House Fish, Wildlife and Water Committee
H. 517, Classification of Waters
Vermont League of Cities and Towns
Karen Horn, Director of Public Policy & Advocacy
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Thank you for the opportunity to testify.

Act 64 passed. The Lake Champlain TMDL is not yet approved by EPA, although it is expected any day now. The Phase One Implementation Plan won't be finalized until sometime in March after EPA approves the TMDL. Commissioner Schuren said to municipal officials that 2016 would be a year of implementation. All of this information and much more is available at www.watershedmanagement.vt.gov .

We welcomed the Commissioner's statement because in fact, municipalities are reeling from the passage of Act 64 and the financial obligations that legislation will impose on local governments. In fact, no one knows what implementation will cost – we only know that as the details of implementation emerge, the price tag grows and grows.

Against this backdrop, we were invited to a stakeholder meeting in December where Neil Kaman unveiled the Department's intent to ask for revisions to the water reclassification programs. This is in advance of beginning to revise the Vermont Water Quality Standards. In concept the idea of being able to reclassify a water of the state to address one use of that body of water, makes sense. The details of how that would work are skimpy however.

We are firstly concerned that H. 517 does not define the attributes of Class A 1 or 2 or Class B 1 or 2 very well. It defines the qualities relative to each other. For instance, in the bill as introduced, Class B1 waters are "very high quality waters in

which one or more uses are of higher quality than Class B (2) waters. We have to ask, higher quality according to whom and based on what criteria?

We believe that H. 517 needs to clarify that the agency may reclassify a water for a use if that use is fully realized in that water body at the time of re-classification. It should not be aspirational. If re-classifications are aspirational, then municipalities and adjoining property owners will be subject to an ever increasing water quality standard they will need to meet. Increasing standards means increased investment and testing and monitoring and sanctions from the Agency of Natural Resources for failure to achieve the new standard. If these standards are meant to be aspirational, we need to oppose the legislation.

In section 2, 10 V.S.A. §1253 (c) the bill (and current language we realize) states that the secretary "may" initiate a rulemaking proceeding to reclassify one or more uses of all or any portion of the affected waters… and "may" hold a public hearing convenient to the waters in question. We believe that this language needs to be amended to state that the secretary "shall" initiate rule making if she intends to reclassify a water (so that a water may not be reclassified outside of the rule making process) and "shall" hold a hearing on the reclassification effort in the municipality that hosts the reach of water in question. These are not insignificant issues and the question of which uses and how waters should be reclassified is a substantial matter for the community that hosts those waters. Without a public hearing, the entire reclassification could e accomplished with very little awareness in the community that anything is changing.

Thank you for the opportunity to comment.

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