

Legislative History for Connecticut Act

HB 7121 P.A. 458 1993

Senate: 5175-85, 5203-14 (23 p.)

House 3213-3214, 6833-6834,
9830-9852, 13805-13823
(46 p.)

Eno: 1149-1174, 1175-1181, 1182-1191,
1193, 1196-1214, 1215-1231,
1233, 1234, 1235, 1239-1240,
1241, 1242-1243, 1248-1259 (over)

Eno (cont) 1261-1265, 1267-1278
(113)

180 p.T

Transci

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S-357

CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
1993

VOL. 36
PART 15
5097-5455

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Thank you very much, Senator. Would anybody else wish to remark on Senate Calendar 632? Are there any further remarks on 632? If not, Senator, do you wish to make a motion to place that item on the Consent Calendar if there's no objection?

SENATOR DAILY:

So moved, Madam President.

THE CHAIR:

Thank you very much. Is there any objection to placing Senate Calendar 632, Substitute for House Bill No. 5922, on the Consent Calendar? Is there any objection? Hearing none, so ordered. Mr. Clerk.

THE CLERK:

Calendar No. 635, File No. 1017, Substitute for House Bill 7121, AN ACT CONCERNING STREAMLINING THE PERMIT PROGRAM OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION, IMPLEMENTATION OF THE URBAN SITES REMEDIAL ACTION PROGRAM AND OPEN WATER MARCH MANAGEMENT. (As amended by House Amendment Schedules "A", "B", "C" and "D").

Favorable Report of the Committee on Legislative Management.

The Clerk is in possession of six more amendments.

THE CHAIR:

Thank you very much. The Chair would recognize

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Senator Daily.

SENATOR DAILY:

Thank you, Madam President. I move adoption of the bill in concurrence with the House.

THE CHAIR:

Thank you very much. Do you have a particular amendment that you wish to have called, Senator?

SENATOR DAILY:

Yes, I do. I wish to withdraw 8504, 9232, 7902, 9344 and to call LCO No. 6863.

THE CHAIR:

6863?

THE CLERK:

LCO6863, which will be designated Senate Amendment
Schedule "A". It's offered by Senator Daily of the 34th District.

THE CHAIR:

Senator Daily.

SENATOR DAILY:

Thank you, Madam President. I seek leave to explain.

THE CHAIR:

Move adoption of the amendment.

SENATOR DAILY:

I move adoption of the amendment and seek leave to

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explain.

THE CHAIR:

Thank you very much.

SENATOR DAILY:

This bill accomplishes four major goals of the Department of Environmental Protection. Streamlining of the permit process without any lessening of the environmental standards, a streamlining of the way in which fines are assessed and collected. It sets up in accordance with Environmental Protection regulations, assistance to small businesses to conform to EPA standards and it sets up a new urban site remediation program, which is a byproduct of the pilot program that we had in operation.

The Urban Site Remediation Program, even though that's the title, is not limited to urban sites, according to statutes or funding and this will help the state to clean up properties which are right now considered not usable because of pollution. DED will hold the property, collect rents and DEP will clean the property with that rental money.

THE CHAIR:

Thank you very much. Would anybody else wish to remark on Senate --? Yes, Senator Fleming. Thank you, Senator.

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SENATOR FLEMING:

Thank you, Madam President. Madam President, we are on the amendment?

THE CHAIR:

Yes, sir. LCO No. 6863.

SENATOR FLEMING:

Yes, on the amendment, a question, through you, to the proponent.

THE CHAIR:

Certainly, sir.

SENATOR FLEMING:

For purposes of legislative intent, the -- I've seen earlier versions of this legislation which indicated that the commercial or industrial property would be specifically in urban areas. It is my understanding that even though this is called an urban site remediation fund, it would not necessarily be limited to urban areas, although that is an area of I think probably greatest concern.

Through you, Madam President, is that true that if there were land in areas that were not urban, that it would be possible for monies to be spent to clean up that area and then to lease that area? Is that correct, through you, Madam President?

THE CHAIR:

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Senator Daily.

SENATOR DAILY:

Through you, Madam President, I'm very happy to have the opportunity to add further clarification. That is absolutely true. The title was title from the pilot program. The legislation does not limit it to an urban site.

THE CHAIR:

Senator Fleming.

SENATOR FLEMING:

Thank you, Madam President, and inasmuch as there is lightening out I'll stop holding this and asking questions.

SENATOR DAILY:

And he'll leave Senator Daily holding hers.

THE CHAIR:

That's right. You know who your friends are in tough times, don't you. Oh. Senator Kissel, do you wish to be recognized.

SENATOR KISSEL:

Thank you, Madam President. It's clear that I have a death wish in this Chamber, holding this microphone during lightening. It's my understanding, through you, Madam President, to the proponent that the state could basically be on the hook up to \$15 million for each

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site that is remediated here, through you, Madam President?

THE CHAIR:

Senator Daily.

SENATOR DAILY:

Thank you, Madam President. Through you, Madam President, \$15 million is the limit of the liability that the state will accept for a specific piece of property under this legislation. This legislation also is specific in excluding sites over that amount.

SENATOR KISSEL:

And through you, Madam President, is there any limit to the amount of sites that the state might try to remediate through this mechanism, through you, Madam President?

THE CHAIR:

Senator Daily.

SENATOR DAILY:

Thank you, Madam President. Through you, Madam President, Senator Kissel, there's a financial limit. There's no limit on the number of sites, but this fund would be self-sustaining and the money that's collected for rent is the money which in fact will be used to do the cleanup.

SENATOR KISSEL:

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So, through you, Madam President, even though the state could be on the hook up to \$15 million, we would only remediate sites to the extent that we had funds available through these increased costs, through you, Madam President?

THE CHAIR:

Senator Daily.

SENATOR DAILY:

Through you, Madam President, I would not like to be part of language that says on the hook even though I answered that question before. That's the extent of the liability of the site. However, DEP would do an assessment beforehand so that they could have assurances that this could be a site that could be cleaned up and we would not be left on the hook, but \$15 million is the limit for each site.

SENATOR KISSEL:

Thank you. I have no further questions, but by way of a -- I would urge my fellow Senators to reject this amendment. Clearly we are walking down a path which could expose the State of Connecticut to millions and millions of dollars of liability.

I understand and I laud the motivation of Senator Daily regarding this amendment. I understand what it's all about and I think eventually we have to come to

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grips with these areas and clean them up in some fashion. Nonetheless, I think by going about it in this way, we haven't thought it all through properly.

By increasing the amount of funds taken from enterprises which may indeed participate in causing some of these problems, we take away from some of our ability to fine tune that mechanism, albeit a penalty mechanism, because what we're trying to do with those fee payers and fine payers at this time is to bring them into compliance, to motivate them to do things that will be good towards our environment.

I know by way of an example that Dexter Corporation in the Town of Windsor Locks has had some problems complying with some of our environmental laws and what you want to do is you don't want to have fines and fees so astronomically high that you jeopardize the viability of that kind of enterprise. You want to make them stiff, you want to make them painful so that they comply with the environmental laws, but you don't want them to be so egregious that you undermine functioning businesses and enterprises in order to try to take care of these basically areas of land which we cannot utilize at this time.

I think to some extent legislation or an amendment such as this would be more critical if there was an

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absolute lack of available land and this was the only way we had to go, but in this present real estate market, there are far more sellers than buyers and I don't think we should be in the business of shifting around the liability and the dollars for a project such as this in this fashion.

If we're going to make a public policy commitment to clean up this land, then let's do it in a straightforward fashion, and for those reasons, Madam President, I would urge rejection of this amendment. Thank you.

THE CHAIR:

Thank you very much. Would anybody else wish to remark? Are there any further remarks on Senate Amendment "A"? Senator Upson.

SENATOR UPSON:

Yes, is there a fiscal --.

THE CHAIR:

(Gavel)

SENATOR UPSON:

A fiscal note on this?

THE CHAIR:

Senator Daily.

SENATOR DAILY:

Through you, Madam President, yes, and I'll read it

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to you. Funds provided in the budget, a potential revenue increase, minimal cost, minimal savings. That addresses, I think, a point that Senator Kissel was making about the fines. The business community was an integral part of this legislation and they eagerly await adoption of this legislation. Although the fines differ in some places, it simplifies the process tremendously, so the short answer is no.

SENATOR UPSON:

I just need a copy of it. I think Senator Eads has one. Thank you.

THE CHAIR:

Would anybody else wish to remark on Senate Amendment "A"? Are there any further remarks on Senate Amendment "A"? If not, then please let me know your mind. All those in favor of LCO No. 6863, designated by the Senate Clerk --? Oh, I'm sorry, Senator.

SENATOR UPSON:

I object. This is not the correct amendment, fiscal note. This is to Amendment LCO9344 and we're on LCO6863.

THE CHAIR:

That's correct.

SENATOR UPSON:

May we have a moments rest until we get the right?

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THE CHAIR:

Yes, the Senate will stand at ease for just a minute please. Yes, we'll come to order and the Chair will recognize Senator DiBella.

SENATOR DIBELLA:

Madam President, could we Pass Temporarily on this matter.

THE CHAIR:

We've found it. Do you still want to Pass Temporarily? Yes. Senator Daily, if there's no objection, we'll just pass 635 temporarily.

SENATOR DAILY:

Thank you, Madam President.

THE CLERK:

Calendar Page 5, Calendar No. 648, File No. 652, Substitute for House Bill 7232, AN ACT CONCERNING MOTOR VEHICLE CHOP SHOPS. (As amended by House Amendment Schedules "A", "B", "C" and "D").

Favorable Report of the Committee on Judiciary.

THE CHAIR:

The Chair would recognize Senator Jepsen.

SENATOR JEPSEN:

Thank you, Madam President. I move acceptance of the Joint Committee's Favorable Report and adoption of the bill in concurrence with the House.

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THE CHAIR:

Senator Robertson, do you have them? Would you like to pass this temporarily until the copies are made and then we'll come back to it or do you --?

SENATOR HARP:

Yes That's fine.

THE CHAIR:

Thank you very much. We'll pass 653 temporarily until everybody gets straightened out. Now, Mr. Clerk. We've passed 653 temporarily, sir. Page 4, 635.

THE CLERK:

Which one do you want to do?

THE CHAIR:

Page 4, 635.

THE CLERK:

Returning to Calendar Page 4, Calendar No. 635, File No. 1017, Substitute for House Bill 7121, AN ACT CONCERNING STREAMLINING THE PERMIT PROGRAMS OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION, IMPLEMENTATION OF THE URBAN SITES REMEDIAL ACTION PROGRAM AND OPEN WATER MARSH MANAGEMENT. (As amended by House Amendment Schedules "A", "B", "C" and "D").

Favorable Report of the Committee on Legislative Management.

When the bill was last before us, we had called

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Senate Amendment "A", which is LCO6863.

THE CHAIR:

Thank you very much. Senator Daily, we have before us Senate Amendment "A", LCO No. 6863, and I think you and Senator Fleming were engaged in a conversation. Do you wish to remark further on the amendment?

SENATOR DAILY:

Thank you, Madam President. I think it was Senator Upson who had a question about the fiscal note. He received it and it is the same as what I had read to him anyway even though it has a different number.

THE CHAIR:

Thank you very much. Let's wait for him to get in the Chamber so he can --. The fiscal note, Senator, on --.

SENATOR UPSON:

Thank you.

THE CHAIR:

No problem, you're all set, sir?

SENATOR UPSON:

Yes, thank you.

THE CHAIR:

Thank you very much. Would anybody else wish to remark on Senate Amendment "A", LCO No. 6863? Are there any further remarks? If not, then please let me

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know your mind. All those in favor of LCO No. 6863,
designated by the Senate Clerk as Senate Amendment "A",
please signify by saying aye.

SENATORS: Aye.

Aye.

THE CHAIR:

Opposed.

The ayes have it.

The amendment is adopted.

Are there any further amendments? I think not.

Are there?

THE CLERK:

Senator Daily, have you withdrawn all of your other
amendments?

SENATOR DAILY:

Yes, I have, Madam Clerk.

THE CLERK:

Thank you. There are no further amendments, Madam
President.

THE CHAIR:

Thank you very much. Senator Daily, you now have
before you Substitute for House Bill 7121, with Senate
Amendment "A".

SENATOR DAILY:

I would seek adoption of the bill.

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THE CHAIR:

That's right. Do you wish to remark further on the bill?

SENATOR DAILY:

No, that is the bill.

THE CHAIR:

Would anybody else wish to remark on Senate Calendar 635? Are there any further remarks? Senator Smith and then Senator Cook.

SENATOR SMITH:

Thank you, Madam President. Through you, to the proponent of the bill, I just want to make sure I'm clear on this then. The only money that can be spent out of this fund is money that's taken in through the rents on the properties?

THE CHAIR:

Thank you very much. Senator Daily.

SENATOR DAILY:

There will be some money on the site remediation portion, you mean?

SENATOR SMITH:

Either for the purchase of the properties involved or for the remediation effort.

SENATOR DAILY:

For that portion, yes. There is some bond money

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that was bonded in 1989 that's available for startup costs.

SENATOR SMITH:

So other than the initial bond startup money, all other funds that are going to be expended will come from the rents to be paid into the fund?

SENATOR DAILY:

It'll be a revolving fund.

SENATOR SMITH:

Thank you, Madam President.

THE CHAIR:

Thank you very much. Senator Cook.

SENATOR COOK:

Through you, a question to the proponent of the bill please.

THE CHAIR:

Yes, ma'am.

SENATOR COOK:

Senator Daily, I just wanted to ask for clarification on the streamlining piece. Other states, as I have come to learn, have incentives for the state to streamline its permitting process and I wanted to ask if this bill includes incentives for the Department of Environmental Protection to indeed streamline the permits, kinds of incentives may be if the Department

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of Environmental Protection drags its feet, so to speak, or is much slower than anticipated, that the cost of the permit drops to the applicant. Was that considered and is that part of this bill?

THE CHAIR:

Senator Daily.

SENATOR DAILY:

Through you, Madam President, yes, Senator Cook, it was considered and it's not part of that bill for two reasons. One is that the experience in other states has resulted in sort of a mass rejection of bene applications in order to not miss the deadline. Secondly, our department is not in a position to do that today. They're about to move to a new building and adopt a new computer system.

What is here in the language is that they have to come back to the committee with the dates and with a schedule, you know, in which they will adopt and will reject and we'll take action on the permit petitions.

SENATOR COOK:

Through you, Madam Chairman, just so that I can understand, the purpose of this streamlining is really to set target dates, that the state has agreed with the applicant they will work to meet. Is that correct?

SENATOR DAILY:

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There are goals and objectives in here. The target dates, for instance, to say an application for water discharge would be three months. That's not in here. That will be established in the future.

SENATOR COOK:

Okay, thank you very much.

THE CHAIR:

Thank you very much. Senator Kissel.

SENATOR KISSEL:

Thank you, Madam President. Through you, to the proponent, actually not through you to the proponent, but simply a statement. I have no problem with streamlining the Department of Environmental Protection. Indeed, as someone who is a proponent of enhancing the business climate in the State of Connecticut, I think it's extremely important for us to make working with the Department of Environmental Protection as mutually beneficial for the state and for businesses as possible.

Nonetheless, I have grave concerns regarding what was involved in the amendment for the reasons I had stated earlier. I don't think it's good public policy. I don't think it's good business. I think, again, we're going in cleaning up sites. We do not know how much the state will eventually be required to spend.

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I know there's a cap up to \$15 million. I don't know if there's individuals that are sitting on this land at this time waiting to unload them. I don't know what's behind this and I'm unsure as to how the decision making process as to which parcels of land are going to benefit by this project are going to be determined.

Therefore, despite all the beneficial aspects of this legislation, I must vote no and I would ask for a roll call vote. Thank you, Madam President.

THE CHAIR:

Thank you, Senator Kissel. Would anybody else wish to remark on Senate Calendar 635? Are there any further remarks? Senator Somma.

SENATOR SOMMA:

Thank you, Madam President. I just had a question, through you, to Senator Daily please.

THE CHAIR:

Certainly, sir.

SENATOR SOMMA:

Just for a point of clarification, I just wanted to make sure, in terms of the remediation aspect of the legislation, does it apply only to existing sites that are currently listed or potentially new sites, through you?

THE CHAIR:

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Senator Daily.

SENATOR DAILY:

The sites would not have to be on a list right now, but it does target sites that have existing pollution, so it would not address new polluters, if that's the substance of your questions, and that's mostly why it's urban. That's where it's expected to find these old sites, old buildings.

THE CHAIR:

Did you hear that, Senator Somma?

SENATOR SOMMA:

Yes, I did. Just for further clarification, coming from an urban area, I know there are a number of potentially hazardous sites in Waterbury, for example, that have yet to be determined as such by DEP. I wondered in the future could this program cover those, through you?

SENATOR DAILY:

Absolutely.

SENATOR SOMMA:

Yes. Thank you, Madam President. Thank you, Senator Daily.

THE CHAIR:

Senator Fleming. Now that the lightening is gone, you're all set.

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SENATOR FLEMING:

Now I feel safe. Madam President, I stand in support of the bill, and the bill as amended. The bill, first of all, especially the streamlining provisions of the bill are very important. The amendment which we adopted, it's my understanding that right now the state could, if there were not a responsible party on one of these sites, could go in and provide a cleanup of the site. The problem has arisen is that where there is a responsible party, the state cannot do this.

The state is in a position, with this bill, as amended, to pick up land in urban areas or outside of urban areas for virtually no cost and for any amount under \$15 million, go in and clean that site up and get that site perhaps back into productive use in some of our urban communities or in some of the rural communities around the state. I think it makes a great deal of sense. It has wide support, both by the Connecticut Business and Industry Association, the Department of Environmental Protection. I think it's very worthwhile and I would urge the members to adopt the bill. Thank you, Madam President.

THE CHAIR:

Thank you very much. Would anybody else wish to

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remark on Senate Calendar 635? Are there any further remarks? If not, Mr. Clerk, would you please make the necessary announcement for a roll call vote.

THE CLERK:

An immediate roll call has been ordered in the Senate. Will all Senators please return to the Chamber. An immediate roll call has been requested in the Senate. Will all Senators please return to the Chamber.

THE CHAIR:

Thank you very much, Mr. Clerk. The issue before the Chamber is Substitute for House Bill No. 7121, as amended by Senate Amendment "A". The machine is on. You may record your vote.

Senator Milner. Senator Crisco. Senator Nickerson. Have all Senators voted and are your votes properly recorded? Have all Senators voted and are your votes properly recorded? The machine is closed.

The result of the vote:

35 Yea

1 Nay

0 Absent

The bill passes.

Senator Upson.

SENATOR UPSON:

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Another Point of Personal Privilege.

THE CHAIR:

Yes, sir. The whole city of Waterbury must be here this evening.

LAUGHTER

SENATOR UPSON:

No, this is Steven --. There are a lot more than that. Steven Hawthorne, who was an intern to Representative Knierim. He is a senior at Simsbury High School and is going to Boston University, my first cousin, once removed, has a better voice than myself and more hair.

APPLAUSE

THE CHAIR:

Very nice. Thank you very much. Senator Daily, would you like to make a motion?

SENATOR DAILY:

Yes, I would. I'd like to move for immediate transmittal of House Bill 7121 to the House.

THE CHAIR:

Thank you very much. There is a motion for the immediate transmittal of Senate Calendar 635, Substitute for House Bill 7121, to the House. Is there any objection? Any objection? Hearing none, so ordered. Now, Mr. Clerk, scampering right along.

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House of Representatives

Wednesday, April 28, 1993

DEPUTY SPEAKER LYONS:

The question before us is on referral to Transportation. Is there objection? Hearing none, so ordered.

CLERK:

Calendar 327, Substitute for House Bill 7018, AN ACT CONCERNING RURAL ECONOMIC EMERGENCY AREAS. Favorable Report of the Committee on P & D.

DEPUTY SPEAKER LYONS:

Representative Luby.

REP. LUBY: (82nd)

I move that that matter be referred to the Committee on Commerce.

DEPUTY SPEAKER LYONS:

The question before us is on referral to Commerce. Is there objection? Hearing none, so ordered.

CLERK:

Calendar 328, Substitute for House Bill 7121, AN ACT CONCERNING STREAMLINING THE PERMIT PROGRAMS OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION. Favorable Report of the Committee on Environment.

DEPUTY SPEAKER LYONS:

Representative Luby.

REP. LUBY: (82nd)

The Committee on Planning and Development is going

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House of Representatives

Wednesday, April 28, 1993

to be very busy, soon. I move that that matter be
referred there as well.

DEPUTY SPEAKER LYONS:

The question before us is on referral to P & D. Is
there objection? Hearing none, so ordered.

CLERK:

Calendar 333, Substitute for House Bill 6071, AN
ACT CONCERNING THE RECORDS OF THE DEPARTMENT OF
CHILDREN AND YOUTH SERVICES.

DEPUTY SPEAKER LYONS:

Representative Luby.

REP. LUBY: (82nd)

I move that that matter be referred to the
Committee on Education.

DEPUTY SPEAKER LYONS:

The question before us is on referral to Education.
Is there objection? Hearing none, so ordered.

CLERK:

Substitute for House Bill 5922, Calendar 335, AN
ACT CONCERNING THE STATE RECYCLING GOAL. Favorable
Report of the Committee on Environment.

DEPUTY SPEAKER LYONS:

Representative Luby.

REP. LUBY: (82nd)

I move that that matter be referred to the

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House of Representatives

Monday, May 24, 1993

Environment. Is there objection? Hearing none, so
order.

CLERK:

Also, page 29, Calendar 322, Substitute for House
Bill 5942, AN ACT CONCERNING REAUTHORIZATION OF THE
STATE REGIONAL MUNICIPAL USE CLEANING TASK FORCE.

DEPUTY SPEAKER LYONS:

Representative Schiessl.

REP. SCHIESSL: (60th)

Thank you, Madam Speaker. I move that this item be
referred to the Committee on Legislative Management.

DEPUTY SPEAKER LYONS:

The question before the Chamber is on referral to
Legislative Management. Is there objection? Hearing
none, so ordered.

CLERK:

Page 30, Calendar 328, Substitute for House Bill
7121, AN ACT CONCERNING STREAMLING THE PERMIT PROGRAM
OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION.

DEPUTY SPEAKER LYONS:

Representative Schiessl.

REP. SCHIESSL: (60th)

Thank you, Madam Speaker. I move that this item be
referred to the Committee on Legislative Management.

DEPUTY SPEAKER LYONS:

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House of Representatives

Monday, May 24, 1993

The question before the Chamber is on referral to Legislative Management. Is there objection? Hearing none, so ordered.

CLERK:

Page 31, Calendar 361, substitute for house bill 6364, AN ACT CONCERNING INVESTIGATION OF COMPLAINS REGARDING HUNTING.

DEPUTY SPEAKER LYONS:

Representative Schiessl.

REP. SCHIESSL: (60th)

Thank you, Madam Speaker. I move that this item be referred to the Committee on Appropriations.

DEPUTY SPEAKER LYONS:

The question before the Chamber is referral to Appropriations. is there objection? Hearing none, so ordered.

CLERK:

Calendar 367, bottom of page 31, substitute for house bill 7279, AN ACT CONCERNING THE RECYCLE CONTENT OF PAPER PURCHASED BY THE STATE AND IMPROVEMENT FOR RECYCLING MARKETS.

DEPUTY SPEAKER LYONS:

Representative Schiessl.

REP. SCHIESSL: (60th)

Thank you, Madam Speaker. I move that this item be

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House of Representatives

Wednesday, June 2, 1993

REP. SAMOWITZ: (129th)

Mr. Speaker, for the purpose of a transcript notation. Will the transcript please note that Representative Edna Garcia may have missed some votes due to legislative business outside the Chamber?

DEPUTY SPEAKER PUDLIN:

So noted. Further Points, further announcements. If not, the Clerk will return to the Calendar, Calendar No. 328.

REP. STRATTON: (17th)

Mr. Speaker.

DEPUTY SPEAKER PUDLIN:

Representative Stratton.

REP. STRATTON: (17th)

Thank you, Mr. Speaker.

DEPUTY SPEAKER PUDLIN:

Why don't we just give a second?

CLERK:

Page 23, Calendar 328, Substitute for House Bill 7121, AN ACT CONCERNING STREAMLINING THE PERMIT PROGRAMS OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION. Favorable Report of the Committee on Legislative Management.

DEPUTY SPEAKER PUDLIN:

Representative Stratton.

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House of Representatives

Wednesday, June 2, 1993

REP. STRATTON: (17th)

Thank you, Mr. Speaker. I move acceptance of the Joint Committee's Favorable Report and passage of the bill.

DEPUTY SPEAKER PUDLIN:

Question's on acceptance and passage. Will you remark?

REP. STRATTON: (17th)

Yes, Mr. Speaker. The bill before us today reflects the very conscientious efforts of many members of the State of Connecticut, both in this Legislature, in interest groups and in the regulated community as well as the Department of Environmental Protection. Really before proceeding into the bill, I would just like to extend my both appreciation and real admiration for the work that has been done that's resulted in the bill that is before us.

It is no secret to anyone in the State of Connecticut that the issue of permitting and regulating our industries and other potential sources of pollution in this state have been a source of frustration and trying to make that process work efficiently and also yield the environmental protection that all of us seek. The bill before us today tries to streamline that process and to interject some consistency and

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predictability in a system that has grown over the last 20 years piece by piece as our knowledge grew.

In that effort before we consider the whole bill, there are some amendments I would like to call, and the first is LCO5648, and I would ask that the Clerk call and I be allowed to summarize.

DEPUTY SPEAKER PUDLIN:

Will the Clerk please call LCO5648, House "A"?

CLERK:

LCO5648, House "A", offered by Representative Stratton.

DEPUTY SPEAKER PUDLIN:

Question's on summarization. Hearing no objection, proceed, madam.

REP. STRATTON: (17th)

Thank you, Mr. Speaker. Primarily this amendment responds to some of OLR comments on the original file and makes those technical corrections. In addition it authorizes the Department of Environmental Protection Commissioner to establish emergency authorizations or temporary authorizations for functions that are otherwise permitted by the Department, and establishes the procedures for doing that, and I would move adoption of the amendment.

DEPUTY SPEAKER PUDLIN:

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Question is on the adoption of "A". Will you
remark? Question is on adoption of "A". Will you
remark? If not, let me try your minds. Those in favor
of "A", signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER PUDLIN:

Opposed, nay. "A" is adopted and ruled technical.
Will you remark further on the bill as amended?
Representative Stratton.

REP. STRATTON: (17th)

Yes, Mr. Speaker, the Clerk has an amendment
LC08860, and I would ask that he call and I be allowed
to summarize.

DEPUTY SPEAKER PUDLIN:

Clerk, please call LC08860, House "B".

CLERK:

LC08860, House "B", offered by Representative
Stratton.

DEPUTY SPEAKER PUDLIN:

Question's on summarization. Hearing no objection,
proceed.

REP. STRATTON: (17th)

Thank you, Mr. Speaker. In the process of trying to
work out the different components of this bill, the

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task force that met in addition to some internal consultant work that was done within the Department, two issues were never really resolved, and this task force is a task force comprised of the individuals or the interest groups that would be parties to them, and seeks to have that task force report back to the Environment Committee for our next session so that we can adopt appropriate legislative language to deal with these two issues and these two issues only, namely the question of compliance history for those seeking permits under the Department of Environmental Protection and notification of abutting landowners when permits are being applied for, and I would move adoption of the amendment.

