public drinking water supplies**
- c. Modify the title of Table 33 to read “Basin 8 waters previously used as a public or emergency water supply**

Response: The recommended changes were made to the plan.

- 26. Comment: Stormwater master planning (SWMP) should not be limited to very developed municipalities such as Waterbury and Williamstown. More rural municipalities could benefit from stormwater master planning in addition to road erosion inventories that address compliance with the Municipal Roads General Permit. Many of the rural towns in our region without a stormwater master plan have villages that have impervious surfaces in need of stormwater management, such as Worcester and Middlesex. Furthermore, more complex road projects can be addressed through stormwater master planning, such as those needing dry well design to help slow and infiltrate runoff from steep roads.**

Response: There are [SWMP templates](#) for regional or multi town approach with rural road focus and incorporated into the [SWMP guidelines](#) and projects identified through this process are eligible for funding through the [Better Roads Program](#).

- 27. Baseline monitoring should be incorporated into water quality monitoring strategies within the plan.**

Response: The DEC supports the Monitoring, Assessment and Planning Program (MAPP) of the Watershed Management Division to provide baseline monitoring as well as analyze data and the support additional work by volunteer groups through the LaRosa Lab Partnership Program (discussed in Chapter 2). Where we understand that Best Management Practices (BMPs) may be installed, WSMD also supports baseline monitoring before installation to help determine the benefits and effectiveness of BMPs.

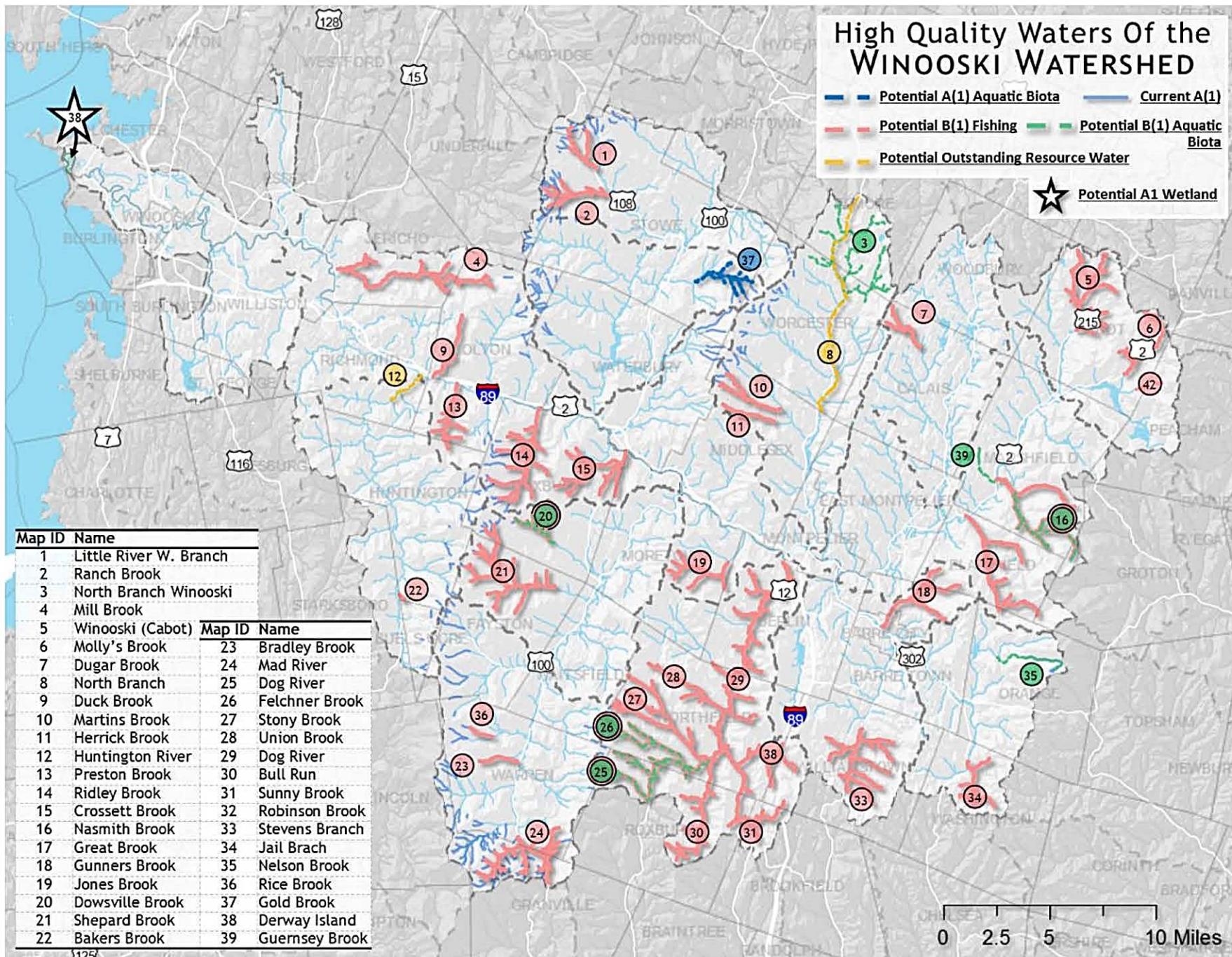
- 28. The water quality benefit of development limitation of landslide hazard areas should be stated.**

*Chapter 2, in Landslide Hazards section, describes impact of landslides on water quality at end of first paragraph. A second sentence will be included at the top of page 31 to provide the connection between water resource protection and town planning: “The result could work towards placement of infrastructure away from landslide prone areas, reducing damage to future infrastructure as well as protecting water resources.”*

Commenter: Brian Fitzgerald

- 29. Recommendation to add Camp Wihakowi Dam, on Bull Run in Northfield to Table 9. Preliminary engineering for removal has been completed. Friends of the Winooski is leading the project, the owners want to pursue removal, and I believe the town is supportive.**

The dam will be added to Table 9.



