



Testimony of:
Save the Sound
a program of Connecticut Fund for the Environment



In Support of

S.B. 312 AAC A LONG ISLAND SOUND RESOURCE AND USE
INVENTORY AND A LONG ISLAND SOUND BLUE PLAN

In Opposition to

H.B. 5421 AN ACT AUTHORIZING THE USE OF ALTERNATIVE SEWAGE TREATMENT PLANTS IN
CERTAIN WASTEWATER MANAGEMENT DISTRICTS.

H.B. 5417 AN ACT ESTABLISHING A SEASON FOR THE TAKING OF GLASS EELS

Before the Environment Committee

March 7, 2014

Submitted by Leah Lopez Schmalz, Dir. of Legislative and Legal Affairs

Connecticut Fund for the Environment is a non-profit organization that, along with its regional program Save the Sound, works to protect and improve the land, air and water of Connecticut and Long Island Sound on behalf of its 5,500 members. We develop partnerships and use legal and scientific expertise to achieve results that benefit our environment for current and future generations.

Dear Senator Meyer, Representative Gentile, and members of the Committee:

Thank you for the opportunity to comment on Senate Bill 312, House Bill 5421 and House Bill 5417, each of which has a potential impact on the health of Long Island Sound.

Blue Plan: S.B. 312

The Long Island Sound region is the most densely populated estuary in the country, with one-tenth of the U.S. population living within a 50 mile drive of its shores. It is truly an urban sea with a wealth of unique habitats, a variety of traditional marine industries, and a vibrant shoreline recreational culture, as the Long Island Sound Citizen Advisory Committee letter attached to these comments demonstrates. However, its role as a link between New England and the Atlantic states has resulted in many environmental battles.

From Islander East to Broadwater, we have seen first-hand, numerous times, what happens when private development comes into direct conflict with public interests. Other use conflicts which are not necessarily controversial—and are arguably beneficial to the health of the Sound and its traditional industries—are also appearing on the horizon: seaweed farming, aquaculture expansion, and harbor improvements to name a few. To ensure natural resources and the public trust are protected and to maximize the economic support provided by the Sound, we must inventory its resources—including ecological, cultural, recreational and commercial interests—and develop a common sense blueprint for better regulating future uses. S.B. 312 would promote a science-based, bi-state approach to preempting these types of battles while providing a framework for analyzing possible use conflicts.

While the Connecticut Department of Energy and Environmental Protection (“CTDEEP”) has many laws it can use to protect Long Island Sound, those laws operate one by one, on a permit by permit basis, and without reference to any overall state goals or plans. This generally means that unless it can prove concrete, explicit adverse impacts, CTDEEP cannot reject a proposal, even when that proposal is an inappropriate use of public

trust land. The Blue Plan would put these proposals into a broader, scientifically derived context and allow Connecticut to fully protect its habitats, wildlife and traditional public uses.

Long Island Sound is governed by both Connecticut and New York, but until recently, the states rarely coordinated on policies of mutual interest. Over the last few years Connecticut legislators and agency staff have made a concerted effort to coordinate with their counterparts in New York. This Blue Plan would deepen those connections and would provide an ongoing forum for identifying, discussing and developing solutions for issues of joint concern.

Additionally, a Blue Plan would provide industry with a guideline for any application by indicating areas that may be appropriate for a given use. This has two benefits: First, applicants will save time and money by supplying CTDEEP with a more thorough and locationally-appropriate application from the start, thus limiting the back and forth that can occur when an applicant is blindly proposing routes through the Sound. Second, by starting with more and better information, CTDEEP may be able to shorten permit processing times.

There are many proactive reasons to move forward with the Blue Plan, but there is also a critical defensive reason: Connecticut is one of the only northeast states without a coastal marine spatial plan. We could find ourselves an easy target for future projects if we do not move forward with a plan of our own. Our neighboring states of Massachusetts and Rhode Island have spent the last few years developing similar plans for their waters. They have cataloged critical ecosystem resources and stakeholder group uses and have used these data to designate areas where certain industry is allowable and where it is not. Meanwhile in Connecticut we have an open season, reacting to whatever proposal is thrown our way. This leaves our waters even more vulnerable to the Wild West mentality we have seen in the past.