DEPUTY SPEAKER PUDLIN:

Question's on adoption of "B". Will you remark? If not, let me try your minds. Those in favor of "B", signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER PUDLIN:

Opposed, nay. Although anemic, the ayes have it, adopted and ruled technical. Will you remark further on the bill as amended? Representative Stratton.

REP. STRATTON: (17th)

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Mr. Speaker, with such overwhelming support, I'll dare another one.

DEPUTY SPEAKER PUDLIN:

That was four to one I believe, ma'am.

REP. STRATTON: (17th)

The Clerk has an amendment LCO8004. Would he call and I be allowed to summarize?

DEPUTY SPEAKER PUDLIN:

Clerk please call LCO8004, House Schedule "C".

CLERK:

LCO8004, House "C", offered by Representative
Stratton.

REP. STRATTON: (17th)

Mr. Speaker.

DEPUTY SPEAKER PUDLIN:

Question's on summarization. Hearing no objection, proceed, madam.

REP. STRATTON: (17th)

Thank you, Mr. Speaker. This amendment takes an existing program, the urban site remediation program, and expands it to enable the Department to actually start the remediation process in addition to the identification and planning process for that remediation which it currently has been doing.

Six positions and funds for those positions are in

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the budget, and the bond package as it is before the Senate includes the \$10 million for the actual remediation and continuation of the urban site remediation program, and I urge adoption of the amendment.

DEPUTY SPEAKER PUDLIN:

Question is on adoption of House "C". Will you remark? If not, let me try your minds. Those in favor of "C", signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER PUDLIN:

Opposed, nay. The ayes have it. "C" is adopted and ruled technical. Will you remark further on the bill as amended?

REP. STRATTON: (17th)

Mr. Speaker, very briefly this bill as amended as I say, I think takes an enormous step forward in trying to make the Department of Environmental Protection's process for permitting and regulating industries and others in the State of Connecticut one that is both more understandable, more predictable and a more efficient one.

It also assumes that that process has not been completed, that there may indeed be more that needs to

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be done, and in accordance with that it asks that the Department of Environmental Protection report back to the Environment Committee on its specific implementation plan which was part of its own internal streamlining process as to its progress to that, and I would say to this Chamber on the basis of those reports, the Environment Committee certainly will continue to monitor progress toward the goal that the Department, the regulating community and we as citizens of Connecticut all share, and I move adoption of the bill.

DEPUTY SPEAKER PUDLIN:

Representative Holbrook.

REP. HOLBROOK: (35th)

Yes, Mr. Speaker, the Clerk has an amendment, LCO No. 8464. I would ask that he call and I be allowed to summarize please.

DEPUTY SPEAKER PUDLIN:

Clerk please call LCO8464.

CLERK:

LCO8464, House "D", offered by Representative
Holbrook, et al.

DEPUTY SPEAKER PUDLIN:

Question's on summarization. Hearing no objection, proceed, Representative Holbrook.

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REP. HOLBROOK: (35th)

Thank you, Mr. Speaker. What this amendment does is to clarify that the Department of Environmental Protection will work within available appropriations to do open water marsh management and coastal culvert and tide gate management and shall maximize successful recolonization of tidal wetlands vegetation and do long term mosquito control, and work on mosquito habitats.

This is a very important piece of legislation that affects many individuals in this Chamber, and I move its adoption.

DEPUTY SPEAKER PUDLIN:

Question's on adoption. Will you remark?

REP. HOLBROOK: (35th)

Yes, Mr. Speaker. I want to thank all those that co-sponsored this amendment. It just shows how important this issue is to the people of this state, whether they are shoreliners or they are uplanders. At this point, I would like to yield to Representative Backer to go over how the funding mechanism works to keep this program intact.

DEPUTY SPEAKER PUDLIN:

Will you remark further on "D"?

REP. HOLBROOK: (35th)

Mr. Speaker, I yield to Representative Backer.

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DEPUTY SPEAKER PUDLIN:

Thank you, sir. Representative Backer, do you accept the yield, sir?

REP. BACKER: (121st)

I do. Thank you, Mr. Speaker.

DEPUTY SPEAKER PUDLIN:

Proceed.

REP. BACKER: (121st)

Along the shoreline for a number of years the Health Department has managed the marshes which are home to a lot of mosquitoes, but also a lot of other things we cherish, unlike the mosquito. For a number of reasons, it's necessary to move the control from the Health Department to the Department of Environmental Protection. The fiscal impact of this on the note is none, none from the state impact, none for the municipal impact and it will have a beneficial result in protecting marshes around the state in reducing the plague of summer along the seashore, so I support the amendment along with, it appears 89 or other people and urge its adoption.

DEPUTY SPEAKER PUDLIN:

Question is on adoption of "D". Representative Simmons.

REP. SIMMONS: (43rd)

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Thank you, Mr. Speaker. I don't see my name on the amendment, but somebody who's got over 800 acres of salt marshes in my district in 17 different locations, oh yeah, am I on there? Somewhere maybe. I wholeheartedly support this amendment, and I would make the point that when it comes to dealing with the salt marshes and mosquito control, this is a major factor as far as our tourists are concerned.

This year is supposed to be a banner year when it comes to mosquitoes. That is if you like mosquitoes, there are going to be more this year than we've had in recent years, and when our tourists come to summer music over in New London or they come to some of the other events that we have, the uninvited visitors are best controlled if we want to see the tourists come back.

I also support the wetlands restoration. We've got Barn Island over our way, and the water projects over there, 25 or 30 years ago really seriously degraded those wetlands and the wildlife that go with those wetlands, so I think it's a worthwhile amendment, and I support it. Thank you, Mr. Speaker.

DEPUTY SPEAKER PUDLIN:

Thank you, sir. Representative Backer, for the second time.

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REP. BACKER: (121st)

Thank you, Mr. Speaker. I'd like to just point out a misprint on the amendment. Representative Knopp's name was left off. He was original co-sponsor. He even 1st year lead the charge here to protect this activity last year, and I just wanted to point that out that his name has been left off inadvertently this year.

DEPUTY SPEAKER PUDLIN:

Representative Poss.

REP. POSS: (98th)

Through you, Mr. Speaker, a question to Representative Backer. Does this include spraying as a compenence?

DEPUTY SPEAKER PUDLIN:

Do you care to respond, Representative Backer?

REP. BACKER: (121st)

I do. Thank you, Mr. Speaker. This amendment would not include the spraying of chemicals in marshes or so forth. The open water marsh management is the heart of the mosquito program. The spraying remains in the Department of Health to be brought over at another time, and another bill.

DEPUTY SPEAKER PUDLIN:

Representative Stillman.

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REP. STILLMAN: (38th)

Thank you, Mr. Speaker. I also rise in support of this amendment. My area of southeastern Connecticut has a wonderful beach area that I'm delighted to say has marshlands as you approach the beach area, and it is a problem with the mosquitoes. When I had heard that this was not going to be done, I was very upset about it, so I'm delighted that this amendment has come up.

I also want to agree with Representative Simmons in regards to summer music which is a vital tourist attraction to southeastern Connecticut as well, and is also in Waterford and I urge everyone to support the amendment. Thank you.

DEPUTY SPEAKER PUDLIN:

Thank you, madam. Will you remark further on "D"? Representative Miller.

REP. MILLER: (122nd)

Thank you, Mr. Speaker. I rise in support of the amendment. The Town of Stratford has about 18 miles of shoreline and we have many, many marinas and those people upland keep their boats down in Stratford, they'll enjoy a nice non-biting summer if this is approved. Thank you.

DEPUTY SPEAKER PUDLIN:

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Thank you, sir. Will you remark further on "D"?
Will you remark? If not, let me try your minds. Those
in favor signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER PUDLIN:

Opposed, nay. The ayes have it. The amendment is
adopted. Will you remark further on the bill as
amended? Will you remark? Representative Farr.

REP. FARR: (19th)

Yes, thank you, Mr. Speaker. Speaking briefly on
the bill as amended, as Representative Stratton pointed
out, this is an excellent bill, the underlying premise
here is that through the streamlining process, we can
assist business because it will make the Department of
Environmental Protection more user friendly. By
streamlining and simplifying our permitting process,
there will be greater probability that business will be
in compliance and less need for enforcement, but also
by streamlining and simplifying the process, we will
eventually free up resources from the Department of
Environmental Protection which will be available for
enforcement, so I think both the environmental
community and the business community supports this
bill, and I would urge passage of the bill. Thank you.

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DEPUTY SPEAKER PUDLIN:

Thank you, sir. Will you remark further?

Representative Nystrom.

REP. NYSTROM: (46th)

Thank you, Mr. Speaker. Question, through you, to the distinguished Chair, Representative Stratton.

DEPUTY SPEAKER COLEMAN:

Please pose your question.

REP. NYSTROM: (46th)

Thank you, Mr. Speaker. Through you, Representative Stratton in Section 14 at the end, which is on Page 12 of the file, the language there refers to when the Commissioner shall not hold a hearing on an application for permit to operate facilities, and that language there refers to those issues that have been presented or had an on or after the effective date of this act to the Commissioner.

That was discussed at great length in Committee when this bill before it was JFd. Can you tell us whether or not this streamlining process will impact the permit to construct that's been issued for the Lisbon facility. Through you, Mr. Speaker.

DEPUTY SPEAKER COLEMAN:

Representative Stratton.

REP. STRATTON: (17th)

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Through you, Mr. Speaker, the consolidation of the permit to construct and the permit to operate will begin after the effective date of this act, which is after that particular process has already occurred, so the answer to your question is no, it would not impact that facility.

DEPUTY SPEAKER COLEMAN:

Representative Nystrom.

REP. NYSTROM: (46th)

Thank you. I thought that's what we had decided in committee, and I just wanted to make that clear for the record. Thank you.

DEPUTY SPEAKER COLEMAN:

Thank you, Representative Nystrom. Will you remark further? Representative Stripp.

REP. STRIPP: (135th)

Thank you, Mr. Speaker. I'd like to rise in favor of this particular bill because I think a bill of this sort sends a very powerful message to business people throughout the northeast as well as the entire country. It tells that we're willing to streamline where necessary. It tells them where we're willing to welcome them and it also tells them we're willing to do this without degrading the environment, so it shows a very powerful commitment on the part of this body that

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would be very, very strong in terms of arguing that Connecticut will again become a good place to do business, so I'm very, very strong in my support of this bill. Thank you, Mr. Speaker.

DEPUTY SPEAKER COLEMAN:

Will you remark further on the bill as amended?
Will you remark further? Representative Mushinsky.

REP. MUSHINSKY: (85th)

Thank you, Mr. Speaker. I rise to support the bill as amended. Remediation of urban sites is the key to reusing urban lands which are already served by the roads, public transit, water and sewer and a population that needs jobs. This amended bill is similar to a bill I sponsored in Planning and Development which was not raised. This is another way of doing the same thing, and I hope the Chamber will support it.

DEPUTY SPEAKER COLEMAN:

Will you remark further? Representative Prelli.
REP. PRELLI: (63rd)

Thank you, Mr. Speaker. Mr. Speaker, the Clerk has an amendment LCO5869. Could he please call and read please.

DEPUTY SPEAKER COLEMAN:

Clerk, please LCO5869, House "E".
CLERK:

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LCO5869, House Amendment Schedule "E", offered by
Representative Krawiecki, et al.

DEPUTY SPEAKER COLEMAN:

Excuse me. I didn't hear you, sir. Did you want
to summarize or did you want him to read it?

REP. PRELLI: (63rd)

I asked for it to be read.

DEPUTY SPEAKER COLEMAN:

Then it will happen. Clerk.

CLERK:

In lines 472 and 864, strike out "may" and insert
"shall" in lieu thereof

REP. PRELLI: (63rd)

Thank you, Mr. Speaker, and I move adoption.

DEPUTY SPEAKER COLEMAN:

Question is on adoption. Will you remark?

REP. PRELLI: (63rd)

Yes, Mr. Speaker, what this amendment does, it
makes it a requirement that the Commissioner adopt the
regulations for subscription fee and categories of
discharges to be exempted from the submittal to plans
and specification and I think that if we are going to
have these fees and categories, then we should have the
regulations and rather than making it discretionary,
this makes it a requirement. Thank you, Mr. Speaker.

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DEPUTY SPEAKER COLEMAN:

Representative Stratton.

REP. STRATTON: (17th)

Thank you, Mr. Speaker. While I certainly agree with the sponsor of the amendment that I would like to see these regulations adopted, I do rise in opposition to the amendment and quite simply as we put this bill together, the initial draft of it many of these regulations were with may's and we went through very carefully and tried to prioritize the regulations that we felt were most critical to be adopted by the Department in some kind of time certain in order to implement the key provisions of the bill, and I believe that we have done that.

The two instances cited in this amendment, the first in lines 471 through 474, I would really argue is not the main priority in terms to establish the fees that will be shared to others who wish information from the Department. Those are not the parties that are actually subject to the permitting process themselves, and while obviously establishment of those fees will have to be done by regulation, I would certainly choose to see the other regulations mandated in this bill given the attention first off, and while regulations do have a tendency to sit around, we do have requirements

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that they be adopted, and the reason for not making that a shall was really a priority issue.

In the second instance cited in the amendment on lines 864 and on it is rather difficult to mandate that we adopt regulations to establish other categories of discharges when we don't actually know whether such categories may even exist, and the may continues to be included on line 867 and the substitution of the words shall on line 864 says, you shall adopt regulations to establish categories, which may continue not to exist, which seems a rather futile effort, and for those reasons I would urge rejection of the amendment.

DEPUTY SPEAKER COLEMAN:

Representative Farr.

REP. FARR: (19th)

Yes. Mr. Speaker, I too would oppose the shall instead of may, and I think it's, the Chamber ought to realize that the may in this case is not permissive on the regulations. If the commissioner chooses to set other, determine other categories of discharges, it's my reading of this then he has to adopt the regulations, but if right now he's not required to determine other types of discharges, if we put a shall in here, then he has to come up with other discharges which he may or may not be able to do.

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The same thing is true on the fees. They may as I understand it, was intended to say that he can charge fees without regulations, but if he chooses to have the fees, then he has to have the regulations, but this may says that he can choose not to charge fees, and therefore, it was a may instead of a shall in both cases, but the may was not intended from my reading to mean that the Commissioner could do these activities without regulations.

It was rather that he could choose not to do either one of these activities, but if he chose to do them, then he would have to have the regulations, so I think that the may is appropriate in these cases.

DEPUTY SPEAKER COLEMAN:

Thank you, sir. Will you remark further on "E"? Will you remark? Will you remark? If not, let me try your minds. Those in favor of "E" signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER COLEMAN:

Those opposed, nay.

REPRESENTATIVES:

No.

DEPUTY SPEAKER COLEMAN:

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The nays clearly have it. The amendment is defeated. Will you remark further on the bill as amended? Will you remark? If not, staff and guests to the Well of the House. Members, please be seated. The machine will be opened.

CLERK:

The House of Representatives is voting by roll call. Members, to the Chamber please. Members, to the Chamber please. The House is voting by roll.

DEPUTY SPEAKER COLEMAN:

If all the members have voted, and if your votes are properly recorded, then the machine will be locked. The Clerk will take a tally.

The Clerk will announce that tally.

CLERK:

House Bill 7121, as amended by House "A", "B", "C" and "D".

Total Number Voting	142
Necessary for Passage	72
Those Voting Yea	142
Those Voting Nay	0
Those absent and not Voting	9

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DEPUTY SPEAKER COLEMAN:

The bill passes, as amended. Clerk, return to the
Call of the Calendar, Calendar 372.

CLERK:

Page 25, Calendar 372, Substitute for House Bill
7270, AN ACT CONCERNING NURSING HOMES. Favorable
Report of the Committee on Human Services.

REP. COURTNEY: (56th)

Mr. Speaker.

DEPUTY SPEAKER COLEMAN:

Representative Courtney.

REP. COURTNEY: (56th)

Thank you, Mr. Speaker. I move acceptance of the
Joint Committee's Favorable Report and passage of the
bill.

DEPUTY SPEAKER COLEMAN:

Question's on acceptance and passage. Will you
remark?

REP. COURTNEY: (56th)

Thank you, Mr. Speaker. This bill makes a number
of changes to the waiting list law to simplify just the
paperwork that's required for nursing homes to maintain
records of patients who have applied for admissions to
nursing homes.

In addition, it also I think makes a necessary

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House Bill 5313, as amended by House Amendment
Schedule "A" and "C".

Total Number Voting	142
Necessary for Passage	72
Those voting Yea	142
Those voting Nay	0
Those absent and not Voting	9

SPEAKER RITTER:

The bill as amended passes.

The Clerk please continue with Calendar 328.

CLERK:

Potential Disagreeing Action from the Senate,
Senate Bill 7121, entitled AN ACT CONCERNING
STREAMLINING THE PERMIT PROGRAMS OF THE DEPARTMENT OF
ENVIRONMENTAL PROTECTION, IMPLEMENTATION OF THE URBAN
SITES REMEDIAL ACTION PROGRAM AND OPEN WATER MARSH
MANAGEMENT. (As amended by House Amendment Schedules
"A", "B", "C" and "D").

Favorable Report of the Committee on Legislative
Management.

REP. STRATTON: (17th)

Mr. Speaker.

SPEAKER RITTER:

We're putting it on the board, Representative
Stratton. Representative Stratton. Representative

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Stratton.

REP. STRATTON: (17th)

Yes, Mr. Speaker. I move acceptance of the Joint Committee's Favorable Report and passage of the bill in concurrence with the Senate.

SPEAKER RITTER:

The motion is on acceptance and passage in concurrence with the Senate. Please proceed, madam.

REP. STRATTON: (17th)

Yes, Mr. Speaker. The Clerk has an amendment, LCO6863, previously designated Senate "A".

SPEAKER RITTER:

The Clerk has an amendment, LCO6863, previously designated Senate "A". If he may call and Representative Stratton would like to summarize. 6863.

CLERK:

Yes, indeed, 6863, Senate "A".

SPEAKER RITTER:

Representative Stratton.

REP. STRATTON: (17th)

Yes, Mr. Speaker. This is a lengthy amendment, but the substantive changes in the bill that have not been in this Chamber before consist of two items. The first is an amendment to the urban site remediation program which this Chamber had adopted and would provide a

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program whereby the Department of Economic Development and the Department of Environmental Protection would take on the responsibility of polluted sites in the State of Connecticut in exchange for ownership of the land and buildings.

The DEP would then clean up those sites in order to be able to lease them to new tenants and the money from those leases would go back into the fund to enable this process to continue.

I find this a very, very exciting program and one that finally provides an opportunity for the state to once again to make use of any urban sites which currently sit vacant because of the pollution liability involved with their use.

Secondly, the amendment also adds a small business administration assistance program, a Small Business Assistance Program within the Department of Environmental Protection in order to comply again with the Federal Clean Air Act. This program would provide assistance to small businesses in the state to help them comply with the provisions both in terms of technical assistance and access to or information about potential grants that might help them within that process.

I urge adoption of the amendment, Mr. Speaker.

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SPEAKER RITTER:

The question is on adoption. Will you remark further?

REP. BELDEN: (113th)

Mr. Speaker.

SPEAKER RITTER:

Representative Belden.

REP. BELDEN: (113th)

I'm amazed that an attorney would even draft this particular amendment. Section 25, I don't know how we can put a Connecticut law that when you take title property and you do something to it environmentally, or even if you don't take title, the way it reads here, the Commissioner shall not accept any liability under federal law. I love that. Boy, oh, boy, I wish we could have that for all of our activities here.

I didn't realize that the State of Connecticut was exempt from federal law, and I really don't quite understand. We have a good bill that's going to help things in the State of Connecticut with the business community and now we're about to put the lead anchor on it, and drown everybody and have the State of Connecticut now begin to assume liability for all kinds of polluted property in the state. Let me tell you, under the federal laws, I understand it. If you go on

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a site and you do something, boy, you're right in the middle of any lawsuits that happen from then on, and we have a very deep pocket, probably the deepest pocket, and I'm not sure when we go on a site to do things what it does to the previous owner or the previous occupier and the polluter.

Does that relieve them of all liability? I don't know if the lady bringing out the amendment would have answers to any of those kinds of questions. Perhaps I would, through you, Mr. Speaker, just ask her whether, as far as she knows in the Senate whether or not there was any discussion about excepting Commissioner of Environmental Protection from the requirements of federal law, as cited in the amendment on line 37 and 39, through you, Mr. Speaker.

SPEAKER RITTER:

Representative Stratton.

REP. STRATTON: (17th)

Through you, Mr. Speaker, I was not in the Senate at the time that this bill was discussed, so I don't specifically know whether they did, but to shed some light on that, I think this was written in a way to provide that the federal superfunds liabilities that currently exist, if these would be properties where there is an owner that the state is assuming the

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property from, that owner under existing federal law would have that liability unless another party has been identified.

The purposes again, I would say, was for the state to clean up the properties. What that language is saying that in the process of acquiring the deed in order to be able to clean up the property, the state is not at the same time assuming the liability that currently resides with the owner who currently has it. In the end after the remediation takes place, obviously that liability will have been eliminated for the owner that is currently and would continue to be liable under federal law, so in the long run, it benefits both the person who is remaining liable during that process and who would remain liable forever if the state did not assume the property and go about the process of cleaning it up in order to put it back into productive use. Through you, Mr. Speaker.

SPEAKER RITTER:

Representative Belden.

REP. BELDEN: (113th)

Mr. Speaker, through you, to the lady, would we assume that in any transfer of property that there would be to the best that's possible a clause in either the conveyance deed or in the whatever they might be

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able to do here, lease or sale of the property that would in the fact the best extent possible absolve the state from any environmental liability other than that which they might create themselves? At least it has, where we expected there would be something in the documentation? Through you, Mr. Speaker.

SPEAKER RITTER:

Representative Stratton.

REP. STRATTON: (17th)

Through you, Mr. Speaker, yes, the answer to that question, you are correct. First of all, I think as a part of this amendment, you'll see on lines 74, 75 and 76, that the Commissioner of Economic Development shall adopt regulations to govern this program. It would be my assumption that the transfer of property title within those would be the language that absolves the state from assuming the existing liability.

On the next page, there is also language in lines 111 through 115 that address the second part of your question that say that the state's leaving that liability with the previous owner obviously only pertains to pollution at the time that the state acquired it. The state would certainly be liable for pollution that it was responsible for having either allowed to occur or directly was the party to. Through

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you, Mr. Speaker.

SPEAKER RITTER:

Representative Belden.

REP. BELDEN: (113th)

Thank you, Mr. Speaker. Through you, Mr. Speaker, to the lady, and I realize these are difficult questions. Under the federal law, transference of property requires, if it's known to be polluted forum one has to be executed by the seller, would we assume that in any transference that occurred here that there would be the proper studies and paperwork generated under the Clean Water Act in any conveyance or lease to the state? Through you, Mr. Speaker.

SPEAKER RITTER:

Representative Stratton.

REP. STRATTON: (17th)

Through you, Mr. Speaker, while I can't definitively answer that, I would share your assumption that that would certainly be something the state would have an interest in guaranteeing that that occurred and before the imposition of this program, and the adoption of regulations governing that that issues would be addressed.

REP. BELDEN: (113th)

One last inquiry, if I might, Mr. Speaker, through

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you. At the time the state would lease or acquire the property, would it be assumed that the state would have a reasonable expectancy that they were or could in fact litigate the environmental damage that had been done to the property? Through you, Mr. Speaker.

REP. STRATTON: (17th)

Through you, Mr. Speaker.

SPEAKER RITTER:

Representative Stratton.

REP. STRATTON: (17th)

In Section G, I think you will see some of the outlines that the Department of Environmental Protection would conduct an assessment of any potential site before acquiring it in order to determine both what the degree of pollution was and obviously in the process whether it's something that is possible to remediate within the kind of funds that we're talking about, and I think the expectation is that most of these sites would have to be in the \$10 million or less category to be something that the state could consider assuming responsibility for doing. Through you, Mr. Speaker.

REP. BELDEN: (113th)

Thank you, Mr. Speaker. I really wouldn't ask these questions, but this amendment was placed on our

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desk probably three to five minutes ago, and it is rather lengthy, and it's been impossible to review it as we're attempting to move business so quickly here. This is a great program. If I was a polluter, I'd love it. I've got to tell you, I just love it. It's now tacked onto a bill that we really need, but it's not my favorite, I'll tell you. The amendment carries a lot of potential liability with it, and a tremendous amount of cost.

You know, once you get into a property, you may think you know what you're dealing with, but when you start doing more test borings and you do ground water samples, and they say expand the tests to heavy metals and to this and to that, before you know it, you couldn't clean up that land in a thousand years, especially if there is a significant ground water pollution in the surrounding area. You could be pumping ground water, trying to clean it up for years and years. Thank you, Mr. Speaker.

SPEAKER RITTER:

Will you remark further? Representative Prelli.

REP. PRELLI: (63rd)

Thank you, Mr. Speaker. Mr. Speaker, a couple questions, through you, to Representative Stratton.

SPEAKER RITTER:

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Please proceed.

REP. PRELLI: (63rd)

Representative Stratton, quickly looking through this amendment also I see that in line 220 through 225, actually quite a ways down to 236, we've changed the fine here from basically \$5,000 a day to \$25,000 a day. Through you, Mr. Speaker, could the Representative explain why?

SPEAKER RITTER:

Representative Stratton.

REP. STRATTON: (17th)

Through you, Mr. Speaker, that actually language that this Chamber had already adopted in previous legislation here. The Senate has merely amended it onto this bill. Through you, Mr. Speaker.

SPEAKER RITTER:

Representative Prelli.

REP. PRELLI: (63rd)

Thank you, Representative Stratton, and through you, Mr. Speaker, is there a maximum amount that the fine will be? Through you, Mr. Speaker.

SPEAKER RITTER:

Representative Stratton.

REP. STRATTON: (17th)

Through you, Mr. Speaker, yes, there is, \$200,000.

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Through you, Mr. Speaker.

SPEAKER RITTER:

Representative Prelli.

REP. PRELLI: (63rd)

Thank you, Mr. Speaker. I just wanted to make sure. Through you, one more question, to Representative Stratton.

SPEAKER RITTER:

Please proceed, sir.

REP. PRELLI: (63rd)

Representative Stratton, under what bill did we previously amend this to and why was it necessary to put it on here again? Through you, Mr. Speaker.

SPEAKER RITTER:

Representative Stratton.

REP. STRATTON: (17th)

Through you, Mr. Speaker, I don't know the bill number. Administrative penalties, but I would have to check on the bill number, Mr. Speaker, through you.

REP. PRELLI: (63rd)

And through you, Mr. Speaker, the second part of that was why do we have to put it on here once more, Mr. Speaker?

SPEAKER RITTER:

Representative Stratton.

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REP. STRATTON: (17th)

Through you, Mr. Speaker, I think that question needs to be asked upstairs. I don't know. This is the form in which it came here. The Senate has not adopted that other bill to my knowledge. This is, but they sent us an action today. Through you, Mr. Speaker.

REP. PRELLI: (63rd)

So, through you, Mr. Speaker, just to understand that the Senate has not adopted that other bill, as of yet.

REP. STRATTON: (17th)

To my knowledge, no. Through you, Mr. Speaker.

REP. PRELLI: (63rd)

Thank you, Representative Stratton.

