



STATE OF CONNECTICUT

COUNCIL ON ENVIRONMENTAL QUALITY

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TESTIMONY

DATE: February 20, 2013

TO: Appropriations Committee  
Connecticut General Assembly

BY: Barbara C. Wagner  
Chair

RE: Proposed Budget

Good evening. I'm Barbara Wagner; I live in Glastonbury, where I served for many years on the Town Council, so I am no stranger to difficult budget decisions. I am here tonight as the chair of the Council on Environmental Quality (or CEQ).

Some newer members of the Committee might not be completely familiar with the Council and its work. I have appended some background information to this testimony. For a very brief version: I will note that the Council probably is best known for producing the state's official "state of the environment" report. We will be submitting the report for 2012 in the near future. The report is generally recognized as being consistently accurate and objective. The CEQ's reports focus on results, not on other agencies' efforts; they document successes and do not sugarcoat failures. The keys to being able to produce such reports are independence and adequate (though modest) resources. The CEQ's reports also include recommendations for correcting deficiencies in state environmental laws and programs, and we know that many legislators have found them to be a very useful resource. The reports have led to many improvements in our environment.

**Objectivity Requires Independence**

Since 1971, the Council has been within the Department of Energy and Environmental Protection (DEEP) for administrative purposes only. The Department has provided office space, meeting space and essential services such as payroll, purchasing, and access to a computer network. The arrangement has worked well, and the Council's independent analysis and voice has not been compromised. In any of our reports, you will find information that is not altogether flattering of the larger agency, but the overall relationship remains stable. The Council could be housed elsewhere within state government if the same level of independence and support is maintained.

## Resources Required

I will give you a brief overview of our budget history. For many years the Council had two employees, an executive director and an environmental analyst. Then in the early 2000's, we were without the Environmental Analyst position for a time. In 2006, the Council presented to this Committee a comparison of the output when we had one staff instead of two. We (and you) concluded that two people were considerably more than twice as productive as one. In particular, when we have two positions we are able to provide many more analytical special reports on areas that have been identified as having deficiencies. Here, for example, is a list of research reports taken from our website:

### Special Reports and Miscellaneous Publications

[2012 Evaluation of Progress on 2002 Invasive Species Recommendations - Staff Memorandum, October 22, 2012 \(PDF\)](#)

[Analysis of 2011 Enforcement Data - Staff Memorandum, April 23, 2012 \(PDF\)](#)

[CEO Comments on Title V Air Quality Permit for South Meadow Station, Hartford - January 4, 2012](#)

[Coal, Fish and Connecticut's Health: a CEO Update on Mercury Pollution - December 29, 2011](#)

[Environmental Regulation and the Growth of Small Businesses - Staff Memorandum, September 16, 2011 \(PDF\)](#)

[Report of the Subcommittee on Wetlands Training Requirements - October 18, 2010 \(PDF, 131 KB\)](#)

[CEO Recommendations for Modernizing the Connecticut Environmental Policy Act - Updated December 28, 2012](#)

[Preserved and Forgotten: DOT Scenic Lands and Their Protection \(PDF, 100KB\)](#)

[Swamped: Cities, Towns, the Connecticut DEP and the Conservation of Inland Wetlands \(PDF, 335KB\)](#)

[Supporting Documentation for \*Swamped\* \(PDF, 384KB\)](#)

[Dreams Deferred? An Assessment of the Cost of Attaining Connecticut's Goals for State Parks and Environmental Protection \(PDF, 387KB\)](#)

[Preserved But Not Protected: The Damage to Connecticut's Preserved Lands from Boundary Encroachments, Illegal Tree Cutting, ATVs, and Other Assaults \(PDF, 399KB\)](#)

Nearly all of those were produced after the Environmental Analyst position was restored.

During the time when we had one staff person, we were able to produce very few such reports.

I also want to address the important matter of citizen complaints. Attached to this testimony are summaries of Council actions taken from our two most recent annual reports. You will see brief summaries of problems that the Council helped to solve. In general, the problems that get to the Council are difficult ones that cannot be addressed by any one other agency. The Council makes it a point to respond to one hundred percent of complaints, and we hope to be able to continue to do so.

