

**Missisquoi Bay Basin
BMP Petition: Public Hearing on
*proposed Revised Secretary's
Decision***

November 12, 2015

Conducted by Secretary Ross, Vermont Agency of Agriculture Food & Markets (AAFM) In re: Conservation Law Foundation (CLF) Petition

Reason for Hearing

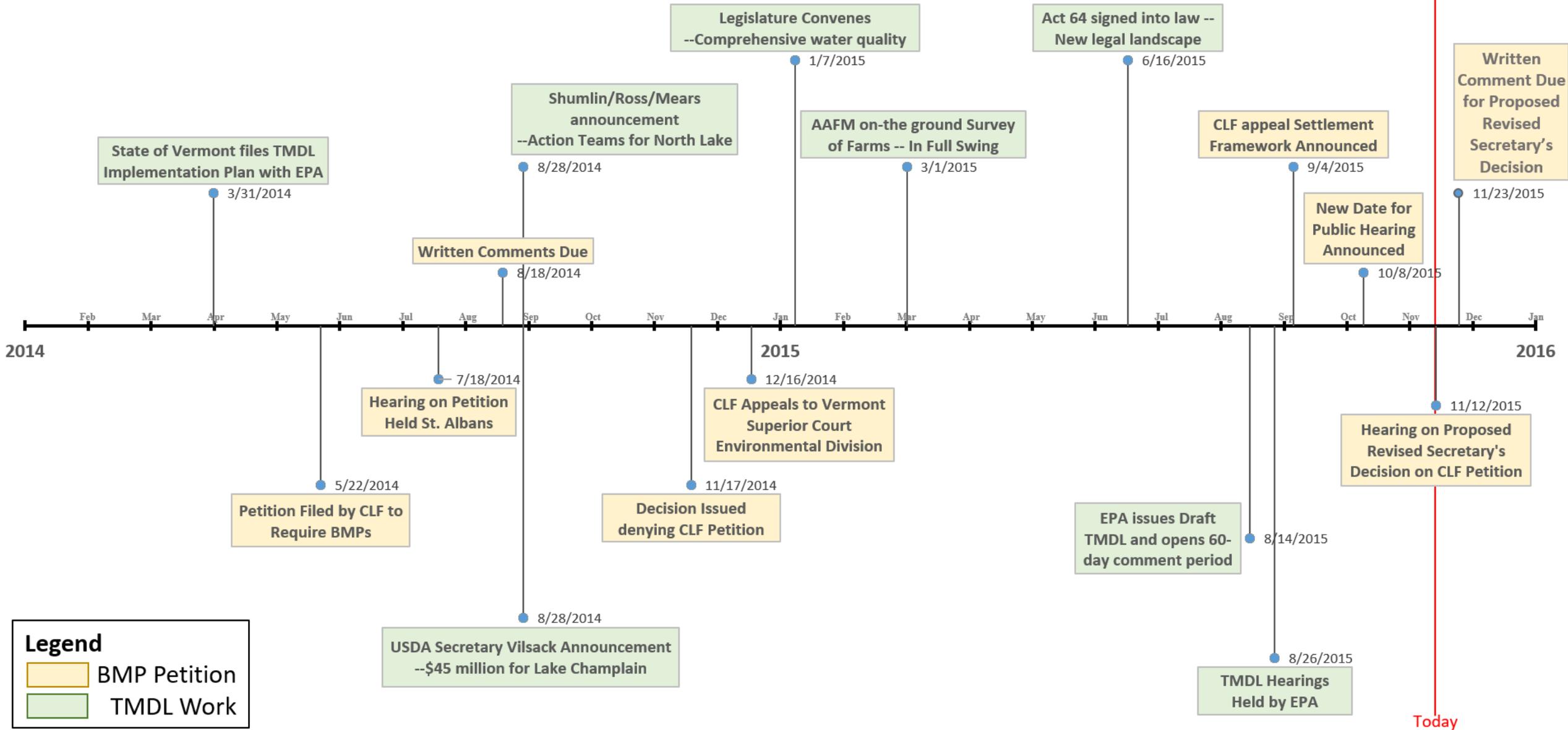
Secretary and CLF have reached a tentative framework for settlement of a pending Court case: Docket #175-12-14 Vtec. (CLF appealed the Secretary's 2014 Decision to deny its petition to impose mandatory BMPs on farms in the Basin).

