

**Date: 10/30/ 2012 Meeting with NGOs and Public Interest Stakeholders**

These summaries reflect a range of views expressed on the issues as discussed during informal conversation in small focus group meetings. They do not reflect the formal or public position of any one group of people, organization or coalition. All errors and omissions are the sole responsibility of EMC/CBI.

*Italics contain comments from attendees that are indicative of common elements, themes and sentiments expressed. The conversations were not recorded and, therefore, they may not be verbatim quotations.*

Attendees: 8 total

**I. Questions from Group**

- A. What is the process being facilitated by CBI/EMC?
- B. How is this process any different from what has already been done?
- C. Will this initiative be more inclusive?
- D. What is the time frame for this process?

**II. Feedback on Current DEC/VAAFME Outreach Efforts and Handouts**

- A. There is no mention of Vermont law anywhere in the handouts. State and federal laws, including the Clean Water Act, address required outcomes on water quality issues.

*They are talking about negotiating things that aren't negotiable under existing laws.*

- B. Using words like “some” and “many” in the handout is not accurate.

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- C. Concern that agency officials do not understand and that by their words and deeds they continue to demonstrate a lack of respect and dismiss the importance of the issues.

*If not for the lawsuit, we wouldn't be addressing the TMDL at all.*

*The real issue is leadership.*

*This feels like window dressing.*

*I think this process is designed to give the appearance of wanting to do a good job of addressing this but that is not the same thing as actually doing it well.*

- D. There is a lack of accountability at agencies and at higher levels regarding what is happening in Vermont and the issues around the TMDL.

*The lake doesn't lie, the numbers are not improving.*

*Government officials have not been adhering to the laws and have no intentions of enforcing them.*

*There is nothing in there about how they [VAAF and DEC] are operating which affects their ability to have farms meet water quality standards.*

*This process will be a waste of time unless Chuck and Dave go back to the Secretary [of ANR] and insist they enforce the laws on the books.*

*Chuck needs to have support from the Governor and the legislature to find the political will to fix this.*

- E. Continuing to pit NGO/Environmental groups against the agricultural community creates unnecessary and false ill will between stakeholders and misses the point.

*I have no issue with the agricultural community; my issue is with those who are enforcing or not enforcing the laws.*

*Our issue is not with the farmers but with the government and with the AAPs as written because they need to be completely overhauled or discarded altogether.*

*They try and marginalize us by saying we are anti-farmer. Well, I am not, I'm anti-pollution.*

- E. The problem frame coming from the agencies is wrong. The process should not revolve around picking a set of practices, incentives and allocation of resources as the method to address water quality issues. There are laws already in place that, if enforced, would lead to improved water quality.

*We won't tell them what practices we like or don't like. When the process fails, they cannot come back and point the finger at us and say "Well, [NGOs], you agreed."*

*If the game is ditches first vs. cows out of the stream, that is a game I don't want to play.*

- F. The process needs to revolve instead around changing the culture that exists in these agencies and developing the leadership and political will to find solutions among all the interested parties.

*We need to hear a declaration from Chuck and Dave and Deb that they want a solution to the water quality issues; and that they understand that farming and water quality are not on the same level. Farming is voluntary, water quality is an imperative.*

*Real leadership in these agencies would result in having employees who are excited to come to work each day, roll up their sleeves and be energized to work hard on this problem, not to roll their eyes when they have to deal with this.*

*Laura and Dave are good people working [hard] and what do we have? Not zero but we can see zero from where they are at.*

*The system is broken.*

*We have had Ag reps at [our] meetings and they expressed either denial or something close to it.*

### **III. Inherent Flaw in Organizational Structure of Agencies**

Discussion of the incompatible roles of promotion of industry and enforcement of regulations existing in VAAF. Agency organizational structure is not viable.

There is an inherent conflict between trying to promote agriculture and enforce regulations over agriculture.

*You can't get past these issues—an economic development agency cannot be in charge of regulating water quality.*

*A farmer is in business to make money, not to improve water quality.*

*It is difficult to take action against the same people you gave the grant to.*

*The agency provides support and approval for a permit in the first place, so they cannot be surprised when the plant can't handle the problem.*

*DEC ceded authority of enforcement to VAAF and the result clear. You cannot promote and regulate the same industry.*

### **IV. The Legal and Regulatory Framework**

- A. Discussion regarding the effectiveness of the existing AAPs. Some in the group believed that if the AAPs were enforced better water quality would improve, others believed that the AAPs themselves were in need of serious revision to address water quality. One idea was to have AAPs up for judicial review.

