

## PROPOSAL IN RESPONSE TO

H.507 An act relating to eligibility for economic development in impaired waters of the State

An applicant for a state-funded grant must certify that the applicant, as well as any business in which the applicant has greater than 10% interest, is not a named party in any administrative order, consent decree or judicial order relating to water quality that has been issued by the State of Vermont or any of its agencies. This new certification requirement will be implemented in the next fiscal year by the State of Vermont, Agency of Administration.

The certification will be required for state-funded grant programs only. The certification will not apply to federally funded grants, federal funded contracts, or federally funded tax credits; nor will the certification apply to state or federal loan programs. Each agency will be solely responsible for determining which of its programs are state-funded grant programs.

If the applicant cannot make this certification, the applicant must explain the circumstances of the administrative order, consent decree or judicial order.

The State of Vermont may exercise its discretion regarding the grant award based on the circumstances surrounding the order. Factors to be considered include: compliance with the conditions of the order; the magnitude of the violation that forms the basis of the order; the applicant's level of involvement in the violation; and the environmental benefits of awarding the grant.

The applicant has an obligation to update the certification at any time prior to the award of the grant; and an obligation to inform the State of Vermont if it becomes a named party on a water-quality related administrative order, consent decree or judicial order during implementation of the grant.

If the applicant falsely certifies that is not a named party to any administrative order, consent decree or judicial order issued by the State of Vermont or its agencies, then the State of Vermont or its agencies may seek to recover the grant award at its discretion. The State of Vermont or its agencies may also seek to recover the grant award if the applicant becomes a named party on a water-quality related administrative order, consent decree or judicial order during the implementation of the grant. If the State of Vermont seeks to recover a grant award, the applicant will be liable for the amount of the grant award and costs. In these circumstances the State of Vermont may, at its discretion, deny any future grant awards for up to five years.