

TO: The House Committee on Environment and Energy Committee  
From: Bob Stannard  
Date: March 15th, 2023  
Subject: Testimony

Madam Chair and committee members,

Thank you for allowing me the opportunity to speak today. For the record, my name is Bob Stannard.

I am NOT here today to debate whether or not Sepro's toxic chemical, ProcellaCOR, kills milfoil. It does. Chemicals kill things. Sepro's other toxic chemicals, Sonar and Renovate; chemicals previously allowed by the Department of Environmental Conservation, killed milfoil as well as other native weeds. RoundUP kills weeds. Paraquat kills weeds. The question is whether or not current law that allows the use of chemicals to kill a plant that some don't like is working in the best interest for all Vermonters. Is it the right thing to do and what impact is the use of these chemicals having on our environment, ecosystem, habitat and wildlife?

I am a former member of the Vermont House and a former lobbyist. I retired ten years ago. My intentions were to fade out gracefully. Since I'm here today, clearly that's not working out so well. Although I have helped to organize the opposition against the spraying of Lake Bomoseen, I am not representing any group nor am I receiving any compensation.

Upon retiring in 2013 I bought a boat and began fishing on Lake Bomoseen. Two years ago I bought a small camp on this majestic lake. No sooner had I closed on the camp that I learned that the Lake Bomoseen Board (LBA) was applying for a permit to the Department of Environmental Conservation (DEC) to spray the lake with a toxic chemical known as ProcellaCOR. Their rationale for doing so was that Eurasian watermilfoil that has been in this lake for nearly 40+ years had increased from 250 acres to 620 acres, or 250%, over the past five years. In their application to the DEC they said that milfoil had increased from 250 acres to 700 acres over ten years. Neither claim is true. Solitude Lake Management; the company that gets paid handsomely to inject our lakes with chemicals, came up with the 620 acres of milfoil in 2021. Many folks who are on the lake regularly, including the scientist/biologist from the Fish & Wildlife Department, have challenged this number saying that there is less milfoil now than there was two decades ago.

In their 1996 findings denying the drawing down of Lake Bomoseen to kill milfoil the Vt. Water Resources Board determined that there were 600 acres of EWM in the lake. Instead of a 250% increase in EWM in five years, there has been a 3% increase in over a quarter of a century. The LBA board has since taken down this inaccurate information from their website. To date they have never addressed this discrepancy.

Other than the above misleading information there has never been an adequate explanation as to why the need to spray a lake when the milfoil has been remarkably consistent over the past 26 years. What should disturb all of you is that according to the permitting process it doesn't matter. Should a lake have ANY milfoil and one person applies to use chemicals to get rid of it the DEC is obligated to review the application. There is no such thing as an application for the public to submit that would call for NOT spraying a lake with chemicals.

There is now enormous opposition to spraying Lake Bomoseen. Four municipal selectboards, Castleton, Hubbardton, Fair Haven and Shrewsbury, have all voted unanimously against the LBA board's application. Fair Haven voted against it twice. The Kehoe Conservation Board has voted to oppose the application and over 3,500 people have signed petitions against it. To date the only public informational hearing that's been held on this application was held by the Castleton Selectboard. Neither the LBA nor their new co-applicant, the Lake Bomoseen Preservation Trust (LBPT), which is little more than five people who formed a 501-c3, has ever held a public informational meeting on their application. The original co-applicant, Town of Hubbardton requested to be removed from the application.

Upon learning that Hubbardton had their name removed, we thought that would be the end of it. It wasn't. One year ago TODAY a group of about 15 concerned citizens met with ANR Sec. Julie Moore, the commissioners of DEC and F&W. In this meeting we learned that according to statute it only takes ONE PERSON to file an application to put chemicals into our waters. It does not say that the person must be a Vermont resident. Just ONE PERSON can start this process. The DEC then examines the application for completeness and could issue a permit to spray any lake. The permit is drafted by one person. The DEC has stated that they "may" accept comments from other agencies, municipalities and the public, but they are under no statutory obligation to accept them. Over the past twenty years the Fish & Wildlife department has raised concerns and objections over the use of chemicals. The DEC may have listened to the F&W department but rarely agreed with them. If there is disagreement between the two agencies the DEC always prevails.

A couple of months ago the director of the Lakes and Ponds division assembled a group to participate in promulgating new rules to address flaws in permitting statute that was passed some years ago. Let me state very clearly that new rules are NOT what we need. I've been around long enough to know that implementing rules serves only to strengthen the position of the agency advocating for the new rules. We do not need new rules. What is needed is an in-depth examination of the statute, how this process works and how it might be changed to allow for broader participation.

There are two factions in the debate over the use of toxic chemicals to control weeds. Those who support the use of chemicals and those who don't. The Pro-use group relies heavily on the DEC. The DEC relies on the EPA. The EPA relies on the manufacturer. The Pro-use group supports the use of chemicals and supports the current process, because the process works in their favor.

Those who oppose the use of toxic chemicals rely on statistics from scientists and biologists from the F&W department; people who are in the field and can see with their own eyes what chemicals are doing to our fish, wildlife and ecosystems .

The process that exists today relies heavily on the industry for data. Those who oppose the use of chemicals lack confidence in the DEC, because the DEC allows the use of chemicals; a lot of chemicals. Over a nine year period the DEC allowed over 90,000 pounds of chemicals to be dumped into Lake St. Catherine. This chemical, Renovate, killed more than just milfoil. The DEC determined the killing of non-target plants to be acceptable; a vague word that appears in the statute and yet is not defined. Over the past twenty years the DEC has allowed Lake St. Catherine to be treated with chemicals and yet twenty years later the lake still has milfoil. The only major change in this lake is a “shift” from largemouth bass to smallmouth bass. More on this “shift” in a minute.

