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## **VERMONT NATURAL RESOURCES COUNCIL (VNRC) TESTIMONY ON H.31 JON GROVEMAN, VNRC POLICY & WATER PROGRAM DIRECTOR**

My name is Jon Groveman. I am the Policy and Water Program Director for the Vermont Natural Resources Council (VNRC). My background related to this bill is that I am an attorney who has worked on environmental law and policy for over thirty years, including serving as ANR General Counsel and Director of the former Vermont Water Resources Board. In addition, I am currently participating in the ANR Aquatic Nuisance Control (ANC) Stakeholder Group.

VNRC supports H.31. We believe that it is time to take a step back and examine if the statutory framework for allowing pesticides to be used to address aquatic nuisance in Vermont waters is the right framework and that H.31 provides this opportunity.

My understanding is that the ANC permit program was put in place to address the uncontrolled use of pesticides and herbicides in lakes and ponds to address invasive species. The program has had the positive effect of requiring a permit to use pesticides in Vermont's waters and prohibiting the indiscriminate use of chemicals to address aquatic nuisances. However, given what we know about the dangers of pesticides to human health and the environment, VNRC does not believe that the statute is asking the right questions and taking the right approach to determine when pesticides are used in Vermont's waters, and it is time to revisit the aquatic nuisance permitting statute.

From a big picture perspective, VNRC believes that the statute should follow the precautionary principle. The precautionary principle when used in environmental decision making provides that in the face of uncertainty about the impacts of an action that may have adverse effects on the environment and human health we should take a conservative approach and be extremely careful about allowing the action to take place.

Applying the precautionary principle to H.31, VNRC believes that in the face of uncertainty about the impacts on water quality, habitat, ecological and human health of applying pesticides to Vermont's waters, the permitting framework for regulating the use of chemicals in Vermont waters should be set up to allow the use of pesticides only if an applicant can demonstrate that using pesticides is absolutely necessary to address severe ecological harm that would result from the uncontrolled growth of aquatic nuisances.

That is not how our aquatic nuisance statute works. Under our current statute, the first question an applicant who wants to use pesticides in Vermont waters must address is that there are no reasonable nonchemical alternatives to using pesticides in Vermont's waters to address an aquatic nuisance. Rather than jumping to the question of reasonable alternatives to the use of pesticides, we believe the first and most important question that should be addressed is what are the ecological problems that aquatic nuisances are causing, what is the extent of the problem and do we need to apply pesticides to address the problems.

Put another way, in our opinion, pesticides should only be used in Vermont's waters after an applicant for a permit meets an extremely high burden to prove that an aquatic nuisance problem poses such a threat to the ecological health of a waterbody that the use of pesticides is absolutely necessary.

I am not here today to ask you to alter the aquatic nuisance permit statute in the manner I just described. I use this as an example of the structural deficiency in how the statute works to permit the use of pesticides in Vermont's waters and to ask you to pass H.31 so we can discuss and analyze when and how we should be using pesticides in Vermont waters and how the statute should be altered to best address these questions.

In addition, I submitted a letter to the Committee that VNRC and a number of other environmental groups submitted to the ANC Stakeholder Group. The letter details issues that we believe the Stakeholder Group should address in discussing a potential ANR rule to help implement the ANC permitting statute. Running through the list of issues, most of our suggested changes would require a statutory change to implement. This is further support for the need for H.31 to alter the statute to truly reform the ANC permit program. Any ANR proposed rule

would have to operate within the constraints of the existing statute, which needs to be updated and modernized and the rule could not implement the type of structural changes to the programs I have discussed today.

Finally we have one suggested language addition to the bill. We request that the Vermont Department of Health (DOH) be added to the ANC Study Committee. The application of pesticides pose risks to both ecological and public health and the potential impacts to public health should be represented on the Study Committee.

Thank you for your consideration.