

To: Environment Committee

From: John Elsesser, Town Manager, Town of Coventry

Date: February 27, 2015

Re: **HB-5709, AN ACT CONCERNING THE DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION'S AUTHORITY TO DESIGNATE ADDITIONAL STORMWATER SEWER SYSTEMS OUTSIDE OF URBAN AREAS**

The Town of Coventry *supports* **HB-5709** to ensure that the state Department of Energy & Environmental Protection (DEEP) does not expand the MS4 General Permit provisions to include 49 small towns throughout Connecticut.

DEEP's proposed MS4 General Permit will have a significant financial and managerial impact on smaller communities. DEEP should be required to undertake a cost-benefit analysis before proceeding with permit requirements that exceed the requirements of the federal law.

The Town of Coventry has aggressively addressed concerns regarding stormwater runoff to protect water resources in our community. In addition to adopting land use regulations that are aimed at protecting the environment and natural resources, we are utilizing sophisticated catch basin systems to prevent runoff from affecting the water quality in Coventry Lake.

Each catch basin cost \$35,000 but it was worth it because the catch basins were hugely successful in addressing the problem. Unfortunately, under the General Permit, the Town of Coventry will wind up spending so much money to fill out massive reports that DEEP admits it doesn't read, conducting public outreach about water fowl management and pet waste, and updating ordinances and regulations, that we will not have the resources to implement strategies to address stormwater issues in our community in ways that will actually address the problem.

DEEP's General Permit – even as revised – contains numerous prescriptive requirements that will siphon time and resources away from local efforts to address water quality issues. DEEP maintains that the revisions to the General Permit are needed to ensure that the state is in compliance with EPA's revised stormwater rules. However, EPA has pulled back on its efforts to adopt the revised rules in the wake of numerous legal challenges to the scope of the requirements and the burdens associated with compliance by municipalities and other regulated entities. Instead, EPA is pursuing a permit-by-permit approach that is also meeting with considerable opposition on the state level.

Although EPA authorizes the state to regulate municipalities that are not considered Urbanized Areas under the federal law, it is not required to do so. Why? Because stormwater issues are generally linked to population density. Recognizing the financial burden that these requirements place on smaller communities, other states have rejected efforts to cover towns that are not considered urbanized areas under the federal definition (an area having a population density of 1,000 or more people per square mile based on the 2010 U.S. Census Bureau data).

As proposed, the MS4 permit may produce some environmental benefits but at substantial cost to our towns and cities. Competing demands and limited municipal budgets will make it difficult or impossible for municipalities to comply with the permit, opening them up to potential enforcement action. Recognizing the considerable financial burden and potential liability that these requirements will place on small towns, we believe DEEP should refrain from covering them under the general permit and, instead, work with communities to encourage them to adopt meaningful stormwater programs.

For the 49 Tier 2 municipalities, the MS4 permit will require the following:

- New fees
- Develop an Illicit Discharge and Detection Elimination Program, including adoption of bylaw, ordinance or other legal authority
- Implement a leaf management program
- Complete massive reporting requirements
- Adopt new or updated local ordinances and land use regulations
- Develop a public education and outreach campaign
- Create of a formal employee training program
- Establish practices for the proper disposal of grass clippings and leaves Develop Pet waste and water fowl management plans
- Establish procedures for the storage of municipal vehicles
- Establish and implement procedures for sweeping and/or cleaning municipal parking lots and drainage systems
- Develop and implement standard operating practices for the use, handling, storage, application, and disposal of deicing products such as salt and sand to minimize exposure to rainfall and stormwater runoff;

In addition, because the towns will now be covered under the General Permit, they will face potential liability associated with enforcement actions.

Attached is a more comprehensive list of all of the mandates included in the MS4 General Permit for Tier 2 municipalities.

I therefore urge your support for HB-5709.

Unfunded Mandates for Tier 2 Municipalities

As revised, towns will be required to:

1. Define appropriate Best Management Practices (BMPs) and designate a person(s) and job title responsible for each BMP; define a time line for implementation of each BMP; where appropriate, identify the location, including the address and latitude and longitude, for each BMP; and define measurable goals for each BMP.
2. Develop a Public education and outreach Plan – Must include information on management of pet waste and yard waste, application of fertilizers, herbicides, and pesticides, and impacts of illicit discharges and improper disposal of waste into the MS4.
3. Enforce an Illicit Discharge Detection and Elimination program – Requires municipality to prohibit all illicit discharges from entering its MS4 and establish the necessary and enforceable legal authority by statute, ordinance, etc. to prohibit and eliminate illicit discharges.
4. Construction Site Stormwater Runoff Control – Adopt an ordinance, bylaw, etc. to implement and enforce a program to control stormwater discharge, including a plan for interdepartmental coordination, site review and inspection, public involvement, state permit notifications (to its MS4) associated with land disturbance or development (including re-development) activities from areas with one half acre or more of soil disturbance, whether considered individually or collectively as part of a larger common plan.
5. Adopt or Update Post –construction stormwater management land use regulations requiring the use of Runoff Reduction/ Low Impact Development (“LID”) Measures.
6. Create a formal employee training program to increase awareness of water quality related issues in management of its MS4.
7. Repair and rehabilitate MS4 Infrastructure in a timely manner.
8. Parks and open space – “Optimize” the application of fertilizers by municipal employees, or private contractors on lands and easements for which it is responsible for maintenance through soil testing and analysis.
9. Establish practices for the proper disposal of grass clippings and leaves at municipal owned lands.
10. Develop Pet waste and water fowl management plans
11. Establish procedures for the storage of municipal vehicles
12. Establish and implement procedures for sweeping and/or cleaning municipal parking lots and drainage systems
13. Develop and implement standard operating practices for the use, handling, storage, application, and disposal of deicing products such as salt and sand to minimize exposure to rainfall and stormwater runoff; for roadways and parking lots, explore means to minimize the use and optimize the application of chloride-based or other salts or deicing product (while maintaining public safety) and evaluate opportunities for use of alternative materials

14. Conduct a street sweeping program to remove sand, sediment and debris from municipal streets once per year and inspect all streets except uncurbed rural roads and determine a street sweeping schedule
15. Document results from street sweeping program including, at a minimum: a summary of inspection results, curb miles swept, dates of cleaning, cubic yards volume or mass of material collected, and method(s) of reuse or disposal.
16. Leaf Collection Management - Develop a town-wide leaf pickup management program annually on or before December 15 which will prohibit the leaves from being deposited on streets, parking lots, driveways, sidewalks or other paved surfaces.
17. Catch Basin Cleaning - Develop and implement a program for the routine cleaning of all catch basins and stormwater structures and document the number of inspections, number of structures cleaned, volume
18. For waters for which Nitrogen is a Stormwater Pollutant of Concern, implement turf management practices and procedures policy which includes, but is not limited to, procedures for proper fertilizer application on lands owned by the town and the planting of native plant materials to lessen the amount of turf area requiring mowing and the application of chemicals.
19. Develop, fund, implement, and prioritize a Retrofit a source management program for certain areas including dog parks, parks or areas with open water, sites with failing septic systems
20. Prohibit the feeding of geese or waterfowl and implement a program to manage goose populations, including posting notices