Testimony Submitted by Commissioner Katie S. Dykes

**HB 7293 – An Act Concerning the Redevelopment of Certain Solid Waste Management Facilities**

Thank you for the opportunity to present testimony regarding HB 7293 – An Act Concerning the Redevelopment of Certain Solid Waste Management Facilities. The purpose of this bill is to reinforce the ability of the Department of Energy and Environmental Protection (DEEP) to require the Materials Innovation and Recycling Authority (MIRA) to execute a contract for the redevelopment of the Connecticut Solid Waste System Project (CSWSP). DEEP appreciates the Committee’s willingness to raise this bill at the Department’s request, and would like to provide a bit of background for the Committee’s benefit.

**Why the General Assembly Called for a Redevelopment of the Hartford Resource Recovery Facility**

The Connecticut Solid Waste System Resource Recovery Facility (CSWS RRF) (formerly called the Mid-Connecticut RRF), has operated since 1988 with a permitted capacity to process 888,888 tons of Municipal Solid Waste (MSW) per year. The facility is at the hub of a “hub and spoke” system of facilities owned and managed by MIRA (the successor to the Connecticut Resources Recovery Authority or CRRA). Other key facilities in the system include a recycling sorting facility on Murphy Road in Hartford, and four regional transfer stations in Essex, Ellington, Torrington and Watertown.

The resource recovery facility (RRF) is of particular importance to Connecticut’s overall waste management system because it processes approximately one-third of the state’s MSW. However, it is an aging facility that is increasingly expensive to maintain and lacks modern environmentally and economically beneficial attributes, such as the capability of recovering significant amounts of recyclable materials from the waste prior to combustion, or the use of anaerobic digestion or other processes to reclaim additional valuable energy or material commodities.

Built on a retro-fitted coal power plant, some crucial infrastructure at the site, including parts of the power generating unit, date back to the 1940s. This aging equipment is operating beyond its useful life and is prone to failure, resulting in extended plant shutdowns which cause regional disruptions and backups in waste flow (such as the turbine failures that occurred in November 2018 - March 2019, causing significant backlog the RRF may be several months away from fully resolving). These failures increase costs to residents as waste haulers must find alternative destinations for materials. Simply maintaining the facility in working order will require major capital investments which will result in costs that are passed along to state residents. Prior to the passage of Public Act 14-94, CRRA asserted that recommended maintenance had become cost-prohibitive and major investments would be deferred.
Recognizing that modernization could no longer be delayed, the General Assembly passed Public Act 14-94, requiring that DEEP, in consultation with MIRA, conduct a Request for Proposals (RFP) for the redevelopment of the Connecticut Solid Waste System Project (CSWSP). Redevelopment would be effectuated through a project development and operation agreement between MIRA and the selected developer. The RFP invited proposals with financing to be provided in whole or large part by the developer, while MIRA would retain ownership of the facilities. In turn, the developer would retain the project revenues. Thus, the development and continued operation of the system could be achieved while minimizing the level of public investment and risk.

**The RFP Process & Selection**

The preliminary RFP was issued in November 2015. This first stage, “Phase I,” was used by DEEP to identify developers qualified to compete for final selection. Phase I required proposers to provide concepts for the design, permitting, construction, operation, and maintenance of a proposed facility. To help DEEP identify the most qualified developers, proposers were required to post a bid bond and provide extensive information on their technical capabilities, ability to secure financing, and detailed plans for the sale of energy and recovered materials.

The Phase I RFP review committee included representatives of DEEP, MIRA, the City of Hartford, with input from the Capitol Region Council of Governments (CRCOG), as well as a technical consultant with experience advising states, counties, and municipalities on waste facility development projects. Phase I received eight responses from which three development teams were invited to submit refined technical and price proposals from which to make a final selection. In December 2017, in accordance with CGS 22a-268g, DEEP selected the Sacyr Rooney Recovery Team to develop a project consistent with the goals of the statute and the requirements of the RFP, and as authorized by statute, directed MIRA to enter into an agreement with the developer.

The Sacyr Rooney concept has the potential to provide significant environmental and economic benefits to the State, in terms of increased diversion of incoming Municipal Solid Waste for beneficial uses, stabilized tip fees that are projected to be lower, and more predictable, than current MIRA contracted rates. The concept also has the potential for significant improvements in host community impacts (e.g. the creation of new jobs, a higher host payment, and other benefits to the City of Hartford) compared with the present state. A detailed summary of the proposed redevelopment and extensive RFP-related documentation is available at [www.ct.gov/DEEP/ResourceRediscovery](http://www.ct.gov/DEEP/ResourceRediscovery).

**Post-Selection Challenges and Need for Legislative Clarification**

Fourteen months have elapsed since DEEP’s selection pursuant to CGS 22a-268g, and no agreement has been finalized. It is critical that extensive due diligence is conducted on the proposal to ensure the proper balance of risk and assess the managerial, technical, and financial capability of the proposal. It is also critical that this due diligence be conducted in an efficient manner, given the continued deterioration of the RRF on which the state continues to depend. DEEP has prioritized working with MIRA to be a productive partner to engage in discussion and due diligence to enable this proposal to move forward.

It is important to note that, even with the amendments proposed in this bill, no agreement between MIRA and the developer can be finalized until a framework is reached and presented to MIRA’s
customer towns. That framework would include the pricing and terms of municipal contract offerings. No town will be required to enter into a contract. Unfortunately, the slow pace in negotiations has denied municipalities the opportunity to receive a full presentation of the proposal, and to determine for themselves whether the transition to a new public-private partnership is in their interest. DEEP is committed to facilitating a more efficient and productive negotiation to enable this choice to be brought forward to participating municipalities as soon as possible.

As part of the negotiation process, MIRA has indicated, among other things, that section 22a-268, which broadly authorizes MIRA to enter into agreements with the private sector to carry out any of their functions so long as those agreements contain terms retaining overall MIRA oversight and control, may need to be revised in order for the proposal to move forward. While DEEP does not necessarily share MIRA’s view that such amendment is necessary, the issue has contributed to some delay in negotiations. DEEP appreciates the Committee raising this bill to help to move the process forward.

DEEP also believes it may be prudent to clarify that notwithstanding any other sections of the general statutes, the Committee may wish to strengthen DEEP’s authority to cause MIRA to proceed into the agreement necessary to execute the project. As discussions between MIRA and Sacyr Rooney are ongoing, DEEP expects to offer this Committee substitute language to reflect any needed statutory changes that arise from these negotiations.

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.