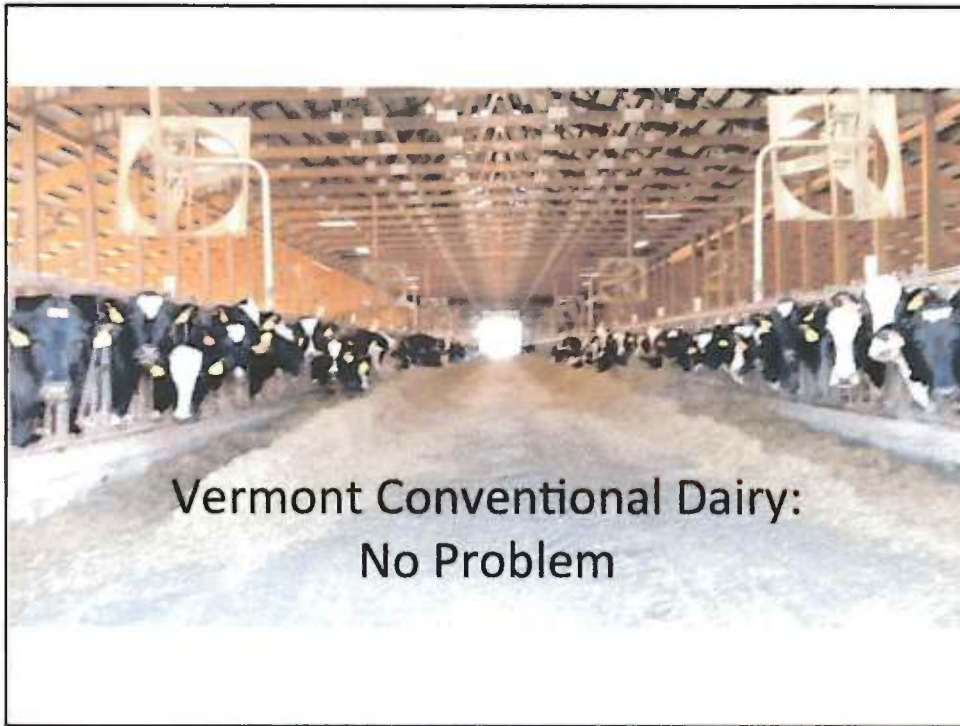



Secretary Ross and Commissioner Mears concede that agriculture is the proximate cause of 50% of the pollution in the lake. But since Vermont agriculture is 80% dairy and Vermont dairy is 80% conventional, it is not agriculture per se that is the cause of the problem; it is conventional dairy. Conventional agriculture is virtually unregulated by the expansive body of environmental law that developed in the United States in the past 30 years. Ostensibly, DEC and ANR personnel know this. But for reasons we will explore shortly, state agricultural policies go to considerable lengths to elide it, leading officials to attempt to “balance” the interests of conventional agriculture against the attainment of clean water. The two interests are countervailing: this is the principal reason why Vermont has consistently failed to meet its water quality standards.



At the VLS, students are taught that environmental law is written to stop smelters in Georgia, oil drillers in Louisiana, loggers in Washington, tanners in Maine and miners in Wyoming from externalizing their wastes into the environment to cut costs. We are taught that it is no good asking polluters to stop or hoping they will stop. Polluters must be haled into court, ruthlessly prosecuted, fined or jailed to force them to stop. This however is not what we do in Vermont, where conventional dairy is the acknowledged, largest permitted polluter in the state. We not only subsidize conventional dairy farmers, we pass laws to shield them from regulation, so they will be free to continue.