SPEAKER RITTER:

Thank you, sir. Anybody else on Senate Amendment "A". Representative O'Neill.

REP. O'NEILL: (69th)

Yes, Mr. Speaker. I notice in I believe it's lines 75, 6, 7, 8 that there is provision that the Commissioner of Economic Development's going to develop some regulations to carry out the preceding parts of that section, and there are no clear cut guidelines as to what those regulations should contain. I get the impression that we are going to be changing from the

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normal mechanisms of property positions not following through with the property's review board, we're going through some of the other statutory provisions and I was wondering if we could have some guidance with respect to what the legislative regulations review committee should be looking for in this regulations. Through you, Mr. Speaker.

SPEAKER RITTER:

Representative Stratton.

REP. STRATTON: (17th)

Through you, Mr. Speaker, I appreciate that question very much, because obviously this is a new program. I think there are legitimate reasons for not having the acquisition and disposition of property proceed on the same kinds of basis that others do in the state, but certainly there is a need for there to be clear procedures and guidelines and requirements for that. It is my expectation that those would indeed be part of the regulations submitted to the regulations review committee, and therefore, that committee would have the opportunity to look at them and see that the kinds of standards that are behind the other provisions that currently govern property transfers in the State of Connecticut would be carried through to this program in a way that is appropriate to this program. Through

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you, Mr. Speaker.

SPEAKER RITTER:

Thank you. Representative O'Neill.

REP. O'NEILL: (69th)

And through you, Mr. Speaker, as I read this section of the language, it says that the Commissioner shall adopt regulations to carry out the provisions of "E" and "F" until it is true that until those regulations are in fact adopted and approved by the regulations review committee, that this program will not actually go into effect, that we have to see those regulations first, through you, Mr. Speaker.

SPEAKER RITTER:

Representative Stratton.

REP. STRATTON: (17th)

Through you, Mr. Speaker, that would be my expectation since it says shall adopt in the opening lines of it on or before three years after the effective date of this act, they shall establish such program, through you, Mr. Speaker.

REP. O'NEILL: (69th)

Thank you, Mr. Speaker.

SPEAKER RITTER:

Will you remark further on Senate "A"?

Representative Nystrom.

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REP. NYSTROM: (46th)

Thank you, Mr. Speaker. Question, through you, to Representative Stratton. Representative Stratton, through you, Mr. Speaker, I apologize. I was out of the Chamber. Could you outline for me major difference between this file and the file that was adopted by the House? Is it something that could be done in a very brief statement? The major difference between what we sent upstairs and what they replaced.

REP. STRATTON: (17th)

Through you, Mr. Speaker, the two additions to this amendment which this Chamber has not seen or won the establishment this urban site program for the acquisition of polluted properties at the end of the amendment, the establishment within the Department of Environmental Protection a small business assistance program, to comply with the requirements of the federal clean air act. Through you, Mr. Speaker.

REP. NYSTROM: (46th)

Thank you. You're referring to Sections 33 and 34 then.

REP. STRATTON: (17th)

That is correct, Mr. Speaker.

REP. NYSTROM: (46th)

Thank you very much, and I beg the indulgence of

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the Chamber.

SPEAKER RITTER:

Will you remark further? If not, I'll try your minds. All in favor signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER RITTER:

Opposed nay. Senate "A" is adopted. Will you remark further? If not, staff and guests to the Well of the House. The machine will be opened.

CLERK:

The House of Representatives is voting by roll call. Members, to the Chamber please. The House of Representative is voting by roll call. Members, please report to the Chamber.

SPEAKER RITTER:

Have all the members voted? Please check the roll call machine. If all members have voted, the machine will be locked. Clerk, please take the tally.

Representative Wollenberg. Representative Wollenberg, how do you vote?

REP. WOLLENBERG: (21st)

Mr. Speaker, in the affirmative, please.

SPEAKER RITTER:

In the affirmative. Representative Amann.

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REP. AMANN: (118th)

In the affirmative, Mr. Speaker.

SPEAKER RITTER:

I'll tell you what. Could we reopen the machine, Mr. Clerk. Mr. Clerk, can we reopen the machine? All those people who did not vote, why don't you try to vote now.

CLERK:

The machine is now reopened.

SPEAKER RITTER:

Please vote. I'll tell you, we've got to stay in the Chamber to get our business done. Please vote. It's open. Alright, everyone voted. The machine will be locked again. Clerk, please take the tally.

REP. BOUGHTON: (109th)

Mr. Speaker.

SPEAKER RITTER:

Representative Bowden.

REP. BOUGHTON: (109th)

In the affirmative.

SPEAKER RITTER:

In the affirmative. Clerk, please announce the tally.

CLERK:

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House Bill 7121, as amended by House "A", "B",
"C" and "D" and Senate "A", in concurrence with the
Senate.

Total Number Voting	148
Necessary for Passage	75
Those Voting Yea	147
Those Voting Nay	1
Those absent and not Voting	3

SPEAKER RITTER:

The bill, as amended, is adopted. Clerk, please
continue with Calendar 369.

CLERK:

Calendar 369 on Page 15, House Bill 7250, AN ACT
CONCERNING REPORTS OF FAMILY VIOLENCE (As amended by
House "A and Senate "A") Favorable Report of the
Committee on Public Safety.

SPEAKER RITTER:

Representative Tulisano.

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER RITTER:

My dear friend, my comrade from the City of
Hartford, Representative Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, although we don't have problems like

JOINT
STANDING
COMMITTEE
HEARINGS

ENVIRONMENT
PART 4
1064-1444

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March 5, 1993
12:00 p.m.

PRESIDING CHAIRMEN: Senator Daily
Representative Stratton

COMMITTEE MEMBERS PRESENT:

SENATORS: Fleming, Gunther

REPRESENTATIVES: Graziani, Farr, Backer,
Caruso, Collins,
Concannon, Holbrook,
Jarmoc, Joyce, Maddox,
Mazzocchi, McGrattan,
Mordasky, Mushinsky,
Norton, Piscopo, Poss,
Prelli, Roy, Sawyer

SENATOR DAILY: (beginning of hearing not recorded) --
officials and government officials. The first
person to sign up is Representative Jefferson
Davis. Good morning. Good afternoon or good
evening.

REP. DAVIS: Good morning. Good afternoon. It's been
a long day already. My name is Jefferson Davis, a
State Representative from the 50th District and I'm
here this morning to testify on HB7121 and I'm not
specifically here to testify on the merits or
demerits of the bill, but more on the process that
brought about the bill.

I was the only legislator who regularly attended
the meetings of the task force to streamline the
environmental permitting process over the last
interim and what we had on that task force was a
working group whose membership included
representation from the DEP, business and
environmental community all coming together to look
for opportunities to make the environmental
permitting process more responsive to the needs of
our state's businesses while maintaining our
state's environmental quality.

There was absolutely no question throughout the
process that that was the paramount desire of the
group. The process was carried out in an open way,
the challenge in a constructive manner, the way we

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currently do business and the result of that is the bill that's before you. I've got to say that it's a highly technical bill with a lot of statutory references and I have not personally been able to check out each one of those references, but clearly, I hope one of the things that comes out of this is an intent on the part of the DEP to set up a management process and structure as a result of the efforts of the task force and the work of the Arthur Andersen group that allows and encourages continuous improvement in the work of the department in being able to meet the needs of its customers whether it be the environmental or the business community of the State of Connecticut.

And along those lines, I would hope that the commissioner would agree in six months down the road if in fact this bill goes forward to reconvene the task force so that we can clearly understand in fact what changes have been made and what the impact of the legislation has been. This should not be a process that stops at this point with the ongoing legislation, but it instead should be a continuing process of communication between the department and the communities that it serves. Thank you.

SEN. DAILY: Thank you. Are there questions of Representative Davis?

: Can I ask a question from the floor or --?

SEN. DAILY: No, this is public hearing.

REP. DAVIS: Oh, but I would gladly talk with you.

SEN. DAILY: Representative Davis --.

REP. DAVIS: Thank you very much.

SEN. DAILY: Thank you very much. The next person to have signed up is Bob Moore Deputy Commissioner from DEP. Commissioner.

DEP. COMM. ROBERT MOORE: Good afternoon. With me is Bob Kaljuski, our permanent Ombudsman, who has done a great deal of work in preparing our report and the legislation before you today.

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We have submitted written testimony on Raised HB7121, AN ACT CONCERNING STREAMLINING THE PERMIT PROGRAMS OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION. This bill represents the legislative and statutory changes that we feel are necessary to implement the recommendations of our permit reengineering and restructuring plan.

I think we also submitted to you to a copy of our plan which merges the efforts of the Permits Task Force that was established last year and chaired by Ellen Quinn and McLaughlin. It merges their efforts and their report and we feel it in many cases takes fully the recommendations of that task force. In some cases it differs slightly.

The report also merges the recommendations of the interests of consultants who have been working with us since September to restructure and revise our permit system. I would say that this effort has been a major effort of the Department on Environment to make our permit programs more user friendly to accommodate business and industry in the state and to encourage our industry and provide guidelines and time frames and a variety of other things to make doing business with the department a much easier process.

We feel that the plan itself accomplishes a great deal of things. The first and probably the most important is that it reduces the number of permit processes from 27 different permit processes in the agency to eight. I think in our testimony attached to it is a list of the types of permit processes and you'll see there'll be eight separate processes rather than 27 different types of permit programs needed to be established.

The second major thing, it takes that actual permit process and divides it into five clearer steps which, as the flow chart for our new permit process in the department would look like this, compared to the existing water permit chart, permit process that looks like this and these are the steps currently required in our system and these are the steps that will be required in the new system.

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Obviously these steps are not defined in all of the legislation before you. Most of the changes that are required to be implemented by the department are the result of management and administrative changes and regulatory changes of the agency. The report recommends some 81 different steps and includes an implementation plan to implement those steps and you'll find in that report a chart showing the steps that our department is taking and the time frames for each one of those steps of the agency and also you'll find in the report an implementation schedule that defines by which -- the work that's required to implement these different management changes throughout the agency are going to be done.

You'll note in that report we were requiring essentially six temporary and six full-time people to assist in implementation of the recommendations of the report. Our recommendation also in the report is that these people be funded by the increase of water permit fees that we've had a hearing on this fall and that will be before the Rates Review Committee later this spring. So we feel that we can implement the recommendations and the changes that we've proposed throughout the entire permit system at no additional cost on the General Budget, the General Fund, but through the additional permit fees that we have proposed. And I think that's a critical part of this.

The next phase of our work, as you can see by the implementation schedule, is the many, many management and computerized tracking systems that are needed to adjust the way the agency does business and those are part of the major implementation of this.

The legislation before you itself deals with emergency permits, consistent public notice, consistent permit review and a variety of other adjustments that are needed to make our -- provide the authority to make some of the changes that we have recommended.

Some of the recommendations of the report are summarized in the Executive Summary

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recommendations. I'd be happy to go over some of those in detail if anybody wishes to talk about those.

One of the critical areas that has come up, that you'll find in the report, when our recommendations in this report differ with those of the Permit Task Force, there's a discussion section in our report. That discussion section describes the difference between our report and the Permit Task Force Report and why we've made a different conclusion.

We also find that our recommendations go way way beyond into the management systems than the Permit Task Force Report did. One of the major issues that there is some difference on the Permit Task Force report and is our relationship to time frames required for the issuance of permits.

Our report deals with that as a management part of our system. There is no way that we can improve the efficiency and operation of our program without establishing critical time frames for each one of those five separate processes that I showed you in the flow chart and we expect to do that.

We are currently in the process of analyzing each step and trying to determine the amount of time necessary to implement that step now and in the future. We have not recommended in our report to establish specific time frames for the issuance of permits or steps of permits at this time. We feel that it's premature and until this system that is established that will -- the new system, the new programs are in place, the new staff is in place, the new computers are in the place and the revised system is functioning, we will not be at a position at that time until then to establish the precise time frames and we don't think putting limits and time frames on those is productive at this time and we'd be happy to talk about that further as well, but I think that is one of the major differences between our recommendations and those of the task force.

We have also commented in our written testimony on three or four other bills before you today and basically in opposition to those and we'll be happy

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to talk about those as well. I'd be happy to answer any questions that you have on this report or any other parts of the legislation.

SEN. DAILY: Thank you very much. Are there questions of Commissioner Moore? Representative Nystrom.

REP. NYSTROM: Good afternoon, Commissioner. I apologize, I didn't hear your comments. The bill dealing within the streamlining process. I believe that's now been designated HB7121. Section -- where are we, Section 10 that deals with Section 208A, the language there, notwithstanding the provisions of this subsection, if a hearing has been held on an application for a permit to construct or alter a solid waste facility the commissioner need not hold a hearing on an application for a permit to operate.

Why is it --? Is that concurrent with HB7121 as it has been submitted for this hearing?

DEP. COMM. ROBERT MOORE: Yes, what we have proposed to do is eliminate two permit systems that we have today. In many of our permit programs we have a permit to operate and a permit to construct. The streamlining effort has said issue one permit and the permit that you have at the end of the process will be the permit that you need to continue whatever that -- if it's a construction activity or operation, you will have one permit, one public notice system.

REP. NYSTROM: And then what happens --?

DEP. COMM. ROBERT MOORE: That eliminates the separate permit process for a Solid Waste Program.

REP. NYSTROM: The process as it is now, as I understand it, could be considered twofold to get the permit to construct, you build your plant, you go through all your testing, then you apply for the permit to operate. You meet the standards. That permit is granted and then you're up and running. that provides some protection.

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Has your department considered what may be lost in the streamlining process by going to one permit and by your previous statement you're saying at the end of the process what will still be the process involved in regards to making sure that the plants are operating efficiently, meeting the standards that DEP provides and so forth? Are we putting some of that aside to --?

DEP. COMM. ROBERT MOORE: We would do it like the current water permit programs. You give an authorization for the construction and the building of the facilities through plans and specs. We inspect those, review them, see the final results of that and then issue the permit. What this eliminates is a separate hearing process and a separate application process on the original process, so it doesn't review -- it doesn't eliminate our review of the process or a technical review, it just changes it so that you don't get done with a permit to operate and have to start over from scratch with another application. It eliminates the separate process.

It doesn't eliminate our review and approval of those steps and that equipment.

REP. NYSTROM: The bill that's proposed, the effective date is July 1, 1993. If everything goes as one hopes, we get through our session in the regular time lines, the bill is adopted, signed into law and now it's in effect July 1, 1993. Would this bill have any impact on any existing permit applications or permits determined by your department at this time to have met Certificate of Need, the Lisbon plant?

DEP. COMM. ROBERT MOORE: Yes, I understand. I'm trying to --.

REP. NYSTROM: Would this allow the department to move that time table up even faster despite objections that have clearly been stated by members of this committee, members of the legislature itself to that plant even being cited?

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DEP. COMM. ROBERT MOORE: I don't see any --. I don't see how that would move it any quicker. The only issue would be is whether or not there'd be a public hearing on the permit to operate when they built construction and that would be three to four years away.

REP. NYSTROM: Then they wouldn't --.

DEP. COMM. ROBERT MOORE: If they were to go ahead and we started construction, the current actions by the department currently authorized is that I think the only concern that you have is would they then have a public hearing or a new revised application that process, two to three years from now when the facility was constructed and that would eliminate that process, but it wouldn't authorize anything to go any quicker now.

REP. NYSTROM: You're correct. My concern is a loss of a public hearing because I think the public has a right to know, but my concern is much greater than that. My concern has to do with whether that plant is even needed and my concern also reaches back to this legislation, which I think in a sense does an end run around the legislature at some point if it's adopted. That's my own view. Because we're taking out of the process as well as the public at that point in time.

The current process right now, in my estimation, keeps us as players on the field. I kind of feel like we're just being cut out at this point in time. Those are my concerns in addition to the loss of a public hearing.

DEP. COMM. ROBERT MOORE: This separate permit to construct and operate only exists in the current solid waste statute. It doesn't exist in the water pollution statutes. It doesn't exist in a variety of the air statutes or the wetland statutes. This is a separate thing that we've done. This is an extra step that's needed and if we're going to consolidate it into several, you know, consistent programs, this is one of those steps that was not necessary.

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REP. NYSTROM: Well, perhaps it was the intent of the legislature and hopefully the department when that process was established, that which we have now, to safeguard the public.

DEP. COMM. ROBERT MOORE: I would also agree that the 27 separate permit processes that are in this legislation were also the intent of the General Assembly at the time those permitting programs were adopted, some going back to 1939 and that what we've done is try to take a look at where we are today and look at the entire system as a management program and how do we better streamline and reengineer our permit programs to meet with today's needs and so virtually, yes, I mean that is a concern.

All of these statutes that are changing and programs that we're recommending changes were in fact adopted by some legislative concern in the past. These are not, you know, stuff, you know, legislation that we adopted.

REP. NYSTROM: But your agency does offer the legislation?

DEP. COMM. ROBERT MOORE: We are offering this legislation as a part of the direction to streamline our programs.

REP. NYSTROM: Thank you.

SEN. DAILY: Representative Farr.

REP. FARR: You indicated that you're not making any recommendation for the establishment of times to complete the process, to complete permit applications and you indicated that your concern was that you don't have the resources now to be able to come up with realistic time lines, as I understand it.

DEP. COMM. ROBERT MOORE: And we're changing the entire program.

REP. FARR: I guess my concern is that --.

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DEP. COMM. ROBERT MOORE: Representative Farr, we haven't analyzed the times that it takes for each step of this, the three Anderson consultants, and now we're in a position to say we're going to get rid of those steps, we're doing these steps and we have not yet analyzed the steps that -- the time it takes to do these with the new tracking system that we're installing and with new terminologies and new consistencies. Their preapplication process which coordinates all of the work into a single unit before it goes out into the reviewers and we don't know how much time that's going to take. We are calculating that, but we don't know it yet.

REP. FARR: I understand what your position is. What I'm trying to understand though is when do you think you will know when those --?

DEP. COMM. ROBERT MOORE: July of 1994.

REP. FARR: July of 1994? And does this legislation specifically mandate that you establish those time frames by July 1994?

DEP. COMM. ROBERT MOORE: No, our proposed bill does not recommend that time frame.

REP. FARR: Is there any reason we ought not to at least do that?

DEP. COMM. ROBERT MOORE: The Permit Task Force and the members are here today. I think we'll talk about that issue as well, but I think their concerns, and there was differences of opinion on that one issue, was that the department should publish time frames, but having the permit expire, having the fees returned, you know, there was no general consensus on that and felt that that was not an issue and they can characterize it better than I, but that was not an issue that we needed to deal with at this time, but they did recommend that we publish those time frames as their recommendation.

REP. FARR: I think there's three issues here. One is whether you publish time frames, establish time frames, well, I guess there's a number of issues, whether you established them, whether you published them, whether there is some penalty on the -- against the department for not complying with

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them, whether it be a return of a fee or a permit that goes into effect. I gather that what you're saying is that you're prepared to establish the times frames, but you don't want to mandate that you do that. Is that --?

DEP. COMM. ROBERT MOORE: That's correct.

REP. FARR: And my first question is why not -- if you say you could do it by 1994, why don't we at least put in the language that you shall do it by 1994 and the second thing is do you have a problem with the publishing of those time frames?

DEP. COMM. ROBERT MOORE: We have no problem with establishing or publishing them as the expected time frame to deal with certain portions of the applications and certain types of applications, but you know, I have somewhat of a problem to say that there's 90 days to do a permit. I mean some permits are going to years and some are going to take a week and a half.

REP. FARR: I'm not suggesting it's easy to do and then the other thing is, you know, the suggestion that some people may -- well, you get the permit if you don't -- that somehow you'd get it if the department doesn't act quickly obviously is not, I don't think acceptable to very many people on this committee, but clearly there ought to be some economic incentive to do the permits.

DEP. COMM. ROBERT MOORE: We feel at this time that economic issues, since we already are currently working on a backlog, moved resources to deal with the backlog, that we're trying to put in resources to build a new system that that is a disincentive at this time for the agency to even go any further.

REP. FARR: I'm just -- I understand where you're coming from. I'm just suggesting I'm more comfortable if we at least put structure in place even if we have to do it down the road a little ways than not addressing it at all.

SEN. DAILY: Representative Maddox.

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REP. MADDUX: Yes, at our committee meeting, of course, we were discussing ways and how we're going to fund you down the road and along this line I'm wondering, suppose we were to do the opposite with Representative Farr's example of some economic incentive, an expedited fee process. I mean I guess the question for establishing the time frame is how long does it normally take you. I mean at the Secretary of the State's Office I know we have these things, and granted, they're much different than just processing a few pieces of paper over there and going out and looking at a site, but I'm wondering if that is something that maybe the department could eventually come down to. If there is some reason that some company just says we need this thing right away and we understand it normally takes a year and a half to get it, but we're willing to pay to have you guys come out and evaluate our application immediately and put it on top of the pile.

DEP. COMM. ROBERT MOORE: We have an expedited permit process now for priority permitting issues. We've put together seven people in the agency, staff people with other support beyond that that deal with those priority permits.

REP. MADDUX: You don't charge anybody any more for that, do you?

DEP. COMM. ROBERT MOORE: No.

REP. MADDUX: And what I'm talking about is I could come in and make the decision, I want my application process first and because of that I'm willing to get my checkbook out.

DEP. COMM. ROBERT MOORE: That's been discussed, you know, and you're dealing with basically those with the ability to pay will get that permit first whether or not that's of an environmental benefit or not or whether or not it disrupts the processing of other permits in the system and I don't think it's a wise move at this time.

SEN. DAILY: Representative Mazzocchi.

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REP. MAZZOCCOLI: (inaudible, mic not on) the report that was actually issued by (inaudible) resulting in (inaudible) fees if they don't process their applications on time. (inaudible) my point of view in having its own internal management system versus having the legislature dictate times (inaudible) to me is significant in that (inaudible) the legislature establish priorities if they see this (inaudible) your response to that to some degree, but I would also like your input on this priority system. For instance, does your priority system take into consideration job creation? Can you give us a little bit more about that because I get no sense of that from the reports that have been provided to us?

DEP. COMM. ROBERT MOORE: The current -- I mean we're talking about the current priority system. There's two differences, one, the report and the task force recommend having a priority system in the process for the future and we would agree that we should do that.

The priority system that we have currently that we're using an expediting team deals with the creation of jobs, the improvement of the environment, improvement of municipal benefits and a variety of issues about that, but jobs is clearly one of the first issues in that expedited program we have today and we can give you the criteria that we used, you know, in establishing those priorities today, but this -- you know, again we're talking about changing that towards a full-time program.

SEN. DAILY: Representative Stratton.

REP. STRATTON: Yes, Commissioner. Trying to put together some of the pieces of how the different bill got together here and it's relatively easy for us to take the permit task force and see the correspondence between their report and the legislation. Obviously your internal process with Andersen is not something that has reached us in the same kind of way and I'm wondering if you can -- in a sense enlighten us just as to what are the recommendations in your both plan and in the specific legislation before us came from the Andersen consulting kind of thing that are not the things we find in the task force because, you know,

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I think one of the things that happens is we read the task force's -- oh, where did this thought come from or whatever.

DEP. COMM. ROBERT MOORE: I'm not sure how to answer, but the recommendations in the outline of our plan basically follows the format of last year's act which created the task force and the requirements for the department to investigate those things, so they're in order of last year's recommendations so the legislation that was passed last year, looking at permanent streamlining and establishing the task force are the order in which the recommendations are presented and our findings are presented in our report and if you go through the report, there is a star on the detailed recommendations to those that require legislative changes and if you start -- where is it, Bob? On Page 19 in our report, you look on the left column where, for example, where it says recommendations, "expedited permanent approaches incorporated in the statutes and regulations provisions." There's a star there that indicates that that is in our legislative package.

And if you go through the report, you know, you can see the difference. The ones with stars are legislative actions. The one without are either regulatory or management changes in the agency. So that you should be able to file a report and see if it was followed up with statutory changes.

Our testimony today also includes a number of minor or a number of adjustments, you know, that we have had and those have also been submitted to our legislation.

REP. STRATTON: Okay, picking up on --.

DEP. COMM. ROBERT MOORE: Does that answer or do you want me to go through some of the recommendations?

REP. STRATTON: Maybe that would be helpful and then we can pick up the specific questions on some of them because they are some of the items that you've starred, so go ahead.

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DEP. COMM. ROBERT MOORE: On expedited permit approaches, basically the legislation includes authorities for general permits, emergency situations, environmental and benign activities and temporary one-time discharges and the legislation is included for those purposes. So one of the issues we've talked about for years over here is should we have an emergency permit process and this creates that.

In the permit modification, Item B, this legislation which allows -- right now the current legislation in the current Administrative Procedures Act doesn't allow us to consider late applications. It would require if they were late, if we didn't act on it in the amount of time, it would force the permit to expire. We now -- this would give the commissioner authority to -- the legislation gives the commissioner authority to allow the permit to continue to remain issued rather than denied if he found cause. Currently that is not the case.

REP. STRATTON: Could you comment on the fee part of that? Would that also be -- and what kind of use of those late fees?

DEP. COMM. ROBERT MOORE: The fee part that's attached to that fee, late renewals is an incentive type of a thing to assure that the, you know, that we don't continue to have late renewals. Also, part of the management system that we've proposed is that one of the problems that we have -- we've heard today is people don't know when their permits expire, so what we've done is more businesslike is establish a system in our -- to issue a notice that the permit is expiring, you know, 200 days from now you have -- by 180 days you're supposed to have your renewal in and then at that time provide information on the fees, provide more of an auditing and bookkeeping type of approach rather than we do now.

REP. STRATTON: Is it your anticipation that any money, if it was raised by that, would go into the regular Environmental Quality Fund or would it be specifically earmarked for the streamlining process like the other proposals, the fees in here and the water discharge?

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DEP. COMM. ROBERT MOORE: All of that goes into the Environmental Quality Fund. All of the fees, including the ones in the Water Discharge Permits, and you know, that we've talked about in the implementation go into the EQ or the Environmental Quality Fund established by the permit fees.

REP. STRATTON: I guess my question is do you anticipate a real source of funding from this fee schedule to --?

DEP. COMM. ROBERT MOORE: No.

REP. STRATTON: Fund the streamlining?

DEP. COMM. ROBERT MOORE: No.

REP. STRATTON: No, okay.

DEP. COMM. ROBERT MOORE: I don't anticipate -- I think we will not see this, once we get our notices out, that their applications are coming due. Right now we don't do that. As soon as we do that, I don't think we'll see this.

REP. STRATTON: Okay.

DEP. COMM. ROBERT MOORE: In terms of public notice, Item D, one of the things we've done here is to create two public notice systems. One of the major concerns in the discussions was that the public has very little opportunity to participate in our permit processes until we've made a tentative determination and one of the ways to deal with that is to provide public notice on application by the applicant and this would establish a public -- the legislation establishes a public notice when the application is filed and then another public notice by the department when the time of decision is made and the feeling that in discussions that this would provide the opportunity for the public to participate before any formal process got -- even if they had an attorney, they didn't have to have -- they wouldn't have to become a party to a proceeding, but they could ask questions, provide information and perhaps in many cases negotiate with the applicant directly prior to any formal or final decision, giving the public a chance to participate in these processes.

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We're talking about a minor type of public notice, you know, name address, what you're planning to do and that type of information, not the detailed public notices with the proposed decisions, but just a minor notice that the application is before us and that is a part of it.

In many cases that will eliminate many applications or many public notices that are required and establish, you know, in several of the programs there is a variety of public notices and this gets it down to one application and one prioritized final decision.

