

MEETING MEMO

TO: LAMOILLE BASIN WATER QUALITY COUNCIL (BWQC)
FR: LAMOILLE BASIN CLEAN WATER SERVICE PROVIDER (CWSP) STAFF
RE: MEETING ON SEPTEMBER 25, 2025
DA: SEPTEMBER 18, 2025

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Greetings. The BWQC's next meeting will be held on September 25th. Materials are attached. The agenda for the meeting will include: 1) seating of a new representative; 2) a presentation on bonding for construction project; 3) a presentation on legal review associated with projects; and 4) a brief report on project cancellation.

There will also be updates relating to: the upcoming funding round (opening October 9); ongoing efforts to fill the vacant watershed organization seat; the CWSP's request for project loss reimbursement relating to the 10 bends riparian planting project; and DEC's recent policy proposals (i.e., decision trees and definitions).

Introductions/Meeting protocols/Conflict of interest disclosures, if any

As is customary, time will be set aside for introductions, review of meeting protocols, and announcement of any Conflict of Interest.

Approval of Minutes

Please let us know if any part of the minutes for the July meeting need to be corrected.

Seating of members

Christine Armstrong, who has been serving as a representative of the watershed organization sector, is stepping down. Chris Steel, who has the endorsement of Watersheds United Vermont, will be seated as Christine's replacement. Both are affiliated with the Stewards of Greensboro Watersheds.

Budget Adjustments

This is a standing agenda item. As of this writing, no budget adjustment requests have been received since the last meeting. (And requests received in the meantime will be processed consistent with the Budget Adjustment policy.)

Bonding for construction projects

The upcoming BWQC meeting will include a presentation on bonding (tentatively called "*Bonding: Ins and Outs, Forms, and Process*") that provides an overview of performance and payment bond requirements for CWSP projects.

The presentation will explain the purpose of these bonds—protecting CWSPs as project owners by ensuring contractors complete their work and pay subcontractors and suppliers. Key thresholds will be highlighted: both bonds are required for projects over \$500,000, and a performance bond is recommended for projects above \$250,000.

It will also outline the roles of the Principal (contractor), Surety (bonding company), and Owner, and their obligations under the bond forms. Finally, the presentation will address practical questions from contractors, including how to obtain a bond, typical costs (which may be included in the project fee and covered by the CWSP), and the Vermont legal framework that governs these bonds.

Project Development Funding policy clarification

In July of 2024, the BWQC adopted a policy supporting a program to expedite project development funds. The program would set aside \$50,000 for project development funding, which prequalified partners could access by requesting an annual grant of \$5,000 to use for project development purposes. At the time the policy was adopted, the CWSP had proposed that up to \$50,000 in project development funding be available annually. This amount was calculated based on a theoretical maximum number of 10 recipients (9 partners plus CWSP) multiplied by a maximum award of \$5,000.

Although the total amount of funding requests received in the first year or more was well below the maximum—and thus there is no immediate need to consider modifying the cap—staff do want to clarify that the number pre-qualified partners is growing. Because some of the most recent requests are coming from newly prequalified partner organization (i.e., not in the original 10), we wanted to 'check in' regarding the subject of eligibility.

Legal Review associated with projects

CWSPs, in coordination with Basin Water Quality Councils, are charged with identifying, prioritizing, developing, and implementing projects to meet phosphorus reduction targets. Long-term project success depends on site control and access for implementation, operation and maintenance (O&M), and verification.

To secure access, Vermont DEC requires Site Access Agreements, either a License or an Easement. For projects with \$200,000 or more in state investment, an Easement is mandatory. These are recorded in municipal land records, run with the land, and extend for at least the project's design life, with automatic renewal. Site control ensures the project continues generating phosphorus reduction credits toward the CWSP's totals.

Because easements must follow a standard form but require detailed exhibits and deed research, legal review is essential and can be costly. Going forward, project applications and budgets that require an Easement will include requests for BWQC approval of added funds to cover these legal expenses, helping protect both CWSP investments and long-term water quality outcomes. Time will be reserved for discussion and questions.

Updates

- **Next funding round**

The next funding round opens in three weeks, with a deadline of November 13. As time allows, we will update you on where the CWSP stands in terms of allocating funding for the year and meeting P reduction targets.

- **Effort to fill Watershed seat**

Efforts continue to fill the currently-vacant second available watershed organization seat (previously occupied by Friends of Northern Lake Champlain).