Framework settlement contemplates, in part:

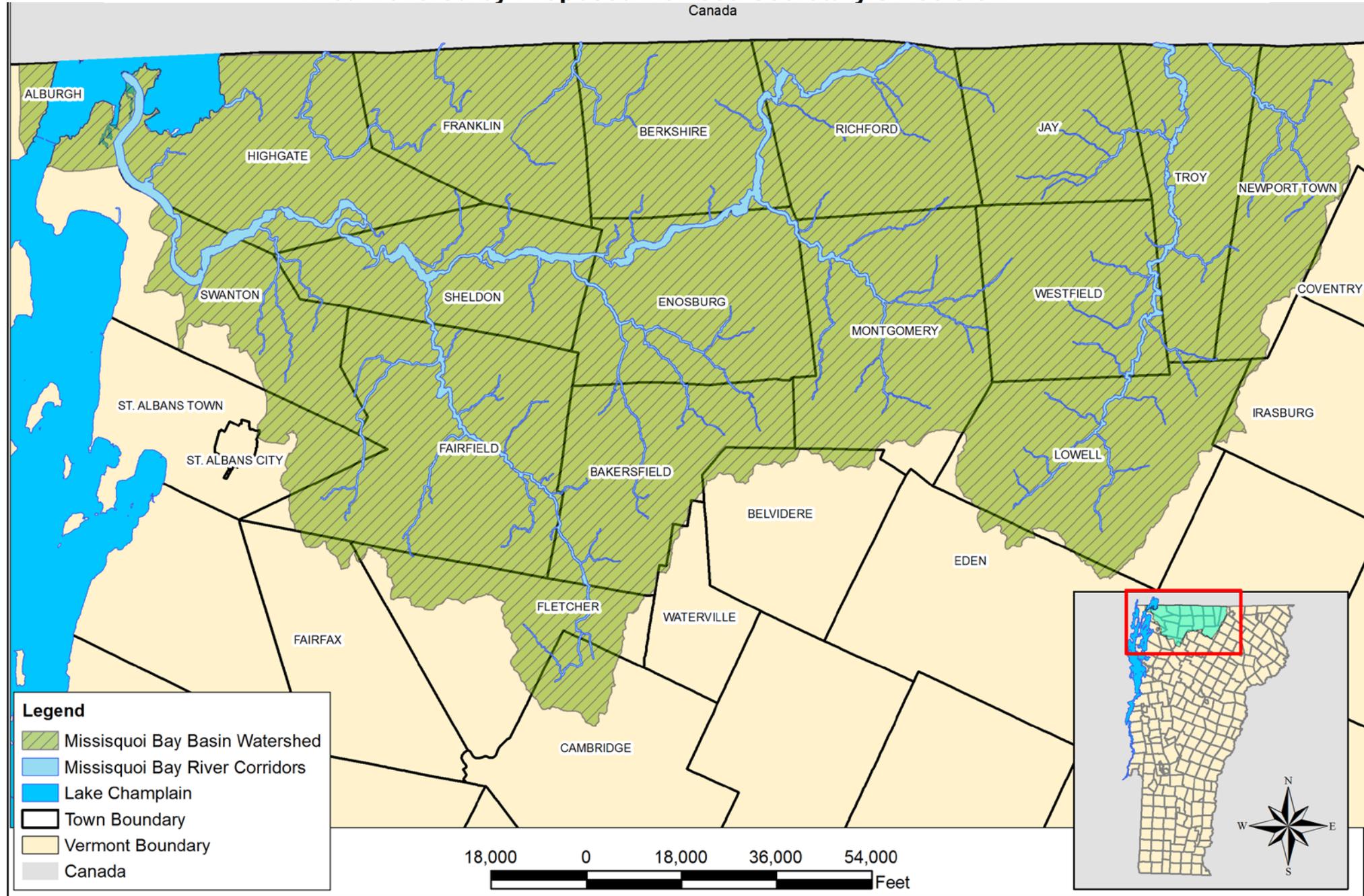
- The Secretary withdrawing his original *Decision, issued November 17, 2014*
- Apply the law, including new provisions in Act 64 (2015 Session), to the CLF request
- Granting CLF's petition to require BMPs on farms, as specifically outlined in:
the proposed Revised Secretary's Decision

But **only** if warranted after the Secretary hears from farmers and the public.