The argument of notice requires -- it allows for people who want to get all the individual notices, allow them to pay a prescription fee and then we'd get every public notice that we issue rather than having to remember them each one separately.

The third one is to limit the use of notification on abutting property owners to major air sources and providing some discretion on other areas for issuing permits to other abutting property owners. Right now that is different throughout the states. A clean air permit requires notification of all permits to all abutting property owners and we're saying this should be done for major and that -- but giving us discretion in other projects, especially those land use projects, to provide notice on the abutting property owner.

REP. STRATTON: The first part of that obviously is an attempt to make it less, right?

DEP. COMM. ROBERT MOORE: Right.

REP. STRATTON: And in the second is there a comparable ability to make that --?

DEP. COMM. ROBERT MOORE: There is currently a comparability in our wetlands program and in our diversion program. The next one with a star is standardize the permit process and develop concepts terminology across the permitting programs to improve communication and there's a variety of terms, there's a variety of very small sections where the terms are all made the same, there would be termination, you will see a lot of language in

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that bill before you where the only intent of that is to make all the terms consistent and a determination comes up several times as that process.

I think that's the major ones in the bill.

REP. STRATTON: There was one other section that I just find myself knowing that much of what we do goes on to the Judiciary Committee and their fits about it was the Section 13 and by defining an applicant as an owners, and if I read this through, and I'm not trying to be silly, but does that mean if an owner had been convicted of something like littering or something, that they would not be qualified to apply for a permit or am I reading that totally wrong?

DEP. COMM. ROBERT MOORE: No, I think we have offered some amendments in our testimony today I think to help clarify it, but basically it is that what allows -- there's various statutes which require us to review compliance history and we're just making them consistent. It doesn't require us to deny the permits. It requires us to consider it and we are looking at that as a, you know, there are a variety of processes or what we're trying to do is establish a process within the agency that'll say this is how we do compliance history and that will be made known of the public issue. This is how the agency will review compliance history. This is what will be asked for. It will be in the applications to provide that information and they'll just make that consistent from program to program, but again, this is just -- and we've offered up some amendments, right, Bob?

BOB KALJUSKI: Yes.

REP. STRATTON: Do those amendments address the issue of ultimate ownership of small companies that are owned by other entities, I mean that we hear so much about that, you know, the entity that may be applying for the specific permit is in compliance with all relevant regulations and laws in the State of Connecticut, but some other part of that company may not be?

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DEP. COMM. ROBERT MOORE: The statute itself doesn't, but the procedure by which we would do that, would do that.

SEN. DAILY: Representative Mazzocchi.

REP. MAZZOCCHI: Yes, Madam Chairman. Getting back to this process, it talked about earlier that DEP will publish informational brochures to help applicants determine whether or not they're subject to permitting. I'm trying to determine what kind of interaction you have with municipalities who, in the course of, you know, their building permit process, interacts with you, you provide them with notification, for instance, if they receive a request for a building permit, that they go through a check list to determine whether or not to have to apply to DEP and has any part of this process of streamlining determined whether or not any functions of permitting can be done at the local level for those municipalities that have that capability to help streamline and help expedite their process for construction?

DEP. COMM. ROBERT MOORE: I think the analysis is done -- has included that, where is the best place to do this permit. That's not part of what we're recommending today. That's part of the future. We currently delegate to municipalities through legislation and through agreement a variety of those permit functions already which include the guidance.

Many of the areas that would have been delegated to municipalities have not been covered by general permits, areas like storm water discharge permits and minor cooling water sources and a variety of small sources. Instead of being required to be issued a permit at the local level, they've been g p ts -- -- --, y-u know, neither the municipality or the departmental, it's a certification program rather than a licensing activity. That's covered a lot of those areas an I think that -- there's nothing particularly in here that says this is going to be done by towns and this is going to be done by the state. We have not gone any further with that at this time.

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SEN. DAILY: Other questions? Of the entire bulk of your permits, what percent are water discharge permits?

DEP. COMM. ROBERT MOORE: Of the backlog, I can tell you of the backlog, there's 2,000 of the 2,300 left are probably water permits, right? Two-thirds.

SEN. DAILY: 2,000 or 2,300 left?

DEP. COMM. ROBERT MOORE: Yes. I guess it's 1,800 of the 2,300 that are left are water. It's about two-thirds.

SEN. DAILY: And that, you would say, would be fairly representative of the ongoing business with that sort of permit compared to the others?

DEP. COMM. ROBERT MOORE: No, the air program currently processes probably the most permits and will process the most in the future.

SEN. DAILY: But would it then be --.

DEP. COMM. ROBERT MOORE: The air program has a variety of simpler procedures which had been taken account into here and will -- and process the most permits that we get each year.

SEN. DAILY: But it's the -- maybe I'm not understanding correctly, the water discharge permits that would be funding the bulk of the streamlining process.

DEP. COMM. ROBERT MOORE: That's correct.

SEN. DAILY: But they are not the bulk of the permits?

DEP. COMM. ROBERT MOORE: That's correct.

SEN. DAILY: Air is the majority --?

REP. FARR: But isn't air going into the other fund now?

DEP. COMM. ROBERT MOORE: All of the permit programs have fees. What we're saying is that I need \$679,000 over the next year and \$400,000 or so from then on to implement these recommendations. The

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revenue source we're recommending to use, to do for that is the proposed increase in water permit fees which go into the Environmental Quality Fund.

Currently when that fee legislation was passed, the water permit fees were not raised. They were only raised by 20 percent at that time and so that the other programs in fact have subsidized the water permit programs to the extent that the Environmental Quality Fund has been used to pay for the permit program.

So all the permit fees from agency, from the EQ go into the Environmental Quality Fund and then are distributed back and my bureau chiefs argued pretty intently about how money they raised and how much they should get, except I get to distribute, but you know, they do argue about where that money goes and what we're saying is that, for example, the money that we used to pay for Andersen, the money we're using for the implementation of hardware and software has been money that has been saved in the Environmental Quality Fund over two years because we're not being able to hire for the first two years of that program because of budget cuts and other layoffs that were prohibiting us from actually hiring anybody.

So that we have used that savings in that account to then be distributed to -- to improve the entire process for all the permit programs through the work that we've done with the Andersen and the other streamlining efforts that we made, the overtime that we're paying for the work on the backlog and the current streamlining and general permit efforts that we have made throughout the last two years, so that all the EQ Fund ends up in the permit process. It's just how it actually gets distributed, you know is really a -- I'm not saying that the water program is in fact going to pay for everything. The water program will add about another \$800,000 in those fees to the current revenue of the Environmental Quality Fund that will then be distributed back to hire people in all the places.

SEN. DAILY: So water may pay for it if you're taking a snapshot, but not in the overall picture?

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DEP. COMM. ROBERT MOORE: Yes, and probably in the overall picture most of the revenue is going to come out of there in the future as well.

REP. STRATTON: Can you do just a real quick breakout of -- I gather you're saying about \$800,000 or \$700,000 to implement these recommendations, you know, what part of that is personnel and what part is things like hardware and computer --?

DEP. COMM. ROBERT MOORE: That's all the personnel costs and that will be -- it's shown starting on Page 43 of the report in the summary back through Page 49.

The other part, the hardware part and the software part is part of our contract with Andersen and part of the other money, we say we've saved approximately \$800,000 for implementation of the hardware and software parts of the program on the EQ Fund. I expect to use all of that.

In addition, we're moving, you know, right now the three computer systems do not communicate. There's a variety of other things that need to be major overhauls in the management of the process and we expect to use that money to implement those changes.

SEN. DAILY: Are you saying then that Andersen is designing that system?

DEP. COMM. ROBERT MOORE: Yes.

SEN. DAILY: The computer system that will then give us a streamlined process.

DEP. COMM. ROBERT MOORE: Right.

SEN. DAILY: Do you have money in the budget for somebody to test it?

DEP. COMM. ROBERT MOORE: To test it? Part of their contract is make sure it works before they get paid.

SEN. DAILY: The state has had others, you know, if you're interested --.

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DEP. COMM. ROBERT MOORE: Whether it works so far has been --.

SEN. DAILY: Is this part of your moved plan too? I mean will there be --?

DEP. COMM. ROBERT MOORE: The move has to incorporate these changes and we have to take that into consideration as we move the three different computer base systems into the central building.

SEN. DAILY: So does that mean that people --.

DEP. COMM. ROBERT MOORE: I mean there are staff who are here if you want to ask them exactly what they are doing on that, but they are here. They have included all of that.

SEN. DAILY: The people and files and everything will be set up differently because you're then going into a different --.

DEP. COMM. ROBERT MOORE: Most of the files are going to be in the basement and you'll be able to -- what we hope to be able to do, if you want to know the status of a permit, you'll be able to go to a terminal and find out the status of the permit. I will be able to do that. You will be able to do that. I can't do that now.

The only program I can found out the status of a permit on our computer is our air program. I can't do that throughout the rest of the systems and this is designed to make us modern.

SEN. DAILY: Bob, as you know, we've had a host of other bills that came to this committee on this whole subject and I'm curious in terms of the positions and the staff positions in terms of implementing one of those which is not on the agenda today, but just as an idea, when you talk about six of the staff positions needed only being a year long.

In terms of the cost part of it, did you look at the option of those being just sort of outside contract professionals or --?

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DEP. COMM. ROBERT MOORE: We may use contract professionals to replace the people, but if you look at this recommendation, we need is we need our six most experienced people in the permit program that help us implement the management of the new --

(Gap in cassette switching 1a to 1b)

-- and so we may replace them with newer people or contracts or duration. I mean we get a durational period a lot cheaper in person and a lot cheaper than we can get a contractor and we've been able to do that successfully. We have now in our permits, when we put the special permits together and hired seven people, we've replaced them with durational positions and found well qualified people and engineers and analysts to come in and meet those requirements. So I don't think that's going to be an issue in the short term.

REP. STRATTON: It may be a positive comment for the department, but a negative one for the state, right? That those are available.

DEP. COMM. ROBERT MOORE: Yes.

SEN. DAILY: Are there other questions? I'm still puzzled by the disparity in the task force recommendation and the department's recommendation. Business people are forever saying to us time is money and they think that we hear the state don't understand that.

They've recommended time lines which are not here. Why is it not productive for the agency to follow that recommendation and to say this will be done by a certain date?

DEP. COMM. ROBERT MOORE: The most critical part of our reorganization and new management system will be to establish the amount of time it takes to do each step of the permit process. That's critical for us. It's what we're spending a lot of time. It's what we're analyzing in detail. It's what I need to make sure that I can commit to permits done.

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The only difference in our two positions that we have committed to time lines in our recommendations, the only difference in our two positions is to publish those today and we don't think we're in a position to do that fairly or accurately and that a time lines that drive the program rather than the management to drive the program we feel would be counterproductive and, yes, we disagree on that. We don't disagree that time lines is a key, one of the main management keys for us to be able to tell industry exactly, you come in today. This is when we think, if you meet all your requirements, we will be able to get this done by a certain amount of time. We do that all the time now anyway. At least I make commitments for the staff when they'll get it done, but I mean that's the major critical part of this and what we're just saying is that we are not in a position because of our resources, because of our equipment, because of the multitude of changes that we're making in the system, the 80 some odd changes, that we're ready to publish those this year.

And as Representative Farr said, we would be ready next year and I think in July of 1994 we would probably be in a position to say this is the published time frames for dealing with these parts of the process, but we're not ready today.

SEN. DAILY: Is there a date in which you could tell us what date you would be ready?

DEP. COMM. ROBERT MOORE: July 1994 and that's assuming that we get these resources to do this job.

SEN. DAILY: Do you have another question, Representative Farr? Any other questions of the commissioner?

DEP. COMM. ROBERT MOORE: I would say that I have heard that some conditions, that some people would allow us to statutorily implement this report. I am very concerned about that part of it, that implementation of this report, as you can see, is mostly management and structural changes of how the agency does business. I would be very concerned that if that was the legislative mandate for the agency to adopt this report in a certain amount of

time. It also would, you know, would force you to make sure that you provide the resources to do that, but I think this is a management issue and we're committed to doing that.

SEN. DAILY: You're saying the money comes first and the management should not be done by the legislature.

DEP. COMM. ROBERT MOORE: Yes.

SEN. DAILY: I think there are a lot of people that share that opinion. Thank you very much, Commissioner.

DEP. COMM. ROBERT MOORE: Thank you.

SEN. DAILY: Our next speaker to have signed up is Representative Ward.

REP. WARD: Good afternoon, Senator Daily, Representative Stratton and members of the committee. Thank you for allowing me to speak before you today on HB5074 and I realize we're very close to the hour so I'll be quite brief and I am aware of the testimony, at least the written testimony of the commissioner with regard to that bill, AN ACT CONCERNING A PERMIT MANAGEMENT TEAM FOR THE DEPARTMENT OF ENVIRONMENTAL PROTECTION.

The real purpose of the bill is to say that in Connecticut we feel we've not been particularly business friendly, whether it's an issue of high taxes or a complicated permit process or a complicated bureaucratic process and I understand with the department's bill and the task force that there are a number of steps already being taken to streamline the process and essentially what HB5074 says is that there ought to be management team within DEP whose really sole function is to kind of be the ombudsman for business so that there's a particular place to turn if there isn't a continual follow through on streamlining the process, a continual follow through on meeting the time lines and I think that if we do that and we set that system up, we'll be sending a strong signal to business that Connecticut is serious about trying to encourage businesses to come here and to stay here and to be productive here, and with that, we

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would urge your to proceed with something along the lines of HB5074, as you deal with the concept of the streamlining of the permit process and I thank you for the opportunity to address you here this afternoon.

SEN. DAILY: Thank you very much. Are there any questions of Representative Ward? Your testimony was short and sweet.

REP. WARD: Yes, it was about an hour in front of Education this morning. This one was easy. Thank you.

SEN. DAILY: Thank you very much. Madam Clerk, has everyone voted? Madam Clerk, would you read the tally and the results please.

CLERK: SB820, 25 yea, 0 nay, 1 absent.
HB5013, 25 yea, 0 nay, 1 absent.
HB5418, 25 yea, 0 nay, 1 absent.
HB5924, 25 yea, 0 nay, 1 absent.
HB6389, 24 yea, 1 nay, 1 absent.
HB6843, 21 yea, 4 nay, 1 absent.
HB6925, 25 yea, 0 nay, 1 absent.
Senator Peters is out sick.

SEN. DAILY: Our committee meeting is adjourned. We'll move into the public section of the public hearing. The first person to have signed up to speak to us on HB7121 is Ellen Quinn.

ELLEN QUINN: Ms. Stratton, Ms Daily and the members of the Environment Committee, thank you for giving me an opportunity to speak to you this afternoon. I'd like to speak as a co-chair of the Environmental Permitting Task Force and to expand a little bit on what Jefferson Davis had said and give you some background and a flavor for how they are different from those of the DEP.

We've been involved in an intensive review for six months in the permitting process in Connecticut. The task force was formed by legislation last year which was developed in response to industry and environmentalist concerns that the present process in Connecticut is not as timely as it should be.

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The task force consisted of 24 members. Representation included environmental activist groups, large and small industry representatives, legislators, trade associations and staff members of the DEP.

With the exception of municipal governments, representation existed from all the constituencies involved in the regulatory process. The task force was chaired jointly by myself and by Betty McLaughlin from the Audubon Society.

To my knowledge, this task force was unique in its attempt to force agreement among the diverse constituencies over a very short period of time, and I use the term "force" I think correctly. Dynamic tension is probably the best way to describe an average meeting, but we broke no furniture in the Legislative Office Building.

All of the members toiled to understand the difference in their perspectives as well as the issues facing the DEP and because of the commitment of the task force members the effort was successful. The result is a report to Commissioner Keeney which details recommended changes to the permitting process. I believe you all have a copy at a minimum of the Executive Summary if not of the entire report.

The DEP has clearly considered the recommendations of the task force in its proposed and its environmental permitting, engineering and restructuring plan which supplements the proposed legislation.

In many circumstances, the DEP's recommendations are very consistent with those of the task force. An example of that is the expanded use of the emergency and temporary permits as well as every attempt to streamline public notification while still engaging the public in the process and because of this I recommend support of the legislation. However, I would also request that consideration be given to adding to the legislation some of the recommendations of the task force which are not presently in the legislation.

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There are three principal additions out of the laundry list the task force came up with that I'd recommend. I'd, one, recommend a requirement that the DEP identify and publish time frames required to process various types of permit applications. The need for a predictable permitting process was identified by all of the task force members as an impediment both to economic development and to improvement in environmental quality in the state.

In addition, I would like to see that the DEP report performance against these target time frames to all constituencies to give them an opportunity to evaluate DEP's ability to respond to permit requests.

Ongoing monitoring of the information would provide insights on both the resources and the regulatory constraints which will affect the department.

Finally, I'd like to see that the Oversight Board that the task force recommended which would consist of DEP management and environmental and industry representatives be established to oversee the permit improvement process.

Interaction between the DEP and the task force during the review was helpful to all parties. Development of an Oversight Board would ensure that the dialogue would continue and that the emphasis on improved permitting would not diminish over time.

In closing, I would like to thank the DEP for their active involvement in the task force process. This involvement was instrumental to the task force success.

SEN. DAILY: Representative Farr.

REP. FARR: Yes, you might have heard the dialogue I had earlier with DEP about the time frames. Do you have a problem if we put a time frame for them of July of 1994 to establish these times for the processing the permits?

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ELLEN QUINN: I think that's a very long time to wait for time frames. Most industry representatives have applications in for permits at the moment. There'll be more applications going in shortly. I appreciate the resource constraints. I understand their problem, but every business has to make decisions with limited resources and I really feel at least some guidelines on the permit process and they need to be installed very quickly.

REP. FARR: Thank you.

SEN. DAILY: Representative Norton.

REP. NORTON: I'm sorry I came in late, but do you mean to say that you think we should have guidelines in the statute that we pass?

ELLEN QUINN: I think that you should recommend that guidelines be established and be promulgated by the DEP. I don't think that --.

REP. NORTON: By what, this July maybe or --?

ELLEN QUINN: This July, is consistent with the discussions of the task force.

REP. NORTON: No, I guess I'm not trying to start something, but I'm reading I guess, something from the Connecticut Audubon Society from Betty McLaughlin and I guess -- I think I'm reading this right when I say without that support for increased staff the department might find that the line in the DEP is the best the DEP can be expected to aspire to.

So I guess there is some division, but you say that -- what you're putting forward was the basic consensus spirit of the task force?

ELLEN QUINN: The recommendation, as written by the task force advocated that time frames be established. I think Betty and I and all members of the task force on healthy disagreements on when that should happen and how it should happen and from that perspective I'm advocating it sooner rather than later.

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REP. NORTON: Yes, I know, I'm not trying to start a fight. I'm just trying to get it --.

ELLEN QUINN: We did that before. We can do it again later.

REP. NORTON: Okay. Thank you.

SEN. DAILY: Representative Farr.

REP. FARR: Yes, one other question. The comment was made earlier about time is money for business. Is it your sense that business would be willing to pay more for permits if they got an expedited process? I know that what you normally end up when you say yes to that, we give you the higher fee and we don't give you the expedited process, but --.

ELLEN QUINN: That's something that because this was a task force representing some business, but certainly not a complete cross-section, I really can't say. I know presently we have considerably higher fees and no better performance. I think our confidence level is low, that more money will immediately improve the process, so I'm not sure I would completely agree to that at this time.

REP. FARR: I guess my concern is that when DEP sets up a process where they try to internally make a decision as to which permits to expedite, that that is by definition a political process. I mean it becomes the Governor knows -- whoever know the Governor gets to call to say, okay, expedite that one and I'm more comfortable with one that says whoever's permit is so valuable to them in an economic sense that they're willing to pay an extra fee for it, that that one is the one that ought to get --.

ELLEN QUINN: There was extensive discussion during the task force about alternative payment schedules depending on the time frame for the permit, but we really did come up with a number of difficulties on that. One, it's likely, not always, but it's likely that your political clout probably has to do -- is tied to your economic importance in the state, so that doesn't really change things very much.

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In addition, there are sometimes simply regulatory controls that will not allow a permit to be expedited, so we really did abandon that after extensive discussion on the task force.

SEN. DAILY: I'd just like to make an observation, I think there are many who think that it's wonderful, the political clout or being rich can get you something, but I think there are many others of us who think that's not true and we should not consider that at all and what we should be looking for is a streamline process that treats everybody equally and handles applications with dispatch.

ELLEN QUINN: And if I can add, the DEP was very fervent on that point and I did convince a number of task force members over time that that in fact was the desired outcome.

SEN. DAILY: Representative Norton.

REP. NORTON: I'm hoping to win the lottery and join ACP any time soon, so then I will appreciate this. I was hoping to ask you, in response to Representative Farr's question, which I had thought of and had forgotten to ask about, paying more, and I don't think -- putting aside the issue of let's sort of put it out to the highest bidder or what have you, but simply levying higher fees and charges to more amply fund the process and hopefully expedite it. You've seen the same response, but you don't think more money -- putting aside the issue of whether or not the money would actually get applied, but you'd just get billed. You seem to think that more money isn't really needed.

ELLEN QUINN: No, I didn't say that or I didn't intend to say that. I said that -- the question specifically was would industry be willing to pay more fees if they were provided higher service. I think the generic answer is of course, yes, but the history is we're paying significantly higher fees than we had historically just a few years ago and yet the service is stable at best. So I think that that's the concern.

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REP. NORTON: So you feel as if the connection has failed to happen between those higher fees and better service?

ELLEN QUINN: I think that's clear.

REP. NORTON: Thank you.

REP. STRATTON: I have one quick question. You recommended continued oversight and I'm wondering whether you have any thoughts as to what kind of oversight mechanism you think would be most useful.

ELLEN QUINN: The mechanism we discussed was a board probably similar to a Board of Directors for a company where there would be monthly or quarterly meetings of representatives from industry, the environmental groups, a smaller group than we had certainly. You really need a bullwhip to control 25 people over a large period of time, as I am sure you are more well aware than I.

That would really focus on how the process evolved and that would aid in setting up the management system in terms of the kind of statistics that would allow you to truly monitor the performance of the agency and then to evaluate those statistics over time, so in a number of years we wouldn't again find ourselves in a backlog situation. It would be an ongoing monitor process.

REP. STRATTON: So you would see an ongoing monitoring process of implementing these recommendations, not of necessarily continuing a process of evaluation and new recommendations?

ELLEN QUINN: Right.

SEN. DAILY: Was there any examination of how we compared to other states, particularly in the Northeast, in what our charge is for permits?

ELLEN QUINN: We did not conduct that, no.

SEN. DAILY: Are there any other questions?

ELLEN QUINN: Thank you very much.

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SEN. DAILY: Thank you very much, Ellen. Our next speaker to have signed up is Tom Turick on various bills.

TOM TURICK: Senator Daily, Representative Stratton, members of the Environment Committee, my name is Tom Turick. I'm Environmental Manager with the Connecticut Business and Industry Association. We are here this afternoon to support four bills, SB399, HB5074, HB5419 and HB6380.

We strongly support these bills. I won't speak to them and take up your time, but I have handed in some detailed testimony I hope you will look through. These four bills, as a block, are very important to us and I would point out they are recommendations, all four of them, of the Environmental Permitting Task Force.

I'll spend my time, my short time, testimony looking at HB7121, which is the priority bill from CBIA's viewpoint and we definitely support the concept, but we think there are deficiencies in the bill.

I'd like to say from the outset that in no way are we opposed to the efforts of DEP. In fact, we applaud their efforts although the plan we have not in detail have been able to examine their plan since it was just released yesterday. We think that the department is on the right track, so in our criticisms of HB7121, do not go to the efforts of DEP. Again, we think they're doing a good job and they're sincere about streamlining the permit system, but I'd like to tell you the bottom line with CBIA is, we feel that the 40 or so recommendations of the Environmental Permitting Task Force should be included in HB7121, and let me explain why.

You've been hearing about the importance of the task force. CBIA indeed participated and it is as good an effort as you could possibly get in our minds. Some study committees don't work for a variety of reasons. This one did. You've heard that DEP supports many of the recommendations, if not all of that task force and what made that task force work, one of the ideas was that the legislature was an active participant and I single

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out Representative Davis whose mere presence at the task force showed the business community and the environment community that the legislature was indeed interested in this issue, beyond setting up the task force the legislature participated in it.

We see that if DEP is going to have a chance of success in their plan and their plan, be it a good one or a poor one or in between or however you view it, to be successful, it's going to take that kind of an effort, the business community has to bring its resources, the legislature has to bring its resources, the environmental community has to bring its resources.

We think by putting the recommendations of the Environmental Permitting Task Force into HB7121, you are sending us a message and you're sending DEP a message that indeed you plan to participate, you plan to be giving oversight, as some people called it, the business community will talk about accountability, some of the people who are going to come on after me.

I think Representative Davis called it continued communication. Call it what you will, I think we all know what we're talking about. It's the help that the department is going to need, be it financial or ideawise and we all have to actively participate.

I would like to point out that we are dealing with something here that is very complex and difficult. We all know that. We've heard that the department plans to spend three-quarters of a million dollars to try to implement their plan, another half a million dollars or so per year well into the future to maintain the streamlining we all see and there has to be some kind of an accountability. It's again, not a matter of trust. I think the business community has been accused of saying, gee, you just don't trust DEP to go ahead and do the job. In fact, the opposite is true. As I said, we do trust the DEP. We think they've been an honest player to date, but we've come this far because everyone has helped, and especially the Environmental Permitting Task Force.

I'll wrap up. There is one problem with the current wording besides the omissions and in my written testimony I list nine of the 40 that I counted, recommendations of the -- or so of the Environmental Permitting Task Force. I list nine of them, I won't go into them, but there is one glaring piece of wording in HB7121 that we would like to see eliminated and that is Sections 18A and 18B.

Without a lot of discussion, in our opinion, this section alone will undermine totally what we're trying to do here. It is not a streamlining effort. If anything, it's going to add an incredible amount of paperwork to the department at a minimum, even if it doesn't affect decisions of the commissioner. Just the fact that the commissioner must consider your history, the kinds of data you must provide we think is not going in the right direction at all and there is wordings in there, good faith efforts that DEP has always opposed and yet they're proposing it in this particular situation that we don't understand at all and I'll stop right there.

REP. STRATTON: Tom, actually, if I could pick up on that because I had asked some of the questions regarding that section of Commissioner Moore and since I did, I went and looked at the proposed amendments to this the bill that the DEP handed us this morning, and one of them -- and I'd just like you to comment on what the impact on Sections 18 would be with that.

Part of that proposal is to delete Section 19 so that it's a proposal coming from them now, but the other would be to delete the specific injunction that the commissioner shall not issue a certificate or permit, etc., to anyone who has violated the law, sort of the example I was using of violating a littering law.

Could you comment on if those two changes were made, the specific prohibition for any violation of a law, making someone ineligible for a permit and then the deletion of Section 19 as to what the realities are in terms of the issue I was asking

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him about of companies being owned by other companies and the connections between them in terms of the legal liabilities?

TOM TURICK: In answering you, I would like to point out too that when DEP mentioned this -- Sections 18A and B are being proposed because they're in other parts of the department's operations and they want to go across the board. Indeed it's in the air group, but in some part of the air permitting program, but -- and it's causing great difficulties there. It was passed in 1989.

