

Vermont Citizens Advisory Committee (VTCAC) on Lake Champlain's Future

Monday, April 11th, 2022

5:00 pm – 7:00 pm

DRAFT MEETING SUMMARY

Committee Members Present: Mark Naud (Chair), Denise Smith (Vice-chair), Sen. Randy Brock, Eric Clifford, Karina Dailey, Rep. Kari Dolan, Wayne Elliott, Bob Fischer, Lori Fisher, Rep. Carole Ode, Hilary Solomon

Committee Members Absent: Sen. Chris Bray, Jeff Wennberg

LCBP Staff in Attendance: Sarah Coleman (VTANR), Katie Darr, Eric Howe, Elizabeth Lee

Speakers: Meg Modley, Scott Sanderson, Lauren Jenness, Matt Heywood

Public Guests: Laura DiPietro, Jackie Gall Folsom, Crea Lintilhac, James Maroney, Alison Spasyk

Meeting summary by Katie Darr, Lake Champlain Basin Program (LCBP)

5:00 – 5:15 pm

Welcome and Introductions

Mark welcomed attendees.

Public Comments

- Jackie Folsom, Legislative Director of the Vermont Farm Bureau (VTFB), provided VTFB's position on the petition. VTFB does not support the petition. VTFB's policy is that anything that touches agriculture remains under the Agency of Agriculture's enforcement, regulations and auspices and that is where they expect it to remain. Several mentions were made in the petition and the press release that the petition would help the farmers; she thought it would probably be more helpful if the petition had asked to have all discharges under VTAAFm rather than put everything under ANR.
- Crea Lintilhac thanked Scott for his work on the petition and felt it was high time given the history.

ACTION ITEM: Review and vote on the draft March 14th meeting summary

Wayne moved to approve the March 14th meeting summary. Denise seconded. Lori amended the 2nd bullet on page three to add "whose point of origin is known" to the comment on the Champlain Canal serving as a vector for aquatic invasive species. The motion was approved unanimously.

5:15 – 5:30 pm

Round Goby Response Follow-Up – Meg Modley

Meg Modley, LCBP Aquatic Invasive Species Coordinator, provided an update on the proposed round goby response measures. On March 24th, the NYS Department of Environmental Conservation and the Canal Corporation issued a [joint press release](#) to announce their response to protect New York's waters from round goby. The press release included the work that LCBP and the Aquatic Invasive Species Rapid Response Task Force are undertaking to contribute to the effort.

USGS is ready to start collecting environmental DNA (eDNA) and trawling samples from the confluence of the Mohawk and the Hudson north into the Champlain Canal and into the southern end of Lake Champlain to inform a round goby rapid response plan. LCBP has been interviewing candidates for an AIS specialist position to be housed in Warrensburg within NYSDEC under the supervision of Erin Vennie-Vollrath. The outreach specialist will do a lot of one-on-one outreach to businesses, stakeholders, and community members along the canal corridor to raise awareness of the round goby and the need for the Champlain Canal Barrier project to move forward for all invasive species in the Champlain Canal.

Proposed mitigation measures by DEC and the Canal Corp include double draining and limited lockings through the system. They are still learning about that technology. Double draining a system basically means suctioning the water out of the canal lock before watercraft motor into it and doing that twice in a northerly direction to try to flush organisms present in that lock. There has been some follow-up discussion with USACE and others who have reservations about the efficacy of that control technology. Limiting lockings would limit locks on a certain hour basis instead of on-demand.

US Fish and Wildlife Service has applied for internal funds to expand early detection monitoring using eDNA for a suite of invasive species of concern beyond round goby at additional sampling sites. The USACE has finalized the report and is working on a press release, the phase 1 report is expected to be available in the next few weeks.

LCBP has been in communication with the Hudson River Estuary Program and the Erie Canalway group who have some concerns about the economic impact of mitigation measures. They have been sharing their response process, action items, and are looking at addressing all potential pathways for introduction. They continue to work with Quebec on the Richelieu River population. The State of the Lake Champlain Salmonid Fisheries webinar included a round goby presentation by Shawn Good, Meg Modley, and Ellen Marsden. The recording is available [here](#).

