



Press Release

FOR IMMEDIATE RELEASE

October 8, 2013

Rutland, VT – The City of Rutland has reached a settlement agreement with the Vermont Agency of Natural Resources concerning the designation of Moon Brook as 'stormwater impaired' and the resulting designation of the City as a "Municipal Separate Storm Sewer System" (MS4) under the Clean Water Act. The Board of Aldermen approved the agreement following an executive session Monday night.

Last December, ANR designated the City as an "MS4" based upon their 2004 determination that Moon Brook failed to meet water quality standards due to urban stormwater runoff from roads, parking lots and buildings. The City appealed the designation to the Vermont Environmental Court, arguing that the cause of the impairment was elevated stream temperature, not stormwater. The City has consistently opposed the stormwater designation, pointing to significantly increased summertime water temperatures just downstream of Combination Pond, the same point at which the water quality impairment begins.

Rutland Mayor Christopher Louras praised the agreement, expressing appreciation for the willingness of ANR to reconsider their designation. "This agreement establishes a process by which ANR and the City can present their evidence to an independent third party expert, who will review the facts and issue a report. While neither side will be bound by the conclusions of the independent expert, ANR's willingness to reconsider their 2004 determination represents significant progress from the City's perspective."

Under the agreement, which still must be approved by the Court, the City and ANR will jointly select and pay for an independent expert review of Moon Brook. During the review the City will not be required to comply with the MS4 requirements, but will begin implementation of a set of standard measures to protect water quality. The City will also suspend its legal challenge but reserves all rights to pursue legal remedies in the future, should the third party report fail to resolve the dispute.

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Jeff Wennberg, Rutland's Commissioner of Public Works and a former Commissioner of Environmental Conservation at ANR, said, "Both parties are seeking the same thing – the restoration of Moon Brook to full compliance with water quality standards. But until we agree on the cause of the problem we will never agree on the solution. After nearly 10 years of stalemate this settlement agreement puts us on a path that could answer that question once and for all."

At the ANR's request, the settlement agreement also calls for the removal of Combination Pond Dam and the potential removal of Piedmont Pond Dam, measures designed to restore the stream to health by reducing downstream water temperatures. Under the agreement ANR pledges to support the efforts toward dam removal and the restoration of the natural stream course within the next four years.

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