Missisquoi Bay Basin BMP Petition Timeline-- Includes Key Dates for Concurrent TMDL Work



Missisquoi Bay Basin BMP Petition: Area Covered by Proposed Revised Secretary's Decision



proposed Revised Secretary's Decision: Overview

Given current conditions... BMPs are generally necessary on farms in the watershed to achieve compliance with water quality goals

- BMPs are site specific conservation practices beyond those required by the *Required Agricultural Practices Regulations (RAPs)*

AAFM will conduct Assessments of all farms in the Watershed and will assure implementation of BMPs where necessary

- Assessment means: evaluation of farm for resource concerns
- When needed, farms must develop and implement a conservation plan and alternatives to address identified water quality resource concerns.

Farm Assessments may conclude that practices required by the *RAPs* are sufficient to protect water quality and that BMPs may not be required due to a farm's specific characteristics or management.

Farm Assessment Timelines in *proposed Revised Secretary's Decision*

AAFM Obligations:

- 1 year for AAFM to engage in education and outreach with farmers (E&O) in the watershed about what is required to protect water quality
- 1 year after E&O, AAFM will annually, for 3 years, notify all known farms of the required Farm Assessment and Plan process for farms to implement conservation practices in the Basin.
- Secretary may prioritize completion of farm Assessments to meet these timelines:
 - Within 6 years of starting E&O: All MFO, LFO and SFO operations which ship milk
 - Within 10 years (after 1 year of E&O): All livestock farms subject to the *RAPs*

BMP Plan Timeline

in proposed Revised Secretary's Decision

Farm's Obligation: Timeline for Plans and implementation

- A Farm's actual due date for its BMP plan is set case by case, but the Farm's Plan is required no later than 180 days from AAFM's Assessment.
 - AAFM must review the Farm's Plan within 90 days.
- 1 year, at most, for a Farm to start implementing its plan, after Assessment
- 10 years, at most, for a Farm to complete its plan, after Assessment
- 5 year extension to complete the Plan may be possible, but only if the Farm timely sought public financial assistance as part of its plan but funding is not reasonably available

Next Steps After Hearing

After considering public input, including written comment:

Secretary will decide whether or not to withdraw *2014 Decision* and issue the *proposed Revised Secretary's Decision* to resolve the CLF petition litigation.

If: YES

- AAFM & CLF will file an agreement to settle pending Court litigation.
- Trigger of timeframes for E&O and Farm Assessments in the Basin depends on Court accepting the settlement
- NOTE: Settlement framework has additional negotiated terms (accessible via AAFM website).

If: NO

- Litigation of CLF's appeal of the Secretary's *2014 Decision* will continue in Court, Docket #175-12-14 Vtec
- NOTE: Litigation does not impact Act 64 implementation

Farm Assessment and BMP Plan Area covered by proposed settlement framework

Proposed Revised Secretary's Decision
Assessment and Plan Area

Missisquoi Bay Basin
(CLF Petition)

WHY WE ARE HERE TODAY

Tentative Court Settlement Agreement
Assessment and Plan Area

Missisquoi Bay Basin (required)
St. Albans (optional for AAFM)
South Lake (optional for AAFM)
Otter Creek (optional for AAFM)

Purpose of Hearing Today

To provide farmers and other affected citizens an opportunity to be heard regarding the *proposed Revised Secretary's Decision* – Missisquoi Bay Basin

If the Secretary decides to enter it as a Final Order, BMP Plans will be required for Farms in the Basin where AAFM Farm Assessments conclude that additional conservation practices are needed.

Written comment period after this hearing: AGR.MissisquoiBMP@vermont.gov

- **Deadline: November 23, 2015**

Details for how to participate today - forthcoming