*AAPs are not taken seriously and maybe this is because they are not that effective.*

*It takes time to change behavior and if the practices are not taken seriously by the*

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*farmers or the agencies then farmers won't follow them and agencies won't bother to enforce them.*

*This may sound backwards, but sometimes a farm needs to do a BMP to be able to follow an AAP.*

*There is a lot of data over the last twenty years which is not being used for planning or implementation. The framework of management needs a serious overhaul.*

*The AAPs are not well done or well used. State agencies characterize them in ways that are confusing to the farmers and to the public.*

*The AAPs were not written to produce better water quality but to protect agriculture from having to meet water quality standards.*

*The AAPs were written to exempt agriculture – they say the practice has to be done “if economically feasible”*

*Just look at what has happened—the AAPs have not helped water quality. There should be agreement that the AAPs are not working and need a full re-write not a process that is placating in nature--we need real change.*

*Back in 2005-2006, we had an agricultural engineer look at the AAPs when they were last adopted. His data showed that they were not going to work. We told them that and they ignored it.*

- B. Lack of laws to allow data collection results in an inability to enforce the existing laws on the books where farmers are non-compliant and it leads to difficulties for the public who cannot verify what is happening at a farm.

*Need to know the inputs and outputs on a farm by farm basis, innovative solutions to problems may be possible but we need to know what the problems are.*

*The TMDL will fail because there is no oversight.*

*The testing shows the lake is worse, not better. There are lots of farmers doing good things for water quality on their farms but we don't know about it.*

- C. Lack of enforcement of existing rules and regulations

*There is still a petition pending with EPA to revoke Vermont's clean water authority because of the state's lack of ability to enforce. There is frustration over the problem of agencies not taking care of it.*

*There is a lack of clear, enforceable laws and a lack of political will to enforce the laws and regulations that are there. The existing regulations could work but aren't being enforced.*

*We need to change the system and how we are regulating this and solving this.*

V. **Agriculture as an Industry**

- A. Discussion of the fact that the agricultural business is not subject to the same set of rules and regulations as every other land owner and every other business. Frustration over the fact that agriculture is not able to be regulated by municipalities nor bound by the land use regulations applied to everyone else nor bound by the same environmental regulations.

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*There are good ideas at the Legislature, but the agricultural community's first reaction is that it is exempt.*

*Why is it that just because your business is not economically viable that the water has to [be lousy] in front of my house?*

*If we had agricultural land subject to land use regulations we could focus more on the specific issues.*

- B. Discussion regarding the issues that result from treating the agricultural industry that other businesses

*There is an assumption in the state that agriculture is somehow different from every other business.*

*Why do we assume farmers are not like every other business? Businesses exist to sell their products, not to improve water quality, farmers are no different.*

- C. The difficulties created by water quality issues and a lack of support for smaller farms.

*The industry will fail on its own if something isn't done. Smaller farms are out of business, farms that remain are bigger and bigger.*

*People are sick of it. I am told "You give it to those farmers! Do you know what they are doing to this place?" The agricultural community knows that they have a PR issue, they won't survive when this is the mood of public sentiment.*

- D. Discussion of the role of corn growth and its negative impact on water quality.

There was concern expressed about the water quality issues that are created with

larger scale corn production and the fact that a lot of corn is being grown in flood plains.

*Get land out of corn, get cows off corn and you won't be producing liquid manure. You close that nutrient cycle and get more composting, less high nutrient feed.*

*Get out of feeding cows corn and that will be a huge step to addressing water quality issues.*

*Corn is a disaster no matter what. There are farms making a living on grass here even with agency discouragement.*

- E. The VAAFM is focused on dairy to the detriment of other farming in Vermont.

The agency has a role in helping the agricultural community as a whole to promote a sustainable working landscape.

*We are solution oriented and need to maintain a viable agricultural economy in place to protect the environment. We have lost a rich heritage of diversification, we are now facing agriculture as commodity scale dairy production.*

*Ask small scale producers what the agency is doing for them. They are treated as niche or boutique farms and do not have the same support from the agency. They do not affect water quality in the same way as larger commodity dairies.*

*You cannot mandate what a farmer can do on every farm nor can you mandate diversity but you can create opportunities for farmers. There needs to be leadership and strategic planning from the agency.*

- F. Systemic issues with milk production were discussed. How to make farming non-polluting and profitable at the same time. Discussion of production cycle of a

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commodity and the impact of current dairy financial issues. One commentator saw an opportunity for the state to take a leadership role in promoting Vermont farms as organic and sustainable.

