

For: Senate Committee on Natural Resources & Energy

From: Rob Steele

Subject: Testimony H.31

Good Morning,

My name is Rob Steele and I am a lifelong resident of Bomoseen, Vermont. My wife and I own and operate Toms Bait and Tackle, a bait shop that is in its 50 year of business, 26 of which I have been a part of and 18 as owner. We serve a large area of mid and southern Vermont and interact daily with many residents and nonresidents who enjoy the waterbodies throughout the state. I am here today in support of H.31 and believe it is needed to reevaluate the process in which we manage our lakes, ponds, and rivers with chemicals for the purpose of Eurasian milfoil management.

A year and a half ago I knew very little about how this process worked, as most of the public is unaware of what is happening in our lakes. After learning of a permit applied for to use a chemical in Lake Bomoseen, and not wanting to see that happen, I started looking into it. The more research I did, the clearer it became that something needs to change. The lack of public involvement in the process is alarming. Unless you are the applicant, odds are you will have no idea what is going on. The lake users, the public, the ones who the lakes belong to, more often than not have no idea any of this is happening until it's already done.

Another flaw when it comes to the public is the fact that the statute doesn't require any notice to lake users regarding the treatment of the lake. The DEC has created a special permit condition that requires the applicant to post an 8 inch by 11 inch piece of paper at the launch areas and at the end of roads that access the lake.

Generally, these signs end up buried in the tall roadside grass, or are stapled to trees and telephone poles, drawing no attention from anyone passing by. Just last year, a lake in my area was treated with a chemical for milfoil management. Signs the size of 8x11 were put up stapled to trees and to a telephone pole along the side of the road. These signs, should anyone have noticed them, gave a date of June 16, 2022 as the treatment date. According to the signs, swimming, wading, boating, fishing, and domestic household use may resume on Friday June 17, 2022. The problem with this was the lake was not treated on June 16, 2022. It was actually treated on June 21, 2022. How many people do you think swam, fished, etc. within hours of the lake being treated without even knowing it? How is this fair to the public? Is the public to accept that the lake they want to use could or has been treated at any time without them knowing? When I asked the DEC what could happen to the applicant who failed to notify the public of the correct date, I was told although they violated a special permit condition, because the statute does not require public notification, very little can be done. How is this not a clear representation of a system that needs to be changed.

Through public records requests, we have learned that over the past 20 years, more often than not the DEC has issued permits even after the Vermont Fish and Wildlife has objected. Many times, the fisheries division has stated it does not support the use of chemicals in many of the treated lakes for milfoil management. Lake Saint Catherine for example, has been treated for 20 years now, with consistent objection from Fish and Wildlife. Is this the system that we want to stick with? Studies have been done by our own Fish and Wildlife scientists in which they state that the repeated suppression of aquatic vegetation in lakes treated with herbicides is affecting the population of largemouth bass. And although bass are the main fish species the state

studies in most lakes due to their popularity with anglers, there has been anecdotal evidence from anglers reporting decreases in all warm water fish species. We heard Commissioner Beling testify yesterday that they acknowledge the decrease in largemouth bass, but an increase in small mouth bass makes that ok. What about the species that share habitat with the largemouth that aren't being studied? It is impossible to ignore that the possibility of a decrease in other fish species is happening. Just because it isn't being studied doesn't make it ok. Is it acceptable that because we have seen a few more smallmouth bass that other species can be negatively affected? In a recent email from VT Fisheries Scientist Shawn Good to Misha Cetner of the DEC, Good stated, "I'll be the first one to tell you that "angling" gets forgotten about as a legitimate public use of a public waterbody in a project like this being driven by private homeowners. And despite just about every ANC Permit application, I've looked at in the last 20 years says that the project will "improve fishing", this is never the case anywhere except for potentially a Star Lake sort of Situation." This statement along with the fact that there is a noted decrease in a fish species on lakes being treated should be a giant red flag. If we are not improving a fishery, and are causing a scientifically proven decline in one species and strong potential of a decline in many others, are we doing the right thing? Do we continue to allow a practice that is proven to harm species other than what it is supposed to target?

The DEC has voiced that since 2018 they have started working closer with Fish and Wildlife. What changed in 2018? The answer is staff. In 2018 some new staff took over positions and decided changes were needed. One major thing that happened since 2018 is that the DEC stopped granting permits for SONAR. SONAR is a chemical that was used as whole lake treatments on many lakes across the state. It was used for 15 years, until 2018 when the DEC determined that it

didn't meet the 5 criteria that the statute requires for the permit to be issued. What changed after 15 years? The chemical didn't change, the impacts of the chemical didn't change, the only thing that changed was staff in the DEC. This is a problem. The fact that how a staff member of the DEC interprets the statute can either grant a permit or deny a permit needs to be addressed. While the current DEC may tend to work a little closer with Fish and Wildlife, there is nothing that says it will remain that way. A staff change could put us right back to where we were 20 years ago.

We have heard from Commissioner Beling that there is an internal review procedure that was signed recently by DEC, Fish and Wildlife, and the Health Department. This procedure may be good, but it limits the scope of what Fish and Wildlife are allowed to make for comments. The two sections of this internal procedure that interact with the Fish and Wildlife Fish division are as follows.

A. Acceptable Risk. For a project proposing to control an aquatic animal that may impact fish and wildlife habitat, the Fish and Wildlife Department shall submit a comment on whether the project poses any acceptable risk to aquatic animals, to fish and wildlife habitat, and whether any mitigating actions can/should be taken to reduce the potential impact.

B. Public good. For a project proposing to control an aquatic animal or a project that may impact fish and wildlife habitat, the Fish and Wildlife division shall submit a comment on how the project may affect fishing as a public good use and whether any mitigating actions can/should be taken to reduce the potential impact.

To me, the way I read these is that they do not really allow Fish and Wildlife to offer any comments on whether the project should happen, only how can we reduce the negative impacts of issuing the

permit. The fisheries scientists spend more time on many of these lakes doing surveys and interacting with anglers than many in the DEC, and yet they are not allowed to make recommendations on what they believe to be best management practices to protect the fish and wildlife they are tasked to. Without Fish and Wildlife having a formal role and allowing other agencies' comments to carry weight, the system will remain flawed.

It has become very clear to me that more and more lake associations are going to be looking to chemicals to solve what they believe to be the biggest threat to their lakes. I think we need H.31 now to take a short time out and ensure that we are doing things the correct way for all sides. H.31 could give us the opportunity to review what has been done in the past and create the best plan moving forward. I don't think anyone here wants to look back in 15 years and say "Boy I wish we had done something about that when we had the chance.". Now is the time for a review and a fresh start.

Thank you for your time,

Rob Steele