



**Testimony of Connecticut Fund for the Environment
Before the Environment Committee**

*In Support of S.B. No. 205, AN ACT CONCERNING ENHANCEMENTS TO INLAND
WETLANDS AND WATERCOURSES ACT*

Submitted by Eric Annes, Legal Fellow
March 8, 2010

*Connecticut Fund for the Environment ("CFE"), with a total membership of
approximately 6,000 Connecticut members, uses law and science to defend Connecticut's
air, land and water.*

The Connecticut Fund for the Environment (CFE) strongly supports the concept bill S.B.
205, An Act Concerning Enhancements to Inland Wetlands and Watercourses Act.

**We Must Clarify the law so local Wetlands Agencies can better protect Inland
Wetlands and Watercourses**

Senate Bill 205 is a modest bill. First, it makes the policy of the State of
Connecticut consistent for inland wetlands and watercourses consistent with coastal
wetlands and watercourses. Second, the bill makes clear that local wetland commissions
may consider all evidence brought before it, and not just expert testimony.

Our Connecticut Supreme Court has not been able to consistently determine what
the legislature's policy is for inland wetlands and watercourses. The Court has stated that
the purpose of the Act is not to protect these resources, but to regulate them. The Court
has also held that in order to deny a permit, wetlands agencies must not only have before
them evidence that the activity is potentially harmful, but that the activity will almost
certainly result in actual harm to the resource – a very difficult burden to prove. More
recently, however, the Court has applied language from the coastal wetland and
watercourse act to inland wetlands and watercourses and declared it the policy of the state
to protect inland wetlands and watercourses. As protection of inland wetlands and
watercourses is the appropriate thing to do for the state's water quality, the legislature

should end the confusion in the courts and make clear that it is indeed the policy of the state to protect inland wetlands and watercourse.

Moreover, courts have been suggesting that local wetland agencies can only rely on expert witnesses in reaching their determinations. This dangerous drift is beginning to hold agencies hostage to paid experts hired by developers, and is raising questions about their ability to rely on important free sources of relevant information, such as environmental review team reports, letters from local water companies or state agencies or the direct observations of local citizens who have often spent hours observing actual conditions on the property.

S.B. 205 Empowers local Wetlands Agencies to protect Wetlands and Watercourses

S.B. 569 contains a few simple, but important clarifications.

Sections 1 and 2(a) clarifies that the purpose of the Inland Wetlands Act is to protect wetlands and watercourses.

Section 3(c)(1) also clarifies that wetlands agencies can rely on a wide array of relevant evidence brought before them, including, state agency letters and comments, water company comments, environmental reviews, and direct observations of ordinary people, as well as expert opinions. We believe that testimony from the state's Conservation Districts should be added to the list of examples that wetlands agencies can rely upon in making their determinations.

The CFE urges the Committee to vote favorably on S.B. 205. This proposed law will create the kind of environmental outcomes we all desire – better, common sense protections of our wetlands, streams, rivers and ponds in our state.