

Date: July 15, 2020

To: Vermont Agency of Natural Resources, Department of Environmental Conservation

From: Chittenden County Regional Planning Commission

**Re: RECOMMENDATIONS REGARDING CONFORMANCE OF THE DRAFT NORTHERN LAKE
CHAMPLAIN DIRECT DRAINAGES TACTICAL BASIN PLAN WITH THE 2018 CHITTENDEN COUNTY
ECOS PLAN**

The CCRPC would like to commend Department of Environmental Conservation (DEC) Watershed Planner Karen Bates, on the comprehensive presentation and analysis contained in the *Draft Northern Lake Champlain Direct Drainages Tactical Basin Plan (TBP)*. We appreciate the opportunity to work with her and other DEC staff to strengthen municipal and public participation in TBP development. We look forward to continued cooperation with DEC and with the Agency of Natural Resources on future TBPs, as well as water quality outreach and education and other activities.

The purpose of this memorandum is to analyze the relative conformance of the *Draft Northern Lake Champlain Direct Drainages Tactical Basin Plan* with the relevant Goals, Strategies and Recommended Actions of the *ECOS Plan* and to provide recommendations regarding project prioritization.

BACKGROUND

CCRPC has the opportunity to provide recommendations to the Agency of Natural Resources regarding tactical basin plans pursuant to the following sections of Vermont Statutes Title 10, Chapter 47, §1253(d)

- (2)(G) ... *the Secretary [of Natural Resources] shall: develop, in consultation with the regional planning commission, an analysis and formal recommendation on conformance with the goals and objectives of applicable regional plans.*
- (3)(D) ... *[the regional planning commissions are to] assist the Secretary in implementing a project evaluation process to prioritize water quality improvement projects within the region to assure cost effective use of State and federal funds.*

The CCRPC reviewed the *Draft Northern Lake Champlain Direct Tactical Basin Plan* that was issued for RPC review in February 2020 and the formal draft issued on July X, 2020. The Basin includes major portions of the Chittenden County municipalities of Burlington, Charlotte, Colchester, Hinesburg, Milton, Shelburne and small portions of Essex, Essex Junction, Richmond, Saint George and Williston

The *2018 Chittenden County ECOS Plan* serves as the County's Regional Plan. The *ECOS Plan* also serves as the Metropolitan Transportation Plan (MTP) and the Comprehensive Economic Development Strategy (CEDS) for the County.

CONFORMANCE WITH THE REGIONAL PLAN

The draft *Northern Lake Champlain Direct Drainages Tactical Basin Plan* is in conformance with and supportive of the *2018 Chittenden County ECOS Plan*, specifically with the following ECOS Plan Goals and Strategies:

Goals:

Natural Systems – Design and maintain a strategically planned and managed green infrastructure network composed of natural lands, working landscapes, and open spaces that conserve ecosystem values and functions, and provide associated benefits to our community.

Built Environment - Make public and private investments in the built environment to minimize environmental impact, maximize financial efficiency, optimize social equity and benefits, and improve public health.

1. Ecological Systems (Habitats, Water Quality, Air Quality) - Conserve, protect and improve the health of native species habitats, water quality and quantity, and air quality.

12. Working Lands - Support the growth and vitality of working farms and managed forests; and sustainably manage sand and gravel extraction operations.

16. Infrastructure - Ensure adequate infrastructure and facilities (i.e. water supply, wastewater treatment, stormwater treatment, broadband coverage and solid waste recovery and recycling) to support areas planned for growth while conserving resources.

Strategies:

#2: Strive for 80% of new development in areas planned for growth, which amounts to 15% of our land area.

#3: Improve the safety, water quality, and habitat of our rivers, streams, wetlands and lakes in each watershed.

#4 Increase investment in and decrease subdivision of working lands and significant habitats, and support local food systems.

The following table details how the Basin Plan’s Objectives by Sector are in conformance with and supportive of specific Actions of the ECOS Plan.

Draft Northern Lake Champlain Direct Drainages Tactical Basin Plan, Objectives	Conformance with select Actions of 2018 Chittenden County ECOS Plan (cf. applicable section)
<i>AGRICULTURE: Conservation Practices that reduce sources of pollution from farm production areas and farm fields.</i>	Strategy 3. Action 2.b. includes "Incentivize best management practices for agricultural uses; and encourage the Agency of Agriculture to better enforce their required agricultural practices. "
<i>DEVELOPED LANDS – STORMWATER: Practices that reduce or treat polluted stormwater runoff from developed lands such as parking lots, sidewalks and rooftops.</i>	Strategy 3. and all Action 2. sub-actions which include data collection of areas producing water quality pollutants, help municipalities with regulatory measures (i.e. MRGP, developed lands permit, etc.), and help municipalities and partners with non-regulatory approaches (financial assistance for stormwater facility improvements).
<i>DEVELOPED LANDS – ROADS: Stormwater and roadside erosion control practices that prevent erosion and treat road-related sources of</i>	Strategy 3. and all Action 2. sub-actions which include data collection of areas producing water quality pollutants, help municipalities with regulatory

