

Legislative History for Connecticut Act

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House 2967-2988		(22)
Senate 929, 1587-1617		(32)
ENVIRONMENT 1200-1203, 1208, 1212-1213, 1217-1236, 1240, 1241, 1265-1269, 1269-1306, 1307-1308, 1309-1328, 1392-1498		(201)
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Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate and House of Representatives Proceedings

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CONNECTICUT  
GEN. ASSEMBLY  
HOUSE

PROCEEDINGS  
1998

VOL. 41  
PART 9  
2768-3174

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House of Representatives

April 30, 1998

Chamber, please.

DEPUTY SPEAKER PUDLIN:

If all the members have voted and if your votes are properly recorded, the machine will be locked soon. The machine will really be locked now.

Clerk will please take the tally. Mr. Clerk, please announce the tally.

THE CLERK:

HB5662. Total number voting 145, necessary for passage 73. Those voting yea, 145, those voting nay 0, not voting 6.

DEPUTY SPEAKER PUDLIN:

Bill passes. Representative Godfrey?

REPRESENTATIVE GODFREY: (110th)

Thank you, Mr. Speaker.

Mr. Speaker, I would like to move at this time for the suspension of our rules for the immediate consideration of Calendar No. 501, Substitute for SB597, which is only single starred today.

DEPUTY SPEAKER PUDLIN:

Without objection, will the Clerk please call Calendar 501?

THE CLERK:

On page 18, Calendar No. 501, Substitute for  
SB597, An Act Concerning the Siting of Asphalt Batching

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Facilities, as amended by Senate Amendment A.  
Favorable report on the Committees of Public  
Development.

DEPUTY SPEAKER PUDLIN:

Representative Hartley.

REPRESENTATIVE HARTLEY: (73rd)

Thank you, Mr. Speaker.

Mr. Speaker, I move acceptance of the Joint  
Committee's favorable report and passage of the bill.

DEPUTY SPEAKER PUDLIN:

On acceptance and passage, would you remark?

REPRESENTATIVE HARTLEY: (73rd)

Yes, indeed, sir, thank you.

This bill prohibits the DEP from issuing any  
permits for asphalt plants until July 1, the year 2000.  
This proposal includes any DEP applications which might  
now be pending.

Mr. Speaker, in view of recent findings regarding  
fugitive emissions, which may be harmful to the health  
of citizens and the communities in which they are  
sited, the EPA has initiated a study of fugitive  
emissions of asphalt plants.

This bill before us now will allow us the benefit  
of the EPA study and allow our Department of  
Environmental Protection to review thoroughly the study

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and assess the health effects of such operations in our cities and our towns.

Mr. Speaker, at this time, the Clerk has LCO3840. I ask that the Clerk please call and that I be allowed to summarize, sir.

DEPUTY SPEAKER PUDLIN:

Clerk, please call LCO3840, Senate A.

THE CLERK:

LCO3840, designated Senate A, offered by Senator Daily.

DEPUTY SPEAKER PUDLIN:

Representative Hartley has asked leave of the Chamber to summarize. Without objection, proceed, Madam.

REPRESENTATIVE HARTLEY: (73rd)

Thank you, sir.

Mr. Speaker, I move adoption.

DEPUTY SPEAKER PUDLIN:

The adoption of A.

REPRESENTATIVE HARTLEY: (73rd)

Thank you, sir.

Senate A simply clarifies the underlining bill which does -- it shows that it does not apply to facilities which are currently operating with valid permits and which may, perhaps, be seeking to either

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upgrade, consolidate or alter those operating plants, so long as such change, alteration or upgrade do not result in increased emissions, but result in reduced emissions of air pollutants.

Also, Mr. Speaker, this amendment would make the bill effective upon passage.

I urge adoption by the membership. Thank you, sir.

DEPUTY SPEAKER PUDLIN:

On the adoption of A. Would you remark?  
Representative Prelli.

REPRESENTATIVE PRELLI: (63rd)

Thank you, Mr. Speaker.

Mr. Speaker, through you, a question to the distinguished Deputy Speaker.

DEPUTY SPEAKER PUDLIN:

Frame your question, sir.

REPRESENTATIVE PRELLI: (63rd)

Representative Hartley, as I read this, it says a permit to operate. Would that also include a temporary permit to operate? Through you, Mr. Speaker.

REPRESENTATIVE HARTLEY: (73rd)

That is correct, Representative Prelli.

DEPUTY SPEAKER PUDLIN:

Representative Prelli?

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REPRESENTATIVE PRELLI: (63rd)

So just one more question, through you, Mr. Speaker. So as long as somebody now is up and operating, even if it's on a temporary permit, this would allow an expansion of that plan, is that correct? Through you, Mr. Speaker.

REPRESENTATIVE HARTLEY: (73rd)

Any operation that is not currently with a final valid operating permit would fall under the moratorium, sir.

DEPUTY SPEAKER PUDLIN:

Representative Prelli.

REPRESENTATIVE PRELLI: (63rd)

Mr. Speaker, I guess that seems to be a contradiction from the statement that a temporary operating permit would also qualify as an operating permit if the first question I asked. So maybe that -- there was a misunderstanding.