**Figure 28. High quality waters of the Winooski River Basin**

DRAFT WINOOSKI RIVER TACTICAL BASIN PLAN



## Environmental Protection

### Strengthening Clean Water Project Implementation & Improving Regulations

---

- **INTRO:** Over the next 20 years, Vermont – both the public and private sectors – will need to invest \$2.3 billion to meet federal and state clean water goals.<sup>1</sup> This effort will require the construction and on-going stewardship of thousands of water quality projects across the landscape. Some projects will be required by permits or regulations, while others will be “above and beyond” or non-regulatory activities that are necessary to restore and maintain the quality of Vermont’s rivers, streams, lakes and ponds. Above-and-beyond activities are not required by permits or regulations but are necessary to achieve Vermont’s water quality standards and remove waterbodies from the list of impaired waters.
- **WHAT:** The Agency of Natural Resources and Agency of Administration propose establishing Clean Water Districts to achieve clean water targets and anticipates the State will provide full funding to implement projects not currently required by regulatory programs administered by the Agency of Natural Resources and Agency of Agriculture, Food & Markets. A network of Clean Water Districts will have the ability to partner with municipalities, regional planning commissions and conservation districts, as well as directly to municipalities, to identify, tackle and sustain critical water quality improvement projects.

Clean Water Districts will be provided with reliable block grant funding for water quality projects over multiple years, incentivizing districts to take on the most productive water quality projects within their service area first. This multi-year financial stability also helps them build clean water programs tailored to their communities in meeting pollution reduction targets provided by ANR. Districts can also seek other opportunities to leverage clean water fund dollars to invest in projects that provide multiple benefits like conserving land, reducing the risk of flooding or other disasters, and improving wildlife habitat.

- **WHY:** The quality of our water, and our natural environment as a whole, is one reason Vermont is the healthiest state in the nation and offers such a high quality of life that keeps and attracts families and jobs. This is a critical time to bring local community leaders and State officials together to build a foundation for the next 20 years of clean water work. Protecting, maintaining, and restoring our water resources requires a shared commitment to make smart investments that prioritize cost-effective solutions, and provide long-term sustainable funding.
- **HOW:** The State of Vermont will maintain a lead role in water quality monitoring, planning and assessment, as well as track the results of individual projects and programs, ensuring they are having the anticipated cumulative impact. The State will also provide high-level guidance and oversight to clean water districts but will not be directly involved in project selection or implementation.
  - The proposed legislation requires the Agency of Natural Resources (ANR) to:
    - Set clean water goals for activities that go above and beyond (non-regulatory) and allocate pollutant reduction targets for above-and-beyond activities to clean water districts;

