



CITY OF RUTLAND  
*Department of Public Works*  
RUTLAND, VERMONT  
←————→

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October 31, 2015

Julie Moore, Secretary  
Agency of Natural Resources Secretary's Office  
1 National Life Dr, Davis 2  
Montpelier, VT 05620-3901

RE: Comments on Draft Act 73 Working Group Report

Dear Secretary Moore:

The City of Rutland offers the following comments on the Draft Working Group on Water Quality Funding 2017 Act 73, Section 26 report.

It is our view that the Agency and the Working Group have done a good job refining the projected near-term capital needs associated with the recently enacted Vermont Clean Water Act. This information is significantly improved over the average annual costs presented in the Treasurer's Report, and can serve as a basis for projecting budgetary requirements over the next five years.

But by limiting its focus on the first five years the Act 73 Report fails to comply with the charge issued in Act 73:

*Act 73 Sec. 26 (d) Powers and duties. The Working Group on Water Quality Funding shall recommend to the General Assembly draft legislation to establish equitable and effective long-term funding methods to support clean water efforts in Vermont.*

Indeed, the Report fails to deliver on every aspect of this charge.

1. *Draft legislation* – no draft legislation is included in the report; indeed, not even a conceptual approach from which legislation could be drafted is contained in the Report.
2. *Equitable and effective* – no detailed evaluation of the fairness or effectiveness of potential funding methods is provided except the observation that the administration of the assessment and collection of fees would represent a large percentage of total collections regardless of which administrative model was chosen.
3. *Long-term funding methods* – the Report neither recommends nor assesses the long-term funding requirements. The analysis was limited to the first five years, which the Report admits is not representative of periods to follow. Other than a brief discussion of potential funding methods the Report contains no recommendation of a method or methods for the General Assembly to consider. Instead the Report recommends further analysis by a hired consultant. We note that the legislature appropriated funding under Act 73 for this very purpose, although the time required for hiring a consultant and conducting the analysis would likely exceed the time allowed for the Working Group's deliberations.

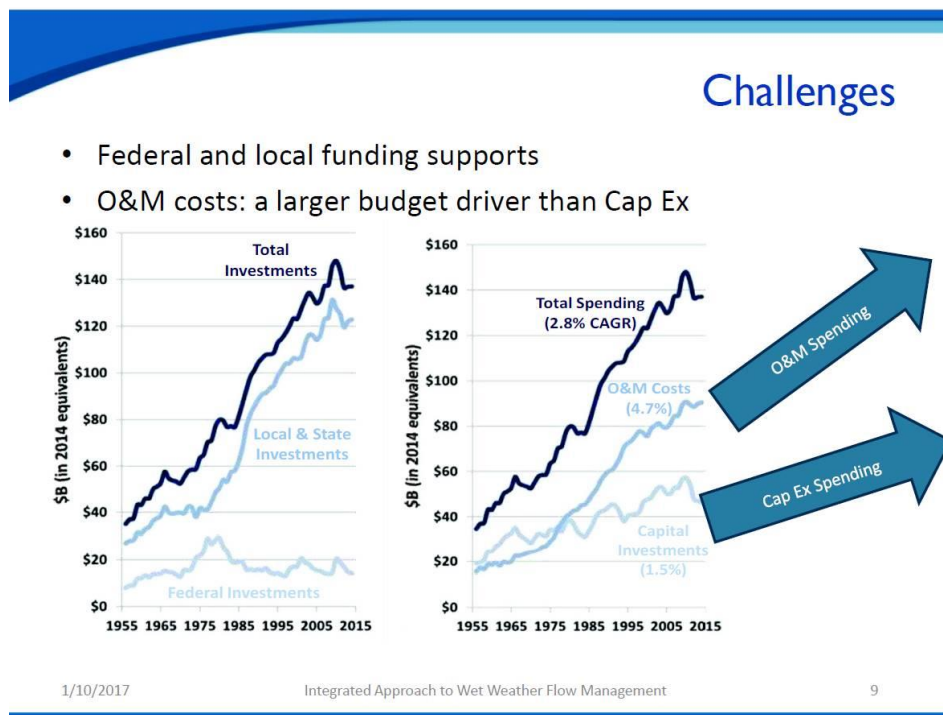
While the near-term capital needs are well cataloged in the Report, the analysis of existing funding sources and the funding gap is fatally flawed. The Report repeatedly misrepresents needed municipal and private sector funding as “existing” and equates them with state and federal funding sources that are currently appropriated and available. This is implied in the Executive Summary on page one, flatly misrepresented on page eleven under “Existing Sources of Clean Water Funding”,

misrepresented in the pie charts on pages eighteen and thirty-five, and grossly misrepresented in the bar graph on the bottom of page twenty. That graph shows the various sources of funding by sector and indicates a \$5 million “Gap” in the agriculture sector with a dotted white section. The treatment of municipal obligations is not represented as a gap but as funds currently available from “Muni Rate- & Tax-Payers”. An honest representation of this funding should identify this \$25 million as a “Gap”. The same holds for the pie chart on page thirty-five. On the same page the first sentence under Recommendations states that both the municipal and private sector dollars are “existing”:

