

**Chip Sawyer Written Testimony on Bill S.115
For VT House Committee on Ways and Means**

May 3, 2023

To Representative Kornheiser and members of the committee:

I am submitting written testimony concerning S.115 in my capacity as the Director of Planning & Development for the City of St. Albans. Our community is subject to an MS4 permit with requirements for stormwater flow reduction, phosphorous pollution reduction and other activities related to water quality. Our city funds these activities via a stormwater utility as enabled by State statute and our charter.

I join many other municipalities and other parties in urging that Sections 8 and 9 of S.115 be removed. These amendments are not necessary to prevent municipalities from charging stormwater permit fees to agricultural and silvicultural uses. As State law stands now, 24 V.S.A. §4414(9) states that, “Any municipality may adopt bylaws to implement stormwater management and control consistent with the program developed by the Secretary of Natural Resources pursuant to 10 V.S.A. § 1264.” And 10 V.S.A. §1264(d)(1) exempts agricultural and silvicultural uses from stormwater permits. Thus, municipalities cannot require stormwater permits of these entities, and thus cannot charge stormwater permit fees to them.

However, stormwater utility fees and stormwater permit fees are different revenue mechanisms levied for different purposes. An MS4 permit enables and sometimes requires that a municipality regulates stormwater on private property in certain situations. But more often than not a stormwater utility is raising revenues for the MS4 requirements that don’t have to do with regulating private property. These requirements include maintenance of the municipal stormwater system, and capital projects to treat stormwater on a community-wide basis.

Concerning Sections 8 and 9 of S.115 and stormwater utilities and fees, I think you would find wide agreement among municipalities and other parties on three main points:

1. The exemptions in 10 V.S.A. §1264(d) apply to stormwater permit fees for regulation of stormwater on a property, not to the stormwater utility fees that fund a community’s activities to maintain community stormwater systems and manage community-wide stormwater requirements. Furthermore, the changes proposed to 24 V.S.A. §4414(9) in S.115 could have unintended consequences beyond stormwater regulation.
2. Farms subjected to Required Agricultural Practices (RAPs) are similarly situated with all other properties in a community concerning stormwater utility fees. Properties that pay a fee toward stormwater regulation on site, whether it be via RAPs or an ANR stormwater permit, still have to pay a stormwater utility fee, and they may be able to get a utility fee credit for water quality treatment on site. Farms receive the same benefits from stormwater utilities that all other properties do. The water quality requirements of an MS4 permit are community wide and a liability shared by all properties in a municipality.

If a community is penalized for not meeting its MS4 requirements, then whatever effects are felt by property owners will also be felt by farms

3. Stormwater utility fees are shared by all properties; farms, municipally-owned land, nonprofits, homes, VTrans¹, etc. Eroding the “all-in” approach with an exemption would be detrimental to community water quality efforts.

I would appreciate any questions or comments and further opportunities to provide input. Thank you.

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¹ The one caveat being that VTrans property is subject to a 35% utility fee credit, across the board, based on State statute.