



September 4, 2015

NOTICE OF PUBLIC HEARING

Reconsideration of Petition

In re: CLF Petition to Require Mandatory Pollution Control
Best Management Practices for Agricultural Non-Point Sources
Identified in the Missisquoi Basin Plan

AAFM Docket# 2014-06-04-ARM

Attention: Farmers and Affected Citizens in the Missisquoi Bay Basin:

The Secretary shall hold a public hearing to provide farmers and other affected citizens an opportunity to be heard and to give consideration to all interests expressed before determining whether to withdraw his November 17, 2014 *Secretary's Decision* and issue the *proposed Revised Secretary's Decision* as a new final order of the Secretary.

The hearing will be held:

Date: October 9, 2015
Place: American Legion
100 Parah Drives
St. Albans City, Vermont
Time: 1:00 PM – 3:00 PM

The *proposed Revised Secretary's Decision* can be viewed here:
<http://agriculture.vermont.gov/water-quality/news-events/clf-petition>

A copy of the proposal can also be obtained by contacting the Agency:
Jenn.LaValley@vermont.gov or (802)-828-2431

Persons interested in participating at the hearing may sign up to speak upon arrival. Written comments will also be accepted anytime but must be filed no later than 4:30 PM, October 20, 2015.

Questions about the public hearing process and any written comments may be directed to: James Leland, 116 State Street, Montpelier, VT 05620; (802)-828-3478 or e-mailed to:
AGR.MissisquoiBMP@vermont.gov .

BACKGROUND: In May of 2014, the Secretary was petitioned by the Conservation Law Foundation (CLF), under 6 V.S.A. §4813, to require that agricultural operations identified within critical source areas in the Missisquoi Bay Basin, as identified in a certain study, be subject to mandatory best management practices (BMPs), in addition to those required by the accepted agricultural practices (AAPs).

On July 18, 2014, the Secretary held a public hearing in St. Albans to provide farmers and affected citizens with an opportunity to be heard. Written comments were accepted until August 18, 2014. On November 17, 2014, the Secretary issued his *Secretary's Decision* denying the CLF request to impose mandatory BMPs on farms in the Missisquoi Bay Basin. The CLF appealed that decision to the Vermont Superior Court, Environmental Division, Docket #175-12-14 Vtec. The appeal is pending.

On June 16, 2015, Governor Shumlin signed Act 64 (H.35) into law. Act 64 is Vermont's new comprehensive water quality law. Act 64 significantly modifies state regulation of agricultural operations, including those within the Missisquoi Bay Basin. The new law changes a number of considerations relevant to the Secretary's review and consideration of the requests in CLF's petition.

REASON FOR HEARING: The Secretary and the CLF have reached a tentative framework to resolve the pending CLF appeal. It includes that the Secretary will consider withdrawing his November 17, 2014 *Decision*, apply the law including new provisions in Act 64, and granting CLF's petition as specifically outlined in the *proposed Revised Secretary's Decision*, but only if warranted after hearing from farmers and the public.

Because the *proposed Revised Secretary's Decision* is significant to agricultural operations in the Missisquoi Bay Basin, the CLF, and others, and in light of controlling Vermont statutes and the Agency's *BMP Rules* that apply to petitions filed under 6 V.S.A. § 4813, the Secretary believes it is important and necessary to conduct a public hearing and receive public comment on the *proposed Revised Secretary's Decision* before determining whether to issue it as a new final order of the Secretary.

NEXT STEPS AFTER HEARING: After hearing from the public and considering all interests, the Secretary will decide, in his sole discretion, whether or not to withdraw his *2014 Decision* and instead issue the *proposed Revised Secretary's Decision* as a final order of the Secretary to resolve the CLF Petition.

If the Secretary determines, after public input, that the *proposed Revised Secretary's Decision* should be entered as a final order, the Agency and the CLF will file an agreement to settle the pending appeal with the Court. The parties' settlement framework contains other negotiated terms that can be accessed via the Agency's website, link below. If the Secretary determines, for any reason, after the public input process not to enter the *proposed Revised Secretary's Decision*, the CLF's appeal of the November 17, 2014 *Secretary's Decision* will proceed in Court. Questions about the procedural framework to resolve the pending Court appeal may be directed to the Agency's legal counsel, Diane E. Zamos, Assistant Attorney General, 802-828-3193.

Please visit the Vermont Agency of Agriculture's website [http://agriculture.vermont.gov/clf_petition] for access to:

- proposed *Revised Secretary's Decision*
- draft *Stipulation of the Parties for Remand*
- original 2014 CLF petition, with attachments; and
- November 17, 2014 *Secretary's Decision*

END