- **Project cancellation**

Projects funded through the "Formula Grant" Program may, for various reasons, be unable to move forward as planned. What happens then? This is a question that is likely to come up in the not too distant future. According to DEC Guidance, a project's status in the Watershed Projects Database (WPD) may be updated to "terminated" if it encounters insurmountable barriers or "fatal flaws" that prevent its completion. These could include an inability to secure necessary permits, unavoidable natural resource conflicts, or conflicts with state or federal law or guidance. When a project is terminated or deemed infeasible, the Clean Water Service Provider (CWSP) informs the Department of Environmental Conservation (DEC) to update the WPD. If an implemented (i.e., installed) project ceases to function as intended, resulting in a "failed" verification score, its operating period is paused, and it no longer contributes phosphorus credits. In some cases, the project may be considered a total loss. (see below)

- **Project Loss**

The upcoming BWQC meeting will include an update on a Project Loss Request concerning the 10 Bends Project. CWSPs are required to account for and report when a funded clean water project experiences a catastrophic loss, whether during installation or after completion. As many of you know, the 10 Bends riparian planting project has experienced a loss that affects its ability to deliver expected water quality outcomes. Under the CWSP Rule (§ 39-404), the CWSP must cease counting the project's performance towards pollution reduction goals until it is rehabilitated, replaced, or decommissioned. The purpose of this update is to ensure BWQC members are informed about the request currently working its way toward the Clean Water Board.

- **DEC policy proposals**

DEC recently sought comments on several policy documents. Though the deadline has passed, it is worth noting their focus:

Forestry Project Type definitions – These clarify funding criteria for projects addressing legacy erosion on forest truck roads and skid trails. Legacy erosion is erosion persisting more than three years after logging, beyond the period covered by Acceptable Management Practices (AMPs). Hydrologically connected segments are those within 100 feet of waters or wetlands, bisecting one, or draining to one. Eligible projects must be on private or municipal forest lands and involve decommissioning temporary roads or upgrading permanent roads to AMP standards.

Outlet and Gully Stabilization in Developed Lands – This new practice type targets actively eroding stormwater gullies caused or worsened by human activity on developed lands. Gullies must not be intermittent or perennial streams.

Decision Trees – The Gully Culvert and Stream Type/Flow Frequency decision trees help implementers determine project eligibility for gully stabilization and culvert upsizing, clarifying whether flow paths are perennial, intermittent, or ephemeral, a key factor for CWIP funding.

Staff will report on some of the written comments filed by Clean Water Service Providers regarding the documents.

Conclusion

Please let us know if you have suggestions for future meeting topics. Sincere thanks to all who participate.

AGENDA

Lamoille Basin Water Quality Council (BWQC) regular meeting
Thursday, September 25, 2025
9:00-11:00 AM

Zoom meeting
(Zoom details below)

1. Welcome and introductions
2. Meeting protocols
3. Conflict of interest declarations, if any
4. Review/adjust and approve agenda
5. Approval of minutes
6. Public comment not related to items on agenda
7. Seating of members (Chris Steele is replacing Christine Armstrong as rep)
8. Budget Adjustment requests (if any)
9. Bonding for construction projects
10. Updating of policy relating to expedited project development funds
11. Legal Review associated with projects
12. Updates/in brief
13. Conclusion

Round #	Open	Deadline
9	October 9, 2025	November 13, 2025
10	February 5, 2026	March 12, 2026

Join Zoom Meeting

<https://us02web.zoom.us/j/86562460349?pwd=dCtISjdHSGI1OFZ6Z2ZndTRPQ1pRQT09>

Meeting ID: 865 6246 0349

Passcode: 031502

Dial by your location

+1 312 626 6799 US (Chicago)

+1 646 558 8656 US (New York)

+1 646 931 3860 US

Staffing provided by Northwest Regional Planning Commission (NRPC), the Basin 6 Clean Water Service Provider. NRPC's physical / mailing address is 75 Fairfield Street, St. Albans, Vermont 05482.

In accordance with provisions of the Americans with Disabilities Act (ADA) of 1990, and Vermont's Open Meeting Law, the NRPC will ensure public meeting sites are accessible to all people or provide an opportunity to request accommodations. Requests for free interpretive or translation services, assistive devices, designation of a physical meeting location, electronic access to a meeting, or other requested accommodations, should be made to Amy Adams, NRPC Title VI Coordinator, at 802- 524-5958 or aadams@nrpcvt.com, no later than 2 business days prior to the meeting for which services are requested.

- **Welcome and introductions**
- **Meeting protocols**

Zoom Norms and Inclusive Language

- Introductions of all participants at each meeting
- As possible, BWQC members should have in their Zoom Name/Title the following: Name, Organization, “Voting” or “Alternate”, and pronouns (if desired)
- BWQC members are expected to have cameras turned on during entirety of meeting, as technically possible.
- BWQC members are expected to stay focused / avoid multi-tasking and follow the guidance of: “if you wouldn’t do something in an in-person meeting don’t do it in a virtual meeting”
- BWQC members will use the “raise hand” function on Zoom to indicate a request to speak / come off mute – this is in an effort to make sure all are heard in turn.
- All members will stay muted until called upon; if needed, CWSP staff may mute participants to avoid background noise
- Any comments made in the chat will be read aloud at the appropriate time by the CWSP staff in full for the public record / record.

