Environment Committee
Room 3200, Legislative Office Building
Hartford, CT 06106

March 22, 2013

Testimony on "*RB 1082*"

This written testimony is provided by the Environmental Practice Group of Robinson & Cole, drafted by Pamela Elkow and Todd Berman. By way of background, both Ms. Elkow and Mr. Berman were active participants and leaders in various Connecticut Department of Energy and Environmental Protection (CTDEEP) Transformation work groups in 2012.

We strongly support the CTDEEP's efforts to streamline the state's confusing and cumbersome remedial programs, and remove impediments to getting brownfield sites revitalized in Connecticut, evidenced by the report issued by the Department last month. That said, we are opposed to Sections 2 and 3 of Raised Bill 1082.

The analogy the department frequently uses when describing its "Transformation" effort is that it will "widen the net" – that is, more sites will be brought into the program – but it will also "widen the holes" in that net, meaning that the less risky sites will move quickly through the remediation program. The proposed changes to the Significant Environmental Hazard Statute, GCS section 22a-6u, set forth in sections 2 and 3 of Raised Bill 1082 are widening the net, while keeping the holes small. Any changes to the Significant Environmental Hazard statute should be made as part of the overall changes to the remedial programs. In particular, there should be no changes made until the Remediation Standard Regulations – the regulations that set forth "how clean is clean" – are revised. CTDEEP itself recognizes the need to revise the RSRs, as set forth in its report. We would also note that provisions such as those in the statute as currently written or as proposed to be revised are best left to regulation, rather than drafting into law very specific standards that are based on regulations, that are themselves proposed to be significantly changes in the near future by the CTDEEP.

While we do believe that this these changes are simply being proposed too soon, we have a few specific comments with respect to the language. First, lowering the thresholds of reporting from thirty times applicable remedial criteria to 10 times the criteria is arbitrary and not supported by science. Second, changing the term "significant" to "imminent" is a meaningful change, and likely to further stigmatize sites that have historic contamination that may or may not be actually harming anyone. Third, the changes require that a property owner submit a report that includes "proposals for additional action", with no further direction.

In conclusion, we feel the significant effort behind CTDEEP's Transformation process is worthy of a more well thought out approach than amending the Significant Environmental Hazard statute as written. It undermines the great work done in building consensus on other much more significant items within the Transformation vision.