The first question I asked was would a temporary operating permit fall underneath this and the distinguished lady answered yes.

The second one she said, no, it had to be a final operating permit. So I guess I'm asking which one is it, through you, Mr. Speaker.

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Representative Hartley?

REPRESENTATIVE HARTLEY: (73rd)

Thank you, sir.

To clarify your question, Representative Prelli, any facility that is not currently operating with a valid permit right now would fall under the moratorium until the year 2000.

DEPUTY SPEAKER PUDLIN:

Representative Prelli.

REPRESENTATIVE PRELLI: (63rd)

Thank you, Mr. Speaker.

Mr. Speaker and I thank the lady for those answers. The way I read this though and I'm not sure that I quite agree that if you have a temporary operating permit, that's usually considered a permit to operate.

And I just want to make sure that I understand for legislative intent and what has been said here and I happen to agree with that philosophy, but I'm not so sure that we haven't missed something here and said that if somebody is up and running with a temporary permit, that they also wouldn't have -- be able to continue and expand on their plan.

And it's just a concern of mine, that's why I ask the question. I hope that through legislative intent

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we've answered it that we mean a full operating permit.

Thank you, Mr. Speaker.

DEPUTY SPEAKER PUDLIN:

And thank you, sir.

Will you remark further on A? On the Amendment A,  
no?

If not, let me try your minds. All those in favor  
of A, signify by saying "aye".

ASSEMBLY:

Aye

DEPUTY SPEAKER PUDLIN:

Opposed, "nay". Ayes have it. The amendment is  
adopted.

Will you remark further? Representative Caruso.

REPRESENTATIVE CARUSO: (126th)

Thank you, Mr. Speaker.

Mr. Speaker, I rise in support of the legislation,  
a moratorium on the siting of asphalt plants in the  
State of Connecticut.

One of the most important reasons for this  
moratorium is that currently the Environmental  
Protection Agency for the federal government is  
reviewing standards to adopt with regulations for these  
facilities, most notably the fugitive emissions.

That's when asphalt is poured into the waiting trucks

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and a blue cloud is created. It's that volatile chemicals that are mixed with the petroleum and the gravel and sand that makes the asphalt that is shown to have health effects on populations close to or surrounding the facility.

Most notably, the effects of health are caused by constituents of emissions from asphalt operations and include sulphur oxides, nitrogen oxides, volatile organic compounds, polynuclear aromatic hydrocarbons and particulates.

In Bridgeport, for example, in close proximity to the plant is a population that has been cited by a health impact study that shows some of the highest levels of respiratory and other pulmonary ailments in the community.

But not only in the City of Bridgeport, but statewide and nationwide. For example, asthma in the location of the south end where one plant is being cited, the average of asthma among children is three times the national average. The fifth leading cause of death in that community in that community is tuberculosis.

Chronic obstructive pulmonary disease, bronchitis and other forms of ailment would only be exasperated by uncontrolled emissions such as fugitive emissions,

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along with the stacks emissions that come from the plant itself.

I think it's prudent for this General Assembly and the State of Connecticut to allow for this moratorium which would give an opportunity to see exactly what standards are promulgated by the Environmental Protection Agency for review by our own Department of Environmental Protection Agency, so that way the public's health is protected.

And I would ask that my colleagues support this legislation today. This plant is not only being proposed for Bridgeport, too, in particular, but Waterbury as well, and all the residents of the State of Connecticut will be better protected with this moratorium.

So, in conclusion once again, I ask my colleagues join in support of this legislation.

Thank you, Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Thank you, sir. Representative Mazzoccoli.

REPRESENTATIVE MAZZOCCOLI: (27th)

Thank you, Mr. Speaker.

A question to the proponent of the bill. I guess my concern is that in my community we've had an asphalt operation in effect for many, many years. In fact,

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Newington is known as having one of the few in the country that is located so close to a residential neighborhood.

For years we've been fighting this issue of asphalt emissions. And yet we're allowing only a moratorium for new construction.

My concern has to do with existing facilities and what this does to protect residents in neighborhoods who are now exposed to this -- these emissions.

Through you, Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Representative Hartley.

REPRESENTATIVE HARTLEY: (73rd)

Mr. Speaker, might I ask the indulgence of Representative Mazzoccoli if he could kindly repeat his question?

DEPUTY SPEAKER HYSLOP:

Representative Mazzoccoli.

REPRESENTATIVE MAZZOCOLI: (27th)

Well, again, Mr. Speaker, Newington is known to have an asphalt plant, it's had one there for many, many years. The residents of Newington have been long -- concerned for a very long period of time about fugitive emissions from that plant. And, in fact, there have been several bills before this legislature

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about that issue.

My concern is what are we doing to protect those residents right now from fugitive emissions from those plants, given the fact that operations such as the one located in Newington purchase or make basalt for the State of Connecticut.

In fact, the State of Connecticut's one of the largest purchasers of asphalt and that concerns me.

DEPUTY SPEAKER HYSLOP:

Representative Hartley.

