

COUNCIL ON ENVIRONMENTAL QUALITY



Barbara C. Wagner
Chair

M. Howard Beach

Janet P. Brooks

Bruce R. Fernandez

John M. Mandycyk

Earl W. Phillips, Jr.

Richard Sherman

Ryan Suerth

Wesley Winterbottom

Karl J. Wagener
Executive Director

TESTIMONY

DATE: March 16, 2009

TO: Government Administration and Elections Committee
Connecticut General Assembly

BY: Barbara C. Wagner
Chair

RE: S.B. 839, AAC Mergers and Consolidations of Various State Agencies

Good morning. I'm Barbara Wagner. I live in Glastonbury, where I serve as Minority Leader on the Town Council; I mention that because we are trying to put our municipal budget together without burdening taxpayers, and I am extremely mindful of the need to find cuts and efficiencies within government. I am here today as the chair of the Council on Environmental Quality.

The proposed bill puts the Council on Environmental Quality (CEQ) entirely within the Department of Environmental Protection (DEP). The CEQ already is within the DEP "for administrative purposes only," and this bill would eliminate that distinction. The Council would still exist (albeit within the DEP) with all of its mandatory duties and responsibilities, and the Council's authority to hire staff or expend other funds would be eliminated.

I have not received any further guidance as to how the Council would function as part of the DEP. The Council was created in 1971 (CGS 22a-11 through 22a-13) alongside the DEP to report objectively and without bias on the status of Connecticut's air, water, land, wildlife and other environmental resources. Indeed, we pride ourselves on providing impartial data regarding the State's environmental indices, which information is used not only by the DEP and environmental advocacy groups, but also by universities, municipalities, engineers, the media, legislators and others.

One of the Council's best known reports from the 1990s, *The New Race for Open Space*, highlights the importance of our independence. That report showed that Connecticut's open space conservation efforts were virtually nonexistent; there was no funding, no goals, and the entire effort was entangled in red tape. Both then-Governor Rowland and legislative leaders acknowledged our report as having helped move the state toward what is now a streamlined and very effective open space conservation program. Every year, we report to you in the legislature on the

progress toward the goals you established. We also followed up that report with a special report in 2005 that showed many protected conservation lands were compromised by serious encroachments, and the General Assembly and Governor Rell fixed that problem as well.

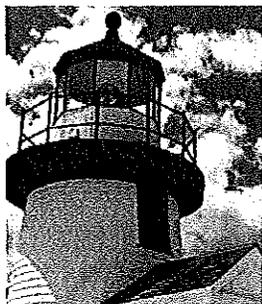
We suggest that there are at least three questions that your Committee should consider before acting on this proposal:

1. If we are to rely on DEP staff to perform all of the work now statutorily required and performed by the Council's two staff persons, then where would the savings come from? The CEQ already is within the DEP for administrative purposes and is physically located there, so there are no savings to be obtained through consolidation of overhead or administrative functions. Conversely, if there are savings to be gained, would the Council's duties be fulfilled? When asked these questions at the February 17 Appropriations Committee hearing, Commissioner Gina McCarthy replied that the DEP would only be able to a) provide basic administrative support, such as meeting scheduling and b) publish the Environmental Monitor, the on-line publication to which all state agencies post notices of projects undergoing environmental review, which by statute is now published by the CEQ.
2. Could the CEQ continue to provide the public with objective and often critical reports on the DEP's performance if the CEQ is part of the DEP and must rely on DEP staff? Commissioner McCarthy stated at the February 17 Appropriations Committee hearing that she could not assign DEP staff to investigate DEP programs.
3. Why would the state appropriate \$100 million per year, and authorize much more in bonding for the environment, without seeking some objective feedback, as the CEQ has delivered continually, on the effectiveness of that spending?

As Chair of the Council, I am immensely grateful for the contributions of time, expertise and wisdom of my eight appointed colleagues on the Council – but they are volunteers, serving without compensation, and cannot be expected to spend their days doing detailed technical research, publishing reports, maintaining the website, and receiving and investigating citizen complaints, as required by statute.