<p><i>pollution.</i></p>	<p>measures (i.e. MRGP, developed lands permit, etc.), and help municipalities and partners with non-regulatory approaches (financial assistance for stormwater facility improvements).</p>
<p><i>WASTEWATER: Improvements to municipal wastewater infrastructure that decrease pollution from municipal wastewater systems through treatment upgrades, combined sewer overflow (CSA) abatement, and refurbishment of aging infrastructure.</i></p>	<p><u>Strategy 3. Action 3</u> discusses needed wastewater treatment plant upgrades. In addition, the Comprehensive Economic Development Strategies list includes specific wastewater treatment plant projects.</p>
<p><i>NATURAL RESOURCE RESTORATION: Restoration of “natural infrastructure” functions that prevent and abate pollution. Natural infrastructure includes: floodplains, river channels, lakeshores, wetlands, and forest lands.</i></p>	<p><u>Strategy 3. Action 1.</u> River Hazard Protection. And multiple sub-actions.</p> <p><u>Strategy 3, Action 1.d.</u> "Support non-regulatory conservation and/or preservation of vulnerable areas through public and land trust investments, including identification of repetitively damaged structures and provide assistance to elevate, relocate or buy out structures, and identify where flood storage capacity may be restored and conserved."</p> <p><u>Strategy 3. Action 1.f.</u> - "To protect water quality, development should be located to avoid state and local known constraints that have been field verified, and to minimize impacts to state and local possible constraints that have been field verified." These constraints include floodplains, municipal surface water setbacks, riparian areas and wildlife connectivity resources.</p> <p><u>Strategy 4.</u> "Increase investment in and decrease subdivision of working lands and significant habitats, and support local food systems."</p> <p><u>Strategy 4. Action 1.</u> Protect forest blocks, wildlife connectivity resources and crossings, surface waters, riparian areas and other significant habitats (e.g. wetlands) from development and fragmentation."</p>

PLAN CONFORMANCE CONCLUSION

The draft *2020 Northern Lake Champlain Tactical Basin Plan* is in conformance with and supportive of the *2018 Chittenden County ECOS Plan*.

ADDITIONAL RECOMMENDATIONS

1. CCRPC recommends that RPCs, through their Clean Water Advisory Committee be allowed to provide input to DEC’s prioritization scoring system as intended by statute: Title 10, Chapter 47,

§1253(d)(3)(D) ... [the regional planning commissions are to] *assist the Secretary in implementing a project evaluation process to prioritize water quality improvement projects within the region to assure cost effective use of State and federal funds.* As projects are developed, DEC and other agencies and organizations that provide funding, or implement projects directly, should prioritize projects that achieve a high phosphorus removed benefit per cost ratio. Additionally, projects that also provide co-benefits such as other TMDLs (i.e. Flow Restoration Plans, *e.coli*, mercury, etc.), hazard mitigation, transportation improvement, aquatic organism passage, and/or listed in municipal comprehensive plans and capital plans should also receive additional consideration in making funding decisions. We look forward to being able to participate more fully as a partner in evaluating and scoring projects as required in Chapter 47 §1253(d)(3)(D).

2. We wish to restate the concern of several of CCRPC's member municipalities that requiring municipal wastewater treatment plants to engage in costly upgrades at poor Phosphorus Reduction Benefit to Cost Ratio will make it a challenge for Chittenden County to achieve key strategies of the ECOS Plan, namely:
 - *Strategy 2 [Strive for 80% of new development in areas planned for growth]*
 - *Strategy 7 [Develop financing and governance systems to make the most efficient use of taxpayer dollars and reduce costs]*

It is estimated that the Capital expenses alone for the required upgrades to municipal wastewater treatment to achieve phosphorus reduction optimization in Chittenden County alone would be in the tens of million dollars for relatively low amounts of additional phosphorus removal. Increasing these municipal operating costs will increase already high housing costs in Chittenden County, make it more difficult to build via infill or on brownfields, and drive development away from areas planned for growth. As the ECOS Plan notes: *Considering development and growth comes with both costs and benefits, this Plan attempts to reach a balance by directing growth in such a way that new infrastructure and long-term maintenance costs are minimized. For example: Promotion of and incentives for compact development in areas planned for growth will help keep rural areas open; this can also minimize stormwater problems and prevent new watersheds from becoming impaired.*

In the 2014 Lake Champlain TMDL, DEC estimated costs of \$4,000 per kilo of phosphorus removed via upgrades to wastewater treatment facilities. Therefore, mechanisms need to be developed for municipalities and other property owners with permits to invest in Natural Resource or Agriculture sector phosphorus reduction projects. As documented in DEC's own 2019 Clean Water Performance Report, forested riparian buffer restoration projects and agricultural pollution prevention projects have cost estimates per kilogram of phosphorus reduced of only about \$100 per kilo and \$200-\$600 per kilo, respectively. Developing a process for municipalities to invest in these types of projects would clearly provide much more phosphorus reduction per dollar spent as well as facilitate more appropriate housing and commercial development in line with the ECOS Plan.

3. Finally, we would like to support the concerns raised by our MS4 permittee municipalities and organizations that the 50% match requirement imposed by the DEC for use of State grant funds is unfair and counterproductive. Depending upon the grant source, DEC is requiring only a 0% to 20% match for other municipalities. Additionally, as DEC is aware, much of the needed total phosphorous (TP) load reduction originates in these MS4s. Many MS4s have identified and scoped numerous TP-reduction projects in their Flow Restoration Plans and pending Phosphorous Control

Plans and are eager to move forward with these projects to stay in permit compliance. Requiring a 50% match on both Design and Implementation projects seems arbitrary and ultimately slows progress towards meeting the Lake Champlain phosphorus TMDL.

Thank you for your consideration of our recommendations. If you desire clarification on this letter, please do not hesitate to contact Dan Albrecht, dalbrecht@ccrpcvt.org or 802-861-0133. Please note that the CCRPC will provide additional staff level comments once the formal public review draft is issued.

DRAFT