REPRESENTATIVE HARTLEY: (73rd)

Through you, Mr. Speaker. Indeed your point is very well taken with respect to those plants that are currently operating. The EPA standards will eventually when they are released and assessed by our Department of Environmental Protection be assessed with respect to all of the operating facilities here in the state. We do not know what that will yield.

But the thought is not having that information and not knowing, we need not further expand the risk if, in fact, there is one. And so we are waiting on this study, sir.

REPRESENTATIVE MAZZOCOLI: (27th)

Well, my question through you, Mr. Speaker is what are we doing independent of the EPA if there is a

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potential problem, is there something being done independent of that review by the EPA? Through you, Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Representative Hartley?

REPRESENTATIVE HARTLEY: (73rd)

Through you, Mr. Speaker. The Department of Environmental Protection is monitoring the facilities and will be working a review of their own, as well as in conjunction with this national study that will be coming forth.

DEPUTY SPEAKER HYSLOP:

Representative Mazzoccoli.

REPRESENTATIVE MAZZOCOLI: (27th)

Thank you, Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Will you remark further on the bill as amended?

Representative D'Amelio.

REPRESENTATIVE D'AMELIO: (71st)

Thank you, Mr. Speaker.

I rise in support of this bill. It's good legislation. It would give the State of Connecticut two years to study these foreign particles. In Waterbury we're faced with a bit of a dilemma where one of these plants, proposed plants is -- developers want

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to build it smack in the middle of a neighborhood  
that's heavily populated.

I think the state needs this time in order for us  
to study these particles and to prevent any harm to our  
children that live in that area.

Thank you, Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Will you remark further? Representative Varese.

REPRESENTATIVE VARESE: (112th)

Thank you, Mr. Speaker.

Mr. Speaker, I, too, stand in support of this  
particular piece of legislation.

You know, it was not long ago that one of our  
other communities had some serious problems as a result  
of asbestos being in the ground. And I'm happy to see  
that in this particular instance we're acting before  
the problem occurs. And I think it's the right thing  
to do and I hope everyone supports this legislation.

REPRESENTATIVE NEWTON: (124th)

Mr. Speaker?

DEPUTY SPEAKER HYSLOP:

Representative Newton.

REPRESENTATIVE NEWTON: (124th)

Thank you, Mr. Speaker.

I also rise in support and must make this body

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aware that there was a proposed asphalt plant going to be built in the district that I represent next to Long Island Sound.

Our Health Department director came out in opposition of this asphalt plant, because it would endanger the lives of residents that lived around the area.

So I think that we ought to really study this and I would hope that the towns and cities that these asphalt plants were proposed in would understand that we're not against people building asphalt plants, but we are against on where they build them.

And within residential neighborhoods where people have to breath this, it's uncalled for and I'm very happy that this bill is before us and I would encourage all my colleagues to vote in support of it.

Thank you, Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Will you remark further on the bill as amended?

Remark further on the bill as amended?

If not --

REPRESENTATIVE ORANGE: (48th)

Mr. Speaker?

DEPUTY SPEAKER HYSLOP:

Representative Orange.

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REPRESENTATIVE ORANGE: (48th)

Thank you, Mr. Speaker.

Good afternoon. I rise in support of this piece of legislation. And I would like you to know that as I worked through the Chamber over the past week, I was pleased to hear many positive comments from my colleagues who recognize the need to respond to the concerns expressed by the citizens, not only in Colchester, but throughout the state.

The most important issue here is the health and safety of all of Connecticut citizens. I urge passage of the bill.

Thank you, Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Representative Simmons. Representative Simmons.

REPRESENTATIVE SIMMONS: (43rd)

Thank you, Mr. Speaker.

I rise in support of this measure. But I will have to say it's a qualified support.

On the one hand I commend the Governor for his interest and concern in coming forward with a moratorium on new construction of asphalt plants. I think that's an important step to take and I assume it's a step that's being taken because we wish to have the opportunity to study the impacts of fugitive

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emissions from these plants. I think that also is important.

But I think the idea of a moratorium, as such, is not always a good idea. And the idea of a moratorium with a fixed time frame is not always a good idea. It's kind of like an embargo in international relations.

An embargo works best if you place it and then lift it and use it as a tool. If, in fact, we are studying fugitive emissions, it may take less than two years to reach some conclusions at which point the moratorium is too long.

By the same token, if the study takes three years, then the moratorium is too short. And I think we also have to consider who is affected by the moratorium. Generally speaking, the people affected by the moratorium are those people who are trying to construct new plants. And I would assume that the new plants would incorporate the most modern technology.

Those people who currently have plants up and operating are not affected by the moratorium. So in that regard, as a tool, it tends to affect a fairly narrow group of people and, in my opinion, it actually affects one company and one company alone that is owned and operated by a constituent of mine.

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I believe that the public health is one of the most important responsibilities that we have. And I believe that clean air is a goal that we all have.

I suffered from asthma for many years. And I will tell you that it's up close and personal when you have trouble breathing.

But I also believe that we have to avoid hysteria in an issue like this. That at this time of year some of the problems that I have with my breathing are not just caused by auto emissions, which are a serious fugitive emission in our society, they're also caused by natural things like pollen and dust, naturally occurring airborne objects which constitute what we call fugitive emissions.

