CLF, VNRC, LCC
De-delegation Petition to EPA

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Overview

- The problem with the status quo
- Background/how did we get here?
- Public records investigation
- Findings (substance of Petition)
- Request to EPA
- Timeline of next steps
Farms have made great progress achieving phosphorus reductions to Lake Champlain.

But longstanding turf war between ANR and AAFM is putting progress at risk.

Background

- In 1974, EPA grants authority to ANR to administer the CWA.
- CWA requires ANR to exercise control over “point source” discharges → state law requires ANR to delegate authority over “non-point source” pollution to AAFM.
Split Jurisdiction Criticism

- Despite decades of efforts at collaboration (including three separate MOUs), people complained of the agencies' poor relationship
- No other state splits jurisdiction like Vermont

Public Records Investigation

- 2016-2021 public records review
- All inspection reports & investigations conducted by AAFM
- All correspondence between ANR and AFFM regarding ag water quality
Findings -

Finding #1: Division of authority hurts farmers and leads to more pollution.

ANR concluded this “legal construct . . . has led to tension and conflict between the agencies, regulatory uncertainty for farmers, and more time-consuming outcomes for water quality resulting in more pollution.”
Findings #3-9:

• ANR has concluded that its broken relationship with AAFM prevents it from controlling agricultural point source pollution
• AAFM disagrees with ANR on what constitutes a point source
• AAFM routinely ignores ANR’s status as the sole decisionmaker regarding the existence of a point source
• AAFM regularly fails to refer evidence of point source discharges to ANR
• AAFM regularly fails to refer agricultural point source discharges to ANR in a timely manner
• AAFM routinely fails to finalize farm inspection and investigation reports until months after the inspections and investigations
• 76% of AAFM farm inspections in 2019-2021 documented Nutrient Management Plan deficiencies, which prevents ANR from monitoring ag point source discharges resulting from overapplication of amendments

Our Request to EPA

• Petition EPA to require corrective action or withdraw VT’s authorization to administer the NPDES program
• Corrective action could be legislative act to move authority of farm water quality regulation (non-point source pollution control) to ANR
Timeline

• Wait for EPA to respond to Petition
• Meetings with EPA and ANR to discuss corrective action
• Likely action from Legislature next session

Thank you & Questions?