I think the central problem is the commissioner, I would equate it to you're in double jeopardy. You had an environmental problem and you've paid for it some way, shape or form, or you have an environmental problem and you're under discussions with the department. In other words, you've challenged the department's decisions.

In either or both of those cases, you can be held accountable as someone who is not acting in good faith and therefore not deserving of a permit. I'm not -- I don't know what the department is trying to accomplish in the amendment, Representative Stratton.

REP. STRATTON: Not to speak for the department, I think from a, you know, a perspective that I have, we obviously don't want to be permitting people who are out constantly being negligent in terms of compliance with environmental laws and sort of on the face of it that's that it looks like.

I think the concern and I guess I'm wondering whether some of the experience that you said that's been a nightmare within the air department, whether you can give us some of the examples of how the implementation of what on the face of it seems like a logical thing to be trying to do has played out.

TOM TURICK: I can answer that. I was talking with the department on their intent of implementation because everything does come down to implementation, but first, as it's worked in the air program and why we think there's problems, first documenting what it is the department is trying to evaluate is very tedious. In other words,

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what is important to them and what's not. It isn't clear, as they operate their system now in the air group, to businesses on what do you provide. Do you want to know every facility we own?

For a while the department wanted to know facilities outside of the State of Connecticut. So if you're a company with divisions in California, you better understand completely your environmental program out there.

Now I know the program, the DEP program is only on in-state facilities, but you may be a corporation with divisions that are independent, so to speak, of the corporate body and are controlled independently and yet this law would say that if you're a certain company you must submit data since you're all owned by the parent company on all divisions and that becomes very difficult because you're an independent division. How do you -- how do you submit information concerning the environmental programs of the other divisions?

The paperwork has been enormous. I should say that I am not familiar with the department having denied a permit on the basis of violations previously, but I've asked the department what their intent is with this section and I even gave an example if you were -- you had an exemplary air program, but for some reason your water discharge is not -- is tripping your parameters every several months or something and that you've had a number of smaller violations throughout the year, I asked the department, higher level people, would this be grounds for denying the air permit even though you may be coming up for renewal and your program may be exemplary and they told me yes.

So we look at it as a form of coercion that you're not playing ball with us over here. We can take advantage of the situation over here. We think there's plenty of laws and protections that the state has to go forward with actions if somebody violates, but don't hang over their head the ability to obtain a permit in an area totally unrelated.

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Sure, if it was a water permit and water is under discussion, there's violations. Maybe the department has a right to base a permit decision on your situation, but we can think of countless times that it could be misapplied.

REP. STRATTON: Thank you. Representative Farr.

REP. FARR: Yes, I mean this is one of those very seductive provisions in a bill. It sounds very nice, but when you stop to think about it, I mean I can't imagine that there's a major corporation in America that hasn't had a violation of environmental laws, whether it's General Motors or United Technology or General Electric. Every single large corporation has, one time or another, had a violation of an environmental law and I don't know -- this doesn't make a lot of sense to me, as you say. It does seem to go the opposite direction because the intensity, United Technology goes in to ask for a permit or a carrier division and you say, well, okay, we understand that Hamilton Standard had a problem.

It just, to me, I don't know the need for this because the environmental laws themselves have such punishments that if United Technology violates, they get hit with a multi-million dollar fine. You don't have to turn around to now say we're not going to ever allow you to get another environmental permit. You might as well put into your environmental penalties that we have the right to revoke your right to ever have a permit and that would be the direct way to do it.

So then we could say, okay, from now on, if you violate any of the environmental law, in the State of Connecticut you'll never have another permit and then at the time that that violation was being imposed, you would understand that when you get your -- you would consent to a million dollar penalty, you're never going to be able to operate again in Connecticut, but I think this is sort of a back door approach that I don't think is a reasonable way to do it in terms of penalties.

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TOM TURICK: A quick response to the first part of your comment, Representative Farr. When you talked about basically every company has environmental infractions one time or another. I ask the department in the water program how many -- what percentage of companies holding permits at one time or another violate their permit and I was told about 80 percent. So I asked a follow up question.

Under this legislation, under this section, does the commissioner have the power to deny a permit, nevermind water permit, an environmental permit to those 80 percent and I was told yes. And then I was told, "But the commissioner wouldn't do that." That's not the intent, but that's the law. Whether it's the intent of the commissioner or not is not the question. This is what you're enacting as the policy of the State of Connecticut, that this is the way we want to treat people who are seeking permits, people who are trying to protect the environment through the requirements of those permits.

REP. STRATTON: Thank you. Are there other questions for Mr. Turick? Thank you, Tom. The next person to testify is Marie O'Brien and she will be followed by Jack Tamborra.

MARIE O'BRIEN: Good afternoon, Senator Daily, Representative Stratton, members of the committee. For the record, my name is Marie O'Brien. I'm Manager of State and Local Government Affairs for United Technologies Corporation and joining me this morning is Maria Tuoy, who is a Project Engineer for Pratt & Whitney. Maria obviously has very specific work experience related to the issues before you this morning and we'd be willing to answer any technical questions that you have, but I would like to offer UTC's comments on your agenda.

First, let me express our pleasure with having the opportunity to comment on these very important legislative initiatives. We'd like to commend the Department of Environmental Protection for its work with the permitting task force and the development of an ambitious environmental permitting, re-engineering and restructuring plan. We look forward to the implementation of DEP's

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restructuring plan for we believe its planned actions will help to reduce the uncertainty and delay that plague the environmental permitting process in Connecticut.

We have several concerns about the implementation of the streamlining program and the bill under consideration. First, we note that the department's bill, HB7121, addresses only a few of the streamlining recommendations made by the permitting task force.

The department takes the position that the great majority of the reforms can be affected through regulations or DEP management practices and do not require legislation. While UTC agrees that most of these changes can be implemented administratively, we believe the Environment Committee should consider whether there should be provisions to strengthen accountability for following through on the department's undertakings.

Requirements for periodic status reports to the public on permit processing, regulation development and management reforms would be valuable to keep the streamlining program visible to the public and on track.

We recommend that the committee require such reports or an equivalent mechanism to ensure that the work of reform is continued. Such status reports should also address the DEP's commitment to prepare spill reporting results.

You have, I believe, before you, a copy of my comments. I'm not going to spend a great deal of time on the specific changes we think you should consider in HB7121 other than to just highlight the sections. Section 1A would allow the commissioner to issue emergency authorizations in lieu of a permit, but does not recognize equipment failure and/or subsequent business interruption as an emergency.

Under current state air permitting rules, replacement of a permitted unit with similar or identical equipment requires a lengthy permitting process even if replacement is due to unexpected failure which leaves the facility without heating

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equipment or without equipment important to the manufacturing process, thus causing a business interruption.

The US EPA recognizes unexpected equipment failure as an emergency in the operating permit rules written to comply with the new Clean Air Act. We recommend that the EPA definition of emergency found in 40CFR70.6G be used when defining the powers of the Commissioner of Environmental Protection to issue emergency authorization.

In Section 12, we believe that the word "physically" should be put between the words "property and abuts" in line 339, so it's clear that that the notice requirement applies only to direct abutters.

In Section 18, environmental regulations are both voluminous and complex and recordkeeping errors sometimes happen, typographical errors, for instance. These may be considered noncompliance. Therefore, we recommend that the word "significant" be put in before the word "noncompliance" in line 452.

Also, in Section 18, line 453, we believe it should be changed to read "the commissioner shall issue a permit, registration or certification unless he finds that the applicant is not making good faith efforts to correct the violation."

The commissioner's authority to deny a permit based on environmental noncompliance should be limited to statutory violations within the State of Connecticut where the applicant has existing Connecticut operations to avoid burdening the applicant and the agency with complying and reviewing data from non-Connecticut operations. Time periods should also be specified and a two-year limitation we feel would be appropriate.

In Section 18C, the definition of "applicant" should be limited to the owner and/or operator the facility. Mr. Turick from CBIA answered some questions earlier about just that particular section. I won't spend a great deal of time there, but just to say that amending the definition to include corporate parents and subsidiaries injects

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needless confusion and complexity into the definition, especially for a corporation like UTC and could make an owner-operator applicant improperly responsible for an entity it does not control.

Section 20 would amend Subsection C of 22a-430 of the General Statutes to allow compliance schedules and water discharge permits. We support this change. However, the authority to issue compliance schedules in itself does not necessarily solve the problem of issuing permits with compliance schedules where a particular statutory attainment date has passed.

The DEP needs to consider how to develop permits imposing water quality base limits that do not place the permittee in immediate noncompliance. And then finally I have some comments supporting SB399, AN ACT CONCERNING A PILOT PROGRAM TO ENCOURAGE WASTE MINIMIZATION, POLLUTION CONTROL OR MODERNIZATION MODIFICATIONS.

We believe that by establishing such a pilot program you would allow for self-certification of compliance, with state air permitting requirements that are not more restrictive, that are more restrictive than federal regulations, that we believe that companies involved in the pilot program should have demonstrated a commitment to pollution prevention and have a significantly high volume of operational changes in order to qualify for the pilot.

We propose that the pilot require the following as well. That a professional engineer certify the modernization, replacement or changes in materials, utilization movement or relocation of such equipment and that it's in compliance with relevant state regulations.

We believe the pilot should specify that periodic audits by the Department of Environmental Protection should be done and notification to the public with an opportunity to comment on the findings of the audit process should also be part of your pilot program.

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REP. STRATTON: Thank you. Representative Poss.

REP. POSS: I probably should have asked this -- made HB 7121 this comment to the previous speaker, but you touched on Section 18 which he referred to as possibly putting firms in double jeopardy. I was wondering whether it might not apply to cases in which they had no history in a particular permitting field if this was, if this was essentially the first request in a particular field or request, but they had not -- they had not had a good record in other areas, whether that might not be a justification for looking at their history elsewhere.

MARIE O'BRIEN: I think that that could be possible, but obviously we would hope that the professionals and the Commissioner of the Department of Environmental Protection would use their judgment and look at that.

REP. STRATTON: Other questions? Representative Farr.

REP. FARR: Excuse me, just your testimony on SB399. As I understand it, the department is opposed to that and their position was that the self-certification is part -- can be part of the general permitting process. We don't need to have an experimental program to do that. They can do that under the general permitting process, as I understand it.

And it strikes me that that's true, that I don't know why we need to do this in this fashion when we can just make general permits to do that. I wonder if you'd comment on that.

MARIE O'BRIEN: I'd love to comment on that because we, as a corporation with a number of companies and divisions involved with the Federal Aviation Administration currently engage in self-certification to comply with their regulations in a number of different areas and we felt that similar to what we do in those -- in those manufacturing areas, such a self-certification model could help expedite some of the delays that we've experienced with the State Department of Environmental Protection.

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Other state have raised concern about similar kinds of regulatory processes have enacted similar recommendations. For example, in the State of Massachusetts, they implemented a money back guarantee in its permitting process, one that sets fixed time lines for permit decisions and that returns application fees if the times are exceeded. At the same time the Massachusetts DEP implemented a total quality management system that has worked off their permit backlogs and has shortened their time lines by an additional 30%.

We support these same concepts that are before you in HB5074, HB5419 and HB6380. New York and Massachusetts have developed programs that promote good performance, and reduce administrative delays. New York, for example, is increasingly using negotiated rule making as a method of bringing all interested parties to the table early on in the development of regulations. Massachusetts uses self certification through licensed site professionals in state super fund cleanups that allow the clean ups to occur and shorten the administrative delays in getting those cleanups to happen.

We support that same kind of concept in SB399, so I would recommend that your Committee develop one bill which incorporates the recommendations of the permit task force, includes the elements of HB5074, HB5419, HB6380, SB399 and rejects the current language within HB7121. Thank you.

REP. STRATTON: Thank you, Jack. Do you have direct experience or have you had direct experience with the negotiated rule making process in New York, or do you have any comments on how that has worked, the time frames, what that does to the...

JACK TAMBORRA: Dow has had some at the federal level through what were called some of the asteris program, some of the air toxics type programs, and the mechanism has proved to be very successful because you get all the interested parties in there early. They all sit down and try to develop an objective and the whole process moves along much faster. They don't get to this point of a hearing

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or sides are drawn up, and very long delays occur. It's been a very successful mechanism in a number of states.

REP. STRATTON: Do you have any comment? You made the proposal that we just institute the language of the task force into the bill. Much of the DEP's approach is obviously to take those same recommendations and say, let's do them by regulation. What would be your feeling if some of those were done through a negotiated rule making process in that one of the debates we have internally is how much almost micro-management is appropriate to do legislatively when that's what the regulatory process is established for and I understand the frustration with seeing regulations through, but I'm wondering if you see a role for something like the negotiated rule making supplanting the desire to see a lot of those recommendations be legislative.

JACK TAMBORRA: Well, I think the primary problem we have with the DEP restructuring plan is that it did not incorporate the sections of the environment permitting task force that are the accountability mechanisms. I think DEP can utilize the task force and the expertise of the people on that task force to try to develop these mechanisms to get to the same goal, so I think the task force has a future role in that mechanism, and certainly negotiated rule making is one of those ways to do that.

SEN. DAILY: Are there questions? Representative Farr.

REP. FARR: When you say the accountability, you're talking about the three provisions that I think the Chairman of the Committee called for in there? Establishing the time frame.

JACK TAMBORRA: If you flip to the executive summary which is I think about the fifth page of my testimony, one of the major accountability concerns is that the DEP has chosen not to publish ranges of times or timelines associated with that. I did receive their re-engineering report yesterday, and have not really had a significant chance to look at it, but their statements are that it is premature, that internally they're interested in ranges of time frames on a task by task basis and that these

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are going to vary because of the specific application, DEP's resources and the cooperation of the applicant.

Quite frankly it doesn't give me a lot of confidence that this process is going to move along. Under the enhanced management section of the task force's report, we asked as members of the task force that DEP establish an oversight for it consisting of members of the environmental community, industrial representatives to oversee the permit process.

We think the task force can play a role in that because of its expertise, and we're certainly interested in assuring that the process can succeed, because what we want is a more predictable, accountable system that will allow permits to flow. I go back to my example of Massachusetts. Massachusetts has very stringent technical standards. Companies in Massachusetts may not be happy with some of the technical parts of their permits, but they at least are getting their permits in a very predictable and accountable manner.

Establishing semi-annual reports to the Legislature to show progress in the development of these changes. I might add that later on in their report, DEP was looking for a mechanism that would allow them to get timely responses from applicants who had turned in applications that were devoid of information or short on information. The mechanism that DEP chooses in their restructuring report is to include in the requests statutory or regulatory time frames for responses.

Where no time frames exist, set goals. At the discretion of the DEP they can terminate the applicant process. They can add surcharges to the fees and if in fact they terminate the process, you'd have to reapply and come up with new fees. Now to me that sounds like what's good for the goose is good for the gander.

REP. FARR: It sounds to me like they just turned it around on you, didn't they? (laughter)

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JACK TAMBORRA: Exactly. So you're very interested in seeing the process work. We think all of us can do well under a time line system, one that has a good accountability mechanism, and we'll certainly work with the DEP to make it happen.

REP. FARR: Can I just ask you the one thing on that? I think DEP has a legitimate concern that while they're going through the process of restructuring their permitting process, it is difficult for them to set realistic time lines because they don't know what the process is going to be like when they get through with this whole thing, and so they're asking for more time, and I know you'd like to have the time frame, the time limit set right now.

Does it really do us any good if we set unrealistic time frames and then simply get a report back saying that they have zero compliance with those time frames? Does that get us anywhere?

JACK TAMBORRA: I don't know what those time frames should be. I think DEP's certainly in the best position to do those, but I think the implementation of a total quality management system that has them look at, reevaluate those time frames can work and again in Massachusetts over the period of a year and a half, the DEP itself reduced those time lines by about 30% on some 15 or 20 different permit programs. Obviously we want them to work. We want to get permits out in a given time period.

REP. STRATTON: Thank you. Are there other questions?

JACK TAMBORRA: Thank you very much.

REP. STRATTON: Beth Barton, followed by William Huhn, Bill Huhn, W. Huhn.

BETH BARTON: Good afternoon. My name is Beth Barton, HB 7121 an I head the Environmental Practice Group at Updike, Kelly and Spellacy. I have practiced exclusively in the environmental area and extensively with DEP for about 15 years now, and I was also a member of the Environmental Permitting Task Force. I guess I still am.

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I'm testifying today regarding DEP's proposed streamlining legislation, HB7121, and while I certainly wholeheartedly support continue to support improvements in DEP's permitting process, I regrettably must oppose HB7121 at least as it's presently drafted. With all due respect to the DEP, the substance of this bill does not live up to either its title or its stated purpose. While some of DEP's efforts in this bill are commendable and desirable, they're not in the nature of streamlining measures, and they are not reflective of or in many instances consistent with the recommendations of the Environmental Permitting Task Force.

This bill is DEP's attempt, I believe, to address what it perceives as statutory loose ends or omissions from their current permitting programs and to create consistency in procedural terminology in those programs. My concerns with respect to the legislation, the proposed legislation fall into two categories. The first are concerns regarding what was in the recommendations of the Environmental Permitting Task Force and what's not in HB7121.

The second category are concerns regarding what is in DEP's proposed legislation. As to the first area of concern having heard the comments by those before me who have opposed the bill at least in its current form, particularly testimony by co-members of the task force, the representatives of those co-members, I'd like to primarily just endorse their comments and not take your time by restating them now.

While certain of the task force recommendations may be more appropriate for regulation rather than legislation, others are not, and even as to those that might not be appropriate for legislation, those which in a perfect or at least better world than the one we have, those that might be appropriate for regulation, at this point they're unfortunately not appropriate to lead to regulation.

DEP itself has acknowledged on many occasion that it's way behind in promulgating its regulations. I suggest that the legislation either reflect expressly the recommendations of the permitting

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task force, or in the alternative that the legislation following the lead of Congress legislatively establish a deadline for promulgating of these regulations. That's the standard course of practice when just to use a sister agency, EPA, is tasked with promulgating regulations. They have a time frame within which to do it.

DEP's legislation, proposed legislation, fails to adopt any of the task force recommendations regarding predictability in the timing of the steps in the permitting process. No time frames or any steps other than there is some reference to timing for notice purposes. No reference to any oversight board, no reference to a permit tracking system. No reference to semi-annual reports. We already heard from Mr. Tamborra and some of the other areas where this legislation, proposed legislation, is deficient with respect to those recommendations of the task force.

So focusing for the balance of my testimony on the second concern that is what is in DEP's bill, I'd like to identify a few problems that I see in certain sections. I could and would welcome an opportunity to provide detailed comment on each section line by line if that would be of assistance of the 18 page bill. Of course, the time today does not permit such a detailed review. However, I'd like to highlight several of the sections, many of them having already been touched upon of the bill, which not only do not streamline the permitting process, but actually further burden the permitting process.

The first section I'd like to focus on is on page 2, line 54, section 2. Interesting history behind this section. This section, I believe, is responding to what was identified as a simple and even perhaps somewhat arguable inconsistency between a statute and a regulation in the context of the water program. There was extensive discussion of this concept in the task force, and this discussion I know for a fact in part because I've been involved in many of the discussions and because I know many of my colleagues have been involved in this discussion. The subject of numerous conversations with DEP staff in the context of specific permits.

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Basically as we've already heard, the current program legislation regulation provide that you have to make application for renewal permit 180 days prior to the expiration. The statute says that if, or the position that's been taken by the Department is that the statute says if you don't apply at least six months before, then your permit expires. You can no longer discharge, you can no longer in most instances, operate because you're usually talking about process waters.

The regulations, however, afford DEP discretion to accept an untimely filed application, so as I say, I believe this action was intended to address that. Unfortunately in an effort to address it, I believe the Department has created a whole new mini-permitting program, because if you look at Section 2, particularly if you direct your attention to lines 66 and 67, it authorizes the Commissioner to impose conditions on the licensee as may be necessary to assure protection of health, safety and the environment.

The last I checked, that's the whole idea behind permitting programs. It also creates a whole fee assessment structure, and we all know that there have been problems even with the current fee assessment structures in getting things as routine as invoices out, so I think it's quite honestly creating a lot of bureaucracy, a lot of additional paperwork, a lot of additional work for the DEP, if in fact, section 2 were to pass in the form that it's presently in, and I can almost understand the point if in fact DEP issued renewal permits within six months of filing.

That is prior to the expiration point, but we all know and there are many explanations certainly as to why, and even if you just accept the resource explanation, the reality is that that does not happen, and it seems to me to go to the step of creating, as I say, this mini-permitting process, in order to address this apparent inconsistency is quite extreme and certainly inconsistent with streamlining.

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The second section I'd like to discuss in Section 3, page 3, line 85. This is the one which deals with the requirement that the applicant provide the public notice of the application. Generally speaking there was support, unanimous support, among the members of the permitting task force for improvement of the public notice provisions. I think pretty much everybody agreed that it made the most sense to get responsible public comment at the earliest possible point in the process, and I don't envision that any applicant would have a problem with taking on the burden of giving this notice, so that's not the problem.

The problem is as you proceed through that section, you come upon an indication that the Department will not proceed to process the application until it receives notification of or I guess a certified copy of the publication of this notice, so we're looking now at conceivably another 30 days or more delay from when you file your application before they're going to start the review of the process.

I would submit that that's certainly inconsistent with the statement of streamlining. The next section that I wanted to touch upon was Section 4, page 4, line 117. We've talked a little bit about this section in connection with Commissioner Moore's comments. This section basically provides for a 30 day notice by the Commissioner of his tentative decision on applications, and I don't think there's any problem with that. I don't think anybody would take exception to that. That is the idea of public notice of tentative decisions.

The kicker really appears at line 147 in Section B where application is defined to include modifications, and you already heard from several of the speakers including the representatives from UTC, what havoc and also Mr. Turick, what havoc the current definition that DEP will apply to modification can wreak when you're trying to move forward with even environmentally beneficial projects.

As examples just to add to what specifically Mr. Turick was providing by way of response to questions, such modifications can include a change in a chemical and a process. Even we'll have

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benefits to the environment, and it's even unclear whether or not this definition of application to include modification would apply to the earlier section I talked about, that is Section 3 where you have the delay in the processing, and as we have heard and as you can see in the task force report, this whole concern about delay in being able to proceed with what are really minor modifications in the overall scheme of things with changes to their operations, relocation of equipment, things of that nature is needlessly being hampered by the current system, and I would suggest would even be further hampered by what's being proposed in this legislation.

The next section I'd like to talk about is Section 11 appearing at line 311, page 9. This is the section, it was discussed by Commissioner Moore, deals with air permits, notification requirements, and there's also consideration of compliance history pursuant to these statutory provisions. There was uniform support within the task force, and I include in that DEP for revision of these statutory provisions.

Everybody acknowledged it was passed with a particular project in mind. Everybody acknowledged it was not working in practice. Number one, the issue is the scope of the actions to which it applies, and I think DEP attempts to address that with the proposed legislation. Whether a company has to publish notice one or two times or send to abutting landowners one or two times is not the issue. That's not the problem. The problem is in part address by now limiting it to major actions, but we also need to have it be clear that it's not applicable to extensions of temporary operating permits or that it's not applicable to all modifications.

Again back to the point I made previously in terms of the broad definition, which has given the modification. We still have no definition as to what's meant by an abutting landowner. Representatives from UTC touched upon that one. Very common problem where a company is located on a big body of water or river. How do you define

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abutting landowners, because the Department's position is that your property line does not stop on this side. It's the other side of the water.

Forty-five day delay in the Commissioner taking action, I quite honestly don't know where that comes from. It's not consistent with any other program that I can find. There's no reason why there has to be 45 delay in action by the Commissioner from the notice, and then fourth and perhaps most significantly sort of tipping the hand to my own experiences is that the legislation, the proposed legislation does not at all address the many, many problems we've seen with Section 22a-186a which deals with consideration of compliance history and conformance to regulations.

This sort sideways nicely into the problems with Section 18 which I think has the potential of becoming another 22a-186a, at least as its presently worded. I think as it's presently worded it threatens to repeat a mistake that was made with the air program because of the lack of definition in this area. This section creates additional obligations applicable to not only new permits, but also to registrations and certifications that an owner or operator may hold.

The obligations are applicable not only to new or renewal permits, registrations or certificates, but also to, and here again is that word - modifications, and also to transfers of facilities, but there's no definition of transfers, and there's no definition of modifications. Focusing on the transfers for a second, this is a significant deviation from and an increase in responsibility for the DEP from what they have under the current law.

I'll just cite a couple of examples. With the underground storage program which requires that you file a certification with DEP, in the instance of transfer right now what a company has to do if they're transferring those tanks is they have to notify the transferee prior to the transfer, but they file an updated registration form with the Commissioner 15 days after the transfer. Under

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this section that whole process would be pulled into this need to review compliance history and make an affirmative determination.

I don't see how at all that streamlines a process in a program where to the best of my knowledge there haven't been any problems. The second example is with the air program. Under the air rates right now when you want to transfer an air permit, you have a time frame within which to get a letter to the Department and there are certain obligations with respect to certification that the transferee must give in terms of an intent to comply with the terms of the permit and things of that nature.

Again, this particular transfer action would now be thrown into this very cumbersome process which, as I think we've already heard, needs a far better definition if it's going to be adopted at all. So with these particular activities that I identified and many, many others for each permit, you've got a transfer issue for example, what you're talking about is more delay while the Commissioner, quite noticeably without any time frame or time constraint, considers the compliance history of an applicant.

We've already heard about the problems with the whole definition of compliance history. There's no definition, no restriction to the particular facility. It's not even limited to Connecticut. It's not even limited to environmental laws. It says any other law relevant to the activity. It could be anything. It's not even limited to United States laws, so it could conceivably and we fortunately have many companies that are involved with international operations.

It could also be related to international laws. Now I'm not suggesting that's the intent of the Department necessarily, but we saw first hand with 22a-186a what can happen if you leave that to discretion, imagination, whatever. As I said, these are just examples of the sections which if implemented will actually burden not streamline the permitting process. While DEP undoubtedly is well intentioned in seeking many of these legislative amendments, the fact is that it's efforts do not

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streamline and this fact points to a much, much bigger issue, and that issue is one which could not be dealt effectively in the context of the Environmental Permitting Task Force.

This issue is one which was I think at least by implication, acknowledged by Commissioner Moore. This issue is the issue that the permitting programs for which DEP has acquired responsibility over the years are long overdue for a comprehensive review. They're likely as duplication and overlap among state programs and among state, federal and local programs. Perhaps this function could be headed up by the oversight board which has been referenced, if that were to be incorporated in the legislation.

In summary, the business community is not looking to avoid responsible environmental regulation, but rather they're asking for predictability and consistency. Predictability in what is expected of them and predictability and consistency for planning purposes in the outcome and timing of the outcome of the permitting process. I commend you for creating the Environmental Permitting Task Force and I thank the co-chairs and the members of that task force and also DEP, particularly Mr. Moore and Mr. Kalezewski for making it a working task force, but I think now we all need your assistance to move onto the next step. Thank you.

REP. STRATTON: Thank you very much for your testimony, Beth. We do not have written testimony from you. Is that right?

BETH BARTON: No, you don't.

REP. STRATTON: To the extend that you're able to put some of the very precise comments you just made into writing, I think that would benefit both those of us who are here to listen to that, but also to members of the Committee who are not here.

BETH BARTON: I'm sorry. I'd be very happy to.

REP. STRATTON: Thank you. Representative Farr.