I also believe that the technology is there to operate these plants safely and quietly in areas where people live. And if you go to England and you go to some of the European countries, asphalt plants are self-contained and they have inverse atmospheres, so that when you load the trucks, all of the emissions, the so-called blue smoke that comes out, actually goes up into the building and is captured and contained and cleaned.

So the technology is there to do this business in a clean and in a safe way.

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It is my hope that the impact of the moratorium will be to help us focus on some of these technology issues. And it's my hope that those issues can be resolved within the next year so that the State of Connecticut can continue to operate this industry in a safe and effective way.

And with that in mind, I support this legislation. Thank you, Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Representative Dickman.

REPRESENTATIVE DICKMAN: (132nd)

Thank you, Mr. Speaker.

I rise to speak in favor of this, too. It's our feeling in the suburbs of Bridgeport that anything that inversely impacts on the quality of life in Bridgeport also impacts on our lives.

And given they're going to try and put these incinerators down in Seaside Park which is a beautiful part of recovering Bridgeport, perhaps that's not the best thing, particularly when the wind blows from the east, it's going to blow all these materials over into my district in Fairfield.

So I urge the support of this resolution.

DEPUTY SPEAKER HYSLOP:

Representative Caruso.

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REPRESENTATIVE CARUSO: (126th)

Yes, thank you, Mr. Speaker.

If I may just comment briefly in regard to the time of the moratorium?

The time was recommended by the Department of Environmental Protection a two-year period. When the Governor originally proposed the legislation there was no timing at all involved and the Department thought it was prudent that time be included. So thus, the two-year moratorium.

I might add as well, recently in the New York Times and if I'd cite for the record, April 26th of 1998, Mr. Robert McConalan, Environmental Engineer with the Department of EPA stated, and I quote, "There are a lot of unanswered questions," unquote.

He goes on to say that in July of this year the EPA will investigate what he decides are the most likely harmful chemicals present in those vapor clouds, once again, the fugitive emissions.

He goes on to state, "We are trying to involve the fullest extent possible all of the citizen groups that have expressed an interest in this and all of the state agencies," unquote.

I think by doing that, the Environmental Protection Agency will probably come close to the two-

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year period, may need more. And then at that time we can bring it back to the legislature for additional time.

I'd like to also cite very briefly hazard proximities of childhood cancers in Great Britain from 1953 to 1980. And in the fall of '97 this study was updated and confirmed, in regard to fugitive emissions and the impact it would have on surrounding communities.

And I read, "Childhood cancers are geographically associated with two main types of industrial atmospheric effluent, namely one petroleum derived volatiles and kiln and furnace smoke and gases and effluents from internal combustion engines."

It shows that in that study that's been well-documented that the effect of emissions coming from such facilities as asphalt facilities do have an effect on the respiratory and pulmonary ailments of children and folks living within proximity of those facilities.

Thank you, Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Representative Mazzoccoli.

REPRESENTATIVE MAZZOCCOLI: (27th)

Thank you, Mr. Speaker, for a second time.

I would simply hope that those of you who are

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supporting this today would be mindful of those of us who have existing facilities, because as Representative Metz reminds me that as these facilities are not allowed to be constructed, that will increase demand at facilities like the ones in Newington.

As early as last year, Newington requested a health study from the State of Connecticut to determine what impact that facility's had on our residents and we were denied.

So I would ask that, you know, as this sort of activity goes on and as you consider these moratoriums that the existing facilities are looked at very closely.

Thank you, Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Will you remark further on the bill as amended?

Will you remark further on the bill as amended?

If not, staff and guests to the well of the House.

The machine will be open.

THE CLERK:

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

DEPUTY SPEAKER HYSLOP:

Have all members voted? If all members have

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voted, please check the machine, make sure your vote is properly recorded. The machine will be locked. Clerk will take a tally.

Steve Dargan? Steve Dargan?

Representative Dargan?

REPRESENTATIVE DARGAN: (115th)

Mr. Speaker, in the affirmative

DEPUTY SPEAKER HYSLOP:

Representative Dargan in the affirmative.

Clerk will announce the tally.

THE CLERK:

SB597 as amended by Senate Amendment Schedule A.

Total number voting 147, necessary for passage 74.

Those voting yea, 147, those voting nay 0, absent not voting 4.

DEPUTY SPEAKER HYSLOP:

Bill as amended passes.

Are there any announcements, points of personal privileges? Representative Jack Ryan.

REPRESENTATIVE J. RYAN: (141st)

Mr. Speaker, am I on? For purposes of introduction.

DEPUTY SPEAKER HYSLOP:

Proceed.

REPRESENTATIVE J. RYAN: (141st)

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CONNECTICUT  
GEN. ASSEMBLY  
SENATE

PROCEEDINGS  
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PART 4  
923-1255

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Senate

Wednesday, April 15, 1998

000929

SEN. JEPSEN:

Calendar 190, Substitute for SB414 I move to the  
Committee on Planning and Development.

THE CHAIR:

Without objection, so ordered.

SEN. JEPSEN:

Page 5, Calendar 193 is marked Go.

