



Testimony: Watersheds United Vermont
to the
House Committee of Natural Resources, Fish, and Wildlife
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Thank you Chair Sheldon and the House Committee of Natural Resources, Fish, and Wildlife for giving Watersheds United Vermont (WUV) an opportunity to speak to this committee. My name is Lyn Munno and I am the Director of WUV.

WUV is an association of community-based watershed groups with a mission to empower watershed groups in all parts of the state to protect and restore Vermont's waters. WUV supports watershed groups by providing information, training and resources; connecting groups to each other and to partner organizations; and acting as a representative and a voice for watershed groups at the state level.

WUV has 40-member organizations including volunteer watershed groups, staffed watershed groups and some Conservation Districts. These groups work on a suite of watershed protection and restoration activities and are key partners for the state in reaching the goals of the Clean Water Act. These strategies include stormwater management, riparian buffer planting, water quality monitoring, dam removal and culvert replacement projects, river cleanups, education and outreach and participating in municipal, regional and state planning efforts including Tactical Basin Planning. Watershed groups are important project managers for state priority projects. These groups are well connected in their communities and work with landowners, municipalities and partner organizations to implement projects to improve water quality, address flood resilience and protect and restore important habitat.

We ask this Committee and the Legislature to pass critical long-term, stable clean water funding this year. However, we are asking the Committee to press pause on the current proposed S96 legislation, which redefines clean water projects and pulls funding and responsibility from DEC to newly established regional service providers. We believe that this bill will roll back the intentions in Act 64 in protecting all waters of the state as it redefines clean water projects and sets out an allocation method based on to be determined modeling of single nutrients and pollutants. We also believe that the clean water service provider model duplicates and reduces the impact of DEC basin planning, creates administratively heavy responsibility at the regional level, creates potential conflict of interest for service providers and does not provide support or involvement for on the ground project implementers.

We know the Legislature has been working to establish sufficient funds to achieve the goals of the Vermont Clean Water Act. We are appreciative of the significant efforts of Treasurer Beth Pearce in developing the Clean Water Report and agree that the state needs a substantial investment in clean water dollars. The legislature had created bridge funding for the past two years as a long-term stable funding method/s were being developed. Projects and programs cannot happen without a commitment of state dollars and a consistency of state funding programs. Not only are state dollars through the Clean Water Initiative Program critical for groups to conduct on the ground projects, but watershed groups also utilize these funds to leverage significant private dollars from businesses, foundations and individuals as well as federal dollars to accomplish this work.

Concerns Regarding S.96

Definition of “Clean Water Project” is now limited to “impaired” as laid out in subsection 924(b). This is a narrow definition and excludes projects not associated with a specific TMDL. This would funnel money only into clean up and not to protection and prevention. This would eliminate funding for projects to protect high quality waters and also for those important projects designed to improve stressed waters and prevent those waters from becoming impaired (antidegradation). This would limit funds to only some waters and basins in the state and moves away from the “All In” approach of Act 64.

Recommendation if S96 moves forward: Expand the definition of “clean water project” to include all water quality protection and restoration projects including those that prevent degradation of waters.

Recommendation if S96 moves forward: Ensure that even for “impaired” waters that clean water projects can address all impairments (not just nutrient and sediment) including E.Coli and temperature impairments.

All funding dollars would now be determined by “standard cost” defined as achieving a pollutant load reduction per unit or per best management practice in a basin. In other words, dollars would be allocated only per amount of impaired nutrient/sediment reduced. We are supportive of better models for nutrient reduction, for prioritizing practices and projects, and know that DEC is working towards that goal as well. But - complex problems require complex solutions and we are concerned that this solve-for-one-variable approach will prevent us from the decisions to best ensure overall water quality and watershed health. This focus on “pollutant load reduction per unit” requires models for each pollutant or nutrient causing an impairment which in some cases are in development and for some impairments may not be feasible. Many waters have multiple impairments and a combined cost allocation per unit reduction is overly complex and unrealistic. This “standard cost” does not address cost allocations for antidegradation or for very important co-benefits including flood resilience and aquatic and riparian habitat protection.

Recommendation if S96 moves forward: Expand “standard cost” to include all stages of project work (assessment, scoping, design, implementation, operations and maintenance, and education

and outreach). We also recommend that “standard cost” should not be developed entirely on single pollutant load reduction per unit, recognizing that projects often address multiple water quality issues and also co-benefits including aquatic organism passage and aquatic and riparian habitat.

Recommendation if S96 moves forward: In Section 923: We recommend eliminating the sentence “Pollution reduction values established by the Secretary shall be the exclusive method for determining the pollutant reduction value of a clean water project” as this places an overly narrow definition of clean water and relies on not yet developed or tested models.

Establishment of Clean Water Service Providers as set out in Section 924: Vermont DEC has the technical expertise to oversee clean water programs and has accountability for meeting obligations of our TMDLs and the Vermont Clean Water Act. We are therefore concerned about removing this responsibility from DEC and setting up a clean water service provider in 15 different basins.