Sometimes the Council is referred to as a watchdog agency, and the Council certainly has not been reluctant to criticize the failings of the DEP. But it would be a mistake, I believe, to characterize the CEQ as the DEP's watchdog. If anything, the CEQ is a watchdog of the state as a whole with regard to environmental performance. The CEQ's statutory responsibilities (CGS 22a-11 through 22a-13) do not mention the DEP's performance specifically. Much of what the Council reports on, from agricultural land to sprawl to human health and energy consumption, is well outside the DEP's jurisdiction. Also since our establishment, we have responded to thousands of citizen complaints on the environment, many of which have involved actions of various state agencies including the DEP.

I am attaching a short summary of some of the Council's more recent reports and investigations with notes on how they have changed this state for the better, often resulting in cost savings along the way. I don't underestimate the fiscal crisis at hand, but I also don't underestimate the value the CEQ has brought to Connecticut over the last 38 years.



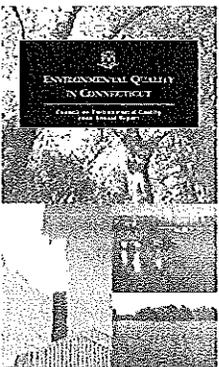
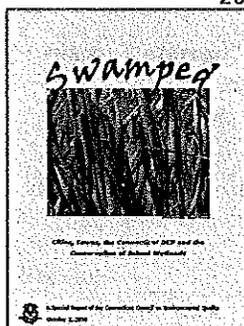
February 2009



STATE OF CONNECTICUT
COUNCIL ON ENVIRONMENTAL QUALITY

Summary of Council Actions That Have
 Improved Connecticut, 2002 – 2009

Established in 1971 alongside the Department of Environmental Protection (DEP), the CEQ has published dozens of reports and resolved thousands of complaints. Many reports have resulted in major changes to state policy that continue to yield dividends years after publication. For example, 1997's *The New Race for Open Space* showed that Connecticut's land conservation program was moribund; it had no funding, no goals, and was entangled in red tape. The report was widely acknowledged as having helped move the state toward what is now a streamlined and effective land conservation program. Every year since, we report on the progress toward the goals the Governor and General Assembly established. The table below summarizes more recent examples.

REPORTS / ACTIONS	COUNCIL ACTION	OUTCOMES / IMPROVEMENTS
<p>'Environmental Quality in Connecticut' <i>Every year since 1972</i></p> 	<p>Annual report on condition of Connecticut's environment. Comprehensive, accurate and unbiased. The only such report produced.</p> <p>Foundation of report is consistent set of 32 indicators, updated annually.</p> <p>Report focuses evenly on successes and failures.</p> <p>Report focuses on state as a whole, not just on DEP activities or jurisdiction. Includes agriculture, energy, public health, transportation and land use, and includes municipal performance.</p> <p>In 2009 the Council began to publish its required recommendations as a separate "Checklist of Recommended Legislation to Remedy Connecticut's Biggest Environmental Deficiencies"</p>	<p>This report is read widely and is considered the authoritative source for information on the condition of Connecticut's environment. It is cited frequently year-round by other agencies, the news media and researchers.</p> <p>The Council has been making a transition away from paper copies to an interactive web version that debuted in 2007. This has resulted in greater circulation and lower costs.</p> <p>The Council's reports have led to countless improvements in Connecticut's environmental laws and programs, in turn improving air quality, wetlands, parks and forests, releases of toxic materials such as mercury and MTBE, and compliance. Additional specific improvements are detailed below.</p>
<p>"Preserved But Not Protected" <i>2005</i></p> 	<p>Prompted by citizen complaints of illegal felling of trees in protected conservation lands by trespassers, the CEQ conducted a year-long investigation of such problems.</p> <p>Encroachments were found to be widespread on state, municipal and land trust lands.</p> <p>The CEQ found that the DEP had no surveyors on staff and was unprepared to defend its parks and forests.</p> <p>Penalties for encroachments were found to be woefully inadequate.</p> <p>This CEQ Special Report led directly to legislation.</p>	<p>P.A. 06-89, An Act Concerning Encroachment on Open Space Land, comprehensively updated statutes pertaining to encroachments, and was put to use immediately in defense of parks, forests and preserves.</p> <p>The DEP was able to hire a surveying team and has begun to reclaim public land that had been taken over illegally by private parties.</p>
<p>"Swamped" <i>2008</i></p> 	<p>Special 2008 CEQ Report found that many towns do not comply with statutory requirements for training and for reporting to the DEP.</p> <p>Report found through statistical analysis that training is highly effective, and that lack of training results in more wetlands lost (www.ct.gov/ceq).</p> <p>The same report found evidence that combined wetlands/zoning commissions are less protective of wetlands than separate wetlands commissions.</p> <p>The Council's two-year investigation grew out of a citizen complaint about illegal activity in wetlands.</p>	<p>Council's recommendations regarding training requirements and separation of commissions have been proposed in 2009 legislation.</p>