Calendar 199, Substitute for SB597 I move to the  
Committee on Planning and Development.

THE CHAIR:

Without objection, so ordered.

SEN. JEPSEN:

The last three Calendar items on this page, 211,  
216 and 217 are PR.

Page 6, Calendar 220 is marked Go.

Calendar 222, SB348 I move to the Committee on  
Insurance.

THE CHAIR:

Without objection, so ordered.

SEN. JEPSEN:

Calendar 227 and 229 are PR.

Calendar 231, HB5462 I move to the Committee on  
Judiciary.

THE CHAIR:

Without objection, so ordered.

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Senate

Tuesday, April 28, 1998

001587

The bill is passed.

THE CLERK:

Calendar Page 17, Matters Returned From Committee.  
Calendar 199, File No. 269, Substitute for SB597, AN  
ACT CONCERNING THE SITING OF ASPHALT BATCHING  
FACILITIES. Favorable Report of the Committee on  
Environment, and Planning and Development. Clerk is in  
possession of two Senate Amendments.

THE CHAIR:

Senator Daily.

SEN. DAILY:

Thank you very much, Madam President. I would  
move acceptance of the Joint Committee's Favorable  
Report and passage of the bill.

THE CHAIR:

Question is on passage. Will you remark?

SEN. DAILY:

Thank you, Madam President. There are a number of  
amendments filed. I would like to ask the Clerk to  
call LCO-3840.

THE CLERK:

LCO-3840, which will be designated Senate  
Amendment Schedule A. It is offered by Senator Daily  
of the 33rd district.

THE CHAIR:

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Senate

Tuesday, April 28, 1998

001588

Senator Daily.

SEN. DAILY:

Thank you, Madam President. I would move acceptance, or passage of the Amendment, and seek leave to summarize that and the bill at the same time.

THE CHAIR:

Question is on adoption of Senate Amendment A.

Will you remark?

SEN. DAILY:

In explaining both at the same time, I certainly would thank you, Madam President. Concerned citizens and a number of communities in the state have brought to our attention concerns surrounding the construction of, and operation of asphalt plants that did not exist in the past.

Their concerns have to do with fugitive emissions as the process continues, and as they load the product onto trucks. It also has to do with emissions from the plant itself. In regard to the fugitive emissions, EPA has taken this up as a special and important study.

And so we have been asked to put in place a two-year moratorium presuming that the results of the EPA study will be available by then. That's the main bill. And the amendment addresses the main bill and continues with concern for the environment.

It would say clearly that it does not affect any plant which is operating with a permit to operate today and it decides to reconstruct or otherwise improve their facility.

THE CHAIR:

Question is on adoption of Senate Amendment A.

Will you remark? Senator Somma.

SEN. SOMMA:

Thank you, Madam President. Question through you to Senator Daily.

THE CHAIR:

Please proceed.

SEN. SOMMA:

Senator Daily, I just wanted to get a clarification. On line 20 of your amendment you mentioned that an existing facility with a permit to operate, can you just explain to me what that means? That, in terms of -- is the intention that a facility that has a permit to operate at the time of passage?

THE CHAIR:

Senator Daily.

SEN. DAILY:

This talks -- this addresses that issue and everyday common sense parlance. Any facility which is now operating with a permit to operate is not affected

by the main body of this bill, and is affected by the amendment which says they may upgrade that facility in every way acceptable to environmental concerns. And with the result that the air emissions are reduced.

THE CHAIR:

Senator Somma.

SEN. SOMMA:

Okay, and just secondly, can you tell me whether the Waterbury, Colchester, and Bridgeport facilities would be subject to the two-year moratorium? Just for clarification and legislative intent.

THE CHAIR:

Senator Daily.

SEN. DAILY:

Thank you very much, Madam President. And through you, Madam President. Facilities now under construction in Waterbury, Colchester, and Bridgeport, are in fact the subject of the moratorium. They are the ones which are not operating with a permit to operate as of this date. And their operations will be delayed for the two-year period effective on passage of this bill.

THE CHAIR:

Will you remark further on Senate Amendment A?

Senator Cook.

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Senate

Tuesday, April 28, 1998

001591

SEN. COOK:

Thank you very much Madam President. Just for a procedural question at first. Senator Daily was describing both the amendment and the bill as a whole. I will speak to the amendment at this point. Will there be an opportunity after we vote on the amendment to discuss the bill?

THE CHAIR:

By all means, there will be that opportunity.

SEN. COOK:

Thank you very much. Through you, a question to the proponent of the amendment. Could existing facilities that have an operating permit upgrade and increase production if they remain within the confines of their emissions permits under this amendment?

THE CHAIR:

Senator Daily.

SEN. DAILY:

Thank you very much, Madam President. And through you Madam President, the language says specifically that it results in reduced emissions of air pollutants. There are two reasons for that. One is the very accurate and expected presumption that any sort of upgrade would result in improved air emissions. The second addresses the underlying cause for the

underlying bill. And that is any increase in air emission.

THE CHAIR:

Senator Cook.