Inclusive Language

<https://pronouns.org/what-and-why>

- **Conflict of interest declarations, if any**
- **Review/adjust and approve agenda**

AGENDA

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- **Approval of minutes**

Lamoille Basin Water Quality Council (BWQC)

Thursday, July 24, 2025

9:00 to 11:00 AM

Hybrid meeting

In-Person at Hyde Park Town Clerk's Office

344 VT-15

Hyde Park, VT 05655

Meeting video posted at <https://youtu.be/7cc852FCpFY>

**A VIDEO RECORDING OF THE MEETING IS AVAILABLE THROUGH THE
NRPC YOUTUBE CHANNEL (Link above).**

**THE WRITTEN MINUTES ARE A SYNOPSIS OF THE DISCUSSION AT THE MEETING.
MOTIONS ARE AS STATED. MINUTES WILL BE SUBJECT TO CORRECTION BY THE
COUNCIL. CHANGES, IF ANY, WILL BE RECORDED IN THE MINUTES OF THE NEXT
MEETING OF THE COUNCIL**

Council Members: Meghan Rodier (Q), Peter Danforth (Q), Christine Armstrong (Q), Ken Minck(Q), Richard Goff (Q), Brent Sheets (Q), Mel Auffredou (Q), Lucas Goldfluss (Q)

Q= towards quorum q= towards quorum when representative has recused

Staff: Dean Pierce, Cliff Jenkins, Nora Brown

Others present: David Upson (Hardwick Town Manager), Kristen Leahy (Town of Hardwick), Sarah Skelding (LCCD), Emily Lugthart (LCCD), Peter Danforth's AI Notetaker, JoAnn Hanowski's AI Notetaker

1. Welcome and introductions

Peter Danforth opened the meeting at 9:03am as Chair.

A round of introductions was made.

2. Meeting protocols

Peter Danforth reviewed norms for meeting on Zoom.

3. Conflict of interest declarations, if any

No conflict-of-interest declarations were made.

4. Review/adjust and approve agenda

No changes to the agenda were made.

Meghan Rodier motioned to approve the agenda. Mel Auffredou seconded. Motion carried.

5. Approval of minutes

Brent Sheets motioned to approve the minutes. Christine Armstrong seconded. Mel Auffredou abstained. Motion carried.

6. Public comment not related to items on agenda

David Upson shared that this is his first BWQC meeting, and he is excited to learn about the council's work.

Dean Pierce shared an overview of the council's structure, including how its members are chosen as representatives of certain organizations (RPCs, municipalities, land conservation organizations, and watershed organizations). He added that if David is interested in joining the council as a municipal alternate, that could happen at a later meeting.

7. Seating of members (if any)

Lucas Goldfluss was seated as a second alternate for Dan Koenemann.

8. Budget adjustment requests (if any)

Dean Pierce updated council members on a budget adjustment recently approved by the CWSP for Orleans County NRCD's Cemetery Brook project. The increase was improved administratively by CWSP staff, since it totaled less than 10% of the original award. He reminded members of the procedures for budget increases: under 10% increases can be approved by CWSP staff, between 10 and 20% can be approved by the chair and vice chair of the council, and anything above 20% must be voted on by the council.

Peter Danforth asked about the process for projects funded by the CWSP at the development/design phase that ultimately do not move forward. Dean answered that terminating the project in the WPD and the CWSP's lists is performed in coordination with DEC and included in annual reporting.

9. Election of Officers

With the group's permission Dean Pierce presided over the election of chair. He solicited nominations from the floor.

Meghan Rodier nominated Peter Danforth to be chair. Christine Armstrong seconded. Peter Danforth accepted the nomination. Mel Auffredou, Meghan Rodier, Ken Minck, Christine Armstrong, and Brent Sheets voted in favor. Peter Danforth was re-elected council chair.

Nominations for vice-chair were solicited from the floor.

Ken Minck nominated Meghan Rodier to be vice-chair. Brent Sheets seconded. Meghan Rodier accepted the nomination. Mel Auffredou, Peter Danforth, Ken Minck, Christine Armstrong, and Brent Sheets voted in favor. Meghan Rodier was elected vice-chair of the council.

10. Updates

a. Expedited project development program

Dean reviewed the expedited project development program, which was initially approved by the BWQC in July 2024. The program streamlines the funding process by simplifying the applications and pre-approving partners, allowing for rolling awards to expedite project development. So far, two organizations have used this process with specific WPD IDs.