Save the Sound would like to highlight a couple of small changes which we believe would strengthen the existing bill:

- 1) Modify Section 1(a) to more clearly emphasize the intent to protect public access.
 - a. *Current*: "...(1) Coordinate the completion of a Long Island Sound Resource and Use Inventory that is comprised of the best available information and data regarding the natural resources within Long Island Sound and the uses of Long Island Sound, including, but not limited to, all: (A) Plants; (B) animals; (C) habitats; (D) ecologically significant areas in nearshore and offshore waters and substrates of such waters; (E) uses of such waters and substrates, including..."
 - b. *Suggested*: "...(1) Coordinate the completion of a Long Island Sound Resource and Use Inventory that is comprised of the best available information and data regarding the natural resources within Long Island Sound and the uses of Long Island Sound, including, but not limited to, all: (A) Plants; (B) animals; (C) habitats; (D) ecologically significant areas in nearshore and offshore waters and substrates of such waters; (E) public access areas; [(E)] (F) uses of such waters and substrates, including..."
- 2) Modify Section 1 (c) to allow for the inclusion of other critical stakeholders.
 - a. *Current*: "There is established a Long Island Sound Resource and Use Inventory and Blue Plan Advisory Committee that shall assist the Secretary of the Office of Policy and Management with the drafting of the Long Island Sound Resource and Use Inventory and the Long Island Sound Blue Plan, described in subsection (a) of this section. Said advisory committee shall consist of the following members:..."
 - b. *Suggested*: "There is established a Long Island Sound Resource and Use Inventory and Blue Plan Advisory Committee that shall assist the Secretary of the Office of Policy and Management with the drafting of the Long Island Sound Resource and Use Inventory and the Long Island Sound Blue Plan, described in subsection (a) of this section. Said advisory committee [shall consist of the] may include but not be limited to the following members:..."

Connecticut has invested heavily in protecting the maritime history and environmental health of Long Island Sound. In return the Sound provides our region with a yield on that investment of nearly \$9 billion each year. Passage of S.B. 312 would ensure that our money and efforts will go toward better understanding the Sound's ecosystem and the fights we should focus on, like stormwater runoff and sewage contamination, instead of the battles that multi-national companies with virtually inexhaustible resources, like Shell Oil, choose for us. Please support the Sound's future by supporting S.B. 312.

Alternative Treatment Systems: H.B. 5421

Save the Sound generally opposes HB 5421, which would undermine the laws that protect our harbors and Long Island Sound from underperforming alternative treatment systems ("ATS"). These small sewage treatment facilities are used for developments, small communities, or institutions. Sometimes the result of using these systems is cleaner water for nearby waterbodies, but unfortunately that is not always the case.

The performance track record for these types of facilities is spotty. And according to a report by the Connecticut Council on Environmental Quality released March 6, 2014, the oversight of ATS is lacking. As the report outlines, the solution begins with CTDEEP enforcing permits and ensuring that all ATS are operating under valid permits. The solution is not to punt CTDEEP's Clean Water Act permitting and enforcement authority to local municipalities, as proposed in HB 5421. It is the state of Connecticut that holds the delegated program and related responsibilities under the Clean Water Act, not municipalities.

We urge the Environment Committee to uphold the long standing tradition of protecting the Sound's water quality by rejecting H.B. 5421.

Glass Eels: H.B. 5417

Save the Sound opposes HB 5417 which directs CT DEEP to establish a fishing season for glass eels—the tiny juvenile eels that hatch in Connecticut's rivers and migrate downstream to the ocean. There's one problem: taking these eels is prohibited by the Atlantic States Marine Fisheries Commission and the EPA is currently considering making them an endangered species. Connecticut should not jump the gun by establishing a season for them before the EPA and the commission have made their decisions.

Thank you for your consideration.

Sincerely,

Leah L. Schmalz, Dir. of Legislative & Legal Affairs
Save the Sound, a Program of CFE
142 Temple St. 3rd Floor
New Haven, CT 06510
t: 203.787.0646 f: 203.787.024
lschmalz@savethesound.org



A Partnership to Restore and Protect the Sound

CITIZENS ADVISORY COMMITTEE

OF THE LONG ISLAND SOUND STUDY

Website: <http://www.longislandsoundstudy.net>

CITIZENS ADVISORY
COMMITTEE
OF THE
LONG ISLAND SOUND
STUDY

OFFICERS

Curt Johnson
Connecticut CAC Co-Chair

Nancy Seligson
New York CAC Co-Chair

Martin Garrell
Secretary

CAC SUBCOMMITTEES:

Advocacy, Legislative & Policy
Tracking & Accountability
Local Government

LISS WORK GROUPS

Habitat Restoration
Stewardship
Nonpoint Source/Watersheds
Communications
Nutrients

CAC ADDRESS

Long Island Sound Study
Citizens Advisory Committee
c/o EPA LIS Office
Stamford Government Center
888 Washington Blvd, Suite 6-5
Stamford, CT 06904
Office: 203 977-1541
Fax: 203 977-1546

*The CAC meets quarterly on the
second Thursday of March, June,
September, and December at
alternating locations in New
York and Connecticut. Meetings
are open to the public.*

Statement of the Long Island Sound Citizens Advisory Committee (CAC)

RE: Coastal and Marine Spatial Planning for Long Island
Sound

March 6, 2014

This is a statement of support for the general concept of coastal and marine spatial planning (CMSP) for Long Island Sound from the Long Island Sound Study (LISS) Citizens Advisory Committee (CAC).