SEN. COOK:

Thank you very much. I'm not sure that that addressed the question specifically. I will pose it in perhaps a different way. Through you to Senator Daily. Will this amendment allow an existing permitted facility to upgrade and to increase production if it stays within the confines of its permit?

THE CHAIR:

Senator Daily.

SEN. DAILY:

Thank you very much, Madam President. And through you Madam President, it must result and produce reduced emissions. Reduced below what they're emitting today.

THE CHAIR:

Senator Cook.

SEN. COOK:

Thank you. I take that as a "no." Then I would also ask, what incentive would there be for the existing facilities in the state, and I understand they number about 37, that have permits to operate, to provide the ability to reduce emissions under a two-

year moratorium under this bill?

THE CHAIR:

Senator Daily.

SEN. DAILY:

Thank you very much, Madam President. And I thank Senator Cook for asking that question, because it is important. There is neither in the bill, nor in the amendment, an intention to provide incentives for any asphalt plant in operation now.

What is intended is to provide them the ongoing ability to conduct their business and to improve their facilities if they choose. And it's intended specifically not to interfere with that operation of business.

THE CHAIR:

Senator Cook.

SEN. COOK:

Thank you very much. Under this amendment will a facility be able to increase production if it reduces its current level of emissions?

THE CHAIR:

Senator Daily.

SEN. DAILY:

Thank you very much, Madam President. Yes, and I think it's quite obvious that it does not address

production limits. It only addresses the matter of air emissions. So, if a new facility, an upgraded facility, resulted in increased output, that would be certainly acceptable and permits would be obtained for that manufacturing portion of it. As long as it reduced air emissions. That would be the environmental concern.

THE CHAIR:

Senator Cook.

SEN. COOK:

Thank you very much. Would a facility under this amendment be allowed to move to another location if it reduces its emissions, regardless of the amount of production?

THE CHAIR:

Senator Daily.

SEN. DAILY:

Thank you, Madam President. And through you Madam President, the language is obviously silent on that portion as well. It attempts to not interfere with any business practice. So if they have an operating permit, they're in operation today, and they choose to continue operations in an upgraded facility at a different location, they would be subjected to the local regulations of that different site. But they

production limits. It only addresses the matter of air emissions. So, if a new facility, an upgraded facility, resulted in increased output, that would be certainly acceptable and permits would be obtained for that manufacturing portion of it. As long as it reduced air emissions. That would be the environmental concern.

THE CHAIR:

Senator Cook.

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THE CHAIR:

Senator Daily.

SEN. DAILY:

Thank you, Madam President. And through you Madam President, the language is obviously silent on that portion as well. It attempts to not interfere with any business practice. So if they have an operating permit, they're in operation today, and they choose to continue operations in an upgraded facility at a different location, they would be subjected to the local regulations of that different site. But they

would not be prohibited by this legislation from operating on another site.

THE CHAIR:

Senator Cook.

SEN. COOK:

Thank you, Madam President. Do I -- that's an interesting answer. Would I be correct in interpreting this answer as saying that anyone of the 37 facilities in Connecticut that have current operating permits would be allowed to move to another location, within local zoning of course, and operate a new facility under a old permit, as long as they are reducing the emissions from the previous permit.

THE CHAIR:

Senator Daily.

SEN. DAILY:

Thank you, Madam President. And through you, Madam President. Yes, it does not permit a move. It addresses their operating permit. And it does not address where they locate. So if you, as Senator Cook's Asphalt Plant, wanted to put your asphalt plant in a different location, it does not prevent you in any way from doing that. But you're then subjected to all the rules that you otherwise would have been. And all the regulations.

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THE CHAIR:

Senator Cook.

SEN. COOK:

Thank you, Madam President. Thank you. That would mean then that if the bill is amended with this proposed amendment that the 37 existing facilities would be the total number of permitted facilities, regardless of where they're located in the state. They'll be 37 permits, period. Is that correct?

THE CHAIR:

Senator Daily.

SEN. DAILY:

Thank you very much, Madam President. And through you, Madam President. That's another fairly important question, because no, it does not require 37 permits. This clearly would prevent their from being in existence any more than 37 permits during the next two years.

But it is feasible or imaginable, or considerable, that a company might have two plants on one location, for instance, and want to make that one more efficient operation. So, if that were to happen, that then would likely reduce the number to 36. So it doesn't require 37 permits.

THE CHAIR:

Senator Cook.

SEN. COOK:

Thank you. I'm not sure that I said "require."  
What I said was, they'll be no more than 37 permits if  
the bill as amended passes. Is that correct?

THE CHAIR:

Senator Daily.

SEN. DAILY:

Thank you, Madam President. That is very correct.  
That would be applicable for the next two years.

THE CHAIR:

Senator Cook,

SEN. COOK:

Thank you. I'll save the rest of my questions  
after we vote on the amendment. Thank you, Madam  
President.

THE CHAIR:

Thank you. Will you remark further on Senate  
Amendment A? Will you remark further? If not, I'll  
try your minds. All those in favor indicate by saying,  
aye?

SENATORS:

Aye.

THE CHAIR:

Opposed nay? Aye's have it. Senate A is adopted.

Will you remark further on the bill as amended?

Senator Cook.