- The legislation does not set up good governance with appropriate oversight by having one designated entity in charge of receiving funds, prioritizing projects, determining how funds are spent, and potentially developing and implementing projects - where that entity could distribute dollars to either their own work or to their constituents.
- Any model should engage and support all key partners in prioritization, development and implementation of projects. It is key that any proposal strengthen regional collaboration, encourage watershed thinking and align with DEC and Tactical Basin Plans. We support efforts that encourage collaboration between groups, but we believe that the proposed model falls far short of this goal by setting up a single entity to set out all clean water actions for the watershed.
- While some regions may have one entity to be the CWSP, we do not believe that to be true for all areas. Watersheds cross municipal, regional planning and conservation district boundaries and there is not one entity who leads clean water efforts.
- Vermont is a small state and there has been increased effort at DEC and with implementing partners to invest in state-wide coordinated block grants for programs such as riparian buffer planting and shared training opportunities across watersheds.

Recommendation if S96 moves forward: Section 4353: In order to strengthen collaboration and ensure valuable input from project implementers, we recommend changing the Basin Water Quality Advisory Councils to a more effective number of participants. The proposed legislation includes a representative from each municipality, which will lead to a group upwards of 40+ people in some basins. We strongly recommend a council of 9 to 11 participants made up of 2 members each from: watershed groups, conservation districts, regional planning commissions, municipalities, as well as the DEC Basin Planner and 2 representatives from other organizations regionally or state-wide engaged in water quality protection and restoration in that basin.

Recommendation if S96 moves forward: Section 4353: In the proposed legislation, the CWSP “shall consider the recommendations of the Basin Water Quality Advisory Council”. In order to alleviate some of the concern regarding good governance and oversight we believe that the

CWSP should instead read shall follow the recommendations of the Basin Water Quality Advisory Council.

Recommendation if S96 moves forward: Section 4353. Since participation from watershed groups and others is critical for the success of these advisory councils, there needs to be compensation for this role as part of the administrative fee to the CWSP. Watershed groups are nonprofits who do not have funding designated for this participation and yet are key partners on clean water projects in their basins.

Recommendation if S96 moves forward: If the administrative fee to the CWSP is combined for both the administration of the program and the clean water project work, there is a disincentive for the CWSP to subgrant the project work rather than having their own organization do the work. This program should incentivize CWSPs working with the skilled implementing organizations in their region. This could be accomplished by separating out the fee for the CWSP and the administrative fee for the project work.

Other Water Quality Grant Programs: Section 925: While we need to focus dollars on meeting our TMDLs, we believe it is a false choice to say we can either clean up Lake Champlain or have healthy waters in the rest of the state. There are several places in the legislation where it states that the CWSP would need to meet 5-year targets before being able to engage in other restoration and protection efforts. We know that prevention and protection are much less expensive than clean up. Let's invest in meeting our obligations under our TMDL while ensuring that we protect our high-quality waters and protect and restore all other waters before they become impaired.

The Water Quality Enhancement Grants would be the only state-wide grant replacing multiple grant programs at DEC including: the Ecosystem Restoration Grant Program, multiple block grant programs (riparian buffer, project development, design and implementation, and river corridor protection as well as technical training grants, work crew grants and the municipal grant-in-aid program).

Recommendation if S96 moves forward: Section 925: The proposed legislation obligates the Clean Water Board to establish at least \$1.5 million for all other water quality improvement projects that do not directly address a target pollutant in an impaired water. We recommend that state-wide Water Quality Enhancement Grants be raised to \$10 million dollars, which is closer to the current dollars in FY19.

Recommendation if S96 moves forward: The proposed legislation lists the following for Water Quality Enhancement Grants: protection of high-quality waters, create resilient communities and promote the public's use and enjoyment of the state's waters. This should also include the restoration and protection of all waters of the state to ensure we are addressing antidegradation and preventing our waters from becoming impaired.

For all the reasons discussed, it is our strong preference that Clean Water Funds should continue to be distributed and administered at the state-wide level. We recommend strengthening the Tactical Basin Planning process at DEC, ensuring there are sufficient resources for DEC staff to support the development and implementation of tactical basin plans and the administration of grants.

We strongly recommend separating proposed funding from this proposed change in funding distribution model. As I mentioned earlier, we need stable long-term funding now! But we don't need to tie that funding to an overly cumbersome and problematic funding distribution model. There are enough concerns regarding this distribution model from all the project implementers including watershed groups, regional planning commissions and conservation districts that we should not rush into this fundamental change in how clean water work is defined and how funds are allocated. Instead let's build on the positives that we have and work collaboratively on any systems changes to make sure we get it right.

Thank you for hearing my concerns and recommendations. I am happy to answer questions or provide additional information. I appreciate the commitment of this Committee and of the legislature to clean water and healthy watersheds.