When the program was initially approved, council members requested CWSP staff pursue the creation of a general WPD ID number to further streamline the process. This ID has now been received for the Lamoille Basin (12908) This functions similarly to a block grant, where individual PD sheets will be submitted by recipients and later aggregated by the CWSP for reporting to DEC.

In the Lamoille Basin, simplified PD funding is available for requests up to \$5,000, once per calendar year.

Richard Goff asked about who the prequalified partners are.

Dean responded that prequalified partners include those who went through the initial approval that took place as part of the CWSP creation process, including RPCs, NRCDs, some towns, and others. He will circulate the current list, noting that Vermont River Conservancy will be added soon. He added that CWSP bylaws require at least one prequalification round annually for both partners and contractors. For partners, applications are now accepted on a rolling basis.

Ken Minck requested a progress update from Cliff Jenkins, project manager for the Silver Lake Road project development in Georgia that was approved at the BWQC's last meeting. Cliff stated that he did not seek expedited PD funding because the budget exceeded \$5,000. He has instead solicited bids and expects to select a contractor next week.

Mel Auffredou asked about the deliverables for expedited PD projects. Dean clarified that the deliverables remain the same as in the standard PD process—the only change is the funding pathway.

Dean noted that the current deadline for all deliverables under this generic WPD ID is July 1, 2027.

b. O&M program

Dean Pierce provided an update on Operations & Maintenance (O&M) work under the CWSP funding program. He reviewed the purpose of O&M, including verification requirements, and explained that NRPC had recently surveyed partners and contractors to assess interest in performing O&M tasks. Going forward, the CWSP application will include a question asking whether applicants are interested in performing O&M on their own projects. This would allow CWSP to award O&M work directly to the applicant without soliciting multiple bids. However, for projects that have already received funding, a competitive procurement process will still be required. Dean noted that many partners are eager to take on O&M for their own projects.

Dean also emphasized that DEC is trying to better understand O&M costs, which are proving to be relatively high and may become a substantial portion of CWSP funding. He clarified that applicants do not need to return to the council to request O&M funding for projects funded through CWSP—approval of the project is considered to include approval for future O&M funding as well. Because of the potential high costs, Dean shared that the CWSP does not wish to enter into long-term O&M agreements at this time.

Dean also clarified the difference between partners and contractors. Partners are typically municipalities or mission-driven organizations such as RPCs, conservation organizations, and NRCDs. These groups perform public benefit work with a degree of independence and are funded through sub-grants, which offer greater flexibility than contracts, as long as there is a master agreement in place. Contractors, on the other hand, are usually private, for-profit entities that are issued formal contracts. While there is a preference for funding to flow through partner organizations, it is not a strict requirement of the program.

Meghan expressed appreciation that O&M funding is being considered, but noted that it would reduce the amount of funding available for other project phases. She asked what timeframe was being considered when Dean said the CWSP was not willing to enter into long-term O&M agreements at this time but agreed that the first few years of maintenance are critical.

Dean continued that for a few projects in Basin 6, they had initially discussed 1- to 3-year agreements, but given the high cost estimates that were returned, it now seems unlikely that a 3-year contract will be pursued. While nothing is finalized, CWSP is currently leaning toward a 1-year agreement, or possibly a 3-year agreement with an exit clause. He acknowledged the importance of long-term maintenance, which is why partners have been given the opportunity to take on the work.

Peter asked if O&M agreements are still being developed. Dean responded that two agreements are in progress in Basin 6. He clarified that some projects, such as the Ten Bends riparian buffer planting, were not originally subject to maintenance agreements. One possible approach being considered is to solicit quotes for hypothetical projects and keep selected contractors on retainer.

Ken asked if this would be a two-part process, in which inspections are performed first and maintenance only follows if an issue is found. Dean confirmed that verification and inspection are not costly; the primary expenses come from the maintenance work itself.

Dean added that part of the delay in advancing O&M agreements stemmed from a DEC rule prohibiting herbicide use, even though contractors recommended herbicides to improve plant survival rates. That policy is expected to change. In the meantime, DEC is tolerating mentions of herbicides in O&M agreements, as long as they are contingent on this change in DEC policy being formalized. To manage uncertainty, the agreements will include contingency language so that future policy changes won't require amending the agreements. Dean noted that using herbicides can reduce O&M costs by about half.

c. Announcements

Dean Pierce updated council members on an application by the Vermont Fish & Wildlife service that was previously submitted and then tabled. The project was a small component of a larger series of FEMA-funded buyouts in Wolcott, Morrisville, and Hardwick. FEMA timelines remain uncertain, but VFWS still intends to submit the project for CWSP funding in the future. It would offer 4.4kg of phosphorus reduction for roughly \$20,000, representing good cost effectiveness.

Dean also noted that the council still needs another representative of a watershed organization.