SEN. COOK:

Thank you very much, Madam President. I will try to be as brief as possible. I know we don't have another dinner to go to right now. We're all well-fed and paying attention. But there are three areas that I want to discuss regarding the bill as amended.

One would be the fiscal policy of governmental regulation of competition, and restriction of competition. The second is the environmental policy regarding the inability to invest in improvements in environmental quality.

And the third would be the possibility of a cost to the state on the taking of personal property rights as a result of government regulation at this time. First regarding the fiscal implications. I think we've established that there are 37 existing permits for asphalt batching plants in the state. How many of these plants, through you to the proponent of the bill, are operated by the two largest companies in the state?

THE CHAIR:

Senator Daily.

SEN. DAILY:

Thank you very much, Madam President. And through

you, Madam President, I would not be able to answer that. I have no idea who operates and owns any plant in the state. There's one in North Branford, that I've driven past on occasion. I think I know who operates - - who owns and operates, but I have no idea.

I'm not involved in that business. I don't think I have first hand knowledge of anyone involved in that business except the person who has the permit to construct the Colchester plant. I've met him in dealing with this, this moratorium.

THE CHAIR:

Senator Cook.

SEN. COOK:

Thank you very much, Madam President. For purposes of legislative intent, I'll answer the question. Twenty-seven of the 37 permitted plants in this state are operated by the two largest companies. What is the range of the average price of metric ton of asphalt charged by the successful low bidders for the DOT contracts?

I'm trying to get, of course, in this question to the fiscal policy implication of government regulation of expansion of this industry. Is there going to be a fiscal cost because of the batching costs of asphalt per ton?

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THE CHAIR:

Senator Daily.

SEN. DAILY:

Thank you very much, Madam President. The questions raised about cost per ton would be matters of cognizance for the Committee on Transportation, and have in fact no impact on this bill. It is, as I understand it, a competitive market at this time. It is, in my experience as First Selectman, a competitive market. And there is no fiscal note in that regard that OFA has attached to this bill.

SEN. COOK:

Thank you very much, Madam President.

THE CHAIR:

Senator Cook.

SEN. COOK:

In -- just for legislative intent, the information from the Department of Transportation contracts are that the range of average price is \$32,729 to a high of \$43,565. A difference of \$11,836 per mile. And if it is true that this policy could result in a fiscal impact of reduction of competition, since more than two-thirds of the companies, of the permits are owned by two companies, I personally believe there may be a fiscal impact to the municipalities in having a higher

price to pay for their asphalt. The next question I'd like to ask.

SEN. DAILY:

Excuse me.

THE CHAIR:

Senator Daily.

SEN. DAILY:

Thank you very much, Madam President. I would just like to address that portion of it, and let you know that in a conversation yesterday with the Department of Transportation officials in regard to another matter, they talked about how infrequently municipalities take advantage of the state bidding process.

And those rates that you just informed -- so kindly informed the Senate about, are perhaps in many cases higher for municipalities. And they, at this point, fail to take advantage of the savings that are available to them through the state bidding process.

THE CHAIR:

Senator Cook.

SEN. COOK:

Madam President, those were the state bidding process costs. And if they are indeed lower, then I hope the municipalities use them. But my concern is,

that by restricting the competition, we may be driving those even low prices, higher. And that was the purpose of that intent to question. I'd like to move on --

SEN. DAILY:

Excuse me, Madam President. Through you, Madam President.

THE CHAIR:

Senator Daily.

SEN. DAILY:

Through you, Madam President. I think it must be stated very, very clearly that there is no intention in this bill, or in the amendment that we passed to restrict competition anywhere, or in any manner. We have 37 competitors at this time.

If for a small period of time, two years, restricts the ability of any company to go into operation and that is done with the overriding concern of the public health and safety of the people of Waterbury, the people of Bridgeport, and the people of Colchester.

THE CHAIR:

Senator Cook.

SEN. COOK:

Thank you, Madam President. I was not implying,

and I don't believe we should leave on the record that there are 37 competitors. There are 37 permits. And I have already stated that 27 of those permits are owned by two companies. So it would be inaccurate, unfortunately, to leave on the record that there are 37 competitors.

I would like to move onto the environmental implications of the bill. I am -- one of the concerns and questions, and frankly I don't have the answer to this. Although I did have the conversation with the Commissioner of DEP at lunch on Friday, is the effect of this moratorium on the hoped-for ash recycling facility that we wish to be able to produce "ashphalt" by mixing it with asphalt, and the incinerator ash through a process approved in Pennsylvania and underway in a way in Connecticut.

Will this moratorium prevent the towns that are participating in the incinerators that are paying very high tipping fees for the disposal of ash, will they now have unintended, perhaps, result of not being able to see the lower tipping fees because ash will not be able to be recycled in the new asphalt, ashphalt, recycling batching facility?

THE CHAIR:

Senator Daily.

SEN. DAILY:

Through you, Madam President. I have not had benefit of having lunch with the Commissioner, nor having that direct conversation over lunch, but there is no intention of preventing any ash recycling. There will be as much asphalt available to the entire state next month as there is today.