Finally, I want to mention the *Environmental Monitor*, which the Council publishes online. The *Monitor* is the publication where all other state agencies post notices of state projects under the Connecticut Environmental Policy Act (CEPA). Prior to 2002, such notices were published in the Connecticut Law Journal, which meant they were not read by very many people. The *Monitor* is a hugely superior publication, because supporting documents, photos, and maps are only a click away. Proposed transfers of state land out of state ownership also are posted. Since last year, the *Monitor* has taken on more importance, as revisions to CEPA procedures now require agencies to publish more preliminary environmental notices (known as "scoping notices") while allowing those agencies to post a notice whenever an Environmental Impact Evaluation is *not* going to be prepared. This new process has the twin benefits of producing more information for the public and allowing construction projects to move more swiftly. I mention the *Monitor* in this testimony because the statute requires the *Monitor* to be published once a month, but as a service to other agencies we publish it twice a month (in case an agency cannot make the monthly deadline). Also, it relates to the value of independence: by statute, the CEQ establishes the format and contents of the agency postings, which I think is preferable to having the *Monitor* published by one of the agencies that are proposing and posting their own projects.

I would be pleased to answer any questions you might have. Thank you.

## Council Duties

The duties of the Council on Environmental Quality are described in Sections 22a-11 through 22a-13 of the Connecticut General Statutes.

The Council is a nine-member board that works independently of the Department of Energy and Environmental Protection (except for administrative functions). The Chairman and four other members are appointed by the Governor, two members by the President Pro Tempore of the Senate and two by the Speaker of the House. The Council's primary responsibilities include:

1. Submittal to the Governor of an annual report on the status of Connecticut's environment, including progress toward goals of the statewide environmental plan, with recommendations for remedying deficiencies of state programs.
2. Review of state agencies' construction projects.
3. Investigation of citizens' complaints and allegations of violations of environmental laws.

In addition, under the Connecticut Environmental Policy Act (CEPA) and its attendant regulations, the Council on Environmental Quality reviews Environmental Impact Evaluations that state agencies develop for major projects. The Council publishes the *Environmental Monitor*, the official publication for scoping notices and environmental impact evaluations for state projects under CEPA. The *Environmental Monitor* also is the official publication for notice of intent by state agencies to sell or transfer state lands.

Specific examples of all of these duties are described in the pages that follow.

**Activities of the CEQ in 2011** [excerpted from the Council's annual report]

June saw the 40th anniversary of the legislation that created the Council on Environmental Quality (CEQ). The Council's first meeting was held in the fall of 1971. Previous reports looked back at some of those early events. In the more recent past, the Council's 41st year was one of its busiest and most productive.

**Research and Reports**

The Council published *Environmental Quality in Connecticut* in April 2011, identifying "Routes to Progress" that would move some of Connecticut's environmental indicators in a positive direction.

The Council is required to recommend legislation for "identifying the deficiencies of existing programs and activities." The Council published those in January 2012.

From time to time the Council asks staff to prepare updates to previous reports. Examples from 2011 include a staff memo on environmental regulation and the growth of small businesses and a memo on the benefits to Connecticut of a new federal initiative to reduce mercury pollution.

**Review of State Projects and Programs**

In December 2010, the Council received complaints and inquiries about a state grant for a boat launch facility that was awarded without the environmental review and public notice required by the Connecticut Environmental Policy Act (CEPA). After review, the Council advised the Commissioner of Energy and Environmental Protection of the applicability of CEPA.

Council research in 2010 found that one of the most polluting power plants in the state is located in Hartford and is generally only used on the hottest days of the year when air quality is already at its worst. In December 2011, DEEP published notice of its intent to renew the air pollution permit for the plant. Seeing several problems in the draft permit as well as opportunities to improve and perhaps phase out use of the plant, the Council submitted detailed comments. As of press time, the permit renewal is still pending.

The Council continued to improve the Environmental Monitor to accommodate changes in CEPA, most recently to add public notices in cases where agencies decide not to complete an environmental impact evaluation after it has conducted a public scoping process.