- Lori thanked Meg for her work on this issue and asked for clarification about double drainage. Meg shared that they are still learning about this technology. The idea is to drain the lock and try to flush it twice before northward traveling watercraft enter the system, through locks C7 and C8 in particular. There is concern that this is a bottom-dwelling species, it may try to avoid flushing or seek refuge. The lock system cannot be entirely flushed or drained dry. The efficacy of this mitigation measure is not yet known. NYSDEC has the lead to work with Canal Corp and select members of the rapid response taskforce to look at actions to be taken if round goby is located close to or within the system.
- Wayne commented on the challenging timing of this issue, noting it came to a head about a month ago and boating season is approaching quickly. Meg agreed the timing is a challenge. Round goby is not a new concern; however, we had previously been concerned about an introduction from the Richelieu River. In the last two years, round goby has moved through the eastern half of the Erie Canal system faster than anticipated. It was put on the radar of the Lake Champlain community when it hit the confluence of the Mohawk and Hudson River. The Rapid Response Task Force started meeting last fall to talk about potential ecological and economic impacts and what interim measures can be taken. The long-term goal has always been an all-taxa approach to prevent the movement of invasive species through the Champlain Canal, we will continue to be in response mode until we find a barrier that allows recreational traffic to use the system but will not allow invasive species to move into the watershed. It has taken time for Canal Corp to come to table and think of short-term measures to prevent this organism from moving into the system.
 - Wayne noted that collectively, the CAC could have been more effective if we had talked about this when putting the action plan together. Speaking more specifically about this issue would have allowed the CAC to get this issue in front of the legislative committees in February.
 - Mark added that when prioritizing items for our action plan, the CAC focused on pressing VTDEC for an increase in budget and staffing related to aquatic invasive species prevention rather than focusing on something wholly within the New York State government and Canal Corporation's jurisdiction. Round goby has raised a lot of awareness on AIS issues.

- Lori asked (1) about the investigation on recreational use on the canal and an update to the value of the fishery to help us better evaluate the potential impact of round goby and (2) if Meg felt this issue is accelerating the delayed action on the permanent solution of the all-taxa barrier. Meg shared that limited information on recreational use was shared with the USACE during the phase 1 study. The lock tenders do collect information, but it may not include vessel length and type. There is an interest in collecting that more specific data, that is something to hold the Canal Corp accountable for collecting. She does not believe a study to evaluate the economic value of our fishery is underway as part of this effort. There is another economic valuation that is being pursued through a separate project, it may not happen in time to influence the round goby specific situation, it may happen in time to influence the all-taxa barrier. Round goby has been a catalyst for additional stakeholder involvement and discussion. Not knowing where round goby are, she is unable to say if the measures proposed by the Canal Corp are sufficient, but they are working on it.
- Mark echoed interest in finding out an accurate count of the number of recreational users. He asked if the coordinated public education campaign discussed in the press release primarily the LCBP AIS Specialist or are they ramping that work up in Canal Corp and DEC to do a comprehensive educational campaign? Meg's initial understanding is that it does refer to the LCBP AIS outreach specialist. DEC, the Canal Corp, and members of the rapid response task force will be working on developing consistent messaging to share along the canal way. She is unaware of additional resources in the State or Canal Corp to work on that outreach, but they will bring their regular channels to the table.
 - Eric shared a [report](#) from the Erie Canalway that provides some Champlain-related recreational use and economic benefit.

The NYCAC put forth a round goby resolution modeled after the VTCAC's. The NYCAC resolution was shared with Governor Hochul, NYSDEC, Canal Corp, and relevant elected officials in New York. Mark has been in contact with QCCAC Chair, Pierre LeDuc and Sylvain Lapointe at [COVABAR](#). He will follow up on what he learns about travel downstream through the Richelieu River.

5:30 – 6:10 pm

Petition for Corrective Action or Withdrawal of the NPDES Program – Scott Sanderson

Scott Sanderson, Interim Director of Farm and Food at the Conservation Law Foundation, provided an overview of the Conservation Law Foundation, Vermont Natural Resources Council and the Lake Champlain Committee's [joint de-delegation petition](#) to the Environmental Protection Agency. The petition discusses how Vermont's decision to split jurisdiction over agricultural water quality between Vermont Agency of Natural Resources (ANR) and the Vermont Agency of Agriculture Food and Markets (VTAAF) is preventing Vermont from fulfilling its obligations under the Clean Water Act. His presentation is included with the meeting materials.

- Denise asked whether other states split jurisdiction. To Scott's knowledge, no other states split jurisdiction.
- Denise asked if a farm ditch is considered point source pollution. Scott clarified that the key idea with point source pollution is that there is a source that collects pollution and channels it, it is concentrated channel flow. Ditches can be a point source.
 - Denise noted that there may be debate about this between ANR and AAFM.
 - Scott added that if a ditch is carrying agricultural waste into surface water, his understanding is that it would be a point source discharge and ANR would have jurisdiction.
- Rep. Dolan provided context for the petition and commented on some of the challenges of the Lake Champlain Total Maximum Daily Load (TMDL) which requires that every sector do their part. If we fall

short on some sectors meeting their reduction targets, we should make adjustments to our process. If we fall short on some of these sectors, the cost will be put on all of the ratepayers contributing to wastewater treatment facilities, which is incredibly costly. It is imperative to implement a restoration plan that is effective and cost effective.