Peter Danforth suggested Pollinator Pathways or the Lake Elmore Association. Dean expressed support for the idea, but recommended Peter reach out to Watersheds United Vermont for ultimately approval as a watershed organization.

Ken Minck asked for an update on the financial status of the CWSP. Dean noted that an update was provided during the last meeting, but provided a brief refresher. He noted that the CWSP has spent roughly \$137,000 of the \$380,000 in year-one funds it was awarded, and has achieved 141.25kg in P reduction, leaving the CWSP in good standing. But he also noted that only 1 project has been fully implemented, so much of these P credits cannot be fully counted on, and O&M costs must also be taken into account.

The next meeting of the Lamoille BWQC will take place on September 26. Funding round 9 will open on October 9 and close on November 13, 2025. Funding round 10 will open on February 5 and close on March 12, 2026.

11. Recess (if quorum maintained) or Adjourn (if quorum lost) to visit project sites in Elmore

Brent Sheets motioned to adjourn the meeting. Mel Auffredou seconded. Meeting adjourned at 10:06am.

- **Public comment not related to items on agenda**
- **Seating of members (Chris Steele is replacing Christine Armstrong as rep)**

MEETING MEMO

TO: LAMOILLE BASIN WATER QUALITY COUNCIL (BWQC)
FR: LAMOILLE BASIN CLEAN WATER SERVICE PROVIDER (CWSP) STAFF
RE: NEW MEMBERS AGENDA ITEM
DA: SEPTEMBER 18, 2025

=====

Christine Armstrong, who has been serving as a representative of the watershed organization sector since July of 2024, is stepping down. Christine is a member of the Greensboro Planning Commission (who serves as Clerk) as well as Deputy Health officer.

Chris Steel is proposed to be seated as Christine’s replacement. Chris serves as the Chair of Greensboro’s Conservation Commission and as Vice Chair of the Orleans NRCD. He is also on the board of the Greensboro Land Trust

Both Christine and Chris are affiliated with the Stewards of Greensboro Watersheds.

Chris has the endorsement of Watersheds United Vermont (WUV). DEC guidance indicates WUV plays an important role in the designation of those who will represent the watershed organization sector.

- **Budget Adjustment requests (if any)**
- **Bonding for construction projects - Ins and Outs, forms and process**

MEMO

TO: LAMOILLE BASIN WATER QUALITY COUNCIL (BWQC)
FR: LAMOILLE BASIN CLEAN WATER SERVICE PROVIDER (CWSP) STAFF
RE: BONDING AGENDA ITEM
DA: September 18, 2025

=====

The upcoming BWQC meeting will feature a presentation on bonding. (Working title: Bonding: Ins and Outs, Forms, and Process”) The aim of the presentation is to a comprehensive overview of the performance and payment bond requirements for CWSP projects.

The presentation will cover the fundamental purpose of performance and payment bonds, which are designed to protect project owners (i.e., the CWSP) and ensure that contractors complete their work and pay their subcontractors and suppliers. The presentation will include information on the specific financial thresholds, including the requirement for both bonds on projects over \$500,000 and the recommendation for a performance bond on projects over \$250,000.

We will also clarify the distinct roles of the Principal (the contractor), the Surety (the bonding company), and the Owner, and examine the obligations of each party as outlined in the bond forms. We will also address common questions that an inexperienced contractor might have, such as how and where to obtain a bond, the associated costs (which can be included in the project fee and paid by the CWSP), and the legal framework, noting that the bonds are governed by Vermont law.

Section 1. Obligation of Contractor and Surety

Contractor and Surety, jointly and severally, guarantee and bind themselves to Owner to pay all persons or entities having a direct relationship with Contractor or a subcontractor of Contractor to furnish materials, equipment, labor, utilities, or other services in furtherance of Contractor’s performance of the Contract (a “Potential Claimant”).

Section 2. Notice

Owner shall provide written notice to Surety and Contractor promptly after receiving a demand, lien, claim, or lawsuit against Owner’s property (a “Claim”) by a Potential Claimant. Surety must then promptly defend, indemnify, and hold harmless Owner, at its own expense, against such Claim(s).

Section 3. No Obligation if Contractor Makes Payments

Surety shall have no obligations under this Bond if Contractor properly pays all sums due to Potential Claimants and indemnifies, defends, and holds harmless Owner against all Claims made by Potential Claimants.

Section 4. Miscellaneous

The “Contract” refers to the Construction Contract set forth on the cover page of this Bond and shall be interpreted as inclusive of all associated exhibits, schedules, amendments, change orders, and other

documents forming the agreement between the Owner and Contractor.

Surety waives any right to be notified of changes to the Contract.

Surety’s total payment obligation hereunder is limited to the Bond Amount set forth on the cover page of this Bond.