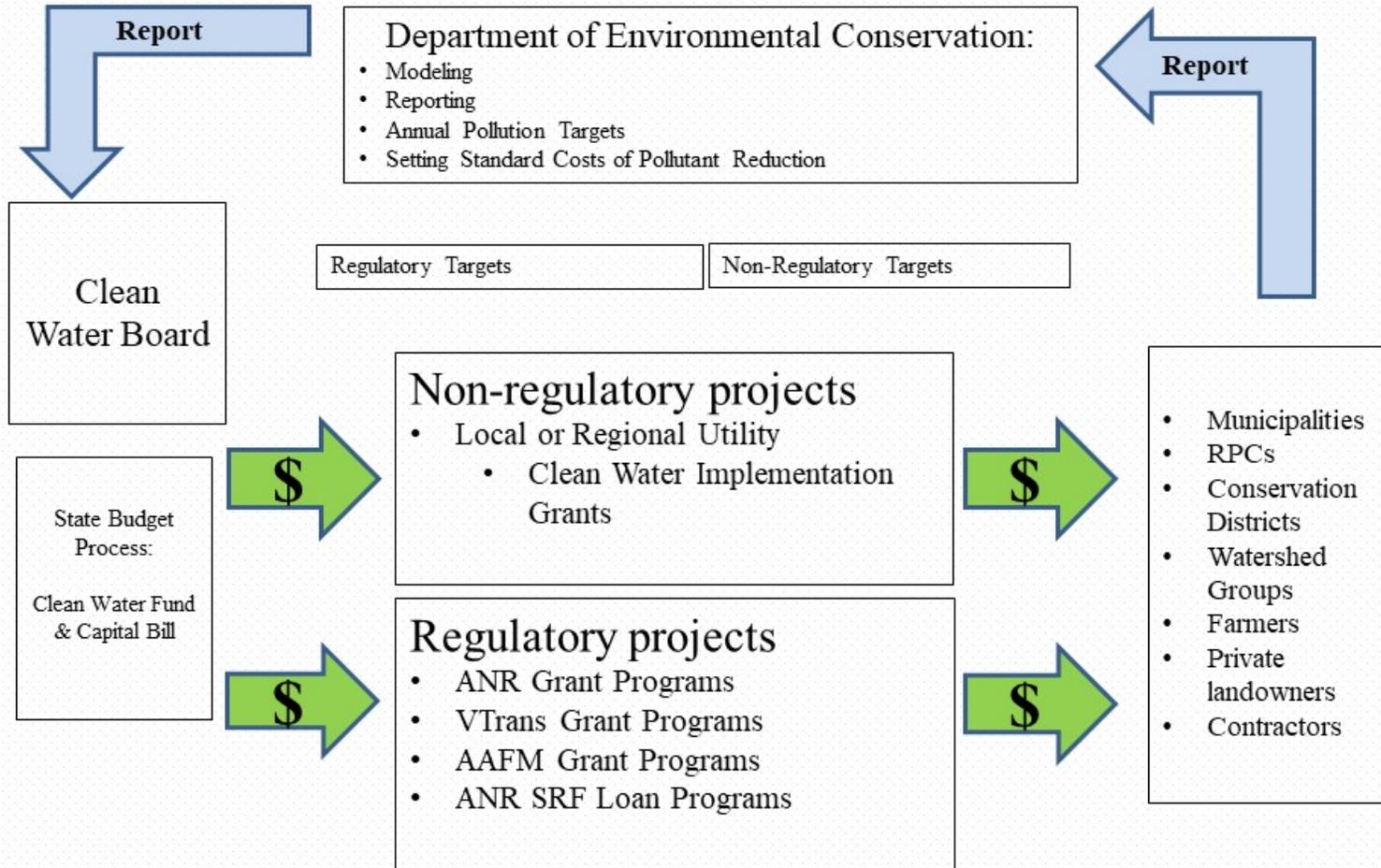
---

<sup>1</sup> According to State Treasurer’s 2017 report ([www.vermonttreasurer.gov/sites/treasurer/files/committees-and-reports/FINAL\\_CleanWaterReport\\_2017.pdf](http://www.vermonttreasurer.gov/sites/treasurer/files/committees-and-reports/FINAL_CleanWaterReport_2017.pdf))

January 24, 2019

- Estimate the effectiveness of the most common stormwater and agricultural practices;
- Issue block grants to clean water districts to reach pollution reduction targets set by the State for above-and-beyond activities; and
- Track clean water districts' progress in meeting pollutant reduction targets.
- The Clean Water Board will:
  - Make recommendations to the Governor regarding funding required to achieve clean water goals established by ANR.
- Clean Water Districts will:
  - Use clean water funds to implement projects, directly and/or with partners;
  - Annually report their progress meeting pollution reduction targets for above-and-beyond activities. Failure to meet the targets over a five-year time period will result in loss of eligibility for State grants and contracts;
  - Have authority to raise revenues, adopt ordinances, and enter into contracts; and
  - Be responsible for on-going operation and maintenance of clean water projects.

## Clean Water Redesign (1/9/2019)



State apportions a category of funds directly to a district/utility or municipality to support implementation based on a formula. Municipalities report back to state funding agencies or district/utility to certify compliance.

1 Sec. 1. FINDINGS

2 [placeholder for findings]

3 10 V.S.A. Chapter 37, Subchapter 5 is amended to read:

4 Subchapter 5: Water Quality Restoration and Improvement ~~Aquatic Nuisance Control~~

5 § 921. WATER QUALITY IMPLEMENTATION PLANNING AND TARGETS.

6 (a) After listing a water as impaired on the list of waters established by 33 U.S.C. § 1313(d), the  
7 Secretary shall include the following in any plan to implement the requirements of any total  
8 maximum daily load adopted for an impaired water:

9 (1) evaluate whether existing regulatory programs will cause the water to meet water quality  
10 standards. If the Secretary determines that regulatory programs will not achieve water quality  
11 standards, the Secretary shall determine the amount of additional pollutant reduction necessary to  
12 achieve water quality standards in that water. When making this determination, the Secretary  
13 may express the pollutant reduction in a numeric reduction or through defining best management  
14 practices that must be implemented to achieve standards.

15 (2) allocate the pollutant reduction identified under subdivision (a)(1) to each clean water utility  
16 located in or partially in the watershed. When making this allocation the Secretary shall consider  
17 the sectors contributing to the water quality impairment in the clean water utility's boundaries,  
18 the contribution of the pollutant from regulated and nonregulated sources within the clean water  
19 utility, and the geographic extent that the watershed boundaries are in the clean water utility.

20 Those allocations shall be expressed in annual pollution reduction goals and five year pollution  
21 reduction targets.

22 (3) determine the standard cost of pollutant reduction per unit or per best management practice.  
23 When determining standard cost the Secretary shall conduct a survey of the costs associated with

1 common pollution reduction efforts and develop a standard cost based on this survey and the  
2 sources of the pollutants.

3 (c) The Secretary shall conduct the analysis required by subsection (a) for previously listed  
4 waters as follows:

5 (1) For phosphorous in the Lake Champlain watershed, no later than November 1, 2021.

6 (2) For phosphorous in the Lake Memphremagog watershed, no later than November 1, 2022.

7 (3) For all other impaired waters, by no later than November 1, 2020 adopt a schedule for  
8 implementing the requirements of this chapter in all other previously listed impaired waters.

9 (d) When making a decision under this section, the Secretary shall follow the process established  
10 in 10 V.S.A. § 7714 (type 3 notice process).

11 § 922. QUANTIFICATION OF NONREGULATORY POLLUTION REDUCTION

12 (a) After listing a water as impaired on the list of waters established by 33 U.S.C. § 1313(d), the  
13 Secretary shall adopt rules that establish pollution reduction values associated with best  
14 management practices and other controls. If a person is undertaking a best management practice  
15 or other control for which no pollution reduction value exists, the Secretary shall establish a  
16 value for that specific practice within a reasonable period of time. These estimates shall be  
17 established based on a review of values established in the TMDL or other jurisdictions, values  
18 recommended by organizations that develop pollutant reduction values for a practice, applicable  
19 monitored data with respect to a practice, if available, modeled data, or a comparison to other  
20 similar practices if no other reduction value or data exists. Any estimate developed by the  
21 Secretary shall be posted on the Agency website. Pollution reduction values established by the  
22 Secretary shall be the exclusive method for determining the pollutant reduction value of a best  
23 management practice or other control.