**Citizen Complaints**

As noted in reports of the past two years, citizens of Haddam have spoken repeatedly to the Council about contamination of land and groundwater that has existed in their community for more than 25 years. Among many issues, the apparent lack of remedial action by one company was of particular note, as the company had been required by the DEEP to investigate the contamination and prepare a clean-up plan. The Council decided to follow this case in detail in order to learn more about the adequacy of existing laws and programs. In April 2010, the Council wrote to DEEP recommending enforcement action against

the company in question. DEEP began legal action against the company in late 2010. As of May 2012, there has been some study by the landowner as well as additional legal and bureaucratic action but, to date, no remediation.

Along with many other parties, the Council participated throughout 2011 in DEEP's ongoing effort to transform remediation laws and programs. The Council's close attention to the Haddam case has yielded several insights into problems that need to be fixed.

Aside from remediation, the following are a sample of the many other complaints investigated in 2011:

- Dumping on a state university campus.
- Lack of notice of pesticide spraying on a railroad right-of-way, as railroads are exempt from the law governing notification of abutting homeowners.
- Pesticides and other contaminants in the wells of many homes in one neighborhood.
- Apparent misinformation in an application for a proposed large drinking water well, with no effective consequences for providing wrong or misleading information.
- Several matters relating to the siting of telecommunications towers, including the need to consider their effect on bird migration corridors, preserved natural areas and coastal areas.
- Pollution from outdoor wood furnaces, both legal and illegal.

The Council researched all of the complaints it received and offered recommendations to the relevant state agencies, where warranted. Some problems, such as illegal tree removal on private property, will require legislative action to correct.

#### **The Word from Mansfield**

The Council periodically holds public forums in different parts of the state to learn what environmental topics are most on residents' minds. The information presented at these forums has been extremely useful to the Council.

In July 2011, the Council heard from many citizens and municipal officials in Mansfield. They spoke about numerous environmental problems, many involving the actions and responsibilities of state agencies. Others suggested interesting directions for the future of the state and its environment. The Council investigated all of them and responded to each speaker. Many investigations led to actions by state agencies and/or recommendations for legislation. Read a [complete summary](#) of the speakers and the issues they raised.

#### **Advice From the Public**

In November of 2011, the Council released its required recommendations for corrective legislation in draft form, and invited the public to weigh in. Citizens and organizations spoke to the Council at a public forum held in the Legislative Office Building in Hartford, and many others submitted written comments. Read a [complete summary](#). Their insights, technical advice and opinions proved a big help to the Council in preparing its [final recommendations](#), which were submitted to Governor Dannel P. Malloy and the General Assembly in January 2012.

**Activities of the CEQ in 2010 [excerpted from the Council's annual report]**

**Research and Reports**

The Council published *Environmental Quality in Connecticut* in April 2010 as a completely paperless, web-only report. As it coincided with the fortieth anniversary of the first Earth Day, the Council looked back on the legislative hearings that led to the creation of the DEP and the CEQ. In reviewing the 1971 hearing transcripts, the Council found it interesting, almost humorous, that the majority of speakers opposed creation of the DEP. (Support for establishing a CEQ was unanimous.) The Council also summarized the state's environmental record since that time. Read more about those years in the introduction to last year's report.

The Council is required to recommend legislation for "identifying the deficiencies of existing programs and activities." The Council published those in January 2011.

**Review of State Projects and Programs**

For the second year in a row, the Council commented extensively on a proposal by the Office of Policy and Management to amend the Environmental Classification Document (ECD) used by most agencies. The ECD lists the types of projects for which agencies might have to prepare an Environmental Impact Evaluation. The Council pointed out that the proposed ECD did not mesh with the 1978-era regulations of the Connecticut Environmental Policy Act (CEPA), which the DEP has declined to revise despite a major statutory overhaul of CEPA in 2002. Through this and other efforts, the Council is helping to make CEPA the efficient planning tool that was envisioned rather than the bureaucratic hurdle it sometimes is, and to help agencies produce short, concise environmental impact evaluations.