Notices to Surety, Owner, or Contractor must be mailed or delivered to the addresses listed on the cover page of this Bond.

This Bond shall be binding upon and inure to the benefit of the parties hereto and, subject to the other provisions of this Bond, on their respective heirs, executors, personal representative, beneficiaries, successors and assigns. If any provision or any portion of any provision of this Bond shall be held to be void or unenforceable, then the remaining provisions of this Bond (and the remaining portion of any provision held to be void or unenforceable in part only) shall continue in full force and effect.

This Bond and the transactions contemplated hereby shall be governed and construed by and enforced in accordance with the laws of the State of Vermont, without regard to conflict of laws principles. Surety agrees that any action or claim arising under this Bond may be brought in the courts of the State of Vermont, and consents to the non-exclusive jurisdiction of such court and waives any objection that it may now or hereafter have to the venue of any such suit or any such court.

IN WITNESS WHEREOF, Contractor and Surety, as evidenced by the signatures of their Duly Authorized Agents, do hereby execute this Payment Bond as of the date first written above.

CONTRACTOR:

SURETY:

Company Name

Company Name

By: _____
Duly Authorized Representative

By: _____
Duly Authorized Representative

Corporate Seal:

Corporate Seal

Section 1. Obligation of Contractor and Surety

Contractor and Surety, jointly and severally, guarantee and bind themselves to Owner for the faithful performance of the Contract, which is hereby incorporated by reference into this Bond.

Section 2. Notice and Conference

If Contractor has failed to perform or otherwise comply with a material term of the Contract (a “Default”), Owner must notify Contractor and Surety of such Default (the “Initial Notice”). In the Initial Notice, Owner may request a meeting with Contractor and Surety to discuss the Default (a “Default Conference”). The parties hereto shall promptly hold a Default Conference requested under this Section 2. Owner, Surety, and Contractor may agree to allow Contractor additional time to cure the Default. Any such allowance under this Section 2 shall not waive Owner’s right to declare a Default. Owner’s failure to comply with Section 3 shall not release Surety from its obligations under this Bond unless Surety demonstrates actual prejudice.

Section 3. Formal Default and Termination

Owner may deliver to Contractor and Surety notice declaring a Default and termination of the Contract (the “Default Notice”). Owner shall agree to pay Surety — or a replacement contractor selected to finish the work — any remaining amount owed under the Contract, inclusive of all proper adjustments (the “Contract Balance”).

Section 4. Surety’s Guarantee and Performance

Upon receipt of the Default Notice, Surety shall, promptly and at its own cost, arrange for the performance of Contractor’s remaining obligations under the Contract. Surety may do as set forth below:

- a. Direct Performance. Surety may complete the work itself or through independent contractors or agents.

- b. Contractor Performance. With Owner’s approval, Surety may work with Contractor to complete the work.

- c. New Contractor. Surety may solicit bids and arrange for a new contract between another Contractor and Owner. Owner shall maintain the right to approve the new contract and contractor. Surety shall provide performance and payment bonds for the new contract and shall pay Owner any additional damages beyond the remaining Contract Balance, subject to Section 6.

Section 5. Surety Default

If Surety does not act under Section 4 with reasonable promptness, Owner may send written notice demanding performance. Surety shall be in default of this Bond seven (7) days after receiving such notice.

Section 6. Surety’s Responsibilities and Limitations

Surety’s responsibilities to Owner will not exceed those of Contractor under the original Contract. Likewise, Owner’s obligations to Surety are no greater than they were to Contractor. Surety must — without duplicating costs — cover (a) Contractor’s responsibilities for correcting defective work and completing the Contract; (b) additional legal, design, professional, and delay costs caused by the Default or by Surety’s actions or inaction; and (c) any liquidated (if specified in the Contract) or actual damages caused by Contractor delays or non-performance.

Section 7. No Obligation if Contract is Performed

Surety shall have no obligations under this Bond if Contractor properly performs the Contract.

Section 8. Miscellaneous

The “Contract” refers to the Construction Contract set forth on the cover page of this Bond and shall be interpreted as inclusive of all associated exhibits, schedules, amendments, change orders, and other documents forming the agreement between the Owner and Contractor.

Surety waives any right to be notified of changes to the Contract.

Surety's total payment obligation hereunder is limited to the Bond Amount set forth on the cover page of this Bond.

Notices to Surety, Owner, or Contractor must be mailed or delivered to the addresses listed on the cover page of this Bond.

This Bond shall be binding upon and inure to the benefit of the parties hereto and, subject to the other provisions of this Bond, on their respective heirs, executors, personal representative, beneficiaries, successors and assigns. If any provision or any portion

of any provision of this Bond shall be held to be void or unenforceable, then the remaining provisions of this Bond (and the remaining portion of any provision held to be void or unenforceable in part only) shall continue in full force and effect.

