

On Friday's tour of Berlin Pond, one of the Gov Ops Committee members asked about invasive species in Berlin Pond. There is a known patch of Eurasian milfoil in the pond. Milfoil spreads via leaf and stem cuttings broken off by propellers, paddles, and boots. A representative of Fish & Wildlife (F&W) immediately said, there are programs available to eradicate that. In the past four years, the state, manager of the pond, has taken no action to contain or eradicate Berlin Pond's milfoil. Agency of Natural Resources (ANR) rules say that the state can mark off invasive species sites, but they have not done so.

Also during Friday's visit to the pond, F&W presented its plan to build a parking lot and boat access at the north end. There are several major problems with this plan, in addition to the fact that no cost/benefit analysis has been presented.¹ None of the issues has been addressed. The fishermen will continue to use the access point at the south end of the pond.

These are typical of the reactive approach ANR has taken since day one. Also typical is how it dealt with the bigger issue: opening the pond to recreation in the first place. The Department of Environmental Conservation claims it made no decision and took no action - it just fell back on existing rules which were written in the 1990s and had little to do with drinking water.² Their water experts were not consulted.³ Nor was Montpelier.

In responding to a 2014 petition by a citizens group to issue new rules prohibiting recreation on Berlin Pond, ANR chose to sidestep a number of their own rules in making their decision.⁴ The only nod to the fact that the pond was a drinking water source was to say that Montpelier's water treatment plant could handle any contaminants introduced by recreation - a statement which is simply untrue.⁵

In testimony on H.33 in 2015, the only scientific information provided was by witnesses for the proponents of the bill. One said that with water bodies under 500 acres, it becomes challenging to provide clean water if recreation is allowed.⁶ Another said that water intakes should be protected from all access within a radius of 2000 feet.⁷ The state has ignored the experts.

Also in testimony on H.33, the representative of VT Federation of Sportsmen's Clubs and VT Traditions stated that the fishermen were upset that they couldn't poop on the shore, because Montpelier (as required by the law) had posted their shoreline.⁸ Relieving oneself on the shore is just as bad as relieving oneself in the water. Again, it's been over a year and the State has taken no action, such as providing porta-potties.

EPA defines four barriers to drinking water contamination, the first of which is to protect the source. In response, Vermont requires municipalities using surface water sources to develop Source Protection Plans. But those plans, ironically, are not allowed to protect the source itself - the water - from one of the major recognized contaminants: human access.

Recreational activities add cost and risk for the citizens of Montpelier. St. Johnsbury is having to spend an extra \$500,000 to upgrade its water treatment plant because the city allowed recreation on its water source. If Montpelier has to do a similar upgrade, it could cost the city \$5 million.⁹ The point of this is to say that, over 130 years, Montpelier did a superb job of proactively protecting its consumers by managing its drinking water source: it purchased most of the surrounding land, patrolled and monitored the area, and removed any contaminants found. The state, with its reactive approach, has done the opposite. Authority should be returned to the city, for the sake of its water consumers.

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Footnotes below.

¹ - Berlin does not own the land - it has only a relinquishment from the state, for road maintenance, after the construction of I 89.

- neither the fishermen nor F&W want the ccess at that location - the good fishing, summer and winter, is in the deep south end, a mile-long paddle away
- the current in the water channeling through the outlet is enough to keep the water from freezing at that point, which will prevent use of the access during ice fishing season
- construction could possibly impact Montpelier's water supply main
- access could encroach on Montpelier's posted property.

² Emails received through an information request to DEC

³ Email received through information request, and conversations

⁴ From the Use of Public Waters Rules, Section 2.2. "In evaluating petitions and associated public comments, the following factors, at a minimum, will be considered: the size and flow of navigable waters, the predominant use of adjacent lands, the depth of the water, the predominant use of the waters prior to regulation, the uses for which the water is adaptable, the availability of fishing, boating and bathing facilities, the scenic beauty and recreational uses of the area." The predominant use of the waters was solely as a public water supply; the pond may be large by Vermont standards but as a water supply source it is small; the predominant use of adjacent lands was no trespass; no facilities of any kind were available; and there are plenty of recreational lakes and ponds nearby. All these factors were ignored.

⁵ Robert E. Dufresne, President, Dufresne Group Consulting Engineers, who designed Montpelier's water treatment plant. He specializes in water treatment systems, water system planning and analysis and water treatment pilot investigations. You will hear further testimony from him.

⁶ Paul Riendeau, Biologist, Education Coordinator for the New England Water Works Association, Grade 4 Operator, former Water Quality Supervisor for Pawtucket RI Water Utility serving 105,000 people

⁷ Robert E. Dufresne

⁸ Clint Gray, Past President of the Vermont Federation of Sportsmen's Clubs

⁹ EPA document entitled "Technologies and Costs Document for the Final Long Term 2 Enhanced Surface Water Treatment Rule and Final Stage 2 Disinfectants and Disinfection Byproducts Rule"