1 (b) After listing a water as impaired on the list of waters established by 33 U.S.C. § 1313(d), the  
2 Secretary shall adopt rules that establish a design or useful life value associated with best  
3 management practices and other controls. Design or useful life shall be determined based on a  
4 review of values established in other jurisdictions, values recommended by organizations that  
5 regularly estimate the design or useful life of best management practices or other controls, actual  
6 data documenting the design or useful life of a practice, or a comparison to other similar  
7 practices if no other or data exists. If a person is undertaking a best management practice or  
8 other control for which no design or useful life value exists, the Secretary shall establish a value  
9 for that specific practice within a reasonable period of time. Any value developed by the  
10 Secretary shall be posted on the Agency website. Values established by the Secretary shall be  
11 the exclusive method for determining the design or useful life of a best management practice or  
12 other control.

13 (c) Upon the request of a clean water utility, the Secretary shall evaluate a proposed project and  
14 issue a determination as to whether the proposed project is eligible to receive funding as a part of  
15 a part of the block grant awarded by the State. This determination shall be made within 10 days  
16 of the request.

17 (c) The Secretary shall adopt the rules required by sybsections (a) and (b) of this section for  
18 previously listed waters as follows:

19 (1) For phosphorous in the Lake Champlain watershed, no later than November 1, 2021.

20 (2) For phosphorous in the Lake Memphremagog watershed, no later than November 1, 2022.

21 (3) For all other impairments, by no later than November 1, 2020 adopt a schedule for  
22 implementing the requirements of this chapter in all other previously listed impaired waters.

23 § 923. CLEAN WATER UTILITY

- 1 (a) Municipal participation. Municipalities are responsible for clean water pollution reduction  
2 efforts established under section 921 of this title. Municipalities may satisfy the requirements of  
3 section 921 of this title through agreement between any other unit of government or any operator  
4 that is designated as a clean water utility by the Secretary.
- 5 (b) Designation. A clean water utility may petition the Secretary to be designated as the utility  
6 -serving one or more municipalities. As a part of the petition the clean water utility shall provide  
7 the Secretary the following:
- 8 (1) a resolution by each municipal legislative body designating the clean water utility as having  
9 jurisdiction to operate within the boundaries of that municipality;
- 10 (2) a narrative description of how the clean water authority will implement the requirements of  
11 this section;
- 12 (3) a certification and citation to legal authority that demonstrates that the clean water utility has  
13 the authority to:
- 14 (A) acquire and hold interests in real property;  
15 (B) raise revenue; and  
16 (D) enter contracts to design, construct, and maintain clean water activities.
- 17 (c) Requirement to provide designation to the Secretary. A municipality in an impaired water  
18 shall provide its designation to the Secretary as follows:
- 19 (1) For municipalities in the Lake Champlain watershed, no later than January 1, 2022.  
20 (2) For municipalities in the Lake Memphremagog watershed, no later than January 1, 2023.  
21 (3) For all other municipalities in any watershed, within one year of the allocation of water  
22 quality improvement targets as provided in section 921 of this title.

1 (d) Agency action on designating a clean water utility. The Secretary shall follow the procedures  
2 of 10 V.S.A. § 7114 (type 3 notice and comment procedures) when making a determination as to  
3 whether a clean water utility is designated. If designated, that designation shall last until a clean  
4 water utility notifies the Agency that it is dissolving or the Agency revokes the clean water  
5 utility's designation.

6 (d) Purpose. Clean water utilities are responsible for the reducing sources of water pollution  
7 within their boundaries in accordance with pollution reduction targets established by section 921  
8 of this title.

9 (e) Project identification, prioritization, selection. When identifying, prioritizing, and selecting  
10 an activity to meet the pollution reduction targets the clean water utility may consider funding  
11 the following activities, provided that the activity is not subject to regulation by the State:

12 (1) Developed lands, including municipal separate storm sewers, operational stormwater  
13 discharges, and other developed lands discharges;

14 (2) Natural resource protection and restoration, including river corridor protection, wetland  
15 protection and restoration, and riparian corridor protection and restoration;

16 (3) Forestry; and

17 (4) Agriculture.

18 (f) Operation and maintenance responsibility. A clean water utility shall be responsible for  
19 maintaining a best management practice or other control for the entirety of the design or useful  
20 life of that project.

21 (g) Reductions from local regulatory programs. A clean water utility may request that the  
22 Secretary determine the pollutant reduction that may be counted towards the annual pollution  
23 reduction goals established in subdivision 921(a)(2) for a municipal ordinances that reduce a

1 pollutant that are otherwise not required by state law, including ordinances that protect river  
2 corridors or regulate stormwater below the State's jurisdictional threshold.

3 (h) Water quality improvement work. If a clean water utility achieves a greater level of pollutant  
4 reduction than the goal or target established by the Secretary, the utility may carry those  
5 reductions forward into a future year. If a clean water utility achieves its pollutant reduction goal  
6 or target and has excess grant funding available a utility may use those funds towards other  
7 eligible projects, operation and maintenance responsibilities for existing constructed projects,  
8 projects within the municipality that are required by state rule, or other work that improves water  
9 quality within the geographic area of the district, including protecting river corridors, aquatic  
10 species passage, and other similar projects.

