

From: [ANR - WSMD Lakes](#)
To: [Jensen, Kimberly](#)
Subject: FW: Act 57 ANC Study Committee
Date: Tuesday, October 31, 2023 10:48:46 AM
Attachments: [Study Committee comments.docx](#)

Thank you,

Kelcie Bean (she/her)

You may now submit permit applications, compliance reports and fee payments through our online form to expedite its receipt and review: [ANR Online Intake Form](#)



Kelcie Bean (she/her), Environmental Technician
Vermont Agency of Natural Resources | Department of Environmental Conservation
Watershed Management Division | Business & Operation Support Services (BOSS)
1 National Life Drive, Davis 3 | Montpelier, VT 05620-3522
802-490-6195 (o/c) | Kelcie.bean@vermont.gov
<http://dec.vermont.gov/watershed>

The Agency of Natural Resources supports telework, and I work primarily remotely. I am available to connect by phone and email.

Public Records Statement: Written communications to and from state officials regarding state business are considered public records and may be subject to public scrutiny.

From: [REDACTED]
Sent: Tuesday, October 31, 2023 1:16 AM
To: ANR - WSMD Lakes <ANR.WSMDLakes@vermont.gov>
Subject: Act 57 ANC Study Committee

You don't often get email from [REDACTED]. [Learn why this is important](#)

EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.

Dear Study Committee Members,

First, many thanks for your work. I had hoped to comment orally during the public comment period, but my internet connection isn't good enough. I apologize for sending these comments so late in the process.

I was glad to hear the attention given to definitions and lack of specificity in the statute. At the core of this is the term AIS, a group of vastly different species lumped together because they tend to adapt easily to new areas, can

reproduce relatively quickly, and MAY cause harm to property, the economy, and/or native plants and animals. This is a very broad umbrella, problematic to me in several ways:

- It assumes that all species with this label will behave as above in every situation/freshwater ecosystem across VT and the country, not taking into account the characteristics of individual lakes, ponds, and waterways (e.g., bedrock and benthic conditions, light, existing wildlife populations, water chemistry, etc.). Thus, if a species has been classified as an AIS, it is automatically considered a nuisance, whether or not long-term monitoring and on-site studies of non-target species have been conducted, proving detrimental effects on the ecosystem in a particular setting.
- It includes property values and the economy in the AIS definition, rather than focusing on protecting aquatic ecology. While VT's tourist economy and personal property values are important, shouldn't decisions made by the DEC under the ANR be focused on "Environmental Conservation" and "Natural Resources" first and foremost? I think that most Vermonters believe that to be the case, just as many believe the Environmental Protection Agency rigorously tests every new chemical to be sure that no harm will be done to human health or any other non-target species - yet we know that often isn't the case.
- It sets up a dichotomy between Native (always good) and Non-native/Alien (always bad) with very little specific research available. For example, bass seem to thrive in a habitat with non-native E. watermilfoil providing structure. On the other hand, many native plants are invasive. Consider some of the native pondweeds and waterlilies; or terrestrial sumacs, which are native but aggressive and being removed, yet also fill a dietary void for early returning migrant birds.
- While some AIS may disrupt ecological stability of infested lakes, if an ecosystem remains healthy after 40 years of the species' presence, should we still be using limited public resources and pesticides to fight it? At what point does a species become an unthreatening, valuable part of an ecosystem (as have so many plants and animals)?
- Some lakefront owners use the word "invasive" to describe all abundant plant growth impeding boating or swimming, and have unreasonable expectations regarding herbicide use, focusing attention on finding a quick fix rather than root problems (e.g., nutrient loading from failing septic systems or upland fertilizers; disturbance to legacy phosphorus).

Other problem words/phrases:

- “Acceptable risk” – Acceptable to whom? How is this determined, especially when there aren’t enough field biologists to do surveys and studies on-site, over time? And when there is no long-term human health data on new chemicals, especially those using new modes of action (e.g., ProcCellaCor)?
- “Public benefit” – Who constitutes the public, and how are those stakeholders (which should be all VT residents) kept informed? A benefit to me means clean water and stewardship of VT’s wild ecosystems such that they continue to provide wonder, solace and beauty to all Vermonters and visitors. If an action only benefits a small subsection of people, and doesn’t begin with a holistic, precautionary approach to ecosystem management, it shouldn’t be considered a “public” benefit.

My final point is about public perception of the internal review process in the lifecycle of a permit application. Please understand – this is not a criticism of the DEC or any individuals. I was naïve about the capacity of the agency to collect data and evaluate the effects of herbicides on non-target species. Like many other people with whom I’ve spoken, I thought “internal review” meant boots on the ground and boats in the water, alongside in-depth literature reviews of long-term data on fish, plants, herps, birds in all seasons, benthic invertebrates, etc. What I learned is that “internal review” often means that someone reads through the EPA registration report on a new chemical and signs off, saying that the EPA says there is “acceptable risk” – just as they have with every chemical that has been on the market since the EPA began (e.g., DDT, glyphosate, the suite of PFAS). The EPA serves several masters, the chemical industry being one of them.

I know that is not the case for the DEC, but I don’t know a solution when comprehensive risk data doesn’t yet exist, and there are too few biologists to get around. In my mind, unless there is a true emergency (as may be the case in cyanobacteria blooms or emergent occurrences of new species), the precautionary principle should always be upheld. First do no harm. Don’t issue new herbicide permits until we have adequate data – maybe by increasing resources for lay monitoring, while focusing DEC staff on more urgent situations.

My last request is simple: please disregard comments that imply that those who have been fighting herbicide use are uninformed regarding scientific evidence and data. The informal groups against herbicides in VT lakes include naturalists, public health workers, teachers, small business owners, countless individuals with anecdotal evidence gleaned from hours on and in the water, lake property owners, and many scientists. We’ve put in countless hours of research, reviewing DEC data, documents from other states, industry claims, historical records, and the full EPA reports. We are not uninformed. We have a different point of view.

Thank you for providing the opportunity for public comment.

Sincerely,

[REDACTED]

[REDACTED]