This Bond and the transactions contemplated hereby shall be governed and construed by and enforced in accordance with the laws of the State of Vermont, without regard to conflict of laws principles. Surety agrees that any action or claim arising under this Bond may be brought in the courts of the State of Vermont, and consents to the non-exclusive jurisdiction of such court and waives any objection that it may now or hereafter have to the venue of any such suit or any such court.

IN WITNESS WHEREOF, Contractor and Surety, as evidenced by the signatures of their Duly Authorized Agents, do hereby execute this Performance Bond as of the date first written above.

CONTRACTOR:

SURETY:

Company Name

Company Name

By: _____
Duly Authorized Representative

By: _____
Duly Authorized Representative

Corporate Seal:

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- **Updating of policy relating to expedited project development funds**

MEMO

TO: LAMOILLE BASIN WATER QUALITY COUNCIL (BWQC)
FR: LAMOILLE BASIN CLEAN WATER SERVICE PROVIDER (CWSP) STAFF
RE: PROJECT DEVELOPMENT FUNDING POLICY AGENDA ITEM
DA: September 18, 2025

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In July of 2024, CWSP staff proposed that the BWQC adopt policy supporting a program to expedite project development funds. The program would set aside \$50,000 for project development funding, which prequalified partners could access by requesting an annual grant of \$5,000 to use for project development purposes. The BWQC voted to support the creation of the program.¹

At the time the policy was adopted, the CWSP had proposed that up to \$50,000 in project development funding be available annually. This amount was calculated based on a theoretical maximum number of 10 recipients (9 partners plus CWSP) multiplied by a maximum award of \$5,000.

Although the total amount of funding requests received in the first year or more was well below the maximum—and thus there is no immediate need to consider modifying the cap—staff do want to clarify that the number pre-qualified partners is growing. Because some of the most recent requests are coming from newly prequalified partner organization (i.e., not in the original 10), we wanted to ‘check in.’ The CWSP considers these new partner organizations to be eligible even though they were not among the prequalified list when the program was established.

Should the BWQC wish to confirm this interpretation, we would encourage you to do so. If members feel it would be preferable to address the matter by voting on a motion clarifying that the program is available to the full list of prequalified partners (plus the CWSP), and that the list will likely grow over time, feel free to do so.

¹ BWQC members also asked that staff attempt to obtain one or more watershed project ID numbers that partner organizations could use as an alternative to obtaining their own WPDID numbers for projects. Availability of such an ID was recently announced.

- **Legal Review associated with projects - Addressing the costs**

MEMO

TO: LAMOILLE BASIN WATER QUALITY COUNCIL (BWQC)
FR: LAMOILLE BASIN CLEAN WATER SERVICE PROVIDER (CWSP) STAFF
RE: LEGAL REVIEW AGENDA ITEM
DA: September 18, 2025

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CWSPs—working with the Basin Water Quality Councils like this one—are responsible for identifying, prioritizing, developing, and implementing projects to meet phosphorus reduction targets. A key aspect of ensuring the long-term success of these clean water projects is maintaining site control and access for implementation, operation and maintenance (O&M), and verification.

To secure this access, CWSPs are required by Vermont DEC to use site access agreements, which can be either a Site Access License or a Site Access Easement. For projects with state investment of \$200,000 or more, a Site Access Easement is required. These easements are legally recorded in municipal land records and are designed to "run with the land," ensuring access even if property ownership changes. Easements are structured to run for at least the project's design life and contain language for automatic renewal. Maintaining site control is essential for the project to continue contributing phosphorus reduction credits to the CWSP's running total.

Experience shows that legal review is necessary to ensure the validity of these legal documents. Although the agreements must follow established templates, required Exhibits (i.e., attachments) often necessitate deed research and careful legal drafting, leading to substantial costs.

Consequently, budget materials for implementation projects requiring a Site Access Easement will now include a request for BWQC approval for additional funds to cover costs of legal review. This change will help the CWSP safeguard its investments and the long-term environmental benefits of these projects.

Time will be available for discussion and answering questions.

- **Updates/in brief**
 - **Next funding round**
 - **Effort to fill Watershed seat**
 - **Project cancellation**
 - **Project Loss**
 - **DEC policy proposals**

MEMO

TO: LAMOILLE BASIN WATER QUALITY COUNCIL (BWQC)
FR: LAMOILLE BASIN CLEAN WATER SERVICE PROVIDER (CWSP) STAFF
RE: UPDATE ITEMS
DA: September 18, 2025

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Staff would like to draw the attention of BWQC members to the following:

- **Next funding round**

The next funding round opens in three weeks, with a deadline of November 13. As time allows, we will update you on where the CWSP stands in terms of allocating funding for the year and meeting P reduction targets.