11 (i) Reporting. A clean water utility shall report on its progress annually to the Secretary. The  
12 report shall contain a summary of all projects completed that year, a summary of any inspections  
13 projects previously constructed and whether those projects continue to operate in accordance  
14 with their design, and the pollutant reduction achieved during the prior year.

15 (j) Revocation of designation. If a clean water utility has not met an annual pollution reduction  
16 goal the Secretary may, and if the clean water utility has not met a five-year pollution reduction  
17 target the Secretary shall initiate proceedings to revoke a clean water utility's designation.

18 Revocations under this subsection shall be conducted as a contested case pursuant to 3 V.S.A.  
19 chapter 25. When a clean water utility's designation has been revoked or no clean water utility  
20 otherwise exists, the Secretary may administer a program to implement water quality  
21 improvement projects.

22 § 924. CLEAN WATER IMPLEMENTATION GRANT PROGRAM

1 (a) The Secretary shall administer a Clean Water Utility Block Grant to clean water utilities to  
2 meet their requirements under this subchapter. The grant amount shall be based on the annual  
3 pollutant reduction goal established for the clean water utility multiplied by the average cost for  
4 pollutant reduction.

5 (b) The Secretary shall administer a clean water implementation grant program to provide grants  
6 to persons who are required to obtain a permit to implement regulatory requirements that are  
7 necessary to achieve water quality standards. The grant program shall only be available in areas  
8 served by a clean water utility. To the extent funds are available, the grant program shall the cost  
9 share approved by the Clean Water Board pursuant to subdivision 1389(d)(3)(G) of this title fund  
10 projects related to section 1264(g)(2) (stormwater from municipal roads), 1264(g)(3) (three acres  
11 of impervious surface.

12 Sec. 2. 10 V.S.A. § 1253(d)(2) is amended to read:

13 (2) In developing a basin plan under this subsection, the Secretary shall:

14 (A) identify waters that should be reclassified outstanding resource waters or that should have  
15 one or more uses reclassified under section 1252 of this title;

16 (B) identify wetlands that should be reclassified as Class I wetlands;

17 (C) identify projects or activities within a basin that will result in the protection and enhancement  
18 of water quality;

19 (D) review the evaluations performed by the Secretary pursuant to subdivision 921(a)(1) and (2)  
20 and update those findings based on any new data collected as a part of the basin plan;

21 (E) assure that municipal officials, citizens, watershed groups, and other interested groups and  
22 individuals are involved in the basin planning process;

1 ~~(F)(E)~~ assure regional and local input in State water quality policy development and planning  
2 processes;

3 ~~(G)(F)~~ provide education to municipal officials and citizens regarding the basin planning  
4 process;

5 ~~(H)(G)~~ develop, in consultation with the regional planning commission, an analysis and formal  
6 recommendation on conformance with the goals and objectives of applicable regional plans;

7 ~~(I)(H)~~ provide for public notice of a draft basin plan; and

8 ~~(J)(I)~~ provide for the opportunity of public comment on a draft basin plan.

9 Sec. 3. 10 V.S.A. Chapter 47, Subchapter 7 is amended to read:

10 Subchapter 7: Vermont Clean Water Fund

11 § 1387. PURPOSE

12 The General Assembly establishes in this subchapter a Vermont Clean Water Fund as a  
13 mechanism for financing the improvement of water quality in the State. The Clean Water Fund  
14 shall be used to:

15 (1) assist the State in complying with water quality requirements and construction or  
16 implementation of water quality projects or programs;

17 (2) fund staff positions at the Agency of Natural Resources, Agency of Agriculture, Food and  
18 Markets, or Agency of Transportation when the positions are necessary to achieve or maintain  
19 compliance with water quality requirements and existing revenue sources are inadequate to fund  
20 the necessary positions; and

21 (3) provide funding to clean water utilities to meet their obligations under 10 V.S.A. chapter 37,  
22 subchapter 5 nonprofit organizations, regional associations, and other entities for implementation  
23 and administration of community based water quality programs or projects.

1 \* \* \*

2 § 1389. CLEAN WATER BOARD

3 (a) Creation.

4 (1) There is created the Clean Water Board that shall:

5 (A) be responsible and accountable for planning, coordinating, and financing of the remediation,  
6 improvement, and protection of the quality of State waters;

7 (B) recommend to the Secretary of Administration expenditures:

8 (i) appropriations from the Clean Water Fund; and

9 (ii) clean water projects to be funded by capital appropriations.

10 (2) The Clean Water Board shall be attached to the Agency of Administration for administrative  
11 purposes.

12 (b) Organization of the Board. The Clean Water Board shall be composed of:

13 (1) the Secretary of Administration or designee;

14 (2) the Secretary of Natural Resources or designee;

15 (3) the Secretary of Agriculture, Food and Markets or designee;

16 (4) the Secretary of Commerce and Community Development or designee;

17 (5) the Secretary of Transportation or designee; and

18 (6) four members of the public, who are not legislators, with expertise in one or more of the  
19 following subject matters: public management, civil engineering, agriculture, ecology, wetlands,  
20 stormwater system management, forestry, transportation, law, banking, finance, and investment,  
21 to be appointed by the Governor.

22 (c) Officers; committees; rules; compensation; term.

1 (1) The Secretary of Administration shall serve as the Chair of the Board. The Clean Water Fund  
2 Board may elect additional officers from its members, establish committees or subcommittees,  
3 and adopt procedural rules as necessary and appropriate to perform its work.

4 (2) Members of the Board who are not employees of the State of Vermont and who are not  
5 otherwise compensated or reimbursed for their attendance shall be entitled to per diem  
6 compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 paid from the  
7 budget of the Agency of Administration for attendance of meetings of the Board.