In a recent story in the Rutland Herald the Lake Bomoseen Association BOARD; I say board as the membership has had no voice in the board’s decision to spray Lake Bomoseen, said, “The application process for ProcellaCOR EC involves permitting, monitoring, and reporting requirements to ensure that the herbicide is applied correctly and with minimal impact on the environment.”

The LBA board is correct when it says that the DEC is involved in permitting. In the case of Lake Hortonia we were shocked to learn that Solitude Lake Management was a co-applicant for this permit. This is the company that makes thousands of dollars spraying toxic chemicals into our lakes. Does it make sense, or seem fair, to have the company that profits off spraying our lakes be able to apply for a permit? The current process says “YES”.

However, the LBA board is incorrect when they say that the DEC “monitors” the actual spraying of a lake. They don’t. The DEC is not on-site when Solitude sprays our lakes. They are not on the boat to ensure the allowed amount of chemicals is being dumped in one place. The DEC has no idea if the job is done correctly. They rely on reports from Solitude.

The lake associations and those who support the use of chemicals understandably like the current process, because it works very much in their favor. Those who oppose the process feel that the game is rigged in favor of lake associations and they have little faith in what they see as a flawed process. Again, there is no such thing as applying for a permit that would call for never spraying a lake with chemicals. You can only apply to spray a lake. You can’t apply to NOT spray a lake. By design, the current process puts those who oppose the use of chemicals on defense.

What we need is H.31; a bill calling for a timeout on this process that even the DEC, with its new rulemaking initiative, admits is “not perfect”. When one person, or a small group of people, or a company that stands to profit can impose their will and overrule municipalities and thousands of citizens then, by definition you have a failed process.

Currently we have colliding missions between the DEC and F&W. New rules will not change this. The following is a response from F&W scientist/biologist, Shawn Good to DEC permit writer, Misha Cetner regarding the application to spray Lake Bomoseen:

*"I'm just going to put this out there from the start. I completely oppose a chemical treatment of any sorts on Lake Bomoseen. The Lake St. Catherine case has been nothing short of a disaster for warmwater fish populations, and in particular largemouth bass fishing quality has declined enormously and not recovered because of the continued suppression of aquatic vegetation (not just EWM) primarily in the main lake.*

*The EWM levels in Lake Bomoseen are a fraction of what they were when I first started here in the mid 1990's. So, I'm having a hard time understanding where this is coming from for Lake Bomoseen."*

Yes, we are all having a hard time understanding where this is coming from. This strong position would still not preclude the DEC from issuing a permit. The DEC can, as they have done in the past, simply say that they don't agree with this assessment and issue a permit to use chemicals. This is precisely why the lake associations that support the use of chemicals like the current process.

In its narrative the DEC describes the above "disaster" as a "shifting" from largemouth to smallmouth bass. It's not a "shifting". The use of chemicals is negatively impacting warm water species, but since the mission of the DEC is to combat milfoil, the fish and ecosystem are a lower priority.

In the eyes of the DEC it doesn't matter if the levels of milfoil in Lake Bomoseen have not changed significantly in a quarter of a century, or if municipalities don't support an application. According to the DEC interpretation of the statute there only needs to be milfoil and an applicant willing to pay to dump toxic chemicals in our lakes. When a small minority can overrule a large majority then you have an unfair process.

H.31 is needed, because it will allow for a closer examination of how the law is working, or how it is not working.

H. 31 will provide an opportunity for ALL Vermonters to have their voices heard; not just lake property owners.

H.31 will NOT preclude the non-chemical management of EWM. No progress in the management of milfoil should be lost over the duration of this bill.

In closing, I would like to state the following. We have been told for many years that toxic chemicals are fine and not to worry. Over time we have learned that this is not true. We've learned that the chemicals used to kill EWM twenty years ago may very well have posed health risks, and although those chemicals have "fallen out of favor" they could still be used today if the

DEC sanctioned their use. The new and improved chemical of choice, ProcellaCOR, has only been around for a few years. You may hear that the EPA has signed off on ProcellaCOR. That's great, but remember in the last month the EPA has signed off on the recent train derailment in East Palestine, Ohio, saying that the water's safe to drink and the air is safe to breathe. The residents aren't buying it. The EPA signed off on the World Trade Center attack saying that the air was safe to breathe. Twenty years later it took a comedian, Jon Stewart, to prove that it wasn't. There is no data on long term effects of ProcellaCor.

H.31 will provide us with a much needed timeout so everyone will have a chance to learn more about the impact of what it is we're doing to the waters that are owned by all Vermonters.

H. 31 will allow for a statewide discussion on whether or not Vermonters support a process that allows for the will of a minority to supersede the will of the majority.

H.31 will allow for a study committee to look into all of these issues and make recommendations to the legislature on whether or not to improve on a process that works well for a few, but may not work so well for all Vermonters.

And one last thing. Today milfoil can be harvested and used for compost, mulch for our gardens or feed for livestock. Once a lake is contaminated with ProcellaCOR, harvested milfoil can no longer be used for compost, mulch or feed. Yet we're told not to worry. We're told ProcellaCOR is safe, because the industry, the EPA and our own DEC says so. If you can no longer use weeds that have been sprayed with ProcellaCOR for compost, mulch or feed, then common sense would say maybe it's not so safe after all.

Please support H.31 and thank you for listening.

Bob Stannard