STATE OF CONNECTICUT

COUNCIL ON ENVIRONMENTAL QUALITY

VIA ELECTRONIC MAIL

March 27, 2024

Eric Hammerling
Department of Energy and Environmental Protection
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Hartford CT 06106
Eric.Hammerling@ct.gov

Dear Eric Hammerling:

The Council on Environmental Quality (Council) offers the following comments regarding the proposed Environmental Classification Document (ECD) for the Department of Energy and Environmental Protection (DEEP).

Section II

13. *Harvesting of commercial forest products in a developed state park resulting in a total harvest in excess of 100,000 board-feet.*- The Council questions if 100,000 board feet is too high of a threshold for determining the need for scoping for the harvesting of commercial forest products (i.e., cutting trees) in a "developed state park". Recent public concerns regarding the removal of trees in state parks suggests that the public has a strong interest in the careful management of such resources on publicly owned natural resource lands. Furthermore, the scoping of such actions in the Environmental Monitor might be the only vehicle for public notice since forest management plans might not apply to "developed state parks" and DEEP's Hazard Tree Mitigation Policy (Policy) primarily applies to hazard trees and the only public input specified in the Policy involves the potential designation of "heritage trees".

14. *Construction of a solid waste volume reduction facility where solid waste generated elsewhere may be reduced in volume through processing, including but not limited to, sorting, shredding, crushing, compacting, and composting, which activities are not authorized by a general permit.* The Council questions if "*solid waste volume reduction facility*" has the same meaning as "volume reduction plant", as defined in Connecticut General Statutes (CGS) Section 22a-207 (5), which includes "any location or structure, whether located on land or water, where more than two thousand pounds per hour of solid waste generated elsewhere may be reduced in volume, including, but not limited to, resources recovery facilities, waste conversion facilities and other incinerators, recycling facilities, pulverizers, compactors, shredders, balers and composting facilities". The Council also notes that it is unclear which "general permit" is being referenced. The Council suggests that 1) a statutory reference be provided to define "*solid waste volume reduction facility",* and 2) "a general permit" be defined so the public understands which general permit(s) is applicable.

16. *Construction of new paved roads or lane additions which exceed $1,000,000 in capital costs.* – The Council notes that construction or significant renovation of a road might require the removal of vegetation and unsuitable subsoil and the installation of drainage infrastructure, which would be necessary if the road or lane additions are paved or unpaved,

new or the renovation of an existing road. Accordingly, the Council suggests that the language be revised to read: "*Construction or renovation of roads or lane additions that are likely to exceed $1,000,000 in capital costs*".

17. *Sale, transfer, or exchange of land in the custody and control of DEEP with a non-state entity for a use different from the present use or planned use under a DEEP management plan.* – The Council notes that it is unclear what "management plan" is being referenced and if the adoption of such "management plan" is subject to public notice and review or whether it is developed internally. The Council suggests that more information be included in the ECD to clarify the specific "management plan(s)" referenced in this section. The Council notes that the sale or transfer of state land or any interest in state land by DEEP might still be subject to the public notice requirements and process stipulated in CGS Section 4b-47, notwithstanding the exclusions listed in CGS Section 4b-47(c).

18. *Grants of leases, easements, rights-of-way, or other interests in land in the custody and control of DEEP for a use different from the present use or from a planned future use under a DEEP management plan, unless such use is exempt pursuant to Section IV below, has already been subject to a statutory public comment process that is substantially equivalent to scoping, or otherwise will not significantly affect the environment in an adverse manner.* – The Council notes that it is unclear what "*management plan*" is being referenced and if the adoption of such "*management plan*" is subject to public notice and review or whether it is developed internally. Further, a "public comment process that is substantially equivalent to scoping" would not necessarily include the "agency's responses to the comments received" or the "supporting discussion and analysis of the action's effects on the environment in consideration of all factors listed in section 22a-1a-3 of the CEPA regulations". The Council suggests that 1) more information be included in the ECD to clarify the specific "management plan(s)" referenced in this section, and 2) the phrase "has already been subject to a statutory public comment process that is substantially equivalent to scoping*"* be deleted.