- Bob echoed this point. Municipalities will have to treat the excess pollution in the end.
- Karina asked if tile drains are considered a point source. Scott shared that there is debate about the classification of tile drains and the law is not clear on that.
- Karina noted that it seems complicated for two agencies to manage water quality regulation, especially if other states are not splitting jurisdiction.
- James Maroney noted that the transfer of authority from ANR to AAFM took place in 1993 and was amended in 1995, nearly 30 years ago. He suggested that the original reason why this transfer of authority was made was to shield dairy from having to complete their share of reduction. The TMDL established that the lake could take ~500 metric tons of nutrients. It presently receives ~800 metric tons with ~200 metric tons from dairy farming. The MOU cannot be fixed, authority must be transferred back to ANR to fulfill the TMDL, take charge of agricultural pollution, and achieve water quality standards.
 - Mark asked if James knew whether tile drains were considered a point source. James believed that tile drains would be considered a point source as they are a pipe that redesigns a non-point source into a point-source discharge.
- Hilary asked about the efficacy of the two agencies. In working with them on the ground, AAFM is efficient and farms respond quickly to them when they point out an issue to be fixed. How have enforcement efforts gone when they have been transferred to ANR? Scott clarified that they did not investigate ANR's enforcement records to the same degree as AAFM's. The main issue they are seeing is that ANR is the delegated authority under the Clean Water Act and is ultimately responsible for dealing with and regulating point source pollution. The split jurisdiction is not letting ANR control those point sources.
 - Hilary noted the ANR enforcement records might be worth looking into.
- Hilary asked if a road ditch or driveway ditch would be considered a point source in terms of delivering concentrated flows of dirty water to streams.
 - Mark noted that along state highway systems, that falls within the VTRANS stormwater permits program.
 - Hilary clarified she was thinking of unregulated driveway ditches that go into streams. Regarding tile drains, clean water practices are underdrained and then directly tied into storm drains. Are tile drains treated like an underdrain system where you increase runoff from the tile drain which has been filtered through soil and decrease overland runoff which is just freely polluting? There is a lot of information we don't know yet and it is challenging to make decisions without all of the information. It would be interesting to know if driveways are a point source, if they are that creates an interesting picture in the headwaters.
 - Mark's understanding is that Vermont's response in the context of the TMDL was to provide more resources at the better back roads programs to improve drainage ditches as part of their comprehensive response to solutions for reaching TMDL goals. He does not know case law about whether those smaller road ditches are point sources.
- Marks asked about the timeline for meetings with EPA.

- Scott noted this is up to EPA's discretion. A reasonable timeline could be 30, 60, 90 days, it just can't be years. His best guess is those meetings would start in the next few months.
- Rep. Dolan acknowledged the progress made by the last petition. AAFM adopted a medium and large farm permit with prohibitions to discharge. Although it is disappointing it takes a petition to reevaluate where we are and take corrective action, it is a critically important step to learn about how to move forward on our progress to achieve water quality goals. The VTCAC should keep this on the agenda periodically.

6:10 – 6:50 pm

Stream Wise Award Program – Lauren Jenness, Matt Heywood

Lauren Jenness and Matt Heywood provided an overview of the Stream Wise Award Program which will be piloted in New York and Vermont this summer. The Stream Wise Award Program seeks to encourage property owners to adopt and promote stream buffering protection and restoration practices on their property. The [Stream Wise Resource Library](#) is currently available on the LCBP website. A dedicated Stream Wise website will launch soon. The Stream Wise presentation is included with the meeting materials.

- Several members complimented the team on the useful resources they compiled and the progress they have made thus far on the project.

6:50 – 7:00 pm

Meeting Wrap-Up Discussion

Upcoming meetings are scheduled for May 9th and June 13th. Members discussed potential topics:

- Mark noted that at the last meeting, members were interested in legislative day follow up related to the ANR budget for the aquatic invasive species program and the DEC/AAFM MOU and improvements in their process which we may be able to link with some follow up from the agencies on the de-delegation petition.
- Denise suggested looking into wastewater infrastructure and stormwater mitigation strategies as we infill within communities.
 - Mark agreed and thought it would be good to engage committee members (Bob, Wayne, and Jeff) to talk about CSO treatment and stormwater issues particularly as the Climate Action Plan requires us to focus on building in. This is a potential collaborative discussion topic for the June meeting or July retreat.
- Lori suggested keeping round goby and Canal Corp's response on our agenda to see if more action from the VTCAC is required.

Members discussed whether to resume in-person meetings. Members expressed interest in planning an in-person meeting with protective protocols and a hybrid option for the July retreat. All in-person participants to LCBP-hosted meetings need to provide proof of COVID vaccination.