



# COUNCIL ON ENVIRONMENTAL QUALITY

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## TESTIMONY

DATE: March 2, 2015

TO: Appropriations Committee  
Connecticut General Assembly

BY: Susan D. Merrow  
Chair

RE: Proposed Budget

Good evening. I'm Susan Merrow. I live in East Haddam, where I served for 12 years as First Selectman; 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 2014 in the very near future. The report is generally recognized as being consistently accurate and objective. If you want to know how Connecticut's air, water, land and wildlife are doing, you will find that information in the CEQ annual report and nowhere else. The foundation of the report is a set of 35 environmental indicators with which we chart, every year, Connecticut's progress towards its goals. 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, with an efficiency that would be difficult to reproduce, and the Council's independent analysis and voice has not been compromised. In any of our reports, you will find infor-

mation 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

With a staff of only two, the Council is able to fulfill its considerable statutory responsibilities with a high level of output. In addition to the annual report described above, the Council publishes special reports as products of its investigations. Here is a sampling of those reports on our website:

### Special Reports and Miscellaneous Publications of the CEQ

[Testing the Effluent: Some Systems Pass, Some Don't, and Some Won't Say](#) (March 6, 2014) (PDF, 367KB)

#### The "Preserved" Series

##### *Special Reports on the Protection of State Conservation Lands*

[Preserved But Maybe Not](#): The Impermanence of State Conservation Lands (January 4, 2014) (PDF, 225KB)

[Cover letter](#) to Governor Dannel P. Malloy (January 4, 2014)

Brief [slide show](#) (Powerpoint) on earlier, shorter draft version (November 20, 2013)

[Preserved and Forgotten](#): DOT Scenic Lands and Their Protection (July 14, 2009) (PDF, 100KB)

[Preserved But Not Protected](#): The Damage to Connecticut's Preserved Lands from Boundary Encroachments, Illegal Tree Cutting, ATVs, and Other Assaults (December 20, 2005) (PDF, 399KB)

[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)

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

[Coal, Fish and Connecticut's Health: a CEQ 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)

[CEQ Recommendations for Modernizing the Connecticut Environmental Policy Act](#) - Updated December 27, 2013

[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)

[Great Infestations: Connecticut's Response to Green Invaders](#), Short Version (4 pages) (PDF, 391KB)

[Eat, Drink, Be Wary? Preventing Needless Exposure to Toxic Chemicals in Connecticut](#) (PDF, 188KB)

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 2011, 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 publishing more information for the public and allowing construction projects to move more swiftly. I also mention the *Monitor* in this appropriations 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 (so no agency’s project is delayed by failing to meet a 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](#).

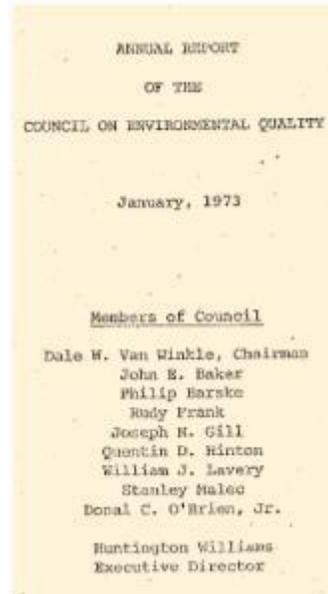
The Council is a nine-member board that works independently of the Department of Energy and Environmental Protection (except for administrative functions). The Chairman and four other members are appointed by the Governor, two members by the President Pro Tempore of the Senate and two by the Speaker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

1. Submittal to the Governor of the state's official annual report on the status of Connecticut's air, water, land and wildlife, including progress toward the state's environmental goals, 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.
4. Reviewing Environmental Impact Evaluations that state agencies prepare for major projects under the [Connecticut Environmental Policy Act](#) (CEPA) and its attendant regulations.
5. Publication of 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 2013** [excerpted from the Council's [annual report](#)]

*(the annual report for 2014 will be published later this month)*



As 2013 began, the Council observed that it was the 40th anniversary of the first annual report on Connecticut's environment. Those 11 typewritten pages offer a window into a Connecticut that is forever in the past. Most people living in this state today have never breathed anything as bad as the air breathed by Connecticut residents during the early 1970s and probably never will.

To write that first report, members and staff relied greatly on subjective judgments. Today the Council has access to much more data to analyze the state's lingering and persistent environmental problems (though, as noted throughout this report, some data still are lacking), and its reports should be expected to be more precise and unerring. To fulfill that expectation, the Council was as busy in 2013 as it ever has been.