*Existing revenue sources, totaling on average \$78 million a year, including \$25 million in state funds, \$25 million from municipalities, \$16 million from federal sources, \$11 million in private investments.*

Indeed, the Report treats municipal taxpayers and private sector property owners as an ATM, from which any sum can be withdrawn regardless of bank balances, current and future obligations and their ability to raise the required funds. This treatment also ignores critical equity concerns. Placing the burden of raising these funds from local and private sources defeats the central premise of the Clean Water Act and the mandate of Act 73; that clean water is a concern of and benefit to *all* Vermonters, regardless of where they live or what property they do or do not own. The report projects \$78 million a year in annual need for the first five years. The Report simply assigns \$36 million to municipalities and the private sector. That is nearly half of the total required, and nearly 90 percent of the new funding required. This is the opposite of the “we are all in this together” philosophy embodied in these statutes and repeated by our elected leaders.

This inequity is compounded by the fact that the Report assumes all operations and maintenance costs associated with these capital projects will be paid by the owners of the systems, predominantly municipalities. The graph below was provided by US EPA from an analysis conducted by Tetra Tech.



It shows that since 1955 national capital spending for clean water projects has grown at the rate of 1.5 percent while national O&M spending in support of those projects has grown at 4.7 percent. In 2015 capital expenditures were approximately \$50 million and O&M expenditures were \$90 million, or nearly twice as much. If this ratio holds for the next five years, the \$78 million per year

that the Report projects as needed will result in about \$3 million per year in increased O&M (assuming an average 50 year expected life). After five years the new annual O&M costs will top \$15 million, and this will continue to add up and even increase over the life of the capital projects as they age and require more O&M. But, as pointed out above, this is only the first five years and the Report acknowledges that there will be a steep increase in capital requirements in the years to follow.

The Report and the legislature must consider the future obligations that will be shouldered by local rate and tax payers inclusive of O&M obligations. The statement that municipalities will pay half of state-local capital costs is unrealistic, given that over time O&M costs will be nearly twice the total capital cost. As an example, for every \$1 million in capital cost there will be \$1.8 million in O&M obligations, for a total of \$2.8 million. Under the Report's assumptions the State will pay \$500,000 over the life of the project (which is already appropriated in the base state budget), and the municipality will pay \$2.3 million, none of which is currently appropriated or raised in taxes or fees. This is hardly a 50/50 split. A state/federal capital cost share of 80 percent should be the minimum for municipal projects, whether they are wastewater treatment plants, CSOs, developed lands, or roads.

The Report notes that the Working Group has not considered the capacity of most state agencies to manage the workload associated with funding and administering this effort (page 15). Similarly, municipalities will face staffing pressures to meet the requirements of planning, compliance, construction, financing, operating and maintaining these projects and facilities. In addition, the "capacity" of Vermonters to absorb this cost was not discussed in either the Treasurer's or the Working Group Reports. Any serious discussion regarding the nature of the fees – whether local or state assessed – must consider the capacity of fee payers to shoulder the burden.

The Report mentions but does not endorse the recommendation brought forward by the group led by Chittenden County businesses advocating for the creation of a Clean Water Authority with the power to assess and collect fees, distribute funding, and even undertake projects directly. We support this approach and believe the legislature should undertake serious consideration of this model in the current biennium.

In conclusion, the Report dodges the question of how the state should "*establish equitable and effective long-term funding methods to support clean water*" and passes the responsibility back to the General Assembly with little more than an improved near-term cash needs analysis. It is critical to note that clean water taxes and fees were raised in 2015 with the passage of Act 64. The costly requirements were imposed by the legislature and Governor Shumlin at that time. Absent equitable and effective action by the legislature *now*, these costs will be imposed on municipal ratepayers and private property owners in a wholly inequitable way. And when voters resist approving funding for these projects the result will be ineffective progress toward our clean water goals.

Sincerely,



Jeffrey Wennberg  
Rutland City Commissioner of Public Works

C: Mayor Allaire  
Board of Aldermen  
Karen Horn, VLCT  
Dominic Cloud, VLCT  
Penny Percival