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State of Vermont
Agency of Natural Resources

Julia S. Moore, P.E.
Agency Secretary

Peter W. Walke
Deputy Secretary

February 8, 2019

Deborah Szaro, Acting Administrator
EPA New England Region
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Dear Acting Administrator Szaro:

I am reaching out to seek clarity regarding the requirements surrounding EPA's reasonable assurance and accountability framework identified in the Lake Champlain Total Maximum Daily Load (LC TMDL). Specifically, the accountability framework obligates the State of Vermont to secure a long-term revenue source to support the water quality improvements necessary to meet Vermont Water Quality Standards and the LC TMDL.

Both the State's Phase I Implementation Plan and the LC TMDL identify that a long-term funding source is necessary. However, neither plan establishes any substantive requirements associated with making a determination of what funding level is suitable to meet reasonable assurance obligations under Chapter 7 of the LC TMDL (<https://www.epa.gov/sites/production/files/2016-06/documents/phosphorus-tmdls-vermont-segments-lake-champlain-jun-17-2016.pdf>).

As described in the enclosed white papers, Governor Scott has proposed a framework to quantify the load reduction obligations that exist under the LC TMDL and to fund sufficient projects to meet those pollution reduction objectives. This process provides a structure for tracking load reductions and annually assessing the financial resources needed to achieve the load reductions required by the TMDL. The framework is being actively discussed during the 2019 legislative session.

The State believes this process, which includes a methodology to both assign pollution reduction values to load reduction projects and practices and to fund them, is sufficient to meet the State's obligation to secure long-term funding, provided that the State ensures grants for non-regulatory projects are fully funded or that any shortfall is promptly addressed as provided in the proposed bill (see enclosure). The State believes that this approach demonstrates how the process will assure pollutant reduction to meet load reductions, and ensure that over time, as the cost of practices changes, the State commits sufficient money to support the implementation of these practices.

By way of perspective, in SFY16 and SFY17, the State spent roughly \$29 million a year on clean water efforts, including federal funds that pass through the State budget, and not including the Clean Water Fund. In the Treasurer's Report of January 2017, the Treasurer recommended investing in clean water an additional \$25 million a year comprised of capital funds (\$15 million), highway funds (\$5 million), and Clean Water Funds (\$5 million). The Governor adopted the Treasurer's funding recommendation for SFY18 and SFY19, as did the Vermont Legislature, resulting in an investment of an average of \$53 million a year on clean water efforts in SFY18 and SFY19.

The Governor's long-term - SFY20 and future years - clean water budget proposal sustains funding for clean water work at \$50-60 million per year, and includes the following funding sources:

- Clean Water Fund (\$25 to 28 million/year)
- Capital Bill (\$10-12 million/year)
- Transportation Bill (\$5 million/year)
- Leveraged federal funds (\$10-12/year)

The Governor's proposal is consistent with the Treasurer's January 2017 recommendation and is greater than the minimum level of State revenues (\$21 million/year) identified by the Clean Water Quality Working Group's Act 73 Report.

Water quality improvements are and will continue to be implemented over the twenty-year life of the LC TMDL; there is inherent variability in the size, scope and cost of each project. Notwithstanding the important context provided by the Treasurer's Report and the Act 73 report, rather than asking EPA to review and approve a specific annual funding number, we are seeking EPA's concurrence that the process the State is proposing will adequately account for and support load-based pollution reduction projects sufficient to meet Vermont Water Quality Standards and our obligations under the LC TMDL. This concurrence would be a direct acknowledgment of the reality that our approach will continue to be adapted over time. Further, as indicated in the Vermont Lake Champlain Phosphorus Phase 1 Implementation Plan (dated September 15, 2016) the Agency is committed to providing a report to EPA with an updated spending plan for TMDL implementation every five years with the next report due in 2021.

The Agency of Natural Resources seeks EPA's concurrence that this approach satisfies TMDL requirements.

Sincerely,



Julia S. Moore, P.E.
Secretary

Enclosures: 2

cc via email: EPA Region 1; Ken Moraff, Sean Dixon, Mel Cote, MaryJo Feuerbach, Eric Perkins
VT ANR; Rebecca Ellis, Pete LaFlamme