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VIA ELECTRONIC MAIL
Committee on Environment
Connecticut General Assembly
State Capitol
Hartford, CT 06106

Re: Comment on 2015 Raised Bill 941, An Act Delaying Implementation Of Provisions Of Public Act 13-308 Concerning Certain Standards And Sampling Requirements Upon The Detection Of Pollutants Causing Contamination Of Soil, Groundwater Or Public Or Private Drinking Water Wells

To the Members of the Committee on Environment:

Thank you for taking the time to consider Bill 941, which will delay the implementation of certain provisions of P.A. 13-308 for a period of two years. The bill is a simple solution to a complex problem, and I thank the Committee for its consideration.

By way of background, I am an attorney who has spent more than twenty years practicing environmental law. I represent private developers, property owners, and municipal entities with respect to environmental matters, including site remediation. In addition, I have had the privilege of sitting on the General Assembly's Brownfields Working Group since its inception. Through my work on that body, I have had the opportunity to hear from a variety of stakeholders on remediation issues, and those stakeholders, with the exception of members of the DEEP, are uniform in their support of this bill.

At the time that P.A. 13-308 was enacted, there was much discussion regarding the state's remediation programs and the changes that would be forthcoming to those programs. The driver of the passage of that act was the Department of Energy and Environmental Protection's assertion that certain thresholds for what constitutes a "significant environmental hazard" as that term is defined in section 22a-6u of the General Statutes needed to be lowered. During the ensuing testimony regarding P.A. 13-308, however, DEEP representatives acknowledged that they lacked the data to fully analyze the risks associated with such contaminants and that further study was needed.

As such, P.A. 13-308 was passed, and the lynchpin of that act was that the DEEP was to secure a consultant to assist the DEEP in determining what risk-based criteria were appropriate, given the latest scientific studies, in determining what Connecticut's remediation levels (and by extension,

significant environmental hazard levels) should be. Once that study was received and reviewed by DEEP personnel, DEEP was to come before the General Assembly with an entire statutory and regulatory package that would transform Connecticut's remediation program, in keeping with these risk-based criteria.

Due to reasons largely beyond DEEP's control, DEEP is not yet in a position to transform Connecticut's remediation program. The study, while now completed, took longer to finish than anticipated, and the comments regarding that study have not been uniform in its acceptance. Moreover, the study does not specifically address the significant environmental hazard issue contemplated by the pending changes to section 22a-6u of the General Statutes. Put simply, DEEP needs more time to finish digesting the study and applying it to the regulatory, and possibly statutory, programs in Connecticut. Indeed, by the DEEP's own admission, it will not be able to provide a formal response to that report for another six weeks.

That delay is not fatal to the state's remediation programs, but the DEEP cannot have it both ways. It cannot say that it is running a program based on sound science and risk factors and ignore the fact that it still does not possess any scientific information that serves as the basis for lowering the standards for what constitutes a significant environmental hazard in Connecticut.

Lowering the standards will obviously result in more sites being deemed to be significant environmental hazards. However, DEEP is having difficulties addressing the significant environmental hazards it is already aware of. These sites pose some of the greatest risks to Connecticut's residents, however, some of them have been open for more than ten years. Before DEEP lowers standards to place more sites into the realm of significant, it should address the significant sites it is already aware of.

As the General Assembly is well aware, DEEP routinely publishes its "List of Significant Environmental Hazards Reported to the DEP," which can be found at: www.ct.gov/deep/lib/deep/site_clean_up/hazard_notification/hazardnotificationsummary.pdf.

The current list includes sites that have been reported from August 1, 2002 through August 31, 2014, and was last updated on September 30, 2014. A copy of the list is enclosed with these comments, should members of the Committee wish to review it.

What is telling is that the list contains 47 sites for which work needs to be done or where action is pending. While many of these open sites have come to DEEP's attention in the last two years, several of them have been outstanding for far longer, including the following sites:

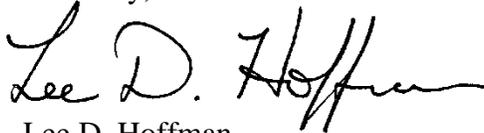
- Two sites in Madison, one which has been open since February of 2005 and the other which has been open since April of 2007;
- A site in New Milford where further action has been pending since March of 2006;

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- A site in Newtown that was noticed in March of 2008 but for which sampling of water wells is still pending;
- A site in Norwich that was listed in September of 2002 for which a plan of action was to be implemented as part of redevelopment but for which no record of completion is shown;
- In Plainfield, a site which had been identified to DEEP in February of 2005 had some work undertaken, however, the removal of soil is still pending;
- In Plymouth, the DEEP has been evaluating a site since October of 2002, but no action has been taken; and
- A PCB-contaminated site in Rocky Hill was identified in March of 2006 and “hot spot” soil was removed. However, “an Engineered Control will be approved soon to address on site remaining PCB problem.”

The DEEP has gone on record stating that it opposes Bill 941 because DEEP “supports implementation of the law already enacted as practical, carefully tailored to focus on only the higher risks, and targeting conditions that may require short-term measures to “make safe”, instead of allowing additional years for exposures to occur.” With all due respect, DEEP has not demonstrated that it has the science to back its claim that the sites that will soon be subject to section 22a-6u are truly significant environmental hazards, nor has DEEP demonstrated that it can adequately address the backlog of sites it is currently aware of. Bill 941 gives the DEEP an opportunity to address both of these issues and should be passed in its current form.

Sincerely,



Lee D. Hoffman

Enclosure