**DRAFT MINUTES**

**Act 73 Working Group and Advisory Council on Water Quality Funding**

**National Life, Davis 5th Floor, Montpelier**

**Call-In Number: (802) 448-4858**.

**Friday, September 8, 2017**

**9:00-10:30 AM**

Working Group Members: ANR Secretary Julie Moore, Tax Commissioner Kaj Samsom, VLCT Dominic Cloud (by phone), John Grenier of Grenier Engineering, AAFM Diane Bothfeld (by phone), VCGI Leslie Pelch

Advisory Council Members: Treasurer Beth Pearce, VTrans Michele Boomhower, Dawn Custer (Vermont Municipal Clerks and Treasurers Association), John Hollar (Vermont Mayors Coalition), Jared Carpenter (Lake Champlain Coalition), Jill Arace (Vermont Association of Conservation Districts), Chuck Ross (University of Vermont Extension)

Public: Matt Musgrave, Jeff Wennberg, Jenna Olsen, Andrew Stein, Rebecca Ellis, Ashley Romeo-Boles, *and others.*

The meeting came to order at 9:00 AM.

1. Review Agenda. The Working Group reviewed the draft agenda for 9/8/2017. There were no changes to the draft agenda.
2. Review Statutory Mandate, 2017 Act 73 § 26. Secretary Moore reviewed the group’s statutory mandate in Act 73, section 26. [Click here](http://anr.vermont.gov/sites/anr/files/specialtopics/Act73WorkingGroup/2017-09-08-act-73-meeting-presentation.pptx) for the meeting presentation. The working group met five times over the summer (June 28, July 14, July 28, August 11, August 25). The group focused on reviewing and updating the cost estimates for clean water implementation in the Treasurer’s Report, reviewing existing revenue sources for clean water projects, and exploring new revenue sources.



* 1. Costs. Total projected costs over 20 years has not changed; however, the timing of when costs will occur is being refined. Some highlights from the summer’s work on costs of clean water implementation:

Developed Lands – Roads.  DEC reported that it is in the process of updating the water quality compliance costs for developed lands, and that the estimated costs are likely to go down, for two reasons: (1) The costs in the Treasurer’s Report were based on the draft Lake Champlain TDMLs, not the final Lake Champlain TMDLs.  In particular, the EPA’s estimated acreage of roads that will require treatment dropped significantly between the draft and final versions:  state paved roads from 1,424 to 742 acres; municipal paved roads from 2,703 to 1,408 acres; and municipal unpaved roads from 9,621 to 7,123.  (2) Based on actual cost figures from the last 12 months, the estimated cost of compliance for municipal unpaved roads has been revised from $11,870 per acre to $4,058.

Developed Lands – Non roads.  It was further noted that the final EPA TMDLs estimate that 12,786 acres of non-road impervious surface will need to be treated to comply with water quality standards, compared with 12,158 in the draft TMDL.  Based on an average cost of $30,000 per acre, the total cost of compliance for non-road impervious surface in the Treasurer’s Report was $360 million over 20 years; the revised estimate is $380 million.  Of the 12,786 acres, about 5,000 acres will be regulated under the 3-acre permit, and about 7,000 acres are allocated to compensate for “future growth.” Private landowners are assumed to pay 100% of the costs associated with retrofits unless they form public-private partnerships, in which case they could be eligible for up to 50% grants from DEC’s Ecosystem Restoration Program.

Agriculture. Assuming no change to the proposed implementation schedule, there is a $15 million gap in funding for agriculture. ANR and AAFM hope to provide some pathways forward by mid-October.

The group discussed the advantages of front-loading costs, and how to encourage early spending. It was explained that the current spending curve is tied to the various permitting programs coming online.