20. *Any [other] action that may significantly affect the environment in an adverse manner, including consideration of the direct, indirect, and cumulative impacts of those factors identified in RCSA Section 22a-1a-3, and in connection with the proposed action's setting, its probability of occurring, its duration, its irreversibility, its controllability, its geographic scope, its magnitude, and regulatory requirements.* The Council suggest that the word "other" be removed to eliminate any confusion regarding the criteria noted in Sections II and IV, such as 100,000 board feet or $1 million in construction/renovation costs.

The Council suggests that the following items, which are included in the Generic Environmental Classification Document, be added to Section II of DEEP's proposed ECD:

- *Development of an energy generation facility that exceeds 100 kilowatts (kW) on undeveloped land[1], or an energy generation facility that exceeds 1 kW located on or in water;*
- *Any action, other than maintenance or repair of an existing facility, which may affect core forest, defined in CGS Section 16a-3k as unfragmented forest land that is three hundred feet or greater from the boundary between forest land and nonforest land; and*
- *Any action, other than maintenance or repair of an existing facility, that would affect five (5) or more acres of Prime Farmland Soils, Statewide Important Farmland Soils, and/or Locally Important Farmland Soils, as defined in Title 7 Part 657 of the U.S. Code of Federal Regulations, in agricultural use, but not including developed land underlain by such soil.*

The Council questions if the following item should be added to Section II of DEEP's proposed ECD:

- *The proposed approval/adoption of any updated or new Forest Management Plan.*

[1] All land other than "developed land", as defined in the state of Connecticut Generic Environmental Classification Document, effective March 2, 2021; https://portal.ct.gov/OPM/IGPP/ORG/CEPA/ECD---Generic

While the Council does not object to including "forestry practices carried out in a State Forest which conform to an approved Forest Management Plan for that forest" as actions that may not warrant a review pursuant to the Connecticut Environmental Policy Act (CEPA), the Council questions if the revision and/or adoption of any existing or new forest management plan, which would include a description of the proposed forestry practices/actions for a specified forest, should be added to Section II of DEEP's proposed ECD. There is currently no statutory or regulatory requirement that a forest management plan be made available to the public for review and comment, and if done so, there is no requirement for DEEP to "consider any comments received", consistent with the requirements of Section 22a-1a-6 of the Regulations of Connecticut State Agencies (RCSA) and to respond to the comments received, consistent with the requirements of Section 22a-1a-7 of the RCSA.

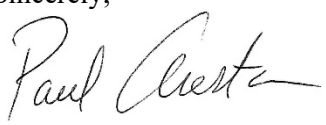
Section IV

The Council suggests that the language be revised in subsection (2) of Section IV to include "listed or eligible for listing" before "on the State or National Registers of Historic Places. The suggested revised language would read: (*(2) Demolition of a facility not listed <u>or eligible for listing</u> on the State or National Registers of Historic Places, or if on one of these Registers, with certification from the State Historic Preservation Office that there will be no significant adverse historical impact, or that no feasible and prudent alternative exists to the proposed demolition. If such facility to be demolished is more than fifty years old, notice to the Department of Economic and Community Development shall be given in accordance with CGS Sec. 4b-64.*

The Council also suggests that subsection (5) of Section IV be revised to include "approved and current" Forest Management Plan. Historically less than 1/3 of all state forests have current plans while the remaining 2/3 of all state forests are either expired or being assessed. The suggested revised language would read: *(5) Any forestry practices carried out in a State Forest which conform to an approved <u>and current</u> Forest Management Plan for that forest. Controlled burns covering in excess of 20 acres would continue to be scoped.*

Thank you for your consideration of the Council's comments.

Sincerely,



Paul Aresta
Executive Director