8 (3) Members who are appointed to the Clean Water Board shall be appointed for terms of four  
9 years, except initial appointments shall be made such that two members appointed by the  
10 Governor shall be appointed for a term of two years. Vacancies on the Board shall be filled for  
11 the remaining period of the term in the same manner as initial appointments.

12 (d) Powers and duties of the Clean Water Board. The Clean Water Board shall have the  
13 following powers and authority:

14 (1) The Clean Water Board shall recommend to the Secretary of Administration the appropriate  
15 allocation of funds from the Clean Water Fund for the purposes of developing the State budget  
16 required to be submitted to the General Assembly under 32 V.S.A. § 306. All recommendations  
17 from the Board should be intended to fund clean water utilities to meet the pollutant reduction  
18 obligations under 10 V.S.A. chapter 37, subchapter 5 and achieve the greatest water quality gain  
19 for the investment. The recommendations of the Clean Water Board shall be open to inspection  
20 and copying under the Public Records Act, and the Clean Water Board shall submit to the Senate  
21 Committees on Appropriations, on Finance, on Agriculture, and on Natural Resources and  
22 Energy and the House Committees on Appropriations, on Ways and Means, on Agriculture and

1 Forestry, and on Natural Resources, Fish, and Wildlife a copy of any recommendations provided  
2 to the Governor.

3 (2) The Clean Water Board may pursue and accept grants, gifts, donations, or other funding from  
4 any public or private source and may administer such grants, gifts, donations, or funding  
5 consistent with the terms of the grant, gift, or donation.

6 (3) The Clean Water Board shall:

7 ~~(A) establish a process by which watershed organizations, State agencies, and other interested~~  
8 ~~parties may propose water quality projects or programs for financing from the Clean Water~~  
9 ~~Fund;~~

10 (B) develop an annual revenue estimate and proposed budget for the Clean Water Fund;

11 (C) establish measures for determining progress and effectiveness of expenditures for clean  
12 water restoration efforts;

13 (D) If the Board determines that there are insufficient funds in the Clean Water Fund to issue all  
14 grants required by section 924(a) of this title, the Board shall:

15 (i) direct the Secretary of Natural Resources to prioritize the water quality improvements and  
16 issue grants based on available funding;

17 (ii) make recommendations to the Governor and General Assembly on additional revenue for the  
18 Fund; and

19 (iii) notify the Secretary of Natural Resources that there are insufficient funds in the Fund. The  
20 Secretary of Natural Resources shall consider additional regulatory controls to address water  
21 quality improvements that could not be funded.

22 (E) issue the annual Clean Water Investment Report required under section 1389a of this title;

- 1 ~~(F)(E)~~ solicit, consult with, and accept public comment from organizations interested in  
2 improving water quality in Vermont regarding recommendations under this subsection (d) for the  
3 allocation of funds from the Clean Water Fund; and  
4 ~~(F) establish a process under which a watershed organization, State agency, or other interested~~  
5 ~~party may propose that a water quality project or program identified in a watershed basin plan~~  
6 ~~receive funding from the Clean Water Fund.~~
- 7 (G) review and approve the cost-share for grant programs administered by State agencies that  
8 fund work required by a permit.
- 9 (e) Priorities.
- 10 ~~(F)~~In making recommendations under subsection (d) of this section regarding the appropriate  
11 allocation of funds from the Clean Water Fund, the Board shall prioritize:
- 12 (1) funding to clean water utility implementation grants as provided under subdivision (d)(3)(A)  
13 of this section;
- 14 (2) to the extent funding is available after fully funding clean water utility implementation  
15 grants:
- 16 (A) Fund state agency programs that support water quality projects that are legally required by a  
17 permit. Funding amounts should be consistent with the cost share approved under subdivision  
18 (d)(3)(G) of this section ~~funding to programs and projects that address sources of water~~  
19 ~~pollution in waters listed as impaired on the list of waters established by 33 U.S.C. § 1313(d);~~
- 20 ~~(B) funding to projects that address sources of water pollution identified as a significant~~  
21 ~~contributor of water quality pollution, including financial assistance to grant recipients at the~~  
22 ~~initiation of a funded project;~~

1 ~~(B)(C)~~-funding to programs or projects that address or repair riparian conditions that increase the  
2 risk of flooding or pose a threat to life or property;

3 ~~(D)~~-assistance required for State and municipal compliance with stormwater requirements for  
4 highways and roads;

5 ~~(C)(E)~~-funding for education and outreach regarding the implementation of water quality  
6 requirements, including funding for education, outreach, demonstration, and access to tools for  
7 the implementation of the Acceptable Management Practices for Maintaining Water Quality on  
8 Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation;

9 ~~(D)(F)~~ funding for innovative or alternative technologies or practices designed to improve water  
10 quality or reduce sources of pollution to surface waters, including funding for innovative nutrient  
11 removal technologies and community-based methane digesters that utilize manure, wastewater,  
12 and food residuals to produce energy; and

13 ~~(G)~~ funding to purchase agricultural land in order to take that land out of practice when the State  
14 water quality requirements cannot be remediated through agricultural Best Management  
15 Practices;

16 ~~(H)~~ funding to municipalities for the establishment and operation of stormwater utilities; and  
17 ~~(E)(I)~~ investment in watershed basin planning, water quality project identification screening,  
18 water quality project evaluation, and conceptual plan development of water quality projects.

