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VIA UNITED STATES POSTAL SERVICE AND ELECTRONIC MAIL

Re: Addendum and Correction to Conservation Law Foundation's Supplementary Update to the 2008 Petition for Withdrawal of the National Pollutant Discharge Elimination System Program Delegation from the State of Vermont

Dear Ms. Jackson, Mr. Spalding, Mr. Dierker, and Mr. Perkins:

This letter serves as an addendum and correction to the supplementary update that Conservation Law Foundation (CLF) filed yesterday in support of its 2008 petition for withdrawal of the National Pollutant Discharge Elimination System program delegation from the State of Vermont. Section IV of the supplement explains the Vermont Agency of Natural Resources' (ANR's) failure to develop an adequate regulatory program for water quality-based effluent limitations (WQBELs) or to issue permits that comply with the Clean Water Act. It explains that the United States Environmental Protection Agency (EPA) Region 1 had given extensive comments to ANR detailing the inadequacies of ANR's draft and issued permits for the Hartford-White River Junction waste water treatment facility. In those comments, EPA stated that it would treat the permit that ANR issued as a proposed permit and that it would object to the proposed permit unless ANR modified it within the ninety-day period for objections.

We incorrectly stated that EPA had not objected to the permit within the ninety-day period. In fact, EPA did formally object to the permit on February 12, 2010, in response to ANR's indication that it could not modify the permit absent a formal objection from EPA.¹ The objection letter closely followed the grounds that EPA had previously laid out for ANR explaining why the Whiter River Junction permit did not comply with the Clean Water Act, for both procedural and substantive flaws.

In conclusion, EPA said:

Our hope and expectation is that, in response to this formal objection letter, DEC [Vermont Department of Environmental Conservation] will submit a revised permit modification to EPA and include in such modified permit the language we have identified as being necessary to remove the objection we have made herein, as well as any additional provisions that reflect the written recommendations of Connecticut DEP [Department of Environmental Protection]. However, DEC (and any other interested person) has the right . . . to request EPA to hold a public hearing²

ANR did not modify the permit. Instead, it requested a hearing in a May 10, 2010 letter to EPA.³

EPA's formal objection letter and ANR's response are further evidence that ANR fails to develop adequate WQBELs or issue permits that comply with the Clean Water Act.

¹ Letter from Stephen Perkins, EPA Region 1, to Justin Johnson, DEC Commissioner (Feb. 12, 2010) (now on file with the other supplement sources at the Environmental & Natural Resources Law Clinic (ENRLC) at Vermont Law School).

² *Id.* at 3.

³ Letter from Justin Johnson, DEC Commissioner, to Stephen Perkins, EPA Region 1 (May 10, 2010) (now on file at the ENRLC).

Sincerely,



David Mears, Director



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For Conservation Law Foundation

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