

## Chittenden County communities object to costs, mandates in stormwater plan

### State, towns clash over who should save our streams

The state of Vermont has a plan for restoring stormwater-damaged streams in Chittenden County: Make nine communities, two government agencies and the University of Vermont responsible for getting the job done within 10 years.

Parts of the plan, embodied in a proposed stormwater permit, drew sharp protests last week from most of the communities, although none disputes the importance of reducing stormwater pollution.

In comments filed with the Agency of Natural Resources, the cities and towns argued the proposed permit imposes potentially large costs on residents and property owners; sets unreasonable deadlines; and hands off to local government responsibilities and costs that rightly belong to the state.

“The draft permit shifts costs for stormwater improvement from the state almost entirely on to the municipalities,” South Burlington wrote in comments critical of a number of provisions of

the proposed permit.

“The majority of the newly drafted permit is an unfunded mandate ... some of the estimates predicted by the state’s model have shown to be extremely costly,” Bruce Hoar, public works director in Williston, wrote in his comments.

“The permit effectively places the full financial burden of ... implementation upon the municipal permittees. This is neither fair nor practical,” the city of Burlington said in its comments.

State officials say their proposal is intended to produce the most efficient, least costly stormwater solutions, managed at the government level closest to the pollution. They also praise the actions most of the communities already have taken to control stormwater, a collective \$14 million investment in stormwater control.

The estimated cost of further reducing damaging stormwater flows to the county’s urban streams runs to more than \$40 million. The estimate for Potash Brook in South Burlington, which requires the most expensive fixes, is \$25.5 million.

Potash is one of 12 urban streams in Vermont that violate water quality standards. Their banks have been collapsed and their bottoms scoured of life by the force of floodwater that pours off roofs, parking lots and city streets during rainstorms.

Before urbanization, much of that rainwater

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would have soaked into the ground, percolating more slowly into nearby streams.

Now, stormwater hits streams with the literal force of a bulldozer. The challenge is to reduce these high flows to the brooks, while increasing the amount of water that reaches them during dry periods.

Solutions are likely to include stormwater holding ponds, systems that filter rain and snow melt into the soil; and changes in the way owners manage their properties — for example, by disconnecting roof downspouts that rush rainwater toward storm drains.

In addition to damaging streams, stormwater also carries pollution to Lake Champlain, particularly phosphorus fertilizer that feeds algae blooms and weed growth. It is hoped that reducing stormwater flow will also reduce phosphorus pollution.

## Local control or unfunded mandate?

While there is consensus on the need to reduce stormwater flows, Vermont has struggled to find the most effective way to meet that goal. In any given watershed, hundreds or thousands of properties may contribute to the problem.

One major source of pollution is the storm sewers maintained by cities and towns including Burlington, South Burlington, Essex and Colchester. In addition, in Chittenden County the state Transportation Agency, Burlington International Airport and UVM all operate storm sewers.

It is these stormwater collection systems that are regulated by the 41-page permit now under debate. Known as the MS4 permit, it is scheduled to take effect this year.

Instead of assigning the storm sewer systems a share of the required reduction in stormwater flows, the permit instructs the 12 entities to

develop complete “flow restoration plans” for nine impaired streams. That means the communities will likely have to require changes by some property owners whose stormwater is channeled directly into the impaired streams, not through a public storm sewer.

In addition, the streams cross municipal boundaries, creating further challenges in fairly allocating the amount of work — and spending — to fix the problems.

“The state could have come up with a plan to divide the job equitably across the watershed. We could have required all individual owners, households, commercial buildings and impervious surfaces to meet a certain standard,” said Peter LaFlamme, director of the state Water Quality Division.

“Rather than doing it in that top-down way, sitting here in Waterbury and saying we know what are the best things for Essex or Winooski to do, we wanted to involve the municipalities. They have the knowledge on the ground,” he said.

It will be up to the municipalities to decide how to cooperate with one another, how to cooperate with or regulate private property owners and how to **finance** stormwater improvements.

State government is committed to helping

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develop the flow restoration plans over the next three years. "We aren't walking away," LaFlamme said. The Water Quality Division has collected reams of data and developed a sophisticated computer model that can help determine the most effective, lowest-cost combination of actions to reduce stormwater flows. The division will work with communities to put the model to work, he said.

Nevertheless, the city of Burlington says the state has not adequately considered the storm system operators' ability to pay for the sometimes costly construction projects that reduce storm runoff.

Burlington collects \$830,000 in stormwater user fees; only \$200,000 of that is available for capital projects, according to city stormwater engineer Megan Moir, because the rest is needed for maintenance and other stormwater efforts.

Yet estimates are that the city's cost for protecting Englesby Brook will be \$4 million — or \$570,000 a year for five years.

"Stormwater user fees do not and will not come close to providing the funds necessary to fully finance the implementation effort of these impaired watersheds," Moir wrote.

## Cut the fertilizer

Beyond their general complaints, the MS4 system operators say they need more than the three years allowed in the permit to develop the required plans. The clock shouldn't start ticking, they argue, until the state completes its computer modeling.

They also say the state has no business requiring them to take over the task of monitoring stream flows in the impaired brooks.

"I think the cost of that for all the watersheds is \$150,000," Tom DiPietro Jr., South Burlington's stormwater superintendent said last week. "They

are just shifting a lot of those costs onto us."

At the Stormwater Division, officials said the state monitored the stream flows while it was trying to determine the amount of water the streams could safely handle. Now the job properly belongs to the polluters, in this case the MS4 operators, they said.

The MS4 permit also steps up requirements for the storm sewer system operators to manage stormwater generally, not just water that flows to the damaged streams. The requirements are quite detailed. They include, for example, a mandate to stop using phosphorus fertilizer on city parks and playing fields, unless a soil test shows the nutrient is needed.

Essex Junction, for one, objects to that requirement.

"Any regulation of phosphorus in fertilizer should be a state function," James Jutras, water quality superintendent, wrote.

One possible unfortunate side effect of the permit, Burlington and Colchester officials said, was that most public stormwater spending may have to be focused on the impaired brooks. A lot of pollution-carrying stormwater flows into water bodies — Lake Champlain, the Winooski River — that are so large they have not been

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physically damaged by runoff.

“Our primary concern, if we had to prioritize, is what comes into Malletts Bay,” said Colchester Public Works Director Bryan Osborne. But controlling stormwater into the bay is not specifically required by the permit.

“It does narrow our focus,” agreed Moir, the Burlington engineer.

## 'We have to step up'

On Thursday, Earth Day, Burlington won an Environmental Merit Award from the U.S. Environmental Protection Agency for its stormwater control work. That day, city workers were out in the Old North End, replacing two stormwater catch basins with new ones that will allow stormwater to sink into the sandy soil under the street, rather than flowing into the sewer system.

Stormwater control actions work. The communities already have shown that. Colchester, for example, coordinated construction of a nearly \$800,000 stormwater retention system at Fort Ethan Allen.

By slowing the flow of stormwater down a steep embankment into Sunderland Brook, the project alone may have reduced high flows into the impaired brook sufficiently to meet targets.

“We already have been doing this for seven years,” Essex Public Works Director Dennis Lutz said of his town’s work on stormwater. “We have new ordinances, new setbacks from streams, more street cleanup. ... Now we’re going to have to step up everything we’re doing.”

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