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TESTIMONY OF ERIC J. BROWN  
ASSOCIATE COUNSEL, DIRECTOR OF ENERGY & ENVIRONMENTAL POLICY  
CONNECTICUT BUSINESS & INDUSTRY ASSOCIATION  
before the  
PLANNING & DEVELOPMENT COMMITTEE  
February 20, 2013

Good morning. My name is Eric Brown and I serve as director of energy and environmental policy with the Connecticut Business & Industry Association ("CBIA"). On behalf of our 10,000 large and small member companies throughout Connecticut, we are pleased to provide comment in support of:

**Raised Senate Bill No. 814, An Act Concerning Intervention in Permit Proceedings Pursuant to the Environmental Protection Act of 1971.**

As the state strives to pull out of a long recession by growing the economy and creating jobs, lawmakers could help by reducing one of the greatest impediments to attracting economic investment--regulatory and legal uncertainty.

Specifically, CBIA supports reform an important, but sometimes abused law that allows anyone from literally anywhere to file for an injunction that will halt a development project over possible concerns with its impact on the environment.

The Connecticut Environmental Protection Act (CEPA) was enacted in recognition that each citizen, as a steward of the environment, should have the right to raise environmental concerns associated with development. These concerns can be raised to local boards or commissions and later be used to challenge their decisions in court.

While some environmental organizations, advocates and citizens have used CEPA appropriately, too often it has been abused by others as an anti-development tactic to significantly delay or stop development in its tracks while a lengthy and costly legal drama plays out.

Because the statute does not specify the evidence required and the timeframe within which CEPA claims must be filed, actions can be raised at any time (again, by anyone) – even after a project has been constructed.

This only harms Connecticut's ability to attract investments—forcing attorneys for those considering investing in projects here to tell their clients that they can't be certain that an individual or entity won't file a CEPA claim, triggering months or years of legal wrangling. This can be astonishingly bad news for potential investors, who could direct their attention (and investment dollars) to other states.

But lawmakers can take steps to help fix this problem while fully maintaining the integrity of CEPA and the ability of citizens or others to raise legitimate environmental concerns in a timely manner.

Requiring CEPA claims to have at least some basic evidence of a reasonable risk to the environment, and encouraging legitimate concerns to be brought to the attention of the appropriate authorities in a timely fashion, would greatly improve the efficiency and effectiveness of the process.

This would also help to lessen the perception that, in Connecticut, a developer can never really be sure these issues won't be raised in the future. And it would make CEPA consistent with the 2002 opinion of the Connecticut Supreme Court in *Nizzardo vs. State Traffic Commission*. In that case, the Court declared that a CEPA petition "must contain specific factual allegations setting forth the environmental issues" to be raised.

CBIA urges the Planning & Development Committee, and the legislature, to take a step forward in making Connecticut a more attractive place to invest while preserving our citizens' important right to be active stewards of the environment. Please support modification of Connecticut's CEPA.