



**State of Vermont
Department of Environmental
Conservation**

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Agency of Natural Resources

February 13, 2012

H. Curtis Spalding
Regional Administrator
United States Environmental Protection Agency
Region 1
Five Post Office Square – Suite 100
Boston, Massachusetts 02109-3912

Re: Petition to Withdraw Vermont's NPDES Program

Dear Administrator Spalding,

As you know, petitions filed by the Vermont Law School (VLS) on behalf of the Conservation Law Foundation (CLF), requesting the withdrawal of EPA approval for the State of Vermont National Pollutant Discharge Elimination System (NPDES) program are currently pending before your agency. EPA region 1 staff have participated in protracted discussions with VLS, CLF and Vermont Department of Environmental Conservation (DEC) staff in an effort to resolve the petition. These discussions have resulted in significant progress towards the resolution of many of the issues articulated in the dedelegation petitions.

The petitions have asserted and DEC has acknowledged that Vermont law does not comply with the public participation requirements of the Clean Water Act (CWA) for administrative and judicial enforcement matters. I am writing in response to your request for a plan and schedule to resolve the public participation issue, set forth in your letter of December 15, 2011 addressed to Secretary Markowitz. I am pleased to inform you that a bill which meets the public participation requirements of the CWA passed both the Vermont House and Senate on February 7, 2012. Once this bill is signed by the Governor, it will be effective on July 1, 2012. Both DEC and CLF have strenuously advocated for the introduction and passage of this legislation to ensure consistency with the public participation requirements related to enforcement under the CWA and the applicable federal regulations. We fully expect that this bill will be signed by the governor this week, well before the effective date of July 1, 2011.

In addition, DEC initiated discussions with the Vermont Attorney General's office regarding public participation in CWA enforcement matters prosecuted by that office. The Vermont Attorney General has discussed these issues with EPA staff and has committed to meeting the requirements of the CWA in any judicial proceedings initiated by that office.





I look forward continued discussion and collaboration with EPA staff regarding the issues raised in the NPDES dedelegation petitions.

Please do not hesitate to contact me at (802) 583-7112 with any questions or concerns you may have regarding this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "DK Mears", written over a large, stylized "12" that is part of the signature.

David K. Mears

Commissioner, Department of Environmental Conservation

cc: Deb Markowitz, ANR Secretary
Laura Murphy, VLS
Chris Killian, CLF