Testimony Submitted by Commissioner Katie S. Dykes

Senate Bill No. 1060 – An Act Concerning the Regulation of Stormwater

Thank you for the opportunity to present testimony regarding Senate Bill No. 1060 – An Act Concerning the Regulation of Stormwater. The purpose of this bill is to require the submission of recommendations concerning the requirements of stormwater regulation pursuant to the MS4 permit and the availability of funding sources for the implementation of best practices concerning the management of stormwater by municipalities.

While the Department of Energy and Environmental Protection (DEEP) appreciates and supports any effort to assist municipalities in complying with state and federal municipal stormwater permit (MS4) requirements and to improve the environmental health of our rivers, lakes and Long Island Sound, we feel the measures proposed in this bill are largely being met with the programs we have developed to assist municipalities.

In regard to item (1) in Section 1 of SB 1060, our federally mandated MS4 general permit was last revised as recently as July 1, 2017 with significant input from municipalities. In the process of developing this permit, DEEP staff conducted informational outreach meetings around the state and two public informational hearings at DEEP to collect municipal and public comments and suggestions. The revised permit that resulted from this process was then published for public notice and followed by a request for public hearing. The subsequent permit revision process involved over twenty permit development meetings conducted over the course of a year with representatives of individual towns as well as the Council of Small Towns (COST), CT Conference of Municipalities (CCM) and Connecticut Fund for the Environment (CFE). Many of the elements included in the final permit were the direct result of recommendations by CFE, municipalities and their representatives.

In response to concerns raised by the municipalities during permit development, DEEP has actively addressed the fiscal and best practices items identified in section (2) and (3) of the bill. The most significant means of addressing these issues has been through the MS4 support partnership developed between DEEP and the Non-point Education for Municipal Officials (NEMO) program at UConn’s Center for Land Use Education and Research (CLEAR). This five-year agreement allowed NEMO to hire a full-time Municipal Stormwater Educator, who is available to all municipalities to provide guidance and assistance in meeting the requirements of the MS4 permit. This agreement also allowed NEMO to develop the mapping required in the permit to be made available free to all municipalities which has saved the municipalities who have taken advantage of it significant expense.

NEMO has developed an MS4 website (https://nemo.uconn.edu/ms4/index.htm) that provides municipalities with guidance documents, model ordinances, software tools, outreach materials, forms, templates, and an library of stormwater best management practices (BMPs) the may be
directly linked or downloaded by municipalities for use in their MS4 program. NEMO also conducts numerous webinars, workshops and training events, videos of which are all maintained on the website. A statewide email listserv developed by NEMO is available to all MS4 communities and has become a valuable means of obtaining assistance and sharing information.

While the NEMO partnership has made significant progress in alleviating the fiscal elements of complying with the MS4 permit, there may still remain financial concerns for maintaining compliance as identified in item (4) of this bill. One means of accomplishing a steady funding stream to address MS4 and stormwater issues is the municipal development of a stormwater utility or authority. A stormwater utility operates similarly to a typical sewer authority in which utility fees support the maintenance and operation of the sewer system. The advantage of utility funding versus the use of general funds is that the utility funds are maintained solely for the needs of the utility and cannot be “raided” for other uses in the town. For more than thirty years, stormwater utilities have been used extensively across the country to meet these expenses. In 2007, the state legislature authorized a pilot study (PA 07-154) to investigate the feasibility and legal requirements for developing a stormwater utility in Connecticut. Starting last October, the City of New London, one of the original pilot study towns, began operation of the state’s first stormwater authority to help them develop the funds necessary to maintain MS4 permit compliance and address flooding and other stormwater issues in the city. We believe this will be a valuable model for other towns in the state to ensure an adequate revenue stream to support their stormwater programs.

Another means of leveraging stormwater dollars is the development of a stormwater collaborative or coalition. A stormwater coalition is a cooperative agreement among several municipalities or a regional council of government to pool funding and coordinate their stormwater efforts for the benefit of all towns in the collaborative. It has significantly less administrative structure than a utility and does not require levying a utility fee. Once again, many states already have established stormwater coalitions. Massachusetts has a number of them, including the Central Massachusetts Regional Stormwater Coalition (https://www.centralmastormwater.org/) that includes thirty towns. In Connecticut, we have had significant interest in developing stormwater coalitions. The Eastern Connecticut Conservation District recently received grant funding and has been working in cooperation with the Southeastern Connecticut Council of Governments (SCCOG) to develop a stormwater collaborative in eastern and southeastern Connecticut.

In summary, DEEP has been actively working to address concerns expressed in this bill. We believe we have made, and continue to make, significant progress in addressing the concerns of our MS4 communities and all municipalities. We are committed to continuing this progress and working closely with our municipal partners. For these reasons, we believe that the intent of this bill has already been met. We would welcome the opportunity to discuss the development of the additional legal structure necessary to expand the development of stormwater utilities in the state.

Thank you for the opportunity to present testimony on this proposal. Should you have any questions, please do not hesitate to contact Mandi Careathers, the Department’s legislative liaison, at Mandi.Careathers@ct.gov.