### **Research and Reports**

The Council published its annual report, *Environmental Quality in Connecticut*, in April 2013. That report highlighted the extent to which many environmental indicators change little from year to year and explored the reasons for the apparent stagnation.

The Council is required to recommend legislation for "identifying the deficiencies of existing programs and activities." The Council submitted [those](#) to Governor Dannel P. Malloy in January 2014.

The Council investigated the apparent upturn in the number of proposals to use state park, forest and wildlife management lands for other purposes, and concluded that state conservation lands are not protected sufficiently. This led to the [publication](#) of *Preserved But Maybe Not: The Impermanence of State Conservation Lands* in early 2014.

From time to time the Council asks staff to prepare updates to previous reports. An example from 2013 includes a staff review of the compliance rate for alternative sewage treatment systems, which the Council had last looked at in 2007. The result was a special [report](#), *Testing the Effluent: Some Systems Pass, Some Don't, and Some Won't Say*, in early 2014.

(Activities of 2013, continued)

### Review of State Projects and Programs

All agencies submit their environmental impact evaluations (EIEs) of proposed projects for the Council's advice. In 2013, the Council submitted detailed comments on a highway interchange and commercial development project that involved several agencies; the comments are leading to improvements in evaluating the impacts of multi-agency projects.

For several years the Council has been encouraging agencies to prepare concise EIEs that are easily read and understood, and in 2013 it commended the Board of Regents for Higher Education for adopting that approach.

The Connecticut Siting Council solicits the CEQ's comments on applications and petitions. The CEQ had submitted detailed comments in 2011 on a telecommunications tower proposed to be constructed on a hill in Canaan that is known to be of extraordinary scenic and ecological value. The Siting Council denied the application. A revised application was submitted in 2013, and again the CEQ pointed out deficiencies in the application. The application was withdrawn.

Sometimes the Council's investigations of citizen complaints (see below) intersect with the Council's duties to advise state agencies. When the Council held a public forum in Mansfield in 2011, it was reminded that the University of Connecticut still had not moved its hazardous waste storage facility out of the drinking water supply watershed despite years of plans, EIEs and public input. In 2012, the university again announced a plan to evaluate alternative locations; the Council advised the university to put a priority on sites outside the watershed, and followed the site evaluation process closely. In late 2012 an advisory committee rated the current site as the least favorable among the alternatives. An EIE was completed in 2013 and a site was selected outside of the drinking water supply watershed.

The Council also continued to take steps to help modernize CEPA.

### Citizen Complaints

As noted in reports of the past four 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 30 years. The Council decided to follow this case closely to learn why the start of remediation in some communities is delayed for decades (if it ever occurs). In September 2012, the Council submitted a detailed [letter](#) to Governor Dannel P. Malloy to update him on the problems in Haddam "and the broader problems made evident by this case." In November 2013, the Superior Court ruled that the owner of a former industrial facility in the community was indeed required to abide by DEEP's requirements. Investigation of the site continues but, to date, there is no remedial activity.

The following are a sample of the many other complaints investigated in 2013:

- An inquiry into the status of a state-owned brownfield property: the property had been made available to potential developers under legislation adopted in 2012. The Council's investigation showed that, pursuant to prior legislation, at least ten acres of the land were to be preserved in a natural state. The Council notified the Department of Economic and Community Development and was assured that the preservation requirement would be fulfilled if the land were ever transferred. In September 2013, the land was deemed to be surplus, and the Council submitted comments to the Office of Policy and Management reiterating the need to preserve the ten acres and evaluate the resources on the remainder of the property. A decision is expected in 2014.
- A species of bamboo that can escape from cultivation and cause a number of problems.
- Questions about DEEP's improvements to parks: The Council received numerous complaints and comments about a parking-lot improvement project at a state park that eliminated a small basin that had been well used by migratory birds and birdwatchers. The Council wrote to DEEP about the concerns, and improvements to the planning process are underway.

*(Activities of 2013, continued)*

- Proposed transfer of state park land: Park enthusiasts were dismayed when the General Assembly directed several acres of state park land to be transferred to a municipality. The Council advised DEEP of the need to evaluate the natural resources on the property, and DEEP concurred.

The Council researched all of the complaints it received and offered recommendations to the relevant state agencies, where warranted.

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

In November, the Council released its required recommendations for corrective legislation in draft form, and invited the public to weigh in. Public officials, businesses, advocacy organizations and individual citizens 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 helped the Council greatly in preparing its final [recommendations](#), which were submitted to Governor Dannel P. Malloy and the General Assembly in January 2014.