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REP. FARR: I just want to pursue this issue on, I guess it's Section 18 of the bill. It talks about the compliance with other environmental, I guess other laws, I gather it was supposed to be other environmental laws. The more I think about it, it strikes me that DEP may have a justifiable concern if you're out of compliance with other laws.

In talking with DEP, they've mentioned before the fact that water has issued a permit to somebody who is out of compliance with air, and they're trying to shut somebody down because they've got an air problem. In the meantime, water's giving them a permit, and it would seem appropriate to have language that say that if you're not currently in compliance with an order of DEP, that that ought to be disclosed, but it doesn't make any sense at all for me to come up with this enforcement system which says, well, they're going to look at all your records of all the violations you ever had and then decide whether you get a permit again.

It would sort of be like saying in the Motor Vehicle Department when you get a speeding ticket, we'll look at any time you previously got a ticket. We do that, but we have in place a point system, and you know if you get arrested you get a point. If you get enough points, there's a system that we know of so that you don't go in and violate, plead guilty to speeding knowing that you're going to lose your license.

The problem I have here is that its sort of after the fact. Okay, you pay your fine. You had your violation, and now they turn around and say, oh and by the way, you're never going to get another permit again. I've lots of difficulties with this, and I don't know if you've ever had any experience where DEP's ever actually used this to deny people permits. Have you?

BETH BARTON: I have not to the best of my knowledge personally had an experience where a permit was denied on that basis. It certainly has lead to the generation of a lot of paper and extensive testimony and additional days of hearing and delay, but I cannot represent that it's ever been a reason for denying permit.

REP. FARR: And I would imagine that you know any time somebody wants to oppose something, the first thing they're going to do is pull out, and frankly we've seen in the Legislature with, down at Electric Boat. Somebody pulls out, well, they violated the law. They shouldn't ever get this. Well, if that's the standard, every person or major company has violated their law.

BETH BARTON: I should say, Representative Farr, I don't personally and I think for the most part, the majority of applicants are not suggesting that it's inappropriate for the Department in the context of certain of their actions to some degree to consider your compliance history. The problem we have here is with the scope of activity that it applies to, and the breadth or potential breadth, because it's not defined at all of the inquiry.

Your very comment about looking at current compliance, there's nothing in here and in fact with 22a-186a, there have been numerous hours that have been consumed many of them at CBIA's meetings about, is it three years? Is it five years? Is it two years? Is it one year? It's a ridiculous waste of time, so maybe it's an area where you don't throw the whole concept out. Maybe it's an area that really cries out for regulation so there's more detail and there's more opportunity for input into how that program should shape up.

REP. FARR: I don't know whether you were the one that testified on the regulations, but there was a suggestion that we say on regulations that we set a mandate that somebody has to comply with regulations. The problem is I think as a Legislature we've tried to do that in the past. The question is what's the penalty? We can legislate and say that DEP has to have regulations by a certain date. What happens when they don't? Nobody's ever figured that one out, and I don't know. Give them \$100,000 per day fine.

BETH BARTON: I think what happens as evidenced in the federal situation is you end up having some third party entity taking an action sort of akin to a mandamus action requiring the agency to implement

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them, so I mean it's not something you're going to give a civil penalty to the agency. That would really be countered to all their funding problems.

REP. STRATTON: Are there other questions? If not, thank you very much, Beth.

BETH BARTON: Thank you.

REP. STRATTON: I don't see Bill Huhn here, so if not, Scott Backus followed by Christine Aberg.

SCOTT BACKUS: Good afternoon, Senators and Representatives. My name is still Scott Backus and today I sit in front of you as a representative of the Connecticut Association of Metal Finishers, of which I am Secretary and a Director. I kind of feel like the last guy at the salad bar. All the lettuce has been picked over, the tomatoes are pretty rotten and there is no croutons left, so let me cut right to the chase.

I support most of the things that have been said by the seven people prior to me. I'd like to make some specific comments on HB7121, especially concerning the time tables. Mr. Moore stated that it would be not fair or accurate to establish time tables during their restructuring. As a business person, I think that unfair and inaccurate may be preferential to no timetables at all. As an association, we would recommend that you mandate the establishment of timetables, that these timetables are reviewed on a timely basis and that they are published so that everybody inside the department and outside knows what they currently are.

Let me say that several years ago I had to go to a large aircraft corporation that was undergoing restructuring on a quality problem. The manager I went to see apologized. He was new in the Department. He didn't know if he could help me. I stated my problem. He dragged Max out of the back of the room, and Max answered my question. A month and a half later, I had a similar question. I returned and asked for the manager. I was told that there was a new manager in that Department. Maybe he could help me. He apologized for being new. I asked for Max. Max solved my problem. I

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assume that there is somebody in the DEP can give us a good idea of what timetables are possible, whether they are accurate or fair is different.

Concerning fees, there's been a lot of discussion this afternoon as to whether there should be rebates, whether there should be expedited fees, whether there should be kickbacks if they don't make their timetables. Let me say that I think as a businessman, I support accurate fees that everyone could hold a candle to. I've always told my customers that when they do business with me they get three things for my service. Quality, delivery and price. I guarantee the price is high and the quality is high. I apologize if the delivery doesn't make it.

I've been told within the past year that that doesn't hold any more. That quality and delivery are the given, and that we'd better sit down and talk about the price, so I think that a fee structure needs to be fair and accurate for everyone regardless of what their position is. Are there any questions?

REP. STRATTON: Thank you. Are there questions from the Committee? Thank you for your testimony, Scott. Christine Aberg, followed by Betty McLaughlin.

CHRISTINE ABERG: Good afternoon. My name is Christine Aberg. I'm the Director of the Sierra Club. I also served on the Environmental Permitting Task Force, and I think it was a different one than the rest of these people served on. I'm going to have to go back and reread the report and my notes associated with it, because I'm not sure we agreed to all the things that have been brought up today.

HB 5074
HB 5419
HB 7121

As far as SB399, we do not support industry making changes regulated by the state without going through the permitting process. Although compliance with regulations may rarely discourage a good environmental project, institutionalizing exceptions can only lead to abuse. We, therefore, encourage industry to make improvements within the existing permitting system.

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HB5074, we think is inappropriate to legislate management of the DEP. That's what we spent all this time, money and effort on doing. We don't need laws to do it, and we think we should follow the recommendations of the professionals who actually looked at it step by step, and designed a plan that's tailor made for the state.

HB5419, since regulations change frequently publishing the regulations would probably be outdated by the time they were printed, so it's not really worth the expense. The task force did recommend publication of good guidance documents in an effort to assure permitting to make permitting more user friendly, but we couldn't agree on a funding mechanism to produce them, and without additional revenue streams, this recommendation won't be implemented.

We do not think that fee rebates for missed deadlines will anyway speed up or enhance the permitting process. Increased fees might, however, and we recommend that the full cost of permitting be reflected in the fees so the DEP can sufficiently staff its programs. We also think that any program with this kind of a kickback gimmick is going to make it top heavy and other programs will probably be compromised because of it, and we support HB7121. It is a lot of work. The task force, Anderson Consulting, the DEP, we feel that money will be saved by coordinating these programs and eliminating duplication.

We also appreciate the fact that the public participation and notification has been strengthened and it's more encouraging, more user friendly to the public to get involved. Thank you.

SEN. DAILY: Thank you. Any questions?

REP. FARR: You indicated earlier that you weren't sure you were on the same task force, because I'm sure your agenda and concerns might have been different, but do you really disagree with any of those, the major concern that industry was here was, is in the speed of the process of the permits?

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CHRISTINE ABERG: Well, first of all, the DEP is a service for the citizens and the environment, not for business. I'd like to see us speed it up, too. We want to encourage that but we're looking at 23 to 25% cuts in the DEP. How are they supposed to give you timelines when they don't have the resources to do what they're supposed to do? And that was a major part of all of our discussions that there wasn't enough money to accomplish it.

There may be a quality problem to some extent, but I think it's far more. You know, the Thomas Commission recommended more staffing and more funding and when we get that and when there's adequate staffing, then we can look at timelines and enforce them, and use them whatever you want.

REP. FARR: Well, isn't there an argument, though, that if you have time lines, and you have reporting as to what happens in your compliance with these time lines, that if people are concerned about the failure to comply, that that's going to be an additional argument for giving adequate resources and the Department need to compliance?

CHRISTINE ABERG: It hasn't worked though, has it? We've gone up, we testified before the Appropriations Committee, and we're still looking at 23 to 25% cuts, so it hasn't really been very effective. DEP has been cut three, four, five years in a row, and those arguments were there for all those years, that backlog's been a problem for a couple of years now.

REP. STRATTON: Are there any other questions? If not, thank you.

SEN. DAILY: I have one quick question about the reduction in staff at DEP. Where are we now compared to four years ago?

CHRISTINE ABERG: Oh, I don't know. I'm caucusing here. I'm sorry. I don't know offhand. We've got those in charts and things. I don't know exactly how many we've lost off hand. I know that we've lost some programs, but the mandates keep coming, and it's funny because in every Committee throughout the Legislature, I'm seeing all these

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little bills, no new mandates without new funding, and we're saying we need the funding to accomplish the mandates.

SEN. DAILY: Thank you very much.

CHRISTINE ABERG: Thank you.

SEN. DAILY: Our next speaker is Betty McLaughlin.

BETTY MCLAUGHLIN: Good afternoon, members of the Committee. My name is Betty McLaughlin. I'm the Director of Environmental Affairs for the Connecticut Audubon Society, and I co-chaired the task force, the one that everybody was on, Christine and all the other members and I'm feeling a little bit of a frustration this afternoon that I think Christine shared in that we were all on the same task force, and all agreed by consensus to the same recommendations, and the representation that I'm hearing this afternoon is a bit of disappointment to me for a number of reasons. If you have received my written testimony, you see at one point I have written that I was gratified that a lot of our recommendations have been incorporated into the DEP plan. HB 7121

I'm not so gratified now as I was when I wrote this testimony, because an awful lot of the members of the task force appear to be of the opinion that the recommendations are not represented adequately and needs to be legislated. I would suggest to you that that is micro-management of the state DEP and that those recommendations do not need to be legislated. That is a management tool, a management process of the agency, and that the things that need to be changed statutorily are indicated in the report and they have been suggested by the DEP that they be changed statutorily.

I would like to spend just a couple of minutes clarifying some of the things that I heard earlier in the day just to make sure that the record is an accurate reflection of what the task force work was like. First of all, and I call, this is in my written testimony, the task force was set up to have broad representation from the General Assembly itself. Four members from the Commerce Committee,

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the Environment Committee, a couple of members from Finance and someone from Approps were supposed to be on this Committee.

As it turned out because the Committee met during the election season, only one Legislator was on that Committee, so even though it was a legislative task force, there is a different flavor when legislators send designees to represent them as opposed to them being there themselves. Jeff Davis did a great job, and we were very happy to have at least one legislator there with the reality check certainly in terms of the financial situation for the Department, but there were not a lot of, there were no other legislators who were on the task force, and I do believe that that makes a difference, and I think that most of the members of this Committee would agree with me.

Many of the people, and in fact every legislator who sent a designee other than the one who sent a legislator, sent a member of the business community, so we ended up with four members of the environmental community, although the statute called for six, and 13 members of the business community, so it is absolutely clear that the interests of the business community were very well represented on this task force.

I want to call your attention to, there's a lot of discussion about the time frame issue. In fact, every issue that we discussed on the task force ended up getting back to business needs to know when they're going to get a decision about their permit. Whether it's up or down, they simply need to know because they have to plan. Everyone on the task force recognized that that's an important need. We just didn't know how to get there.

We recognize the extreme difficulty of trying to predict things over which neither the applicant nor the DEP has control, including how many applications are coming in, turnover with personnel, all kinds of other situations that neither one of the two principles involved can predict and change, so that's a real problem for being able to say with absolute certainty, yes, if it's this kind of a permit, it's going to take X number of days. So those variables are very real,

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and there's not a whole lot that the DEP can do about it. I would call your attention to our executive summary and our recommendations when we talked about time frames and again we spent a tremendous amount of discussion time on this issue, because I think every other problem comes back to this time frame issue.

We suggested, we finally agreed on the words publish ranges of times required, ranges of times. That is not a time frame per se. It's going to take you a minimum of this. It may take a maximum of that for this particular step in the process. Likewise, for this particular step in the process and so on all the way down the line depending upon how many processes are involved in the new re-engineer process which we don't even know what it's going to be because the Anderson people were working at the same time that we working at, so that is what we were talking about, and that was the agreed upon recommendation, not there should absolutely be time frames and they ought to be published, so I would caution the members of the Committee, when they review the testimony that you've heard today to look carefully at how often somebody may have said we all agreed unanimously that there ought to be time frames, that that was the agreed upon definition for which there was consensus.

That is what people, what absolutely everybody had in mind when we were talking about time frames, that range. The key word there is range as opposed to frame or time line. The other comments I need to make go back to this issue of resources. Again we have a whole lot of trouble with being able to, the DEP being called upon statutorily to say we can do this within this certain period of time guaranteed or else with some, whatever that dire or else might be when they do not know from year to year what kind of resources they can count on.

I have been going to the DEP appropriations hearings for five years running now, and I can tell you with certainty, I have never seen one member of the business community appear before the Appropriations Committee and say the DEP needs more staffing in order to be able to move our permits, and I would say that they need that support and

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it's in my view, it's upsetting and it's somewhat tragic that the business community did not see fit to get to that appropriations hearing or get at any appropriations hearing and say listen, we need this and we need your help and the DEP needs some money.

I do have some other comments on the rest of the bills that are before you today. It's quite brief and it's self explanatory in my written testimony, so I don't feel I need to take any more of your time to go over that right now, and I will stop there and answer any questions if anybody has any.

REP. STRATTON: Thank you, Betty. We have the Executive Summary of the task force in front of us, and so I'm reading the language that you were just talking about in terms of the ranges of time. When your co-chair testified and was early on in this, she talked about two other specific, she sort of cited three things that she felt were things that the task force had agreed upon that she pulled out as being the most glaring omissions, and actually used the same terminology you just did with time frames, but I'm wondering if you could comment on the other two, the establishment of some kind of oversight board, overseeing the process of implementation of the recommendations and the second one on the semi-annual reports of progress to the Legislature.

BETTY MCLAUGHLIN: Sure. I also am glad you mentioned that because I did want to mention even though I don't mean to be unkind, but I don't want the Committee to have the impression that Ellen's remarks were the remarks of the task force, because she was one of the co-chairs as was I, but her remarks were her own. They were not something that was prepared by the group. Okay.

The oversight board was something, all the things that ended up being in the task force report, somebody had one idea and a lot of people really liked it and somebody else thought well, I don't care one way or the other. I'm not going to fall on my sword over this particular issue. If people want it and they like it, that's fine. The oversight board happened to be one of those things that Ellen felt very strongly about and really

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wanted. Perhaps because of her limited experience with the Legislature, she thought another board was a good idea.

I was one of the people who wasn't going to fall on my sword over it, but I didn't really care particularly whether or not the thing existed. There is the E2000 group. There is the Council on Environmental Quality. There's nothing to prevent the CBIA from creating a permanent ombudsman service that they could provide to their members to call me, call Tom Turick, call Rich Miller when you need your permit problem solved. That sort of thing. So I think there's a number of ways that you could get at getting the business community answers.

I think that the computer tracking system will go a long way towards getting the job done. I don't have a huge objection to the oversight board. In fact, when we first drafted the report and I was doing some of the editing for it, I jotted into the margin that we should name Ellen Quinn chairman for life of the oversight board, and she X'd that out immediately, not wanting it that badly, so, but I wouldn't fall on my sword over that. I just would hope that absolutely no money gets spent on that until we spend it on things that we need more, and what's the other thing?

REP. STRATTON: The semi-annual reports to the Legislature.

BETTY MCLAUGHLIN: Again I don't have a problem with that. Just status report kind of thing. I would hope that not a whole lot of time and resources went into the reporting of that information, that if it's going to be very useful and very helpful or somehow holds people's feet to the fire, and as a result of that, it becomes a useful management mechanism, I don't have a real problem with that, but again it wasn't something that I would die for.

REP. STRATTON: Thank you. Are there other questions?
Representative Farr.

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REP. FARR: You know, I can understand that the business community though gets upset. You said that their priority was the time and it seems to me that they're correct in that the time limits got left out all together in the legislation. I mean, even though you say, well, there was a range of times, DEP comes in and says, we can't do it immediately, and I can understand that, but DEP's proposal in their legislation is not to set up any legislative mandate.

BETTY MCLAUGHLIN: In their work plan, they do intend to assign times on the component parts of the permit, and I think it's very difficult to say whatever your permit is it's going to take X amount of time, because every single permit that they are reviewing, they are going, they're site review, they're specifics that are unique to that particular area. What's upstream? What's downstream? What's the load? What's the velocity of the stream? What kinds of things can this particular stream bear?

And I think it makes it very difficult to be able to project on a piece of paper that in absolutely every instance, we're going to need this particular test, and so forth, so that I think that being able to again, what someone had mentioned earlier, what good is a time frame if it isn't a real time frame? If it doesn't really tell us that we're going to get this decision in six months or 90 days or whatever the magic number is, and it doesn't accurately reflect how many things we have to look at for this particular site, for this particular process.

REP. FARR: Let me ask you, do you know other states, whether other states have time frames?

BETTY MCLAUGHLIN: I think there are other states that are instituting them now. In fact, the DEP did do a 49 state review which I have not spent a lot of time with because honestly I only got this report on Tuesday, and I needed to focus my attention on the recommendations and the things that we're supposed to be in there from our perspective, but I know that this is a very hot issue right now - environmental permitting.

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It's one of the things that people are looking at to enhance the competitiveness of their state, and all the states are doing all kinds of things, which is another reason why you might proceed cautiously with publishing time frames because if they end up not being terribly attractive, we have a statute that says they have to be published, and we don't want that information out there when people are trying to make decisions about whether or not locate here.

REP. FARR: We could publish what the time frame is and not publish how, whether we're in compliance or not. (laughter)

BETTY MCLAUGHLIN: It's been done.

REP. FARR: From your point of view, what the business community's request for in terms of the times and stuff, none of that is anything you object to. I assume you're saying let's be realistic, and everything, but you're...

BETTY MCLAUGHLIN: I'm saying be realistic, and I'm saying to take the approach, the St. Francis of Assisi approach and accept the things that can't be changed, and recognize that there are variables. The DEP has no control over whether or not they're going to receive one permit application today or 100 permit applications today, and if they told me yesterday, based on the fact that they had an empty in basket that I could have my permit in 90 days and now all of a sudden they can't because they have all these other ones, what happens?

That's the real dilemma. That's the real question, and they have no control over that, and likewise, they have no control over whether or not the Appropriations Committee comes in and says, well, I'm sorry, but we don't have \$30 million to give you from the general fund this year. We only have 27, or we only have 22 or we have currently zero, so it's a problem because they don't know what they're working with.

REP. FARR: Well, maybe one of the things to do is for they come up with a system where they can come back to us and say now, for X dollars it's sort of like a one massive expedited permit system for the State

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of Connecticut. For \$12 million we get you permits in six months and for \$42 million we get them in three months.

BETTY MCLAUGHLIN: For \$12 million they can get it in less than that.

REP. FARR: We can decide how much we want to spend.

BETTY MCLAUGHLIN: I mean it sounds humorous, but it really is a serious problem because they don't know where their money's coming from.

REP. FARR: And the last thing is I read your comments, do you have any other objections to any of the things that are in HB7121?

BETTY MCLAUGHLIN: No, but I focused mostly on the things in HB7121 that were reflection of the things that we discussed at the task force and I did not pay a lot of attention to the things that other people have suggested were not things that were talked about in the task force, and I wouldn't have an objection if you people or other committees felt more comfortable excising the one so that the actual legislation did in fact match the task force so that the statement of purpose was true. That wouldn't bother me in terms of a process. That's not a problem for me, and the other stuff I just didn't really address.

REP. STRATTON: Thank you. Other questions?
Representative Backer.

REP. BACKER: I belong to (inaudible - mic off) permits and I just want to make a comment for the benefit of (inaudible) to look at time tables (inaudible) permits come in, all applications come in, filled out with accurate information. Once you start having final (inaudible) back and forth you have this whole backup, so once you start setting yourself guidelines, you start real complicated issues that will take a long time to overcome. I'm a little concerned that if you throw that out every time you (inaudible) provide the information that's needed.

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REP. FARR: Could I just say I think there is language however in here that talks about the fact that there will be some, it was pointed out earlier that there would be some requirement on the permit, the applicant to get the data in, and there's some procedure whereby they can force the applicant to do something, deny the application if you don't get the adequate information, and clearly a meeting with DEP last year on the whole permitting process, they told me that this is in fact one of the problems.

They claimed that one of the problems is a lot of times consultants in a competitive market underprice their services and then don't give a complete application and then things get, and then the consultant turns around and tells the person that they're doing the application for, well, you what DEP's like. They never get anything done on time. Everybody blames everybody else. I understand that, and it's legitimate because if you set a time frame of four months to act on something, but you don't have the data, and you ask somebody for the data and they take four months to get it to you, then you haven't complied, and it's not your fault.

REP. BACKER: It certainly can become tricky on who's to blame for why it didn't get done.

REP. STRATTON: I think just for the Committee's benefit, as part of the DEP's implementation is a commitment to really developing what they call an application packet which would try to address the process of helping people get that initial application in in complete form first, while it's not in this specific statute, it is in their implementation plan.

BETTY MCLAUGHLIN: There's a lot of stuff that's in the plan that's not in the statutes. I would urge the members to really take a good close look at the plan. I just want to make one more comment, and then I'll get out of here. On the issue of self certification, I think we need to be very careful when we proceed with self certification that some certification has been done in the general permit program and so on.

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The remarks from the person from the UTC talking about the FAA self certification, that they do with their engine parts and so on, I would suggest to you that that self certification, the only thing at risk there is their product, their reputation and their means to make more money. In self certification for environmental programs, the thing at risk is our environment, our natural resources that belong to the public trust, that belong to everybody, not just somebody's bottom line, and I think that makes a huge difference and the responsibility is on the state to protect our resources, so with that I will answer Andy's question.

REP. STRATTON: You prompted a few questions, Betty. Representative Norton.

REP. NORTON: I just wanted to say that the performance of a turbine in a 747 or large jet has ramifications, but....

BETTY MCLAUGHLIN: It certainly does, and certainly for their bottom line, and I would not suggest that it doesn't, but in terms of the public trust and protecting the environment, that's a different realm for the self certification process. That's all.

REP. NORTON: I share your (inaudible - mic off), but I share your concerns about that, and I wondered about how someone has the earning I was going to say honor system and how it ought to be controlled extended (inaudible).

REP. STRATTON: Are there other questions? If not, we'll have to debate after the hearing.

BETTY MCLAUGHLIN: Thank you.

REP. STRATTON: I believe our last speaker is Chris Recchia.

CHRIS RECCHIA: Thank you very much. Representative Stratton and Senator Daily and members of the Committee, thank you very much for letting me speak today. My name is Chric Recchia. I'm Director of

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Environmental Programs currently for the Connecticut Resources Recovery Authority. Boy, the salad bar has really been taken care of.

Last speaker, I'm not going to reiterate a lot of things that have been said today, but I actually do have some suggestions, potential solutions to some of these things. Let me start by saying that in general Beth Barton's comments pretty well follow precisely most of the detailed things that I was going to suggest are problematic with HB7121, but before I get into some general comments on the regulations, I did want to say that Connecticut Resources Recovery Authority currently holds about 130 to 150 permits of all shapes, sizes and types, I would say.

Prior to starting with the Authority, also worked for five years with the Department of Environmental Protection in what was then the Coastal Resource Management Division at the time that they were taking over the permit program for state structures and dredging programs. I offer that because I sit here before you having been on both sides of this process, and so what I'm going to offer today is trying to be fair to all the parties now that I have seen first hand what it is like to both process these permits and have to try and acquire them as well.

What I would like to do is say one of the main issues here in terms of timeliness I would support the need at this point for time frames to be established for response to these permits, and I agree, Representative Farr, you said no one wants there to be a deadline that after 90 days or 120 days or whatever the permit process stops and DEP has enacted that the permit be issued. That obviously is not acceptable and doesn't help the environment and it wouldn't allow DEP to perform what they're required to statutorily perform.

However, there are other things in between, between no time tables and that time table. One suggestion I would offer is that one look at, in that respect I support the emergency authorizations, the temporary authorizations that are provided, but I

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think you need a third category which would for reasons that I'll discuss later, I'm going to call certificates of permission.

There are a lot of activities that occur that are relatively minor in nature that are transfers, minor modifications, things that can be done within a period of time that are deserving of attention by the Department, that need individual attention. That is they don't qualify under general permit programs, that would need, that could get a time frame established that was reasonable for DEP to respond to, but left an option for DEP to say, no, this is not eligible, this is not an eligible activity for this.

We want to transfer this into a full permanent program that requires more time. You will find in General Statutes under 22a-363, I believe, there's currently a process in place called the certificate of permission process for structures and dredging. It requires that DEP act on an application that it receives within 45 days, and one of those actions though can be to say this is ineligible for a certificate of permission. It's too complicated a project or too unique and we're going to put it into the full permit process, but at least for those minor activities, minor changes, there would be an opportunity to respond in a timely fashion.

I think there should also be an obligation on the part of the applicant to respond in a timely fashion. That was mentioned earlier, too. I think that if DEP requests additional information that the applicant should be given a period of time in which to respond to that information and if they haven't responded at that point, DEP should be able to deny the application without prejudice for incompleteness.

On the other hand, if the applicant does respond to that information and has a complete application, DEP is to determine the application is complete, there should be a time period in which they can expect action on that application. DEP also tries to address public notice process which they do do in terms of submission of applications but they're

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also several conflicting public notice processes that are involved with the event the hearing process begins and those were not addressed here.

It would be my recommendation that the Committee consider a similar public notice process where the burden is on the applicant to publish notification in the paper, having general circulation, and that that certification be provided to DEP as part of the hearing process. Right now there are many different types of time periods though. Some require two publications within 30 days. Some require one publication before 30 days, and I will tell you that from CRRA's perspective, when we apply for a major project, it usually involves five or six different types of permits, all going to hearing at the same time.

It is not in the public interest to have notice periods that conflict and doesn't help anybody. That's an easy one in which to address, to make sure that things are as consistent as they can be and as predictable as possible. We do have, we'd be happy to submit specific language. I do not have any written comments for you today. I'd be happy to do that. That would try and address some of these issues, but the main one we would be looking for is to give the Department flexibility in which to issue permits for minor activities, for transfers and things like that, that fell into a process that was predictable and that did have time frames, but allowed the department to bump out things that were not reasonably processable within that program.

With that, there's only one other thing I would like to add and that is that on the compliance history issue and the notification of abutting property owners, I would agree with previous comments said that we need to modify that because we have been in situations where we've had permits to construct something that was environmental benefit.

For example, landfill gas flare to control odor. We've gone through the construction process. We get ready to operate the facility and we have to wait 45 days in which just to wait until the Department is able to issue a permit for that to start

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operating. That doesn't help anyone. There is a legitimate concern about notifying abutting property owners and notification to the public. Again that could be done in a more consistent way throughout all the programs.

