



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 POST OFFICE SQUARE SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

June 25, 2020

Peter Walke, Commissioner
Vermont Department of Environmental Conservation
1 National Life Drive, Main 2
Montpelier VT 05620-3522

Re: Vermont's Phase 1 Implementation of the 2016 Lake Champlain TMDL

Dear Commissioner Walke:

On behalf of EPA Region 1, I am writing today to discuss the State of Vermont's progress toward completion of its 2016 Lake Champlain Phosphorus TMDL ("2016 TMDL") Phase 1 implementation obligations.

As you are aware, the 2016 TMDL includes an Accountability Framework describing 28 priority actions, or "milestones," that the State of Vermont agreed to complete by December 31, 2017. These milestones are necessary to achieve the TMDL's phosphorous reduction targets and meet water quality attainment timelines. Under the Accountability Framework, EPA committed to evaluating Vermont's progress and issuing a "report card" on the State's completion of the Phase 1 milestones.

In April 2018, in recognition of Vermont having achieved 25 of its 28 Phase 1 milestones, EPA issued an interim report card giving the state a "provisional pass" and committing to concluding its review by mid-2019. EPA has worked with your Department over the past two years as the State completed two of its remaining three milestones, but we now need to move forward with our final review of the State's progress on the Phase 1 milestones. **As such, EPA anticipates completing its final review of the State's Phase 1 achievements, and issuing a final report card, this coming September.**

As EPA noted in its 2018 interim report card, the Agency was "pleased with the overall magnitude and quality of Vermont's accomplishments since the passage of Act 64 in 2015." State agencies stood up new programs, created innovative tracking and accountability systems, and established – and deployed – new funding pathways. I want to thank you and your colleagues for your hard work over the past few years, and for the energy and innovation that you have been bringing to the implementation of those programs. Those accomplishments will

lead to significant reductions in phosphorous loads entering Lake Champlain and will result in improved water quality.

Unfortunately, failure to complete the last critical milestone, issuance of the State's proposed Three-Acre General Permit (draft Stormwater General Permit 3-9050), puts ultimate achievement of the Lake's water quality goals in jeopardy. Developed land loadings must be reduced by an estimated 25 metric tons/year of phosphorus for Lake water quality attainment. Issuance of the Three-Acre Permit, required under Vermont's Act 64, is an important part of the State's strategy to achieve this reduction. In short, without an issued Three-Acre Permit, the State cannot meet its 2016 TMDL obligations.

If the State still has not issued this permit by September 4, 2020, EPA will be forced to give the State a failing grade on the 2016 TMDL Phase 1 milestones.

The TMDL Accountability Framework identifies a range of responses which may be warranted if Vermont fails to meet its Phase 1 phosphorus reduction milestones. Those include EPA actions such as further point source (e.g., wastewater treatment plant) load reductions, expanded NPDES permit coverage for unregulated stormwater sources, and increased federal enforcement. EPA plans to begin evaluating such actions only after completing our final review.

I do want to take this opportunity to again thank you and your staff for implementing 27 of the 28 Phase 1 milestones, and to offer our assistance as the State works to issue the final Three-Acre Permit. EPA Region 1 has confidence in the State's creativity and commitment to water quality, and we stand ready to work with you on a path forward. We've worked together to make significant progress in restoring Lake Champlain and look forward to continuing that partnership in the short and long term.

Please do not hesitate to reach out to me or Ken Moraff, Region 1 Water Division Director, with any questions.

Sincerely,

Dennis Deziel
Regional Administrator

Cc (via email): Neil Kamman, VTDEC
 Pete LaFlamme, VTDEC