*The problem of cheap milk makes it difficult. In other products, you pay for their environmental compliance because its passed along in the cost. Milk is cheap, we do not defray these costs. Farmers are not paid for the costs of production.*

## **VI. Agricultural Practices for Better Water Quality**

### **A. Practices are not designed to really address water quality**

*APPs vs. BMP is not the question. We don't have standards in place to get the TMDL inputs.*

*The legacy issue is problematic. Stream erosion and stabilization should be a priority. What farms are contributing currently is not as much of a contributor as soil legacy issues. This is not about AAPs. vs. BMPs, we need to redefine the baseline.*

### **B. Discussion of getting better data from each farm to tailor solutions, Nutrient management plans is one option.**

*Compared to trying to figure out where TMDLs are coming from once they get into the lake, it is easier to get the information from farms.*

*Need to look at the assimilation capacity. The issue is not what cows are fed. You need to look at what is produced on the farm and whether the farm can handle it. Nutrient management plans are what is needed.*

### **C. Regulatory issues were discussed e.g. mandatory required nutrient management plans.**

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*This requires hyper-regulation. You need to test the soil often. Who rides on the honey wagon to make sure they are not spraying too much or in the wrong area? Who will review the plans?*

- D. Desirability of simple solutions that are easy to enforce. The need is to have a system that is effective, flexible but also creates an accountability structure that is meaningful and taken seriously by agency and farmers.

*Start simple, the more complex it is the more chance it will fail. Farms need to put in place effective measures, assimilation capacity on each farm should be known. Want measures that are the least draconian and least restrictive to freedom of the individual so he can pursue his business and will follow the regulations. But the legislature cannot sit there with blinders on. The system has to be accountable.*

- E. Flexibility of choice vs. Clear easy to follow rules. Discussion of what had been found effective under the Clean Water Act when working with businesses.  
*We did not go factory by factory to tailor it—we just said, you cannot do “x” you cannot do “y” – easier to implement.*
- F. The problem of design specs vs. performance specs was discussed. The rigidity of design spec planning and funding was used as an example of a roadblock to being able to achieve better results.

*We tell people we want you to do “X” to address silage leachate and we will pay you to do it as long as you do “X.” All the creativity of the farmer is lost and there is very high cost with very little progress. Instead, we need performance based specs—tell farmers how much nitrogen and other things are coming off the farm, provide technical assistance, provide funding and tell the farmer, “knock yourself out—we don’t own it, we don’t design it, you can be creative about it – you figure it out.”*

*I have been on farms and working with farms my whole life. Everyone is familiar with the process of funding projects for farms. Someone shows up on the farm and the farmer says “this is my problem” but there is no program or funding to fix*

*what the farmer knows is the problem, but there is money for this \$500,000 pit, so that is the solution. Farmers know what the problems are but they are not offered support that will fix the problem. These are stories I have heard all my life, so often that it is more than just anecdotal.*

- G. Incentive based /cost share programs for compliance with water quality are not effective. Discussion of three significant farm related discharges to the lake—the farms in each case had cost share programs in place on the farm before the discharge happened. The cost shares are not working to address water quality. Farmers’ mindset is to do a practice and get the cost share money because it makes the farm more viable not because it helps with water quality.

*Why are we paying farmers to keep cows out of the stream—there should be a regulation that says cows cannot be in the stream, and enforcement of the regulation.*

- H. Voluntary compliance measures do not lead to real change. Must be mandatory.
- I. Enforcement and Regulation were seen as critical in the process. Existing regulations needed to be enforced, regulations without “teeth” needed to be strengthened but critical to the process is enforcement. The lack of enforcement is a huge contributor to pollution in the lake.

*What matters is broad rules, for example -- no unpermitted discharge into the lake. Then work to enforce that if a farmer violates that. The AAPs in their current form are not adequate by definition, the practices are not meant to cost money so if it costs money, they are not followed.*

- J. Farmers need to be part of the solution, farmers can teach other farmers what works and what doesn’t work.
- K. Addressing water quality takes funding and political will, the ideas and the needs are already known.

*Julie Moore did this two years ago-- the list for the legislature was \$800 million dollars. We cannot afford to buy our way out of this problem.*

*The system is so inefficient, \$800MM would not be enough. Look at all the assessed value of the property along St Alban's Bay, its \$40MM, we could buy all the farms in the bay.*

## **VII. Other Ideas**

A. Make land use regulations apply based on density on the farm.

B. Identify a farm with water quality issues and require BMPs not just AAPs.

*There is funding available for projects but farmers are not drawing it down.*

C. Shared zones of responsibility: discussion of using local entities to partner with VAAF. It would allow for flexibility in implementation of monitoring and better data collection since local knowledge would be more helpful. Some thought this would be good way to go, others believed that this would lead to difficulties standardizing practices and believed the agency had the better expertise.

*The in stream numbers of sediments and nutrients, we will be looking at those numbers, monitoring numbers at the mouth but implementation must be done locally and the municipalities need to take the initiative to do more local monitoring. There could be shared authority between the Agency and municipalities.*

*River set-backs could be done at the local level—it does not always have to be the Agency using their own regulators.*

*If all the municipalities are doing it their own way it is a huge mess and its hard to control what is implemented—there is no central authority and no well trained personnel. If it's all through the agency, its easier to hold folk accountable.*

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