One other request in terms of fees is that some discretion be given to the Department in terms of fees to represent the actual costs of processing these applications. I think Ms. McLaughlin mentioned that from one end thinking that they would be higher. I want to mention it from the other side thinking that in cases, in some cases, it's lower. An example I will give you is that CRRA took over five or six transfer stations from Fairfield County towns, took over the operation of those and in the process needed to transfer the permits. Just transfer the names from the municipalities to the authority. The charge for that is \$7500 per and DEP felt they had no flexibility in which to modify that fee.

That would be the type of thing that I would consider within the Certificate of Permission you could apply a \$200 application fee comparable to the other minor permit amendments would be appropriate for that type of thing. It is the municipality's money that we have to spend for that to meet that requirement.

SEN. DAILY: Mr. Recchia.

CHRIS RECCHIA: Yes, I'd be happy to answer any questions. I'm done at this point. Thank you.

SEN. DAILY: Is there any way we can execute those transfers again? The state needs money pretty badly.

CHRIS RECCHIA: We can just keep going back and forth, that can do it.

REP. STRATTON: We'll take ownership. Are there any questions from the Committee? If not and if you do have written comments that you would like to submit at a later time, we'd be happy to receive it.

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CHRIS RECCHIA: I'd like to do that. Thank you very much.

SEN. DAILY: Thank you.

REP. STRATTON: To my knowledge there is no one else here to testify on the bills before us today, and so we will now call this public hearing to a close.

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Sierra Club Connecticut Chapter

118 Oak Street, Hartford, Connecticut 06106 527-9788

To: Environment, Public Hearing, 5 March 1993

Statement of: Christine Aberg, Director, Connecticut Sierra Club

Re: SB 399, AAC A Pilot Program to Encourage Waste Minimization, Pollution Control or Modernization Modifications, HB 5074 AAC a Permit Management Team for the Department of Environmental Protection, HB 5419, AAC Publication of the Regulations of the Department of Environmental Protection, HB 6380, AAC Timely Receipt of Environmental Permits, and HB 7121, AAC Streamlining the Permit Programs of the Department of Environmental Protection.

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My name is Christine Aberg, and I am the Director of the Connecticut Chapter of the Sierra Club. Sierra Club is an environmental organization with 9,500 members in the state, whose goals are to preserve natural land and open space, to conserve natural resources, maintain the quality of air, water, land and oceans, and to clean up pollution.

As a member of the Environmental Permitting Task Force, I recognize and can appreciate several of the concepts put forth by industry to make the permitting process easier for them. Many of these ideas were discussed at length and ultimately discarded as impractical, unenforceable, or unfeasible.

SB 399: We do not support industry making changes regulated by the State without going through the permitting process. Although compliance with regulations may rarely discourage a good environmental project, institutionalizing exceptions can only lead to abuse. We therefore encourage industry to make improvements within the existing permitting system.

HB 5074: We do not think it is a legislative function to manage the DEP. Anderson Consulting has studied all of the permitting programs, and has designed improvements to modernize and streamline the system. We think we should follow the recommendations of the professionals.

"When we try to pick out anything by itself, we find it hitched to everything else in the universe." John Muir

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HB 5419: Since regulations change frequently, these publications would be outdated by the time they were printed, therefore not worth the expense. The Task Force has suggested publication of good guidance documents in an effort to make permitting more user-friendly, but couldn't agree on a funding mechanism to produce them. Without additional revenue streams, this recommendation will not be implemented.

HB 6380: We do not think that fee rebates for missed deadlines will in any way speed up or enhance the permitting process. Increased fees might, however, and we recommend that the full cost of permitting be reflected in the fees, so the DEP can sufficiently staff its programs. Any program with this sort of gimmick will become prioritized over other equally essential programs to the detriment of environmental protection.

HB 7121: Streamlining the permitting process has been a top-level priority for the DEP, and this bill is the culmination of the work of the Task Force, Anderson Consulting, and the DEP. Money will be saved by co-ordinating programs, and eliminating wasteful duplication. The public notification process has been strengthened, and ultimately, this will not only save time and money, but serves the public need to be informed about what is happening in their communities, and gives clear opportunities for participation.

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TESTIMONY OF
Thomas J. Turick
ENVIRONMENTAL MANAGER
CONNECTICUT BUSINESS AND INDUSTRY ASSOCIATION
Before the
Environment Committee
Friday, March 5, 1993

Good afternoon. My name is Thomas J. Turick. I am environmental manager with the Connecticut Business and Industry Association (CBIA). CBIA represents approximately 7,000 member companies, large and small businesses that employ over 700,000 men and women in Connecticut.

I am here on behalf of CBIA to strongly support the following bills:

S.B. No. 399 AN ACT CONCERNING A PILOT PROGRAM TO ENCOURAGE WASTE MINIMIZATION, POLLUTION CONTROL OR MODERNIZATION MODIFICATIONS.

H.B. No. 5074 AN ACT CONCERNING A PERMIT MANAGEMENT TEAM FOR THE DEPARTMENT OF ENVIRONMENTAL PROTECTION.

H.B. No. 5419 AN ACT CONCERNING PUBLICATION OF THE REGULATIONS OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION.

H.B. No. 6380 AN ACT CONCERNING TIMELY RECEIPT OF ENVIRONMENTAL PERMITS.

Also, CBIA supports with recommendations for major language additions the following bill:

H.B. No. 7121 AN ACT CONCERNING STREAMLINING THE PERMIT PROGRAMS OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION.

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Environmental Permitting Task Force in its January 29, 1993

Report to the Department of Environmental Protection.

HB 7121

Although the purpose of this priority bill as stated is "to implement recommendations of the Environmental Permitting Task Force", CBIA's review has identified many important recommendations of the task force that are not presently included in the language of HB 7121. CBIA supports a comprehensive streamlining bill which incorporates all Environmental Permitting Task Force recommendations including, but not limited to:

1. Publish permit-processing time frames for each permit DEP issues.
2. Establish a permit-streamlining oversight board consisting of DEP management, business and environmental group representatives to help set permitting goals and monitor DEP's progress, to help set criteria for expediting permits and monitor DEP's use of criteria, and to assist in developing plain-language guidance documents.
3. Require DEP to submit semi-annual reports to the legislature and governor measuring progress with permit streamlining.
4. Expand DEP's authority to modify permits and issue emergency and temporary authorizations for economic reasons if the revised permit or authorization would have no adverse environmental impact.
5. Ensure that permit fees paid by business are justified, cost-based and used to streamline and enhance services.
6. Use portion of permit fee revenues to hire contract professionals to reduce backlogs.
7. Clarify DEP's authority to include compliance schedules in permits, rather than in enforcement orders.
8. Encourage DEP to continue to adopt general permits for air-, water- and waste-management programs.

9. Support an improved information management system but require DEP to issue permit-renewal notices and fee invoices.

We have listed but a few of the more important recommendations of the task force which directly effect the business community. CBIA urges the Environment Committee to include language within HB 7121 addressing the nearly 40 recommendations for permit process change contained in the task force's report.

In addition, we strongly oppose Sections 18(a) and 18(b) of proposed HB 7121. In CBIA's opinion, the discretionary language in these two sections are entirely inappropriate as it assigns to the Commissioner authority to deny permits based on the Commissioner's subjective evaluation of certain activities unrelated to a permit application. The exercising of the Commissioner's authority under these subsections will at a minimum result in an avalanche of applicant paperwork which will stymie any permit streamlining efforts advanced elsewhere in HB 7121. In those cases where the Commissioner acts negatively on an application because of his consideration of the unwarranted criteria in section 18(a), we predict applicants will rightly seek legal recourse and challenge his decision.

CBIA urges the Environment Committee to delete the anti-business provisions of sections 18(a) and 18(b) in their entirety.

THANK YOU.

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TESTIMONY OF
SCOTT BACKUS
SECRETARY/DIRECTOR
CONNECTICUT ASSOCIATION
OF METAL FINISHERS

BEFORE THE
ENVIRONMENT COMMITTEE
March 5, 1993

Senators and Representatives, my name is Scott Backus and I am the Secretary and Director of the Connecticut Association of Metal Finishers. I speak to you as a representative of more than 75 Connecticut small businesses that are engaged in metal and surface finishing. I would like to speak to you about five (5) bills that HB 7121 you have before you this day.

I would like to speak FAVORABLY on behalf of the following; Proposed S.B. No. 399, AAC CONCERNING A PILOT PROGRAM TO ENCOURAGE WASTE MINIMIZATION, POLLUTION CONTROL OR MODERNIZATION MODIFICATIONS, Proposed H.B. No. 5074, AAC A PERMIT MANAGEMENT TEAM FOR THE DEPARTMENT OF ENVIRONMENTAL PROTECTION, and Proposed H.B. No. 5419, AAC PUBLICATION OF THE REGULATIONS OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION. All three of these bills will bring about positive changes to the Department of Environmental Protection. They will provide appropriate services to the private sector which is so badly besieged by regulation. Or by increased oversight to the permit process. Please do not let these three bills fall through the cracks.

I would also like to speak FAVORABLY on behalf of Proposed H.B. No. 6380, AAC TIMELY RECEIPT OF ENVIRONMENTAL PERMITS. Because the environmental community imposes so many and varied mandates on small business, it is very refreshing to see a mandate imposed upon a regulatory bureau. What is good for the goose should be good for the gander. State bureaucracies impose deadlines and demands

continuously with seeming disregard for focus or intent of those demands. In response to those demands, the small business community should be given the respect of receiving timely permit receipt for their hard work. However, I take dispute to the refund of the application permit in line 19. Not all people work for their employers fiscal advantages, whether in capitalistic commerce or in the bureaucracy. I would suggest substituting performance evaluations of the individuals involved in the permit process to encourage their continuous improvement. Engineers or deputies that are unable to supply permits in an adequate window of time should be moved to other duties within the department, for the good of the public at large.

And finally, I would like to speak IN OPPOSITION TO H.B. No. 7121 (Raised) AAC STREAMLINING THE PERMIT PROGRAMS OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION. This bill is entitled a "streamlining" of the permit program. I assume that "streamlining" is used in the hydrogeologic sense that water will tend to follow a path of least resistance from source to mouth of another water body. If this is the intend of the bill's title, then the bill fails to meet it's advertised purpose.

Section 3 adds up to twenty days (lines 96, 100) to the permit process by forcing the applicant to publish a notice of application for the permit.

Section 4 adds "at least thirty days" (line 118) for a public hearing on the permit process.

Sections 6 through 10 "streamline" the process by changing the commissioner's "preliminary" decision to TENTATIVE decision (lines 180, 191, 223, 236, 260, 280, 289.) Now there's a time saver.

And Section 10, cuts through the permit miasma by allowing the commissioner to publish his final decision or not (lines 304 -

310.) Where's the stream running to now?

And finally, Section 18 alleges that the commissioner will not renew permits to facilities that have displayed non-compliance with state and federal environmental laws (lines 450 - 452). Trying to keep a business in compliance with both STATE and FEDERAL laws is like trying to hit a moving target with a paper airplane. Non-compliance can be measured in micrograms per liter for water or per cubic foot for air. Therefore, non-compliance can be much like the edge of a razor blade, thin and nasty.

I urge the committee to see this bill for what it is, or rather, for what it isn't. It isn't a streamlining of the permit process. For if it were,

- * it would mention permitting decisions flowing down from the commissioner's office to deputies or departments
- * it would mention efforts to establish timetables for the permitting process
- * it would provide a vehicle for permit review and a notification to prospective permittees of the expectations or results of the process.
- * it would mention simplified procedures that could be applied to waste minimization projects, pollution prevention initiatives, "innocuous" facility modifications, modernization or replacement of "standard" pollution equipment, renewals and transfers.

And most importantly, "streamlining" would mean simplifying the process by writing comprehensive regulations that can be easily read and understood and cross referenced. This bill doesn't meet those criteria.



STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION



Public Hearing --- March 5, 1993
Committee on the Environment

Testimony Submitted by Commissioner Timothy R.E. Keeney
Department of Environmental Protection

Raised House Bill No. 7121 - AN ACT CONCERNING STREAMLINING THE
PERMIT PROGRAMS OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION

On March 1, 1993, the Department submitted to this committee a plan to Reengineer and Restructure the environmental permitting programs that DEP administers. House Bill 7121 includes the statutory adjustments necessary for the Department to implement changes that will give Connecticut one of the best and most efficient permitting programs in the country.

The bulk of the actions outlined in our Plan will be accomplished by the Department through internal operational and management changes. Others however, will require the statutory changes set forth in this bill.

The key recommendations of the Department's Reengineering and Restructuring Plan that was developed in consultation with the Environmental Permitting Task Force, include:

- expedited permitting approaches such as, general permits, exemptions, emergency and temporary authorizations, and self-certification of component parts of applications, (i.e., Spill plans);
- improved consistency in areas such as public notification and participation, technical review guidelines, and regulation development;
- establishment of time frames for permitting tasks;
- improved training for DEP staff and outreach to applicants in the form of seminars and workshops;
- improved coordination both inside and outside the department through the use of a permit coordinator group and project managers providing a single point of contact for applicants;
- computerized permit tracking system; and
- standardized and consolidated permit processes will result in reducing twenty-seven permit process flows to as few as eight.

House Bill 7121 provides for the few statutory changes necessary for implementation of these recommendations.

Implementing these actions is critical to improving the department's ability to respond to business' need for a timely and straight forward process. Making the permitting process more predictable will improve a company's ability to plan for the future while at the same time achieve better environmental controls benefiting all the citizens of the State.

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The following is a section-by-section outline of Raised House Bill No. 7121 - AN ACT CONCERNING STREAMLINING THE PERMIT PROGRAMS OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION

Section 1 (a) clarifies and expands the Commissioner's authority to issue emergency authorizations, where consistent with federal law, for activities necessary to prevent, abate, or mitigate an imminent threat to human health or the environment.

Section 1 (b) allows for temporary authorizations in certain programs for minor activities of limited duration where the Commissioner has authority to issue a general permit for such activity.

Section 2 allows the Commissioner the discretion to accept a late renewal application and allow the permit to continue in effect.

Section 3 requires an applicant to publish notice of submission of an application to the Department informing the public of the intended activity. This notification will allow for more effective and efficient public participation at a more meaningful stage in the process.

Section 4 requires the publication of notice of the Department's tentative determination on an application. This section standardizes when action on an application must be published throughout the agency.

Sections 5 through 10, 13, 14, and 24 (see attached additional language), make corrections to existing statutes to carry out Sections 3 and 4 and standardizes terms.

Section 11 limits the mandatory requirement for notification of abutting landowners for air permits to applications for major sources. Section 12 allows the Commissioner the discretion to require notification of abutting landowners in other programs.

Section 15 gives the Commissioner the authority to establish subscription fees for the cost of providing individual notification of applications. The existing practice of providing this information will not be changed until implementation of the information management system currently under development.

Section 16 eliminates the dual hearing requirement for a permit to construct and operate in the solid waste program, allowing the Department to implement a recommendation in our plan to convert dual permitting programs to a single permit.

Section 17 allows the Commissioner to expedite remediation of PCB contaminated sites where they would pose no threat to human health or the environment.

Section 18 creates a standardized approach to considering an applicant's history when acting on a permit application.

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STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION



Attachment 1 to
Testimony Submitted by Commissioner Timothy R.E. Keeney
Department of Environmental Protection

Raised Bill 7121 - An Act Concerning Streamlining the Permit Programs of the
Department of Environmental Protection

Technical changes and corrections

- Line 19: Delete "22a-384,"
- Line 24: After "Water Pollution Control Act," insert "Federal Rivers and Harbors Act,"
- Line 26: delete the word "may" and insert "shall"
- Line 30: delete "/" and insert "."
- Line 33: after "22a-361," insert "22a-368"
- Line 41: After "Pollution Control Act," insert "Federal Rivers and Harbors Act,"
- Line 45: delete "year" and replace with "twelve months"
- Line 49: delete "may" and replace with "shall"
- Line 57: revise to read as follows: "may accept, prior to the expiration of a permit or other license, "
- Line 66: delete "may" and replace with "shall"
- Line 81: after "days" insert "after"
- Line 104: after "the application number" insert "if available"
- Line 111: revise to read as follows: "application, and a statement that the application is available for inspection at the office of the Department of Environmental Protection. The commissioner shall not process an application"
- Lines 186-7: revise to read as follows: "signed by at least twenty-five persons. [Upon receipt of notification that a hearing is to be held on the application] If a hearing is to be held, the"
- Line 223-4: delete "OF HIS TENTATIVE DECISION REGARDING THE APPLICATION"
- Line 226: revise to read as follows: "thereof is located, of his intent to waive said requirement AND OF HIS TENTATIVE DECISION REGARDING THE APPLICATION,"

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- Line 248: revise to read as follows: "or denying an application for a permit, shall provide OR REQUIRE THE APPLICANT TO PROVIDE
- Lines 268-70 revise to read as follows: "mail, return receipt requested, notice of his decision. [and shall publish such notice once in a newspaper having a substantial circulation in the area affected.] IF THE COMMISSIONER REQUIRES THE APPLICANT TO PROVIDE THE NOTICE SPECIFIED IN THIS SUBSECTION, THE APPLICANT SHALL NO LATER THAN TEN DAYS AFTER PROVIDING SUCH NOTICE, CERTIFY TO THE COMMISSIONER THAT SUCH NOTICE HAS BEEN PROVIDED IN ACCORDANCE WITH THIS SUBSECTION."
- Line 280-1: delete "OF HIS TENTATIVE DECISION REGARDING THE APPLICATION"
- Line 283: revise to read as follows: "located, of his intention to waive said requirement AND OF HIS TENTATIVE DECISION REGARDING THE APPLICATION,"
- Line 334-5: after "22a-39" insert "22a-66"
- Line 329: revise to read as follows: "[forty-five] THIRTY days after receipt by the commissioner of the written"
- Line 332: after "AS AMENDED." insert "IF A PERSON APPLIES FOR A PERMIT TO CONSTRUCT UNDER SECTION 22a-174 OR 22a-183 AND PROVIDES THE NOTIFICATION REQUIRED BY THIS SECTION, SUCH PERSON SHALL NOT BE REQUIRED TO PROVIDE SUCH NOTIFICATION WHEN APPLYING FOR A PERMIT TO OPERATE THE SOURCE WHICH IS THE SUBJECT OF THE PERMIT TO CONSTRUCT.
- Line 435: after "PCB" insert "OR ITEM, PRODUCT OR MATERIAL CONTAINING THE COMPOUND PCB"
- Line 448: revise to read as follows: "unless the commissioner has considered, in accordance with procedures prescribed by him, the applicant's compliance"
- Lines 456-61: Delete "The commissioner shall not issue a permit, registration or certification if the applicant for the issuance, renewal, transfer or modification of such permit, registration or certification was convicted of a violation of any state or federal environmental law an the commissioner finds that there is good cause to deny such permit." and insert in lieu thereof "This section shall not apply to any application submitted prior to the effective date of this act."
- Line 472: after "agents." insert "(d) Nothing in this section, and no finding or decision by the commissioner pursuant to this section, shall affect the commissioner's authority under any other statute or regulation."
- Lines 473-97: delete section 19 of the bill.

Lines 515-17: revise to read as follows: "hundred eighty days before the expiration of such permit. [Any application filed after such period shall not be deemed timely for the purposes of subsection (b) of section 4-182.] The"

Additional language

Section 24. Section 22a-33 of the general statutes is repealed and the following is substituted in lieu thereof:

In granting, denying or limiting any permit the commissioner or his duly designated hearing officer shall consider...The commissioner may suspend a permit if the applicant fails to comply with the terms and conditions set forth in the application. [The commissioner shall state, upon his record, his findings and reasons for all actions taken pursuant to this section. The commissioner shall cause notice of his order in issuance, denial, revocation or suspension of a permit to be published in a daily newspaper having a circulation in the town or towns wherein the wetland lies.]

Section 25. Subdivision (1) of subsection (1) of section 22a-174 is repealed and the following is substituted in lieu thereof:

(1)(1) The commissioner may issue a general permit with respect to a category of new or existing stationary air pollution sources, except with respect to a source which is already covered by an individual permit, provided the general permit is not inconsistent with the federal Clean Air Act, as amended in 1990, 42 U.S.C. Sections 7401 et seq., and as it may be further amended from time to time. The Commissioner may not issue a general permit with respect to any source which emits, or has the potential to emit, more than twenty-five tons per year of any air pollutant regulated under this chapter or the federal Clean Air Act [or any source for which a permit to construct, modify or operate is required under this chapter or the federal Clean Air Act]. Any person conducting an activity for which a general permit has been issued shall not be required to obtain an individual permit under this section, except as provided in subdivision (5) of this subsection. The general permit under the federal Clean Air Act, (A) involve the same or substantially similar types of operations or substances, (B) require the same types of pollution control equipment or other operating conditions, standards or limitations and (C) require the same or similar monitoring, and which, in the opinion of the commissioner, are more appropriately controlled under a general permit than under an individual permit. The general permit may require that any person proposing to conduct any activity under the general permit register such an activity, including obtaining approval from the commissioner, before the general permit becomes effective as to such activity, and may include such other conditions as the commissioner deems appropriate, including, but not limited to, management practices and verification and reporting requirements. Any such reports shall be made available to the public by the commissioner. The commissioner shall grant an application for approval under a general permit without repeating the notice and comment procedures provided under subdivision (2) of this subsection, and such grant shall not be subject to judicial review under subdivision (4) of this subsection. Registrations and application for approval under the general permit shall be submitted on forms prescribed by the

commissioner, application forms concerning activities regulated under the federal Clean Air Act shall require that the applicant provide such information as may be required by that act. The commissioner shall prepare, and annually amend, a list of holders of general permits under this section, which list shall be made available to the public.

Section 26. Subsection (b) of section 22a-430 is repealed and the following is substituted in lieu thereof:

(b) The commissioner, at least thirty days before approving or denying a permit application for a discharge, shall publish once in a newspaper having a substantial circulation in the affected area notice of (1) the name of the applicant; (2) the location, volume, frequency and nature of the discharge; (3) the tentative decision on the application, and (4) additional information the commissioner deems necessary to comply with the federal Clean Water Act (33 USC 1251 et seq.). There shall be a comment period following the public notice during which period interested persons and municipalities may submit written comments. After the comment period, the commissioner shall make a final determination either that (A) such discharge would not cause pollution of any of the waters of the state, in which case he shall issue a permit for such discharge, or (B) after giving due regard to any proposed system to treat the discharge, that such discharge would cause pollution of any of the waters of the state, in which case he shall deny the application and notify the applicant of such denial and the reasons therefor, or (C) the proposed system to treat such discharge will protect the waters of the state from pollution, in which case he shall, EXCEPT AS PROVIDED PURSUANT TO SUBSECTION (j) OF THIS SECTION, require the applicant to submit plans and specifications and such other information as he may require and shall impose such additional conditions as may be required to protect such water, AND if the commissioner finds that the proposed system to treat the discharge, as described by the plans and specifications OR SUCH OTHER INFORMATION AS MAY BE REQUIRED BY THE COMMISSIONER PURSUANT TO SUBSECTION (j) OF THIS SECTION, will protect the waters of the state from pollution, he shall notify the applicant of his approval and, when such applicant has installed such system, in full compliance with the approval thereof, the commissioner shall issue a permit for such discharge, or (D) the proposed system to treat such discharge, as described by the plans and specifications, will not protect the waters of the state, in which case he shall promptly notify the applicant that its application is denied and the reasons therefor. The commissioner shall, by regulations adopted in accordance with the provisions of chapter 54, establish procedures, criteria and standards as appropriate for determining if (i) a discharge would cause pollution to the waters of the state and (ii) a treatment system is adequate to protect the waters of the state from pollution. Such procedures, criteria and standards may include schedules of activities, prohibitions of practices, operating and maintenance procedures, management practices and other measures to prevent or reduce pollution of the waters of the state, provided the commissioner in adopting such procedures, criteria and standards shall consider best management practices. The regulations shall specify the circumstances under which procedures, criteria and standards for activities other than treatment will be required. For the purposes of this section, "best management practices" means those practices which reduce the discharge of waste into the waters of the state and which have been determined by the commissioner to be acceptable based on, but not limited to, technical, economic and institutional feasibility. Any

person who or municipality which is aggrieved by a decision of the commissioner and whose application has not been given a public hearing shall have the right to a hearing and an appeal therefrom in the same manner as provided in sections 22a-436 and 22a-437. Any person who or municipality which is aggrieved by a decision of the commissioner and whose application has been given a public hearing shall have the same right to appeal as provided in section 22a-437. The commissioner may, by regulation, exempt certain categories, types or sizes of discharge from the requirement for notice prior to approving or denying the application if such category, type or size of discharge is not likely to cause substantial pollution. The commissioner may hold a public hearing prior to approving or denying any application if in his discretion the public interest will best thereby, and he shall hold a hearing upon receipt of a petition signed by at least twenty-five persons. Notice of such hearing shall be published at least thirty days before the hearing in a newspaper having a substantial circulation in the area affected.

Section 27. Section 22a-430 is amended by adding a new subsection (j) as follows:

(NEW) (j) (1) The commissioner may exempt persons who or municipalities which apply for permits for the following discharges from the requirement to submit plans and specifications under subsection (b) of this section:

(i) a discharge from a new treatment or disposal system which system is substantially the same as a system that the applicant is operating in compliance with a permit for said system issued by the commissioner;

(ii) the discharge is described in a general permit issued by the commissioner pursuant to section 22a-430b;

(iii) the discharge is from a system, the purpose of which, as determined by the commissioner, is not to treat any toxic or hazardous substances; or

(iv) the discharge is exempt from public notice under section 22a-430(b) and regulations adopted thereunder.

(2) The commissioner may, by regulations adopted in accordance with the provisions of chapter 54, establish other categories of discharges which may be exempted from the requirement to submit plans and specifications under subsection (b) of this section. Such regulations may include but not be limited to the following: (1) minimum standards for the design and operation of treatment systems for such discharges; and (2) requirements for submission of information concerning such discharges.

Section 28. Subsection (a) of section 22a-416 is repealed and the following is substituted in lieu thereof:

(a) The commissioner of environmental protection shall examine all existing or proposed disposal systems, and shall compel their operation in a manner which shall conserve and protect the natural resources and environment of Connecticut and protect the public health, safety and welfare. No disposal system shall be

001255

-6-

built or operated until the plan or design of the same and the method of operation thereof have been filed with said commissioner and approved by him, and no such system or facility shall be extended or replaced, until the plan for the same has been approved by him. THIS SUBSECTION SHALL NOT APPLY TO ANY DISPOSAL SYSTEM TREATING A DISCHARGE FOR WHICH A PERMIT HAS BEEN ISSUED UNDER SECTION 22a-430 OR 22a-430b.

001256

Department of Environmental Protection
Permit Program Process

Current Permit Process Flows
(27 processes)

New Source Review

Groundwater
NPDES
Sewer

Inland Wetlands
Stream Channel Encroachment
Diversion
Inland Water 401 Water Quality
Dam Safety
Structures and Dredging
Marine Mining
Tidal Wetlands
Long Island Sound 401 Water Quality

State Certification for Flood Management

Certificate of Permission
Waste Transporter
Special Waste Authorization
Pesticide Application to Aquatic
Pesticide Application by Aircraft
Marine Terminal License

Solid Waste Facilities
Landfills

Connecticut Regulated Waste
Hazardous Waste

General Permits
Model Permits
Emergency Authorization

Redesigned Permit Process Flows
(8 processes)

Air Emissions

Water Discharges

Resource Usage Programs

State Certification for Flood Management

Short Process Programs

Solid Waste

Hazardous Waste

Expedited Process Programs

001257

Connecticut Audubon Society

Environmental Center
118 Oak Street Hartford, Connecticut 06106 Telephone (203) 527-8737

TO: Environment Committee
Connecticut General Assembly

FROM: Betty McLaughlin, Director of Environmental
Affairs, Connecticut Audubon Society

RE: H.B. 7121, An Act Concerning Streamlining
the Permit Programs of the Department of
Environmental Protection.

