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Concentrated Animal Feeding Operations/Clean Water Act: U.S. Environmental Protection Agency Letter Response to Conservation Law Foundation

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The United States Environmental Protection Agency ("EPA") transmitted a September 9th letter to the Vermont Agency of Natural Resources ("Vermont") addressing a Joint Petition from:

- Conservation Law Foundation.
- Vermont Natural Resources Council.
- Lake Champlain Committee.

(Collectively, "CLF").

CLF addressed Vermont's administration of the state's National Pollutant Discharge Elimination System ("NPDES") program as it relates to the regulation of the State's Concentrated Animal Feeding Operations ("CAFOs").

CLF requested that EPA Region 1:

...take corrective action or withdraw its authorization of Vermont's NPDES program which is administered by the Vermont Agency of Natural Resources.

CLF alleged that Vermont had not adequately addressed what it alleges are deficiencies in its CAFO program. Further, it alleges that Vermont has not complied with requirements of a previously imposed 2013 Corrective Action Plan.

The focus of CLF's letter is an allegation that Vermont has not adequately controlled phosphorus discharges from CAFOs which are stated to contribute to severe water quality problems in Lake Champlain and other water bodies in the state. The organizations allege that significant changes to the state's implementation plan of the program are necessary to ensure Vermont meets the obligations associated with its NPDES authorization.

CLF states that the following actions are necessary:

- The Vermont agency with the authority to administer the Clean Water Act program must be responsible for CAFO permitting, monitoring, and enforcement relevant to implementing the Clean Water Act's NPDES program on Vermont's farms (including responsibility for conducting routine

inspections, enforcing nutrient management planning requirements, and administering discharge permits).

- Providing Vermont with sufficient resources to administer the NPDES program to meet Clean Water Act requirements.

The September 9th letter addresses:

- NPDES program approval withdrawal.
- CAFOs regulation in Vermont.
- 2008 Petition to Withdraw Vermont's authorized NPDES program.
- 2022 Petition to Withdraw Vermont's authorized NPDES program.

The September 9th letter concludes that there is a:

- Failure to conform states requirements to NPDES regulations.
- Failure to issue CAFO NPDES permits.
- Failure to require and properly oversee nutrient management plans for regulated CAFOs.
- Failure to enforce and monitor compliance from CAFOs.

A copy of the September 9th letter can be downloaded [here](#).