

Members of the Connecticut General Assembly
Legislative Office Building
300 Capitol Avenue
Hartford, CT 06106

April 22, 2024

SUBJECT: Don't Eliminate Critical Wetland, Open Space and Clean Water Protections -- Delete Sec 1(c) & 3 of H.B. 5475/File No. 419.

Dear Honorable Members of the Connecticut General Assembly:

We are writing to express the strong opposition of the undersigned organizations and individuals to Section 1(c) and Section 3 of H.B. 5475/File No. 419. Section 1(c) of that bill will essentially repeal the Connecticut Environmental Protection Act (CEPA) as it applies to environmental impairment from housing projects, rolling back five decades of environmental progress and protections in Connecticut. We also strongly oppose Section 3, which will allow for further rollbacks to wetlands protections. Moreover, the language involving CEPA was inserted after a public hearing on the original bill so there has been no opportunity for the public to understand and to comment on what will be the largest rollback of environmental protections Connecticut has ever seen.

We understand that H.B. 5475/File No. 419 is an effort to promote the development of affordable housing. As signatories of this letter, we recognize that affordable housing and environmental justice are not mutually exclusive goals. Increasing resident access to safe and sustainable homes is an environmental justice value, a value we support. However, instead of promoting the development of safe and sustainable housing, H.B. 5475/File No. 419 will allow for unchecked environmental destruction by creating a profit-based incentive to ignore environmental impacts on the surrounding landscape.

For over 50 years, Connecticut's environment has been protected by CEPA. Given that the Supreme Court of the United States recently rolled back wetlands protections, *see Sackett v. EPA*, 598 U.S. 651 (2023), it is critical that Connecticut re-affirm, not weaken, its commitment to protecting its invaluable resources for future generations. Following the lead of the Supreme Court will do permanent and irreversible damage to Connecticut's clean water and environment and will be a disservice to our children and future generations.

CEPA Background

Prior to 1971, citizens had no rights to challenge actions that will harm the public trust in the environment, and environmental quality was left largely to the whims of developers. CEPA, on the state level, and the Clean Water Act and Clean Air Act on the federal level remedied that. Under Section 22a-19 of CEPA, intervenors can participate in agency proceedings to improve or stop projects that will unreasonably impair or destroy the public trust in the air, water, or other natural resources of the state.

Like any other plaintiff, environmental intervenors are required to state a claim that the proposed activity violates the law and then, through a hearing or appeal, to prove that claim through substantial credible expert evidence. If claims are found to be frivolous courts can, and will, impose sanctions. This basic structure has led to remarkable strides in cleaner air and cleaner water with huge benefits for public health, quality of life, and the environment.

CEPA has been used to protect some of Connecticut's most iconic open spaces from poorly planned development. For example, the statute was instrumental in conserving the 1,000-acre coastal forest that is now known as the Preserve in Old Saybrook and halting unreasonably dense and polluting development in the Oswegatchie Hills in East Lyme. It was also recently invoked to stop, on environmental justice grounds, the expansion of a transfer station in the Annex residential neighborhood of New Haven, which is one of the most environmentally overburdened neighborhoods in the state, if not the region.

Section 1(c)

Section 1(c) limits who may intervene under CEPA in residential building permit proceedings to those "own[ing] real property that abuts or is within a radius of one hundred feet of any portion of the land subject to such permit." No such limitation currently exists under CEPA. This essentially repeals CEPA's protections for non-abutters with respect to all housing projects, affordable or not. This leaves housing developers free to build without any regard for the environmental impairment that their projects will cause to the water, land, and air, while leaving concerned community members without any legal recourse. While developers have the right to use their private property, they do not have the right to do so in a way that impairs resources in which all citizens have an interest and are essential to public health. Connecticut can, and must, address its housing needs without jeopardizing a clean and healthy environment now and for future generations.

Section 3

Under Section 3, municipalities will be allowed to adopt ordinances exempting certain areas from inland wetlands approval. To qualify for this exemption, an area must have existing commercial/retail uses and have water, sewer, and other necessary infrastructure, or "be[] appropriate for increased development in such municipality's plan of conservation and development." Under this vague standard, projects will be able to circumvent the entire inland wetlands process and impacted residents will have no recourse regardless of the extent of the environmental damage caused by a specific project.

Wetland Protection

Section 1(c) and Section 3 will promote unreasonable destruction of Connecticut's natural resources, especially of Connecticut's wetlands, for any type of housing construction. Connecticut's wetlands provide habitat for plants and wildlife, improve water quality, and control flooding and erosion. Beyond the loss of natural habitat, filling wetlands and increasing

impervious coverage through development will worsen water quality and flooding. The impacts of increased flooding are not limited to a 100-foot radius: flooding affects citizens far downstream and well beyond the 100-foot buffer. Runoff from development also moves pollutants into streams at a faster rate, polluting waters and impacting fish populations that people eat.

The proposed provisions will create fundamental shifts in the environmental ethic the state has built over decades. These fundamental shifts will also occur with no meaningful public input: File No. 419 drastically departs from the originally raised HB 5475 and these changes were made without any additional public hearing or opportunity for public comment. Connecticut has been a pioneer in clean water, a leader in energy efficiency, a trailblazer on the Connecticut Green Bank, and so much more. Please do not gut our environmental protections and move the clock backward.

Stand strong on Connecticut's environment; delete Section 1(c) and Section 3 of H.B. 5475/File No. 419.

Respectfully submitted:

Save the Sound
Avalonia Land Conservancy, Inc.
Branford Land Trust
Clean Water Action
Connecticut Association of Conservation and Inland Wetlands Commissions (CACIWC)
Connecticut Citizen Action Group
Connecticut Council of Small Towns (COST)
Connecticut Forest and Park Association
Connecticut Land Conservation Council (CLCC)
Connecticut League of Conservation Voters (CTLCV)
Connecticut Water Works Association (CWWA)
Darien Land Trust
East Haddam Land Trust
Environment and Human Health, Inc.
Farmington Land Trust
Farmington River Watershed Association
Farmington River Watershed Association
Finding Stable Ground
Fridgeport
Greater Bridgeport Community Enterprises, Inc.
Greenwich Tree Conservancy
Groton Open Space Association (GOSA)
Hamden Alliance for Trees
Hartland Land Trust
Housatonic Valley Association
Keep the Woods

Land Conservancy of Ridgefield
Lower Connecticut River Valley Council of Governments (RiverCOG)
Mary & Eliza Freeman Center
Middlebury Land Trust, Inc.
Middlesex Land Trust
Naugatuck River Revival Group
New England Mountain Biking Association (NEMBA)
Norwalk River Watershed Association
Rivers Alliance of Connecticut
Shelton Land Conservation Trust, Inc.
Southbury Land Trust
Thames Valley Trout Unlimited
The Connecticut Audubon Society
The Connecticut Chapter of the American Planning Association
The Connecticut River Salmon Association
The Nature Conservancy
The Northeast Organic Farming Association of Connecticut (CT NOFA)
Western Connecticut Council of Governments (WestCOG)
Wildlife in Crisis Land Trust
Woodbridge Land Trust

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