HB 5419
HB 6380 HB 5074
SB 399

DATE: March 5, 1993

Good afternoon. My name is Betty McLaughlin and I am Director of Environmental Affairs for the Connecticut Audubon Society, a statewide conservation/education organization of approximately 10,000 members.

Connecticut Audubon supports this bill as drafted and urges the committee to act favorably upon it.

This fall I was appointed to the Environmental Permitting Task Force by the House Speaker; and served as co-chair of the task force.

The statute which created the task force called for significant representation by members of the Legislature, but since much of our work was carried out during the general assembly's election cycle, most legislators sent designees in their stead. One committee chair sent a legislator in her place; all other legislators sent representatives of the regulated community to take their place. Thus, the intended composition of the task force was significantly altered, and the actual working group of regular attendees to task force meetings was made up of 4 representatives of environmental groups, 1 member of the CEQ, 1 public member, 1 legislator and 13 industry people. Understandably this weighted composition is important for appreciating how focused the group remained on improving the permitting process for business.

I was skeptical at the outset that our group could reach consensus on relevant issues or produce a workable plan, particularly in the extremely short time frame within which we worked. (The task force first convened in mid-September, our report to DEP should have been issued to them in time for them to incorporate our

recommendations into their plan which was to have been submitted to this committee and the commerce committee by January 29th; their report was issued earlier this week--March 1, 1993.)

I've come to believe that this short time frame served to keep us focused on the big picture, to work toward common ground in defining and solving problems rather than staking out positions. The active members of our task force met weekly, either in subcommittees focused on specific problems, or in full task force meetings where consensus was sought.

Our report to the DEP included recommendations which represent the consensus of the entire task force. Those items which were discussed, but not agreed upon by all parties were submitted to DEP for their consideration but were clearly identified as areas of non-agreement.

I am pleased and gratified that most of the task force's recommendations have been incorporated into the DEP's plan, "Environmental Permitting Reengineering and Restructuring Plan". Those recommendations which DEP has not incorporated verbatim into their plan are all considered in some form, either constricted by resource shortfall or better carried out by some other state entity. Those areas where the DEP Plan varies from the task force recommendations are as follows:

1. (pg. 21 of DEP Plan) Permit Modifications.
DEP has opted for allowing "miscellaneous" discharges as exceptions, which we view as a more cautious approach which best protects the environment.

2. (pg. 25) Time Frames,
The task force had most of its more heated discussions on this topic. From these discussions, several realities emerged:

- predictable timelines for decisions on permit applications are vitally important to business planning.

- variables in the permitting program which can be made constant; i.e., standardized applications, notices, renewals, etc., should be made constant.

- variables over which neither the applicant nor the DEP have control cannot be changed and must be tolerated; i.e., number of new applications coming in to the DEP, continual shrinking of the workforce due to disproportionate budget cuts, professional turnover, etc.

This last factor which contributes to the frustration that the state doesn't "run like a business" is the most difficult obstacle in DEP's ability to set enforceable timeframes. The DEP's plan calls for establishing time frames for components of the application process which will help applicants track where their permits may be delayed; this is an important step for increased timely decisions. The environmental community has watched the DEP budget shrink considerably over the last few budget cycles and we are convinced that lack of staffing continues to be the major obstacle in getting permits processed expeditiously. Experienced professional people need to do the work, experienced professional people need to be paid. I have attended DEP Appropriations Committee hearings every year for five years running and have never seen one member of the business community appear before that committee testifying that DEP needs more staffing to get their job done. Without that support for increased staff, the time frame commitment as outlined in the DEP plan is the best the DEP can be expected to aspire to.

BRIEF COMMENTS ON OTHER BILLS BEFORE COMMITTEE TODAY:

H.B. 5419 - Publication of Regulations & Guidance

Our task force report and the DEP plan recommend publication of extensive educational materials regarding the permit program, when permits are needed, how to complete an application, model applications, check lists and more. These materials should be more than enough to satisfy the statement of purpose.

Connecticut Audubon is concerned that the publication of guidance documents and regulations within the same volume could be construed as an official interpretation of the regulations by the agency and as such the guidance documents themselves might be interpreted as actual rules or regulations. We prefer to see educational and informational materials made available to prospective and current permittees as distinct documents from regulations.

We believe that the single greatest obstacle to compliance with the regulations is the lack of an Index to the State Regulations. It is our understanding that the Speaker's Office and the Legislative Commissioner's Office are working together to get this situation resolved.

001261

TESTIMONY TO THE ENVIRONMENT COMMITTEE

3/5/93

ON

THE ISSUE OF PERMIT STREAMLINING

My name is Jack Tamborra, I am the Government Affairs Manager for the Dow Chemical Company in Connecticut and for the past 8 years was the Environmental Manager for Dow Manufacturing Facilities in Gales Ferry, Connecticut.

HB 5074 HB 5419 HB 6380 SB 399
I am testifying today on behalf of the Connecticut Chemical Council.

As the chemical industry representative to the legislative task force on Environmental Permitting, I am sorry to say that House Bill 7121, a D.E.P. proposal, who's statement of purpose is to "implement recommendations of the environmental permitting task force", in fact implemented very little of the task force's recommendations.

The bill also includes, for example, in Section 18 lines 442 - 472 provisions that to the best of my knowledge were never discussed by the full task force. Section 18, requiring two certifications for each permit application, would have been opposed by the regulated community.

The charter of the task force was to recommend changes that would result in a more predictable, user-friendly permitting process. One that would clearly state the information required, help applicants through the system and provide a permit decision in a predictable time period.

I have enclosed for your review a copy of the task force report, executive summary.

Other states in our region, concerned about the regulatory process, have enacted similar recommendations, to those found in the Executive Summary. For example:

Massachusetts implemented a money-back guarantee in its permit process, one that sets fixed time lines for permit decisions and that returns application fees if the times are exceeded. At the same time the Massachusetts D.E.P. implemented a total quality management system that has worked off their permit backlogs and shortened the timelines by 30%. Many of these same concepts are present before you in House Bills 5074, 5419, and 6380.

New York and Massachusetts have developed programs that promote good performance and reduce administrative delays: (in New York) increased usage of (negotiated rule making) is one method that brings together all interested parties early on in the development of regulation. And in Massachusetts, self-certification through "Licensed Site Professionals" in state superfund sites, allows clean-up to proceed without administrative delays. (These same self implementing concepts are found in Senate Bill 399.)

In conclusion, I would recommend that the committee develop one bill which incorporates the recommendations of the Permit task force, include the elements of House Bills 5074, 5419, 6380, Senate Bill 399, and reject House Bill 7121.

001263

**Comments of Marie O'Brien
Manager, State and Local Government Affairs
United Technologies Corporation
To the Environment Committee
of the Connecticut General Assembly
Friday, March 5, 1993**

Senator Dailey, Representative Stratton and members of the committee:

House Bill Number 7121: An Act Concerning Streamlining the Permit Programs of the Department of Environmental Protection

United Technologies Corporation (UTC) is pleased to have the opportunity to comment on this important legislative initiative. We would like to commend the Department of Environmental Protection for its work with the Permitting Task Force and the development of an ambitious environmental permitting, re-engineering and restructuring plan. We look forward to the implementation of DEP's restructuring plan for we believe its planned actions will help to reduce the uncertainty and delay that plague the environmental permitting process in Connecticut.

We have several concerns about the implementation of the streamlining program and the bill under consideration. First, we note that the Department's bill, No. 7121, addresses only a few of the streamlining recommendations made by the Permitting Task Force. The Department takes the position that the great majority of the reforms can be effected through regulations or DEP management practices and do not require legislation.

While UTC agrees that most of these changes can be implemented administratively, we believe the Environment Committee should consider whether there should be provisions to strengthen accountability for following through on the Department's undertakings. Requirements for periodic status reports to the public on permit processing, regulation development, and management reforms would be valuable to keep the streamlining program visible to the public and on track. We recommend that the Committee require such reports or an equivalent mechanism to ensure that the work of reform is continued. Such status reports should also address the DEP's commitment to prepare spill reporting rules.

We also have a number of recommendations for changes in the bill as proposed. Section 1.(a) would allow the commissioner to issue emergency authorizations in lieu of a permit, but does not recognize equipment failure and/or subsequent business interruption as an emergency. Under current state air permitting rules,

) replacement of a permitted unit with similar or identical equipment requires a lengthy permitting process even if replacement is due to unexpected failure which leaves the facility without heating equipment or without equipment important to the manufacturing process, thus causing a business interruption. The USEPA recognizes unexpected equipment failure as an emergency in the operating permit rules written to comply with the new clean air act. We recommend that the EPA definition of emergency found at 40 CFR 70.6(g) be used when defining the powers of the commissioner of environmental protection to issue emergency authorization.

We recommend that the requirements under section 12 be clarified by inserting the word "physically" between the words "property" and "abuts" in line 339, so it is clear that the notice requirement applies only to direct abutters.

Environmental regulations are both voluminous and complex, and record keeping errors including typographical errors may be considered noncompliance. Therefore we recommend that the language of section 18 be changed to insert the word "significant" before the word "noncompliance" in line 452.

) Also in section 18, we recommend that the language beginning on line 453 be changed to read "....the commissioner shall issue a permit, registration or certification unless he finds that the applicant is not making good faith efforts to correct the violation."

The commissioner's authority to deny a permit based on environmental noncompliance should be limited to statutory violations within the state of Connecticut (where the applicant has existing Connecticut operations) to avoid burdening the applicant and the agency with compiling and reviewing data from non-Connecticut operations. The time period should also be specified so that only relatively recent compliance histories need to be compiled and reviewed. A two-year limitation would be appropriate.

The definition of applicant in section 18(c) should be limited to the owner and/or operator of the facility. The current definition has a well understood meaning under state and federal law and should not be changed. Amending the definition to include corporate parents and subsidiaries injects needless confusion and complexity into the definition and could make an owner/operator applicant improperly responsible for an entity it does not control. If the state desires to attribute the actions of one corporate entity to another, it should be held to the same burden it would be held to in any other circumstance by demonstrating that one entity controls the actions of the other.

) Section 20 would amend subsection (c) of section 22a-430 of the general statutes to allow compliance schedules in water discharge permits. We support

this change. However, the authority to issue compliance schedules in itself does not necessarily solve the problem of issuing permits with compliance schedules where a particular statutory attainment date has passed. The DEP needs to consider how to develop permits imposing water quality based limits that do not place the permittee in immediate non-compliance.

United Technologies supports Senate Bill 399, An Act Concerning a Pilot Program to Encourage Waste Minimization, Pollution Control or Modernization Modifications.

The bill establishes a pilot program that allows for self-certification of compliance with state air permitting requirements that are more restrictive than federal regulations. The program will encourage waste minimization, pollution control and modernization of industrial facilities by the state's industries by allowing previously permitted equipment to be modernized, altered or moved within or between the facilities of a Connecticut company. That company must have demonstrated a commitment to pollution prevention and have a significantly high volume of operational changes in order to qualify for the pilot.

We propose that the pilot require the following:

- that the businesses selected shall have demonstrated a commitment to pollution prevention and require a high volume of operational changes in equipment and/or materials
- that a professional engineer certify the modernization, replacement, or changes in materials, utilization, movement or relocation of such equipment is in compliance with relevant state regulations

We believe the pilot should allow for periodic audits by the Department of Environmental Protection and notification to the public with an opportunity to comment on the findings of the audit process.

As an example of the type of activity that would fall under such a program consider the permit for a spray booth. That permit restricts spray operations to specific coatings, solvents and pigments. When the owner needs to change the coating whether to eliminate ozone depleting substances, to use less toxic substances or to fulfill the requirements of the customer, the coating constituents will change. The change may result in no emission increase of volatile organic components (VOCs); however, a permit modification procedure would be required under current state rules. In addition, self-certification could reduce the expense and delay of modernizing or relocating equipment with actual emissions quite small (less than 5 ton per year), but with a theoretical potential to emit greater than 15 ton per year (but less than 25 ton per year). An example would

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January 28, 1993

Timothy R.E. Keeney, Commissioner
Department of Environmental Protection
165 Capitol Avenue
Hartford, CT 06106

Re: Report of Environmental Permitting Task Force to the DEP

HB 7121

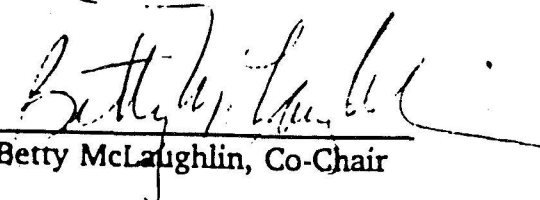
Dear Commissioner Keeney:

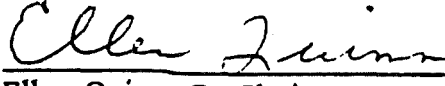
The following report by the Environmental Permitting Task Force summarizes its recommendations for improving and streamlining the Connecticut permitting process. The report is the culmination of four months of discussion by the Task Force members who represented environmental groups, large and small industry, various trade associations and state government.

Because the representation on the Task Force included such diverse interests, the recommendations represent a genuine attempt to forge agreement among the various constituencies on changes to the permitting process which would improve response to industry needs but not compromise environmental protection. It is the Task Force's hope that these recommendations will be seriously considered by DEP in conjunction with their retained consultants, Arthur Andersen, in their plans to revise the permitting process.

The Task Force would like to thank the DEP staff, especially Robert Kaliszewski, for their active participation in the Task Force's review. The information provided by Bob and other DEP staff was instrumental in completing our review in a timely manner.

Sincerely,

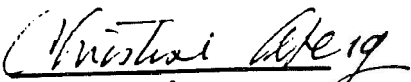

Betty McLaughlin, Co-Chair

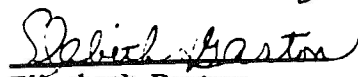

Ellen Quinn, Co-Chair


EJQ/ly
Attachment


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The following Task Force members have reviewed and concur with this report.

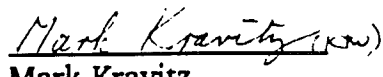

Christine Abing



Elizabeth Barton

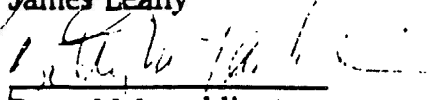

Jefferson Davis

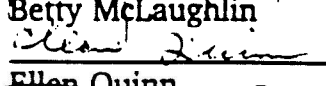

Richard Dupont

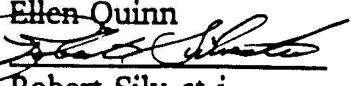

W.D. Huhn

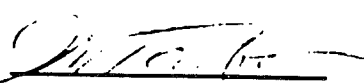

Mark Kravitz



James Leahy



Betty McLaughlin

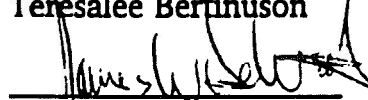

Ellen Quinn

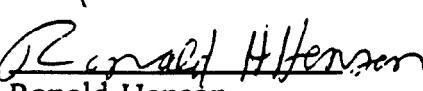

Robert Silvestri


Jack Tambora

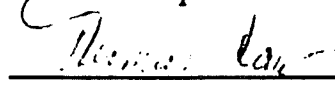

Richard Adams

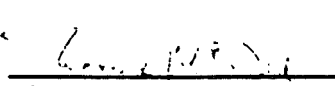

Teresalee Bertinuson

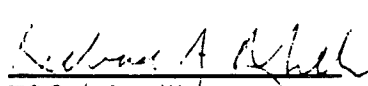

James DeWitt


Ronald Henson

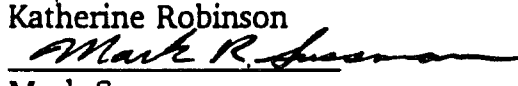
*
Herbert Karp


Thomas Law


Thomas McGee


Richard Miller


Katherine Robinson


Mark Sussman

* Mr. Karp stopped attending the Task Force meetings in mid October. His signature was not requested.

** Two legislators were assigned to the Task Force but could not participate due to conflicting obligations. Their signatures were not requested.

I. EXECUTIVE SUMMARY

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The following summary outlines the recommendations of the Environmental Permitting Task Force to the Department of Environmental Protection. The major points of each recommendation are also identified.

A. Enhance Timeliness of the Environmental Permitting Process

- Publish ranges of times required to obtain permits for each permit process
- Develop an information system to support permit tracking
- Initiate permit review estimation process for multimedia or large permit applications and develop process to notify applicant of the estimate

B. Enhance Management Accountability

- Establish oversight board consisting of DEP management and environmental/industry representatives to oversee permit improvement process
- Establish semi-annual reports to the legislature and the Governor's office on processing times for permit applications
- Designate and publish target quotas for permit review section
- Consider establishing fee staging and potentially fee forfeiture process to be invoked if permit deadlines are not met
- Consider expanding the management levels capable of authorizing the final permit

C. Improve Communication

- Initiate timely completeness review for all permit applications and notify applicants of the results
- Implement regular pre-application conferences for non-routine permit applications

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- Develop clear detailed guidance documents for each permit application including revised application forms
- Develop a general guidance document on the permit process in CT
- Develop a guidance document which outlines DEP's expectations for each type of permit application
- Publish an index to State regulations in order to facilitate compliance
- Develop an information system which provides both DEP and the applicant with complete information on environmental permits and compliance history
- Provide applicants with information on the status of their renewal/modification requirements
- Expand educational outreach program to include more interactive sessions between the regulatory agency, industry, and environmental groups

D. Simplify Selected State Permit Application Procedures

Expedite processing through greater use of general permits and investigate areas where permit-by-rule, permit amendments or other alternatives to individual permits and major permit modifications may be used, (changes to regulations and statutes may be required to implement some of these suggestions.)

- Waste minimization projects and upgrading of pollution control devices
- Facility modifications which have no adverse environmental impact as approved by DEP
- Simple relocation within facility, i.e., permit-by-rule
- Modernization or in-kind replacement of equipment which will result in no increase of actual emissions
- Permit renewals or transfers for unchanged facilities
- Remedial activities related to soil and groundwater

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- Evaluate all existing State statutes and regulations to reassess permitting requirements; complete the process of writing required regulations
- Implement necessary regulatory or statutory modifications to enable DEP to exercise discretion to allow late renewal applicants to continue to operate legally, while simultaneously discouraging such applications by graduated surcharges.

E. Establish Contingency Permitting Review

- Establish an internal review board where permits delayed more than 6 months can be expedited
- Expand the ombudsman function to formally include the permit assessment team recently initiated by DEP. Formalization of this function will provide applicants with a mechanism for immediate rerouting

F. Improve the Hearing Process Requirements

- Develop a consistent public notice process for all programs. To accomplish this, both DEP regulations and state statutes will need to be amended to achieve consistency
- Modifications to public notice requirements should result in classes of public hearing requirements reflecting the amount of environmental impact
- Require DEP attorneys to represent DEP staff during permit hearings to ensure early and appropriate resolution of potential legal issues
- Develop a method of alternative dispute resolution, particularly mediation by a neutral mediator, to identify issues, encourage settlements, expedite decisions on controversial permits and reduce costs

G. Encourage Early Public Participation

- Enhance use of public informational meetings early in permitting process
- Clarify rights of intervenors in pre-hearing process

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H. Obtain Adequate and Secure Funding for DEP Permitting Responsibility

- The legislature should fund DEP adequately
- Generate funds from other segments of society which contribute to environmental degradation (e.g., surcharge on sewerage, motor vehicle emission-inspection)
- Evaluate and develop selected product surtaxes on environmentally harmful consumer products
- Consider creating a DEP profit center through profitable educational material and services sales
- Obtain one-time infusion of capital to alleviate backlog through use of contract professionals

001273

**UI United
Illuminating**

P.O. Box 1564, New Haven, CT 06510-0901

March 5, 1993

Senator Eileen Daily
Representative Jessie Stratton
Legislative Office Building
Room 3200
Capitol Avenue
Hartford, CT 06106

Re: House Bill No. 7121 - AN ACT CONCERNING STREAMLINING THE
PERMIT PROGRAM OF THE DEPARTMENT OF ENVIRONMENTAL
PROTECTION

Dear Senator Daily and Representative Stratton:

The United Illuminating Company (UI), an electric utility serving over 300,000 customers in portions of Fairfield and New Haven Counties, wishes to record its comments on HB 7121, AAC Streamlining the Permit Program of the Department of Environmental Protection. UI strongly supports permit streamlining efforts which will serve to provide for continuing environmentally sound economic growth for Connecticut. Representatives from UI have served on the Environmental Permitting Task Force and the Environmental Fees Task Force, established pursuant to Public Act No. 92-162 and Public Act No. 90-231, respectively, and actively participate in the development of state and federal regulatory programs through its membership in groups such as Connecticut's State Implementation Plan Revision Advisory Committee (SIPRAC), the Connecticut Business and Industry Association's Environmental Policy Council, U.S. EPA's Acid Rain Advisory Committee and various state and regional work groups.

UI strongly supports the recommendations of the Environmental Permitting Task Force and believes that HB 7121 should be revised and expanded to incorporate more of the Task Force's recommendations. Some of the deficiencies in the present Bill that can be helped by this are as follows:

- Section 1 of the Bill focuses on emergency authorizations. However, because no one can predict when, or for how long an emergency will occur, any time restrictions that may be imposed should be left to the Commissioner's discretion on a case-by-case basis.

The United Illuminating Company
an investor-owned electric light and power company

- The intent of Section 3 of the Bill is to standardize the Public Notice process. While recognizing that it is well intended, UI has concerns that its requirements may be unduly burdensome and may represent a step backward in the streamlining process, particularly for renewals of non-changing or minor modifications of existing processes and for those applications that have no significant adverse environmental impact.
- UI has similar concerns with Section 4 of the Bill, and in addition proposes that it may be more useful to the public to publish the name of the CT DEP contact, especially since it's CT DEP's tentative decision that is likely to produce questions from interested parties.

UI also proposes that this Bill be expanded to include the following streamlining measures:

- Permit processing time-frames should be published for each type of permit that CT DEP issues. A permit-streamlining oversight board should be established to assist in setting permitting goals and criteria for expediting permits, and to monitor CT DEP's progress and use of the criteria. The board can also assist in developing plain-language guidance documents that identify those activities requiring a permit and summarize information about each permit program.
- CT DEP through the above board, should provide semi-annual reports to the legislature and governor regarding the processing times for the categories of permits, and the backlog levels for each category.
- CT DEP should be encouraged to improve its information management systems to track permit applications and their status. This system should also generate invoices for annual permit fees and permit-renewal notices.
- The fees assessed to businesses for the processing of permit applications, inspections and enforcement must reflect services rendered. CT DEP should investigate monetary assessments on other societal activities that do not require permits but nonetheless contribute to environmental degradation.
- Spill reporting requires streamlining to address the ways businesses report spills, including a reduction in reporting requirements for minor spills that do not adversely affect the environment. Chemicals by name and reportable spill quantities should be listed.

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PAGE 3

In conclusion, UI urges the Committee to modify and expand House Bill 7121 and to encourage CT DEP to continue to build on the cooperative efforts that were demonstrated in the permit streamlining area, and to ensure that industry and other affected groups are fully involved in implementing these and other measures.

Sincerely,

A handwritten signature in dark ink, appearing to read "David B. Damer". The signature is fluid and cursive, with a large initial "D" and "B".

David B. Damer
Director
Environmental Management

DBD/mo

Yankee Gas Services Company
599 Research Parkway
P. O. Box 1030
Meriden, CT 06450-1030
(203) 639-4000



001276

March 5, 1993

To: Ms. Stratton
Ms. Daily and the Members of the Environment Committee

HB 7121

As Co-Chair of the Environmental Permitting Task Force, I have been involved for the past six months in an intensive review of the Environmental Permitting Process in Connecticut.

The Task Force was formed pursuant to PA 92-162. This Legislation had been developed in response to industry and environmentalists concerns about the present process of permitting in Connecticut. The mandate for the Task Force was also established by the Legislation.

The Task Force shall advise and make recommendations to the Commissioner of environmental protection concerning: (1) Restructuring the permit application process of the department of environmental protection; (2) the amounts of environmental permit fees, methodology to be employed and factors to be considered in determining such fees and annual revenues anticipated to be raised from such fees; (3) other possible sources of public generated revenue to be dedicated to specific units of the department; (4) measures to improve the collection of fees and other payments by the department; and (5) (A) reasonable timeframes for decisions by the department concerning the completeness of, and actions concerning, applications; (B) notification of administrative requirements and pending expirations; (C) streamlining processes for minor projects and emergency authorization, including the use of registrations instead of permits and accelerated permit processes; (D) sharing routine inspection reports with subject companies; (E) use of private contract services in the review process and (F) allowing for the use of private consultants to certify whether permit applications are complete.

In late August of 1992 the Task Force, consisting of twenty-four members, was established. Task Force members represented environmental activist groups, large and small industry representatives, legislators, trade association representatives and staff from the Connecticut Department of Environmental Protection (DEP). A list of the Task Force members is attached. With the exception of municipal governments, representation existed from all the constituencies involved in the regulatory process. The Task Force was jointly chaired by myself as a representative from industry and Betty McLaughlin as a representative of an environmental group.

To my knowledge this Task Force was unique in its attempt to force agreement among such diverse constituencies over a very short period of time. All members of the Task Force toiled to understand the differences in their perspectives as well as the issues facing the DEP. Because of the commitment of the Task Force members, the effort was successful. The result is a report to Commissioner Keeney which details recommended changes to the permitting process. The Executive Summary of this report, as well as the unanimous concurrence of all Task Force members, is attached.

The DEP has clearly considered the recommendations of the Task Force in its proposed bill and its environmental permitting reengineering and restructuring plan which supplements the proposed legislation. In many instances, the DEP recommendations are identical to those of the Task Force. Examples of consistent recommendations include the expanded use of emergency and temporary permits discussed in Section 1 of the legislation. Given that the legislation, in concert with the DEP's reengineering plan, will improve the permitting process in Connecticut, I recommend support of the legislation.

However, I would also request that consideration be given to adding to the legislation some of the recommendations of the Task Force which were not included in the legislation. The three principal additions to be considered are:

1. The requirement that DEP identify and publish the timeframes required to process various types of permit applications. The need for a predictable permitting process was identified by Task Force members as an impediment to both economic development and improvement in environmental quality in the State.
2. The requirement that DEP report performance against these targets' timeframes to allow all constituencies opportunity to evaluate DEP's ability to respond to permit requests. Ongoing monitoring of the information would provide insight on both the resource and regulatory constraints which will effect the Department.

001278

3. The requirement that DEP establish an oversight board consisting of DEP management and environmental and industry representatives to oversee the permit improvement process. Interaction between the DEP and the Task Force during the review was helpful to all parties. Development of an oversight board would insure that the dialogue would continue and that emphasis on improved permitting would not diminish.

In closing, I would like to thank Dep for its active involvement in the Task Force. This involvement was instrumental to the Task Force's success.

Respectfully submitted,



Ellen J. Quinn,
Co-Chair,
Environmental Permitting Task Force

EJQ/ly