



# State of Vermont

## AGENCY OF NATURAL RESOURCES

Department of Fish and Wildlife  
Department of Forests, Parks and Recreation  
Department of Environmental Conservation

DEPARTMENT OF FISH AND WILDLIFE  
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December 12, 2005

Alan J. Shelvey, P.E., L.S., City Engineer  
City of Rutland  
P.O. Box 969  
Rutland, VT 05702



Dear Mr. Shelvey:

I was asked by Scot Kline, General Counsel for Vermont Agency of Natural Resources, to review and consider the City of Rutland's request for reconsideration of the decision made by the Water Quality Division of the Department of Environmental Conservation (DEC) to keep Moon Brook on the State 303(d) list of impaired waters.

I have reviewed the materials you submitted with your request and questioned Water Quality Division staff regarding their procedure for classifying and listing impaired waters. I also questioned staff concerning the specific conditions found in Moon Brook related to their determination of the water quality classification and listing. DEC staff provided water temperature data for my review. We further discussed possible actions that might be taken that might lead to improvement in water quality in Moon Brook to objectively justify a change in classification.

As a result of my review, I believe that the decision made by DEC staff to continue to list Moon Brook was objective and warranted based upon the appropriate measures needed to assess and classify the condition of the waterway.

Elevated summer water temperature downstream of Combination Pond is almost certainly the factor that causes impairment of Moon Brook resulting in the listing as an impaired water. Combination Pond is an on-stream pond that allows for solar heating of waters that discharge downstream. My understanding is that this pond is used to store water for fire protection. An obvious solution to this problem is to channel Moon Brook so that it does not pass through the pond.

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If stream temperatures were reduced to become comparable to those above Combination Pond, it is quite likely that biological conditions within Moon Brook would rapidly improve. It is quite possible that within several years conditions would improve enough to merit de-listing based upon the objective criteria used in the listing process.

In sum, I concur with DEC staff that the continued listing of Moon Brook as impaired is an objective and appropriate decision.

Sincerely,



Wayne A. Laroche  
Commissioner

cpm

cc: Scot Kline, ANR General Counsel  
Jeffrey Wennberg, Commissioner, Environmental Conservation

DEC 14 2005