- **Effort to fill Watershed seat**

Efforts continue to fill the currently-vacant second available watershed organization seat (previously occupied by Friends of Northern Lake Champlain). If you are aware of new organizations that might be reasonable candidates, please let members of CWSP staff know.

- **Project cancellation**

Projects funded through the "Formula Grant" Program may, for various reasons, be unable to move forward as planned. What happens then? This is a question that is likely to come up in the not too distant future. According to DEC Guidance, a project's status in the Watershed Projects Database (WPD) may be updated to "terminated" if it encounters insurmountable barriers or "fatal flaws" that prevent its completion. These could include an inability to secure necessary permits, unavoidable natural resource conflicts, or conflicts with state or federal law or guidance. Projects may also be terminated if they become over-budget and additional funding is not available or feasible.

When a project is terminated or deemed infeasible, the Clean Water Service Provider (CWSP) informs the Department of Environmental Conservation (DEC) to update the WPD. If an implemented (i.e., installed) project ceases to function as intended, resulting in a "failed" verification score, its operating period is paused, and it no longer contributes phosphorus credits. If repairs are not cost-effective or feasible, or if site access is lost, the project may be decommissioned. The BWQC may be involved in decisions regarding repairs for failed projects if costs exceed certain thresholds and the loss is short of total loss. (more below)

- **Project Loss**

The upcoming BWQC meeting will include an update on a Project Loss Request concerning the 10 Bends Project. CWSPs are required to account for and report when a funded clean water project experiences a catastrophic loss, whether during installation or after completion. As many of you know, the 10 Bends riparian planting project has experienced a loss that affects its ability to deliver expected water quality outcomes. Under the CWSP Rule (§ 39-404), the CWSP must cease counting the project's performance towards pollution reduction goals until it is rehabilitated, replaced, or decommissioned. When evaluating a CWSP's request for reimbursement, the Clean Water Board must consider the nature and extent of the project loss (nearly complete); the cause of the loss (pests and possibly species selection played a role); and estimated costs for repair or replacement in relation to the project's original implementation cost (estimated between \$15,000 and \$20,000). The purpose of this agenda item is to ensure BWQC members are informed about the request currently working its way toward the Clean Water Board.

- **DEC policy proposals**

DEC recently solicited comments on several policy documents. Although the deadline for commenting has passed, it is worth noting the subject of the documents, which included:

"Forestry Project Type" definitions, which clarify criteria for funding projects addressing legacy erosion from hydrologically connected forest truck roads and skid trails. Legacy erosion is defined as erosion that persists three or more years after active logging, as compliance with Acceptable Management Practices (AMPs) is a regulatory requirement for up to three years post-logging. Hydrologically connected segments are within 100 feet of a water of the state or wetland, bisect one, or drain to a segment that bisects one. Eligible projects must be on private or municipal forest lands and focus on decommissioning temporary roads or bringing permanent roads up to AMP standards.

The "Outlet and Gully Stabilization in Developed Lands" practice type. This new definition focuses on stabilizing actively eroding stormwater gullies, emphasizing that erosion must be caused or exacerbated by human activity primarily from developed lands, and the gully must not be an intermittent or perennial stream.

The "Gully Culvert Decision Tree" and "Stream Type/Flow Frequency Decision Tree". These tools guide implementers in determining project eligibility for gully stabilization and culvert upsizing, clarifying whether a flow path is perennial, intermittent, or ephemeral, which is critical for accessing CWIP funds

Staff will report on some of the written comments filed by Clean Water Service Providers regarding the documents.

From: [Buchanan, Rachel](#)
To: [Dean Pierce \(NRPC\)](#)
Cc: chris.rottler@vermont.gov; [Petito, Gianna \(she/her\)](#)
Subject: Basin 7 project loss update
Date: Friday, September 12, 2025 10:44:47 AM

Hello Dean,

I'm reaching out about Basin 7's request to access project loss risk reserve funds. As mentioned in the August meeting, DEC is discussing the methodology to calculate the one-time fund amount for the request internally.

In order to continue the discussion and create space for clean water partners to provide feedback, we are opting to take an interim approach for this year's request to access risk reserve from Basin 7.

The amount that will be available for this year's request to access risk reserve is equal to the amount of formula grant funds invested at implementation for the lost project. For this project that will be \$9,268.

Prior to next year's reporting, we are looking to continue the conversation internally and with our partners to understand the full suite of impacts that this decision may have on funding program partners and the clean water budget line items.

I wanted to update you on this decision as this may impact whether the Basin 7 CWSP/BWQC decides to move forward with the request this year or hold off until next year. In the event the methodology is adjusted next year, and Basin 7 decided to continue with this year's request, DEC will work with Basin 7 on further options.

Thank you.

Best,
Rachel

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- **Conclusion**