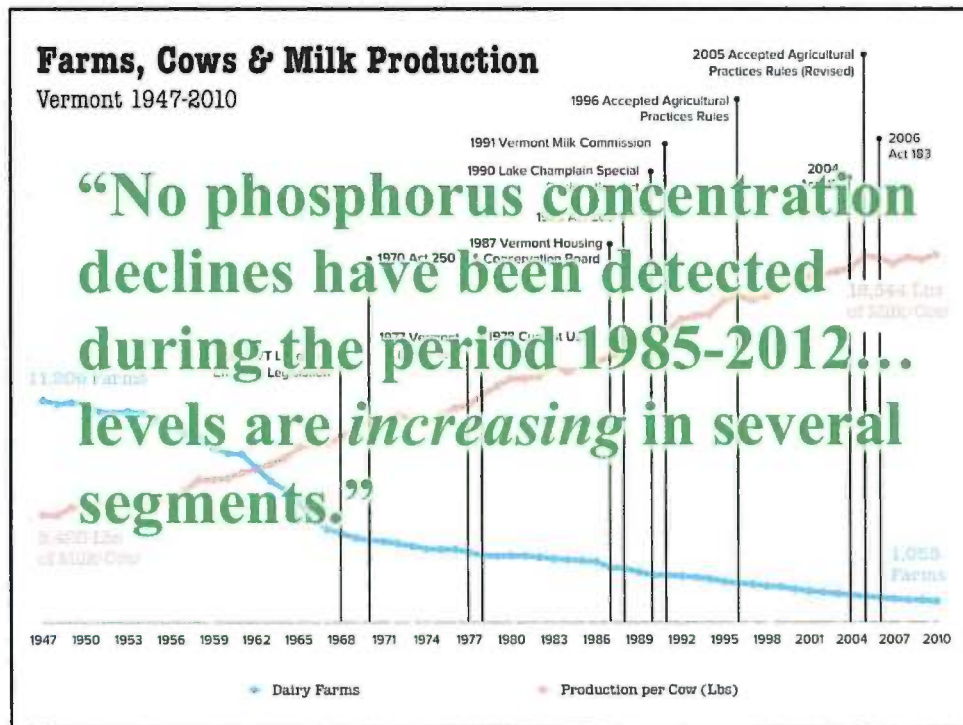
After WWII, conventional agriculture replaced two farm practices for achieving weed control and soil fertility, in place for thousands of years, with toxic chemicals. The premise of Vermont agricultural policies and of S. 49, is that rule compliant or NPDES permitted farmers can apply toxins to their land and lake pollution will abate. Vermont has spent 50 years and hundreds of millions trying to make this assumption true. It is patently false. Rush Limbaugh likes to remind his audience that if government subsidizes something, you will get more of it. But in this case, what we get more of is not farming, which we arguably pass legislation to get more of, but milk and pollution, which we do not. Toxins applied to the land in the Champlain water shed empirically accumulate in the lake, which is why we are here. It is important to understand that conventional agricultural technology was designed to boost yields and lower costs, which it does. But it was also designed to externalize its wastes into the environment. This is not a side effect of the protocol to be swept under the rug or managed as Vermont has tried for two generations to do: it is the protocol’s fundamental economic premise, the effects of which can only be stopped by extirpating the protocol.



History of Vermont Agriculture/Water Regulation

- Land Use Regulation (1967)
- Act 250 (1970)
- Vermont Land Trust (1977)
- Use Value Appraisal (1978)
- Vermont Housing & Conservation Board (1987)
- Act 200 (1989)
- Lake Champlain Special Designation Act (1990)
- Vermont Milk Commission (1991)
- Accepted Agricultural Practices rules (1995)
- Clean and Clear (2003)
- Act 115, 10 V.S.A. 6025(d)(5) (2004)
- Act 183, Sec. 1, 24 V.S.A. § 2790(d) (2006)
- Farm to Plate (2009)
- Act 142, VWLEIP, (2010)
- Act 138, Water Quality Remediation & Implementation (2012)
- H. 586 Small Farm Certification (2014)

Over the past fifty years, Vermont has built an elaborate legal edifice of programs to “save agriculture and protect water.” But since the state does not acknowledge the environmental, economic and social damage designed into the conventional agriculture model, and since a majority of legislators believe they are acting to protect conventional dairy farmers, who make up only 6-700 persons or 1/10 of 1% of the population of Vermont, the state is actually feeding with one hand the lake pollution it wants yet again to charge 200,000 taxpayers with the other to stanch.