19 ~~(2)~~ In developing its recommendations under subsection (d) of this section regarding the  
20 appropriate allocation of funds from the Clean Water Fund, the Clean Water Fund Board shall,  
21 during the first three years of its existence and within the priorities established under subdivision  
22 (1) of this subsection (e), prioritize awards or assistance to municipalities for municipal

1 ~~compliance with water quality requirements, and to municipalities for the establishment and~~  
2 ~~operation of stormwater utilities.~~

3 ~~(3) In developing its recommendations under subsection (d) of this section regarding the~~  
4 ~~appropriate allocation of funds from the Clean Water Fund, the Board shall, after satisfaction of~~  
5 ~~the priorities established under subdivision (1) of this subsection (e), attempt to provide for~~  
6 ~~investment in all watersheds of the State based on the needs identified in watershed basin plans.~~

7 (f) Assistance. The Clean Water Board shall have the administrative, technical, and legal  
8 assistance of the Agency of Administration, the Agency of Natural Resources, the Agency of  
9 Agriculture, Food and Markets, the Agency of Transportation, and the Agency of Commerce and  
10 Community Development for those issues or services within the jurisdiction of the respective  
11 agency. The cost of the services provided by agency staff shall be paid from the budget of the  
12 agency providing the staff services.

13 Sec. 4. 24 V.S.A. chapter 97 is amended to read:

14 Chapter 97: Sewage System

15 § 3501. DEFINITIONS

16 The following words and phrases, as used in this chapter and in chapter 101 of this title, shall  
17 have the following meanings:

18 (1) “Clean water project” shall mean a project designed to improve water quality to achieve a  
19 target established under section 922 of title 10, that is not subject to a permit under chapter 47 of  
20 title 10 or subject to chapter 215 of title 6, and which is within the activities identified in  
21 subsection 923(e) of title 10.

22 (2) "Domestic sewage" or "house sewage" is sanitary sewage derived principally from dwellings,  
23 business buildings, and institutions.

1 ~~(3)~~ ~~(2)~~ "Industrial wastes" or "trade wastes" are liquid wastes from industrial processes,  
2 including suspended solids.

3 ~~(4)~~ ~~(3)~~ "Sanitary sewage" is used water supply commonly containing human excrement.

4 (4) "Sanitary treatment" shall be an approved method of treatment of solids and bacteria in  
5 sewage before final discharge.

6 (5) "Sewage" is the used water supply of a community, including such ground water, surface,  
7 and storm water as may or may not be mixed with these liquid wastes from the community.

8 (6) "Sewage system" shall include such equipment, pipe line system, and facilities as are needed  
9 for and appurtenant to the treatment or disposal of sewage and waters, as defined herein,  
10 including a sewage treatment or disposal plant, as defined in section 3601 of this title, and  
11 separate pipe lines and structural or nonstructural facilities as are needed for and appurtenant to  
12 the treatment or disposal of storm, surface, and subsurface waters.

13 § 3502. POWERS

14 (a) A municipal corporation may construct, maintain, operate, and repair a sewage system and  
15 take, purchase, and acquire, in the manner hereinafter mentioned, real estate and easements  
16 necessary for its purposes, and enter in and upon any land for the purpose of making surveys,  
17 and lay pipes and sewers and connect the same as may be necessary to convey sewage and other  
18 waters to an outfall or treatment plant or installing and maintaining a stormwater treatment  
19 system.

20 (b) A municipal corporation may acquire interests in real property to conserve and protect natural  
21 resources that are a part of a clean water project.

22 (c) A municipal corporation may administer a grant program to fund clean water projects within  
23 its boundaries.

1 (d) A municipal corporation may enter into contracts to implement clean water projects within its  
2 boundaries.

3 \* \* \*

4 § 3507. DUTIES

5 (a) Such sewage system commissioners shall have the supervision of such municipal sewage  
6 system and clean water projects and shall make and establish all needed rates for rent, with rules  
7 and regulations for its control and operation. Such commissioners may appoint or remove a  
8 superintendent at their pleasure. The rents and receipts for the use of such sewage system shall  
9 be used and applied to pay the interest and principal of the sewage system bonds of such  
10 municipal corporation, the expense of maintenance and operation of the sewage system, as well  
11 as dedicated fund payments provided for in section 3616 of this title.

12 (b) Rates established by this section shall not apply to entities permitted under a municipal  
13 separate storm sewer program permit issued by the Agency of Natural Resources ~~When a rate~~  
14 ~~established under this section for the management of stormwater is applied to property owned,~~  
15 ~~controlled, or managed by the Agency of Transportation, the rate shall not exceed the highest~~  
16 ~~rate category applicable to other properties in the municipality, and the Agency of Transportation~~  
17 ~~shall receive a 35 percent credit on the rate. The Agency of Transportation shall receive no other~~  
18 ~~credit on the rate from the municipal corporation.~~

19 Sec. 5. 24 V.S.A. § 3616 is amended to read:

20 § 3616. DUTIES; USE OF PROCEEDS

21 Such sewage disposal commissioners shall have the supervision of such municipal sewage  
22 disposal department, and shall make and establish all needful rates for charges, rules, and  
23 regulations for its control and operation including the right to require any individual, person, or