REPORTS / ACTIONS

COUNCIL ACTION

OUTCOMES / IMPROVEMENTS

COMPLAINTS AND INVESTIGATIONS



The Council continually receives and investigates citizen complaints (CGS 22a-13). These complaints often lead to discovery of problems that have no simple solution because of inadequate laws or uncertain jurisdiction. Since its inception, the Council has received thousands of complaints and has spent much time resolving problems.

The Council also holds public forums in different parts of the state, and gathers the views and comments of citizens and municipal officials on deficiencies in state environmental programs.

The Council reviews and comments on Environmental Impact Evaluations published by other state agencies for proposed projects. As many of the EIEs are written by the DEP for DEP projects, the Council is the only environmental agency that gives them an objective review. In 2007, during such review, the Council discovered two state-funded projects that, combined, would subsidize commercial development on more than 100 acres of prime farmland on two active farms.

Please see above and below for more special reports that were prompted by citizen complaints.

Some examples of improvements to state laws or programs that resulted from complaints to the CEQ:

- The transfer of surplus state lands out of state ownership without benefit of environmental review led to P.A. 07-213, which requires public notice in the *Environmental Monitor* (see below) and, if warranted, a natural resource review before transfer.
- The DEP's trade of state park land to a private landowner without appraisals or public notice led to a Council recommendation for a new DEP policy, which the DEP adopted in 2008.
- A 2006 complaint about illegal tree clearing on DOT property along a river led to recommendations (adopted) for more efficient permitting procedures with more municipal input.
- Questions raised about the state's policy for protection of scenic areas led to conclusion that such a policy does not exist; topic of ongoing CEQ review.
- Public CEQ meetings on numerous problems at the University of Connecticut, including water supplies, the dehydrated Fenton River, and woodland clear-cutting led to changes in University procedures and infrastructure.
- In response to CEQ comments, The Office of Policy and Management has modified its procedures for reviewing state grants that would destroy prime farmland, and legislation is pending in 2009.
- Citizens have complained several times about DEP coastal hearing procedures where applicants repeatedly changed construction plans. In 2008, the DEP implemented "LEAN" procedures that will prevent this problem.

Connecticut Environmental Policy Act



ENVIRONMENTAL MONITOR
 the official site for project information under the Connecticut Environmental Policy Act
 February 3, 2009

A 2002 CEQ Special Report became the basis of legislation that overhauled the Connecticut Environmental Policy Act (CEPA) for the first time since 1972.

P.A. 02-121 overhauled CEPA by adding early opportunities for public participation, eliminating Findings of No Significant Impact, and adopting related recommendations for streamlining.

P.A. 02-121 also requires the CEQ to publish the *Environmental Monitor* online. The Monitor replaced the Connecticut Law Journal as the official place for state agencies to publish CEPA notices, and provides the public with direct links to maps, documents, and other information.

"Great Infestations" 2002



Identified invasive Species as second biggest threat to Connecticut's natural habitats.

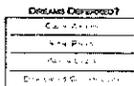
Reported how preventive measures will save state millions of dollars in eradication and control costs.

Recommended creation of a plan and a council of experts to identify the most dangerous species and prohibiting their sale.

P.A. 03-136 created the Invasive Plants Council with authority to list species as invasive. It prohibited state agencies from purchasing such species.

P.A. 07-4 created invasive species account for education and control efforts.

"Dreams Deferred" 2008



This Special Report assessed for the first time the total cost of attaining Connecticut's environmental goals.

Many goals, such as cleaner rivers and Long Island Sound, were found to be within reach, but some such as agricultural land preservation were found to be in danger of never being met.

Recommended funding state parks from the General Fund as a state service inherently different from the regulation and protection of air, water and wildlife.

Report has been used in numerous ways in budget planning and deliberations, and will be for many years.