Here is a chart showing, in blue, the attrition of our dairy farms, from 11,200 in 1947, just before the adoption of the conventional paradigm, to 1,055 in 2010; today there are 900, an attrition rate of 92%. The VAAF&M has never asked what agent is responsible for this astonishing attrition, in spite of its vital importance to the state's brand. In red, the rise in milk production/cow from 5,420 lbs in 1947 to 18,544 in 2010; the agent responsible for this astonishing increase is the conventional model, which brings more revenue to a handful of large farmers and ruin to hundreds or even thousands. The black vertical lines mark the enactment of the state's statutes and programs to "save agriculture and protect the lake." The green overlay, taken from the Lake Champlain Long-term Water Quality and Biological Monitoring Project, 2012, is a testimony to the effects of state legislation to save agriculture and protect the lake. No reasonable person could look at this fifty year long record of consistent, legislative failure and write another bill, that will empirically bring the same results.

Vermont Implicitly Supports These Trends...

- As # of farms in Vermont decreased, lake pollution *increased*
- As # of cows in Vermont decreased, lake pollution *increased*
- As # of cows/farm in Vermont increased, lake pollution *increased*
- As milk production/cow in Vermont increased, lake pollution *increased*
- As total milk production in Vermont increased, lake pollution *increased*

Non Point Source pollution accounts for 65-75% of the pollution in the nation's waters, with conventional agriculture, the major source of NPS runoff, acting as a primary transport mechanism for fertilizers, animal wastes, pharmaceuticals, pesticides, sediments and bacteria. Conventional agriculture is also the world's second largest contributor to greenhouse gas emissions, behind only electrical and heat generation and ahead of the entire transportation sector. Yet S.49 does not question the conventional modality; the secretary would have you believe that he just has to find and catch a few bad Vermont farmers. This is a ruse. S. 49 does not contain the words global warming, climate change, petroleum or diesel. It does not even mention phosphorus or nitrogen, let alone use the terms conventional or organic. It does not either mention or attempt to regulate the allowable stocking rate on dairy farms; it does not mention or attempt to regulate the importation of 200,000 tons of high protein feed supplements, which bring along about 1% or 2,000 tons of phosphorus; it does not mention or attempt to regulate the importation of 40,000 tons of NPK fertilizer, which brings along with it about 5% or 2,000 more tons of phosphorus. The reason why we are here is that there are more nutrients flowing into the watershed than the lake can absorb and still meet our WQSs. This is not only undeniable, the three greatest sources of nutrients coming into the Lake Champlain water shed are those I just enumerated. And yet S.49 continues to refer to the Accepted Agricultural Practices rules, which have not only been in effect for twenty five years and are empirically ineffective, they do not mention regulate these practices which is

