



April 9, 2021

Attn: Bethany Sargent
Program Manager
Watershed Management Division, Monitoring and Assessment Program
Vermont Department of Environmental Conservation
1 National Life Drive, Davis 3
Montpelier VT 05620-3522
bethany.sargent@vermont.gov

Re: Reclassification Petitions for Alder, Blue Bank, and Goshen Brooks by Ripton Conservation Commission

Dear Ms. Sargent:

Conservation Law Foundation and Vermont Natural Resources Council submit the following comments in support of the reclassification petitions by the Ripton Conservation Commission (RCC) for Alder, Blue Bank, and Goshen Brooks. Our organizations believe that these three streams are exceptional candidates for the A(1) classification in the Vermont Water Quality Standards, and that this rulemaking opportunity is a perfect trial run for Vermont's new reclassification process. We respectfully request that the Department of Environmental Conservation move this reclassification forward without delay.

Background Context

The 2016 Vermont Water Quality Standards (VWQS) established a new classification system for Vermont's streams and rivers, namely the B(2), B(1), A(2), and A(1) designations. A(1) is designed to recognize and protect exceptional waters in Vermont for values that cannot be easily restored or replicated elsewhere. To date, we understand that no reclassifications have taken place under the guidelines established in the 2016 VWQS.

In December 2016, the RCC was contacted by members of the Vermont Department of Environmental Conservation (VT DEC) and the Addison County River Watch Collaborative to review the water monitoring results and discuss opportunities to submit petitions to reclassify Alder Brook, Blue Bank Brook, and Goshen Brook from B(2) to A(1). In the ensuing three years, the RCC conducted necessary research, sought public input, and won the support of local community leaders and decisionmakers for the proposed

reclassification. The RCC submitted its petitions to DEC in December 2019, and DEC has since confirmed that the Commission's petitions were administratively complete.

The opportunity to reclassify these surface waters to A(1) has greater significance than protection of water quality in the immediate vicinity of these streams. Given the new classification system and reclassification process, all eyes are on Vermont DEC to see whether the agency stands by its commitment to support the VWQS and protect pristine headwater streams. RCC has followed the petition process and presented overwhelming evidence for the reclassification of the three streams in question from B(2) to A(1). It is imperative that DEC reclassify these streams to reflect their existing high level of water quality.

At the landscape level, this reclassification process also serves to meet the objectives of plans such as the Lake Champlain TMDL, the State Hazard Mitigation Plan, and Vermont Conservation Design. Protecting essential headwater streams like Alder, Blue Bank, and Goshen Brooks contributes to removing phosphorus from the Otter Creek river system and Lake Champlain; improves Vermont's climate resilience and preparedness by mitigating against the impacts of future flood events, protecting downstream landowners and communities; and safeguards critical habitat for Vermont's diversity of native species.

Support for Reclassification

An A(1) designation for Alder, Blue Bank, and Goshen Brooks would reflect the existing high-quality conditions of these waters and the fact that the waters meet the management objectives and criteria for water quality and uses for A(1). We will not repeat the statistics and qualifications already presented at length in the RCC petitions and their public presentation at the virtual public meeting held on March 30th, 2021. Suffice to say, the boxes have been checked and there should be no doubt as to whether all three streams qualify for A(1) classification based on the criteria in § 29A-306 of the Vermont Water Quality Standards.

Further, it is vital to recognize these high-quality waters and designate them as A(1) to ensure that these streams are managed to maintain their excellent quality under the Antidegradation Policy in the VWQS. The VWQS Antidegradation Policy (§ 29A-105) reads:

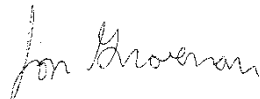
Waters the existing quality of which exceeds any applicable water quality criteria provide important environmental, economic, social, and other benefits to the people of the State. Except as provided in subdivision (2) of this subsection, such waters shall be managed to maintain and protect the higher water quality and minimize risk to existing and designated uses. In all cases, the level of water quality necessary to maintain and protect all existing uses as well as applicable water quality criteria shall be maintained.

Conclusion

The Vermont DEC is under the spotlight with the RCC proposed reclassifications. Our understanding is that to date, no streams have been reclassified according to the new criteria in the 2016 VWQS. More than a year elapsed between the date that DEC received the RCC's petition and when it acknowledged that the petition was administratively complete, launching the public comment process. It's time for DEC to bring this four year endeavor to a close by recognizing the exceptional, A1 waters of Alder, Blue Bank, and Goshen Brooks.

Thanks for your careful consideration of these comments. We invite you to get in touch directly to discuss these matters further.

Sincerely,



Jon Groveman
Policy and Water Program Director
Vermont Natural Resources Council



Zack Porter
Lake Champlain Lakekeeper
Conservation Law Foundation