**Testimony of Chelsye Brooks Regarding H.481 – Stormwater Management Senate Committee on Natural Resources and Energy April 9, 2025**

Good morning, and thank you for the opportunity to testify.

My name is Chelsye Brooks, and I am a resident of Richmond, Vermont. To clarify, I am not a homeowner subject to a 3-acre permit. I come before you today as both a citizen advocate and someone who has been directly affected by stormwater management issues in my community. What began as a personal experience has grown into a broader commitment to understanding and improving Vermont's stormwater permitting system. Over the past year, I have invested significant time studying the technical, regulatory, and policy dimensions of stormwater, engaging directly with staff at the Department of Environmental Conservation (DEC), in an effort to advocate for more equitable and effective regulation.

**Historic Oversight and the Burden on Homeowners**

In Richmond, there are several sites with legacy operational stormwater permits, often referred to as "orphan sites." These are developments from the 1980s and 1990s where initial permits were granted, but responsibility for permit renewal and long-term maintenance was never clearly assigned. Developers moved on, and no legal entity stepped in to take over the permits. The state approached municipalities to adopt these orphan sites, offering a meager stipend.

Now, decades later, individual homeowners—many of whom never knew their properties were subject to stormwater permitting—are being asked to shoulder the full burden of compliance with the 3-acre permit requirements. One example is the Southview neighborhood in Richmond. This is not a planned community with an active HOA, shared stormwater maintenance funds, or legal mechanisms to coordinate action. These are everyday homeowners, many of them aging or on fixed incomes, now facing complex and expensive regulatory hurdles they had no role in creating.

I believe these legacy situations cannot move forward without access to greater support and access to funding which will offset the burden that currently appears to be inequitable and unfair.

**Equitable Access to Funding**

I support the amendments to 10 V.S.A. § 1264 in H.481, particularly those expanding the Developed Lands Implementation Grant Program and the Municipal Stormwater Implementation Grant Program. These programs are essential. However, I am concerned that the bill prioritizes municipalities for funding in a way that may leave individual permittees behind.

In cases where a municipality refuses to assume legal responsibility, private citizens may still be on the hook for costly permitting and implementation. If municipalities are given priority and consume available funds, residents of orphaned or fragmented legacy developments may be left with no support.

I urge you to ensure that private entities and municipalities have equal priority in grant funding under these programs. Fairness demands that both public and private stakeholders trying to do the right thing receive the help they need.

Municipalities are often hesitant to assume legal responsibility for 3-acre permit sites due to concerns about long-term costs and liability. While it is important to encourage municipal adoption of stormwater systems, we must also recognize that some municipalities may not have the capacity or resources to do so.

This dual recognition—that some municipalities are critical partners and others may need to decline responsibility—should be clearly addressed in the design of the grant programs and funding criteria in H.481.

**Missed Deadlines and the Need for Better Guidance**

We are already past key deadlines for the 3-acre rule, yet many sites remain out of compliance. According to a presentation by the Vermont League of Cities and Towns yesterday, only 177 of 677 3-acre sites have received permits. I believe this is not indicative of residents' lack of care for Vermont's water quality, but rather due to a lack of clear communication and guidance surrounding the steps that must be taken to pursue permitting.

This is not due to neglect but rather due to the complexity and technical nature of the permitting process. Tasks like engineering design, wetland delineations, and soil sampling are not only expensive—they are seasonally constrained and require specialized professionals who are in short supply.

DEC must be directed to provide more thorough, user-friendly, and seasonally realistic guidance documents to support these permittees. Without clear roadmaps, many communities will continue to miss deadlines, through no fault of their own.

**Expanding Consideration of Topography & Upslope Effects**

Whether it be new development, expansion, redevelopment, or even existing development I believe that the impact of runoff upslope should be considered. It is unfair to burden a development such as Southview with the responsibility to manage and treat stormwater that isn’t the result of only rainwater or runoff from their individual impervious surfaces. Instead, in a town such as Richmond, and a development such as Southview, where we have steep and challenging topography, water is always going to run downhill.

Water is the common enemy. If these developments are receiving stormwater discharge from lands outside of their permitted area or parcel boundaries, this should be taken into consideration. I am unsure of the appropriate solution however, as I am told that DEC does not have the jurisdiction to impose permitting on anyone and everyone, so those upslope cannot effectively be held accountable. Regional groups established could certainly research these topics.

I think this could be an opportunity for municipalities to step in, apply for grant support, and establish stormwater funds which could additionally support and offset the burden to legacy 3-acre sites, and effectively address water as the common enemy, which affects all residents of the town. While I am not a homeowner within a 3-acre site, I would still like to do my part… whether that be contribution to a municipal fund or simply treating my own stormwater on my own property to avoid downslope effects.

**Closing Loopholes in New Development**

While legacy developments are being required to retrofit their stormwater systems, new impervious surfaces are still being constructed without operational permits due to loopholes in how DEC interprets 10 V.S.A. § 1264 and the thresholds in the 9050 General Permit.

Since May 2024, I have been corresponding with DEC staff, including Kevin Burke, to reconcile how the law is written versus how it is applied. In an email, Kevin explained:

> "The ½-acre threshold relative to 'new development' only applies to a parcel with no prior existing development, meaning no impervious surface on the entirety of the parcel. If there is any existing impervious, the ½-acre new development regulatory threshold does not apply."

This means that a developer can construct up to nearly 1 acre of new impervious surface without a permit, as long as the parcel already had *any* impervious surface. This interpretation undermines the goals of 2018 Act 181.

I recommend the following revisions to close this loophole:

- Amend 10 V.S.A. § 1264(c)(5) to require permits for **expansions over 5,000 square feet, not exceeding ½ of an acre,** if the total impervious surface **exceeds 1 acre**.
- Clarify that **any construction or redevelopment of ½ acre or more**, regardless of prior site conditions, must be permitted under § 1264(c)(1).

I believe these amendments will close this loophole, and align with legislative intent. I have personally seen the negative effect of upslope, unregulated development not managing or treating stormwater. In Richmond, a project like this leads directly to one of our 3-acre stormwater sites; the Southview neighborhood.

**Conclusion**

I did not set out to become a stormwater advocate. I simply wanted to protect my town and understand the rules. What I found was a regulatory landscape that is often inconsistent, unclear, and unfair—especially to legacy communities who had no say in how their neighborhoods were built.

Vermont made commitments to the EPA to reduce pollution under the Lake Champlain TMDL. We will not meet those goals while allowing new development to bypass stormwater treatment, or while placing a disproportionate burden on residents of decades-old neighborhoods.

Most importantly, I want to emphasize how critical it is that we close the permitting loopholes for new development. If we continue to hold 3-acre sites to high standards while overlooking newly constructed impervious surfaces exceeding ½ acre, we are perpetuating a system that is inherently inequitable. This perceived and actual imbalance in enforcement and expectation undermines public trust and jeopardizes our shared clean water goals.

We must fully commit to the implementation and enforcement of 10 V.S.A. § 1264 across the board. That means holding both existing and new development accountable—not just legacy sites. Narrow or short-sighted focus on only 3-acre sites misses the broader picture and risks allowing pollution from new sources to slip through the cracks.

I urge this committee to:

- Support and expand funding for retrofits,
- Consider the fairness and liability of how the grants are currently structured to incentivize municipalities to take on 3-acre sites,
- Strengthen guidance and support for compliance,
- Close the permitting loopholes that continue to undermine our water quality goals.

Thank you for your time and for your work on behalf of all Vermonters.

Respectfully submitted,

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