The Long Island Sound Study (LISS) is one of 28 National Estuary Programs funded by the EPA under Section 320 of the Clean Water Act. National Estuary Programs are guided by a Comprehensive Conservation and Management Plan (CCMP) which for Long Island Sound was approved in 1994. The mission of the Long Island Sound Study and accompanying CCMP is to "work with federal, state, and local partners to restore and protect Long Island Sound." The CAC provides ongoing advice to the Federal, state, and local government Management Conference partners working on implementing the CCMP. Membership on the CAC includes individuals representing environmental organizations, businesses, industries, local governments, and other public and private organizations in Connecticut and New York.

Long Island Sound is the largest estuary in the Northeast and is crucial to the way of life of more than 20 million people who live within 50 miles of it, generating billions of dollars annually for the regional economy. It's also a highly productive and important natural system.

Today there are mounting demands for use of the Sound from new energy development to the prospect of underwater tunnels. The character of the Sound could be significantly changed with one major project.

Currently, the states of Connecticut and New York do not have either the authority or an established program to comprehensively plan for multiple future uses of the Sound. Project applicants set the agenda, and state agencies can only engage through the regulatory process in response. This does not allow the states to be proactive in securing the best future for the Sound.

CMSP is a science-based process for inventorying current uses and resources in ocean and coastal waters and using that information to guide new future uses. A plan using this information may identify areas most suitable for various types of activities, such as shipping, energy facilities, recreational and commercial boating and fishing, aquaculture, and others, in order to reduce conflicts among users, minimize environmental impacts, and facilitate compatible uses. This does not mean that such areas are off limits to other uses, rather, that if conflicts arise, there will be a clear indication of what is most appropriate for that area and/or what may be needed to make a proposed use compatible. Typically, many areas remain suitable for a full spectrum of possible uses or a combination of uses. The plan could serve as a guide and inform existing regulatory processes rather than creating new regulations. This would allow the plan to have legal standing without imposing new burdens and undue restrictions.

A Long Island Sound CMSP process can follow this general approach and should make particular provision for close coordination between Connecticut and New York. It is important that the two states engage in marine planning cooperatively to create an integrated bi-state approach. Another critical element of the process is that the public and interested stakeholders play an important part in providing input and being able to assure their interests have been considered and reflected in the outcome. In short, a marine spatial plan should preserve traditional uses like boating and fishing along with the maritime beauty and environmental values that make the Sound a desirable place.

A marine spatial plan would also help reduce conflicts among those who use the Sound and save time and resources otherwise used to resolve conflict. Over the past decade, Long Island Sound has been the focus of several protracted battles over different uses in the Sound. Once completed, the marine spatial plan could be consulted by potential developers to identify more suitable locations for projects and result in a more efficient permitting process.

There have been several coastal and marine spatial planning (CMSP) efforts in the Northeast in the last few years. These include the Northeast Regional Planning Body being established through the National Ocean Policy with support from the National Oceanic and Atmospheric Administration (NOAA) and the Northeast Regional Ocean Council (NROC). It also includes the States of Massachusetts and Rhode Island who have each completed marine spatial plans in the last several years for their ocean waters. Here in Long Island Sound, there has been an informal working group that has been meeting for a year and a half to enable conditions for Long Island Sound marine spatial planning. These efforts reflect an opportunity for the Sound to benefit from the current concentration in the Northeast of interest and progress, resources and expertise on the subject of CMSP.

The general concept of a Long Island Sound marine spatial plan, by improving management of the Sound and the protection of its habitats, is consistent with and will further the mission of the LISS and accompanying CCMP. More specifically, a marine spatial plan for the Sound would support six program goals of the CCMP, particularly goals 3, 4 and 5 respectively. These are: to ensure that opportunities for water-dependent recreational activities are maximized without a conflict with ecosystem management; to ensure that social and economic benefits associated with the use of the Sound are realized to the fullest extent possible, consistent with social and economic costs, and to: preserve and enhance the physical, chemical, and biological integrity of the Sound and the interdependence of its ecosystems.

Finally, The LISS CCMP is being updated for the first time in 20 years and preliminary drafts recommend marine spatial planning among a short list of emerging issues for states to address under the revised CCMP.

By completing a scientifically-based CMSP planning process with strong stakeholder input, we can help assure that uses of the Sound are compatible while also safeguarding the Sound's environment.

Thank you for the opportunity to comment.



Curt Johnson, LISS CAC Co-Chair, CT



Nancy Seligson, LISS CAC Co-Chair, NY