An example of the way in which CEPA can be a bureaucratic hurdle was brought to the Council's attention by municipal officials in 2009 in connection with a private construction project on state airport land. The Council worked with numerous organizations and legislators in 2010 to revise CEPA in a way that allows such private developers to speed the environmental review process considerably while maintaining independent state oversight; another potential benefit of P.A. 10-120 is less cost to taxpayers for environmental reviews of projects on state property.

In December, the Council received complaints and inquiries about a state grant for a boat launch facility that was awarded without the environmental review and public notice required by CEPA. After review, the Council advised the Commissioner of Environmental Protection of the applicability of CEPA; as of April 2011 this matter had not been resolved.

Council research found that one of the most polluting power plants in the state is in Hartford and generally is used only on the hottest days of the year when air quality already is at its worst. The

Council noted the connection between this excessive emission of particle pollution and inefficient air conditioning.

The December 21, 2010 edition of the *Environmental Monitor* included a letter from the Secretary of the Office of Policy and Management, to the Commissioner of Environmental Protection confirming that the DEP would retain permanent custody and control of about 13 acres of wooded land near the Thames River. The land formerly was part of the Norwich State Hospital property. The Council recognized this transaction as the first "free acquisition" of open space that resulted from the 2007 law, which had been recommended by the Council, that allows for public comment and environmental review of proposed transfers of state land, and commended the citizens whose actions led to this success.

Following up on the research and recommendations of *Swamped*, the Council held a roundtable meeting in October with people representing municipal commissions, consultants, homebuilders, agricultural and conservation organizations and other state agencies. As a result, the Council put forth new legislative recommendations for enhancing the training available to members of municipal inland wetlands agencies. Read the minutes of the roundtable meeting.

The Council continued to receive questions and concerns about proposed telecommunications towers. Recommendations were submitted to the Connecticut Siting Council on several aspects of siting procedures, particularly involving improvements to the consideration of scenic impacts, an ongoing project of the CEQ. The Siting Council adopted a recommendation that applicants be required to analyze scenic impacts on public waterways. The CEQ also recommended improving notice to residents who will have a view of a proposed telecommunications tower.

### **Citizen Complaints**

As noted in last year's report, citizens of Haddam spoke to the Council about contamination of land and groundwater that has existed in their community for more than 25 years. Among many issues, the apparent lack of remedial action by one company was of particular note, as the company had been required by the DEP to investigate the contamination and prepare a clean-up plan. The Council decided to follow this case in detail in order to learn more about the adequacy of existing laws and programs. In April 2010, the Council wrote to the DEP recommending enforcement action against the company in question. In July, the Council wrote to Governor M. Jodi Rell describing the ongoing problems, the lack of action, and the need for changes and consolidation in state remediation and potable water programs. The DEP began legal action against the company in late 2010, but there are many more components of the Tylerville solution, none of which are advancing with any apparent urgency.

The following are a sample of the many other complaints investigated in 2010:

- Diversion of stormwater from a university campus into a drinking water supply watershed without a permit.

- Weakness of laws regarding illegal felling of trees by a trespassing party on private land (a perennial source of complaints).
- Removal of a stand of pitch pine trees (a state conservation priority) from municipal land that had been purchased partially with a state grant.
- Proposed sales of Seaside Regional Center and other state properties and the potential loss of public access to shoreline property. (Update: In February 2011, the Office of Policy and Management published a notice in the Environmental Monitor indicating that public access to the shore at the Seaside Regional Center property would be preserved through an easement.)

The Council researched all of the complaints it received and offered recommendations to the relevant state agencies, where warranted. Some problems, such as illegal tree removal on private property, will require legislative action to correct.

### **The Word from Haddam**

The Council periodically holds public forums in different parts of the state to learn what environmental topics are most on residents' minds. The information presented at these forums has been extremely useful to the Council.

In April 2010, the Council heard from citizens and municipal officials in Haddam. Dozens of residents turned out for the 5:00 P.M. forum and spoke about numerous environmental problems, many involving the actions and responsibilities of state agencies. The Council investigated all of them and responded to each speaker. Many investigations led to actions by state agencies and/or recommendations for legislation. Read a [complete summary of the speakers and the issues they raised](#).

