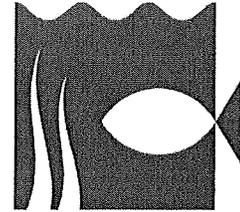


**Connecticut Fund  
for the Environment**



**Save the Sound®**  
A program of  
Connecticut Fund for the Environment

**Testimony of Connecticut Fund for the Environment and Save the Sound  
Before the Environment Committee**

Submitted by Jessica Morowitz, Legal Fellow  
March 7, 2011

Regarding:

H.B. 6507, AN ACT CONCERNING WATER QUALITY CERTIFICATION APPLICATIONS  
S.B. 227, AN ACT CONCERNING REMEDIATION STANDARDS UNDER A CONSENT  
ORDER

H.B. 6505, AN ACT CONCERNING STREAM FLOW REGULATIONS  
S.B. 1114, AN ACT REVISING THE DEFINITION OF TIDAL WETLANDS AND THE  
HIGH TIDE LINE

*Connecticut Fund for the Environment ("CFE") is Connecticut's non-profit environmental advocate with over 5,700 members statewide. For over thirty years, CFE has fought to protect and preserve Connecticut's health and environment. Save the Sound is a regional program of Connecticut Fund for the Environment dedicated to the restoration and protection of Long Island Sound.*

**H.B. 6507:**

CFE **opposes H.B. 6507**, An Act Concerning Water Quality Certification Applications, because it does not provide appropriate opportunities for public participation. Unless the Committee modifies the bill to include opportunities for public participation, CFE asks the Committee to reject this bill.

As written, the bill provides "applicants" with the right to request a hearing on the application. It does not allow members of the public who may be impacted by the commissioner's decision a similar opportunity to request a hearing. In addition, the bill provides an "applicant" who is aggrieved by the commissioner's final decision a right to appeal that decision to the Superior Court. Again, the bill does not provide a member of the public who may also be aggrieved by the commissioner's final decision a right to appeal that decision to the Superior Court.

The right of the public to request a hearing on such applications and ultimately appeal the decision if aggrieved is important and can be valuable in helping the department to reach an informed decision. There is no question that persons other than the applicant may be aggrieved by inappropriate activities that have environmental consequences. Connecticut has a long history of allowing hearings and appeals not just for applicants, but for persons that are aggrieved by environmental and land use decisions. There is no reason to depart from this longstanding tradition.

**S.B. 227:**

CFE **opposes S.B. 227**, An Act Concerning Remediation Standards Under a Consent Order. CFE does not see the need for such a bill at this time. It is unclear exactly what this bill seeks to accomplish, because currently consent orders can only be modified if both parties to the order agree to such modification. Therefore, the bill seemingly offers no clarification and is unnecessary. In addition, CFE is unaware of any proposed changes to the remediation standards that might impact projects already underway and nearing completion. Moreover, when the department did propose changes a few years ago, it included a transition provision that would have covered such projects so that a project that was near completion would not be required to comply with the new standards but rather the standards that were in place and agreed upon when the parties entered into the consent order. Accordingly, CFE asks the Committee to reject S.B. 227, An Act Concerning Remediation Standards Under a Consent Order.

**H.B. 6505:**

CFE **supports H.B. 6505**, An Act Concerning Stream Flow Regulations. H.B. 6505 seeks to clarify that stream flow regulations adopted by the Department of Environmental Protection should regulate groundwater. While CFE believes that the current statute already includes groundwater, CFE is also aware that the chairs of the regulations review committee asked this committee to introduce legislation to make that explicitly clear, and that is what H.B. 6505 seeks to do. This bill does not and should not be seen as affecting the process underway related to the surface water regulations and should not require that process to start over. Again, this bill simply seeks to clarify and make explicitly clear that the department should also develop such regulations related to groundwater. Therefore, CFE urges the Committee to vote favorably on H.B. 6505, An Act Concerning Stream Flow Regulations.

**S.B. 1114:**

Save the Sound **opposes S.B. 1114**, An Act Revising the Definition of Tidal Wetlands and the High Tide Line. S.B. 1114 seeks to change the definition of the high tide line to use the elevation of the Mean Higher High Water as contained in the 2001 tidal epoch approved by the National Oceanic and Atmospheric Administration. Using this approach sets the high tide line at a lower elevation, which effectively acts as a roll back on coastal permitting jurisdiction. In addition, this bill would fix that location at the current tidal epoch thus not allowing for future adjustment in accordance with sea level rise. For the above reasons, Save the Sound urges the Committee to reject S.B. 1114, An Act Revising the Definition of Tidal Wetlands and the High Tide Line. Accordingly

CFE and Save the Sound thank the Committee for its attention to these matters.