* 1. Existing Sources of Funding. The Group discussed the existing sources of funding in the FY18-19 budget, which include the Capital Bill, the Transportation Bill, the Clean Water Fund, and some smaller appropriations in the Big Bill. Future revenue sources may include:
		+ The property transfer tax surcharge is expected to provide $4 million a year to the Clean Water Fund through 2028.
		+ The Treasurer noted that the recent bond issuance resulted in $10.9 million of bond premium.
		+ Annual payments by TDI of $5 million year for 39 years, if the project is built. The Certificate of Public Good incorporates the following terms:
		+ TDI-NE agrees to deposit: (i) $1 million on the fiscal close of the Project; (ii) $6 million on July 1 of the initial year of commercial operations of the Project; and (iii) $5 million on July 1 of each year thereafter for 39 years.
		+ Funds shall be deposited into a dedicated account of the Clean Water Fund established pursuant to 10 V.S.A. § 1388. Funds deposited into this account shall be managed in accordance with and used for the purposes established in 10 V.S.A. Chapter 47, Subchapter 7 except that the use of the funds shall be limited to the Lake Champlain watershed.
		+ ANR and TDI-NE may enter an agreement to accelerate payments to the Fund.
		+ If monies required by this Section 3.a.iii. are used for any purpose other than the purposes established by 10 V.S.A. Chapter 47, Subchapter 7 or as otherwise agreed to in writing by the Parties, TDI-NE shall not be required to make additional payments under this Section 3.a.iii.
	2. New Revenue Sources.
* Over the summer, the Working Group explored the possibility of a per parcel or an impervious surface fee. Unless tagged to the existing property tax bill, the administrative costs of such a fee are proportionately high, roughly 20% for addressing a $18-20M gap, compared to 1% for Administration of all other tax revenues that the Tax Department collects.
* Treasurer Pearce explained that in her January 2017 report she looked at over sixty revenue sources. The recommendations turned on the amount of money that needed to be raised. The Treasurer recommended a parcel or impervious surface fee if roughly $20 million is needed, but other revenue sources if less is needed. She pointed out that clean water administration includes both the collection of revenues and the delivery of services, and that these can be separated. She believes there are advantages to local delivery of services, either through regional planning commissions or utilities. The Treasurer that administrative costs of 20% are unacceptably high for a per parcel or impervious fee to be viable.
* The Treasurer said that the capital budget remains a good source of funding because clean water is a capital asset, and $2.5 billion of tourism in Vermont depends on a clean environment. The Debt Affordability Committee determines the bonding level, and over the past few years has recommended borrowing less.
1. General Discussion

Dominic Cloud expressed concern that the Committee's Report could reduce the sense of urgency in the Statehouse. Secretary Moore reiterated the gap in the agriculture sector and the ramping up of private sector investments as the regulatory framework goes into effect. The Secretary also discussed the need to balance the messaging regarding capital and non-capital needs.

Jill Arace noted that spending in the agriculture sector is the most cost-effective place to put money. Secretary Moore noted that even if the state had additional money for agricultural spending, the state would need to increase its capacity to implement projects on the ground. Capital investments require extensive resources to ramp up.

Chuck Ross asked if there is a strategy for increasing capacity in the agricultural sector. He also queried if the EPA might allow phosphorus credit trading between sectors.

Jeff Wennberg stated that the biggest disincentive for front loading capital investments is that the regulatory framework will change. There need to be assurances that once an asset is constructed, it will satisfy regulatory requirements for the life of the asset.

Diane Bothfeld addressed the capacity limitations for getting money to farmers. These capacity limitations exist in both state and federal government agencies, among farmers and, to a lesser degree, among consultants. The Agency of Agriculture, Food and Markets (AAFM) estimates that one engineer can deploy about $600,000 of funds a year in on-the-ground projects. In addition, agronomic activities like nutrient management planning, cover cropping, etc. all require personnel and time to work with farmers. There are very few qualified technical service providers available to hire in Vermont to develop Nutrient Management Plans. And currently many Vermont dairy farmers do not have capacity to satisfy the 10% cost share given the current state of milk prices.

Treasurer Pearce highlighted three items from the January 2017 report that could help farmers. (1) The Vermont Agricultural Credit Corporation, through VEDA, could capitalize interest-rate reductions in farmer’s current loans if they go above and beyond the current practice requirements. This could help close the gap for the farmer's match for water-quality projects. (2) Digesters are clear a capital project. Current electric rates approved by DPS do not reflect the environmental benefits of phosphorus reductions. (3) The Clean Water State Revolving Fund (CWSRF) could pair traditional projects with natural resource projects and, by lowering interest rates, could incentivize municipalities to take on more water-quality projects. DEC reported that it has hired an accountant to review this idea.

Chuck Ross suggested that the state explore markets for exporting phosphorus out of state.

Jenna Olson said that the City of Burlington supports a market model for trading phosphorus between sectors and landowners within the same watershed. There is not always the space for privates or cities to put in practices.

Chris Koliba referenced the energy efficiency discussions of the 1980s and the eventual creation of VEIC as a model for increasing capacity of service providers to deliver technical support. The state could use a utility model to increase services to the agricultural sector, to build new sources of revenue, and to build a long-term framework for valuing water quality as an asset. He suggested including a discussion of a utility model in the Act 73 report, along with other innovate ideas and market-based solutions. The Act 73 group’s endorsement of market-based solutions could help move this conversation forward.

The meeting adjourned at 10:30 AM.