1 corporation to connect to such municipal system for the purposes of abating pollution of the  
2 waters of the state. Such commissioners may appoint or remove a superintendent at their  
3 pleasure. The charges and receipts of such department shall only be used and applied to pay the  
4 interest and principal of the sewage disposal bonds of such municipal corporation as well as the  
5 expense of maintenance and operation of the sewage disposal department or other expenses of  
6 the sewage system. These charges and receipts may also be used for the development,  
7 construction, and maintenance of any clean water project administered by the department. These  
8 charges and receipts also may be used to develop a dedicated fund which may be created by the  
9 commissioners to finance major rehabilitation, major maintenance, and upgrade costs for the  
10 sewer system. This fund may be established by an annual set-aside of up to 15 percent of the  
11 normal operations, maintenance and bond payment costs, except that with respect to subsurface  
12 leachfield systems, the annual set-aside may equal up to 100 percent of these costs. The fund  
13 shall not exceed the estimated future major rehabilitation, major maintenance or upgrade costs  
14 for the sewer system. Any dedicated fund shall be insured at least to the level provided by FDIC  
15 and withdrawals shall be made only for the purposes for which the fund was established. Any  
16 such dedicated fund may be established and controlled in accord with section 2804 of this title or  
17 may be established by act of the legislative body of the municipality. Funds so established meet  
18 the requirements of subdivision 4756(a)(4) of this title. Where the municipal legislative body  
19 establishes such a fund, it shall first adopt a municipal ordinance authorizing and controlling  
20 such funds. Such ordinance and any local policies governing the funds must conform to the  
21 requirements of this section.

22 Sec. 6. 24 V.S.A. chapter 105 is amended to read:

23 § 3671. POLICY

1 It is the policy of the state to authorize two or more contiguous towns or other municipal  
2 corporations to join together to establish a consolidated sewer district for the purpose of  
3 developing, acquiring, or improving a sewage system for the purpose of disposing of the sewage  
4 from the district; managing stormwater within the district; or developing, constructing, or  
5 maintaining clean water projects within the district.

6 § 3672. DEFINITIONS

7 (a) As used in this chapter, the following words and terms shall have the following meanings  
8 unless the context indicates another or different meaning or intent:

9 (1) "Town" means any municipality within the meaning of section 126 of Title 1.

10 (2) "Sewage system" includes such equipment, pipeline systems, and facilities as are needed for  
11 and appurtenant to the treatment or disposal of sewage and waters, including sewage treatment  
12 plants and separate pipelines and structural or nonstructural facilities as are needed for and  
13 appurtenant to the treatment or disposal of storm, surface and subsurface waters, and all  
14 properties, rights, easements, and franchises relating thereto and deemed necessary or convenient  
15 by the sewer commission for the operation thereof.

16 (3) "Sewage" means the used water supply of a community, including such groundwater, surface  
17 and stormwater as may or may not be mixed with liquid wastes from the community.

18 (4) "Storm water" means the excess water from rainfall.

19 (5) "Surface water" means water other than storm water flowing or standing on or over the  
20 surface of the ground.

21 (6) "Groundwater" means water existing beneath the surface of the ground.

22 (7) "Improvements" means such repairs, replacements, additions, extensions and betterments of  
23 and to a sewage system as are deemed necessary by the sewer commissioners to place or

1 maintain such system in proper condition for its safe, efficient and economic operation or to meet  
2 requirements for service in such areas which may be served by the district and for which no  
3 existing service is being rendered.

4 (8) "Costs" as applied to a sewage system include the purchase price of any such system, the cost  
5 of construction, the cost of all labor, materials, machinery, and equipment, the cost of  
6 improvements, the cost of all lands, property, rights, easements, and franchises acquired,  
7 financing charges, interest prior to and during construction and, if deemed advisable by the sewer  
8 commissioners for one year after completion of construction, cost of plans and specifications,  
9 surveys and estimates of cost and of revenues, cost of engineering and legal services, and all  
10 other expenses necessary or incident to determining the feasibility or practicability of such  
11 construction.

12 (9) "Clean water project" means a project designed to improve water quality to achieve a target  
13 established under section 922 of title 10, that is not subject to a permit under chapter 47 of title  
14 10 or subject to chapter 215 of title 6, and which is within the activities identified in subsection  
15 923(e) of title 10.

16 (b) A consolidated sewer district shall be deemed to be a municipality within the meaning of  
17 section 126 of Title 1.

18 \* \* \*

19 § 3679. FINANCES-SEWER RATES; APPLICATION OF REVENUE

20 (a) The board of sewer commissioners of a consolidated sewer district shall establish rates for the  
21 sewer service or the planning, construction and maintenance of clean water projects and all  
22 individuals, firms, and corporations whether private, public, or municipal shall pay to the  
23 treasurer of the district the rates established by the board. The manner of establishment of the

1 rates shall be in accord with section 3615 of this title. The rates shall be so established as to  
2 provide revenue for the following purposes:  
3 (1) to pay current expenses for operating and maintaining the sewer system;  
4 (2) to provide for the payment of interest on the indebtedness created by the district;  
5 (3) to provide each year a sum equal to not less than two percent or more than five percent of the  
6 entire indebtedness created or assumed by the district to pay for the cost of the sewer system and  
7 improvements thereto, which sum shall be used to pay indebtedness maturing in that year or  
8 turned into a sinking fund and there kept to provide for the extinguishment of indebtedness of the  
9 district;  
10 (4) if any surplus remains at the end of the year, it may be turned into the sinking fund or used to  
11 pay the cost of improvements to the sewer system.

12 \* \* \*

13 (c) Rates established by this section shall not apply to entities permitted under a municipal  
14 separate storm sewer program permit issued by the Agency of Natural Resources. When a rate  
15 established under this section for the management of stormwater is applied to property owned,  
16 controlled, or managed by the Agency of Transportation, the rate shall not exceed the highest  
17 rate category applicable to other properties in the municipality, and the Agency of Transportation  
18 shall receive a 35 percent credit on the rate. The Agency of Transportation shall receive no other  
19 credit on the rate from the consolidated sewer district.