Defining Element of 21st Century Agriculture

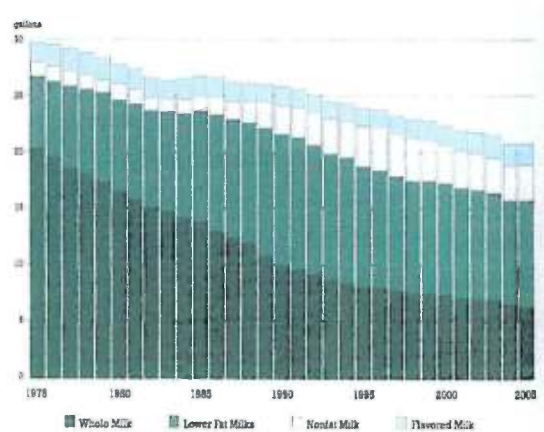


One last thing: California, which produces a third (700 B lbs!!) of the nation's milk, is experiencing a devastating drought in the Central Valley where the state's dairy industry is concentrated. If, as seems inevitable, the drought curtails California milk production, the drop in supply will double milk prices in the US. Conventional Vermont dairy farmers will, if they are not already, go to the bank to borrow money to expand capacity, to consolidate their neighbors, and to buy more land in the floodplain on which to grow corn with artificial fertilizer and herbicides. S. 49 makes no provision for this eventuality. That means that in spite of this bill and in spite of how much it costs taxpayers to implement, Vermont will double down on its investment in the conventional farm model, which means a doubling down on farm attrition, on rural economic decay and on pollution in Lake Champlain. It is unimportant, therefore, how much money the legislature allocates to fund S. 49 because it, like its predecessors, was not written to save Vermont agriculture or to protect the lake. It was written to shield the conventional dairy industry from the kinds of prescriptive regulations that would.

Demand for Commodity Milk

Per Capita Consumption of Fluid Milks in Long Term Decline

The New York Times



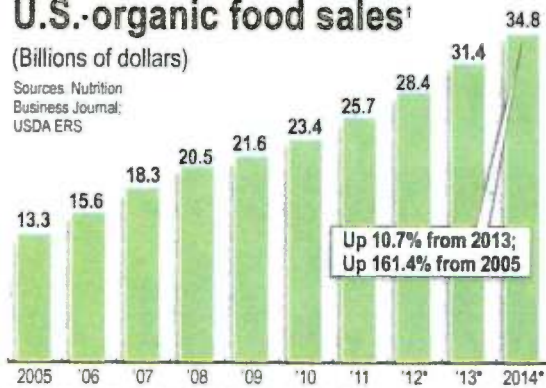
This is the demand curve for the product the mid-twentieth century business model conventional dairy industry deploys and which the VAAF&M is trying against all reason to resuscitate. Farmers are paid a price about equal to their cost for fluid and below cost for class II, III and IV milk. Fluid has shrunk from 60% of utilization in the 1980s to about 40% today. Over production and loss of revenue is a direct consequence of conventional dairy farming, and the principal reason why Vermont dairy farms are failing.

Demand for Organic

U.S.-organic food sales[†]

(Billions of dollars)

Sources: Nutrition
Business Journal;
USDA ERS



[†]Includes dairy, meat, fish and poultry, fruit and vegetables, beverages, packed/prepared foods, breads and grains, snack foods and condiments. *Estimate

Alan Kenaga/Capital Press

This is the demand curve for organic food products, to respond to which Vermont is ideally placed, but willfully blind.

To Save its Farms and the Lake VT Legislature Must:

- **Stop Feeding the Problem**
- **Revoke the MOU (April 1993)**
- **Revoke the AAPs and Adopt the NOP**
- **Repeal Exemption for Agriculture in Land Use Regulations, Act 250**
- **Ban the Importation of Hi P Feed Supplements**
- **Make Agricultural Subsidies: "Current Use," Sales Tax Exemptions, VLT, VHCB, VSJF, F2P, VWLE Contingent upon Conversion**

I have heard it said that everyone wants clean water but no one wants to pay for it. I would amend the aphorism: everyone says they want clean water but no one wants effective regulations to ensure it.

In sum: To Save its Farms and the Lake the VT Legislature Must:

Stop Feeding the Problem (i.e., strike all on H. 35 and S.49)

Revoke the MOU (April 1993) that took responsibility for clean water away from ANR and gave it to VAAF&M

Do not rewrite but Revoke the AAPs

Repeal Exemption for Agriculture in Land Use Regulations, Act 250

Ban the Importation of Hi P Feed Supplements

Adopt the National Organic Program as Vermont's mandatory agricultural practices rules

Make "Current Use," Sales Tax Exemptions, allocations to VLT, VHCB, VSJF, F2P, VWLE Contingent upon Conversion to Organic

Farmers who either cannot comply or do not wish to convert must be given time to realize their legitimate, investment backed expectations. But Vermont must name a date certain ten, twenty or even twenty-five years hence, when all agriculture in the state must be certified organic.