And if the Commissioner has concerns that this could interfere in that process in any way, I know he didn't bring them to me. And I'm quite sure he hasn't brought them to the Governor. And that surprises me, in fact that there is a concern.

THE CHAIR:

Senator Cook.

SEN. COOK:

Thank you, Madam President. Then could we leave on the record for legislative intent, and that's really all that the purpose of this line of questioning is about, that it is the Chairman of the Environment Committee's intention that this moratorium that we are proposing would not affect the operating permit that we hope to be have granted for an ash recycling facility for the purposes of asphalt/ashphalt paving.

THE CHAIR:

Senator Daily.

SEN. DAILY:

Thank you very much, Madam President. And through you, it certainly is Senator Cook's prerogative to include any information that she would choose to be part of the record for this particular bill. However, I think it speaks for itself. There is nothing in here that addresses anything of the nature about which she questions. It's the siting of asphalt batching facilities.

THE CHAIR:

Senator Cook.

SEN. COOK:

Thank you, Madam President. I don't wish to put words in the mouth of the Chairman of the Environment Committee, but I think you meant "ash" not asphalt. This, the bill is about asphalt batching facilities. I was asking if the bill would apply to the ash recycling facility for batching asphalt with ash recycled product to make a paving material. With this moratorium affect the ability for the state to have such a plant newly operating within the next two years?

THE CHAIR:

Senator Daily.

SEN. DAILY:

And thank you very much, Madam President. And

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through you, Madam President, my answer must be the same. The bill addresses simply the siting of asphalt batching plants. Asphalt batching facilities. Asphalt batching is a particular process. This bill does not address ash recycling.

SEN. COOK:

Thank you very much. That's --

THE CHAIR:

Senator Cook.

SEN. COOK:

-- responsive to my questions, and I appreciate that. Will the moratorium reduce emissions of the plants of the 37 existing operating facilities?

THE CHAIR:

Senator Daily.

SEN. DAILY:

Through you, Madam President, the bill in and of itself will do nothing to reduce the emissions at the 37 operating facilities. There could be cases in which the volume is less and the emissions would be less. There could be cases in which they would upgrade some part of their interior workings in order to reduce emissions.

The intention of this bill is to not add further emissions to the air of the State of Connecticut and in

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particular as they affect those people in Bridgeport, and Waterbury, and Colchester. Until we know more about the fugitive emissions caused by asphalt.

THE CHAIR:

Senator Cook.

SEN. COOK:

Thank you very much. Is there anything in this bill that improves the environment and the working conditions of the workers who are at the paving facilities that work with the asphalt from the existing 37 plants?

THE CHAIR:

Senator Daily.

SEN. DAILY:

Through you, Madam President. This bill addresses the moratorium on the siting of asphalt batching facilities. It does not take up federal OSHA standards which would govern those conditions.

THE CHAIR:

Senator Cook.

SEN. COOK:

Thank you very much.

THE CHAIR:

Senator Daily.

SEN. DAILY:

I might add, that it would seem premature, and I would think the business community would think it premature to do more than place a moratorium on the construction at this juncture until the EPA results are known.

THE CHAIR:

Senator Cook.

SEN. COOK:

Thank you very much, Madam President. I'd like to move to the issue of the possibility of the taking. The fiscal note on the bill raises a concern that there indeed could be a lawsuit resulting from the moratorium on an operating permit after a permit to construct has been offered.

I have concern that this taking could be anywhere from a million to \$2.5 million. And I would appreciate comments from the Chairman of the Environment Committee on the prudent fiscal policy of opening the state up to such a taking lawsuit.

THE CHAIR:

Senator Daily.

SEN. DAILY:

Through you, Madam President. I think that we have to look at this in terms of the information given to us by OFA, as well as the overriding concern for the

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health and safety of the individuals affected. The Attorney General did not say that this would be a taking. What the Attorney General did say is, it would fall within the normal budget parameters if there were an issue about a taking.

And I must say that we have many bills that come before us that would perhaps give rise to people talking about a taking issue. And would give rise to certain entities threatening to file for a taking issue. But that is not the same as a taking.

THE CHAIR:

Senator Cook.

SEN. COOK:

Madam President, thank you very much. I would like clarification, if I could, on the Attorney General's opinion on this. It seems to me that what you're saying, and correct me if I'm wrong. If the Attorney General says that the issue could be within normal budgetary allocations for the Attorney General's office to cope with a lawsuit, that does not translate necessarily to an award, should there be a successful taking awarded by the court. He is, I think, referring to the legal defense that the state may have to put up with staff from his office. But not necessarily referring to the amount of a settlement, or an award.

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Is that correct?

THE CHAIR:

Senator Daily.

SEN. DAILY:

Through you, Madam President. I would never presume to put words in the mouth of our esteemed Attorney General or his office. But he did not say to us is that this presumed to be a taking. He did not say this is a case we could lose on a taking issue. He did say, a suit that would be filed would be in the normal course of business.

And I dare say, if you look at the experience of the Department of Environmental Protection, there are a lot of laws that we have passed that give rise to lawsuits. Whether it's our efforts to protect or preserve, or challenge that which somebody else does.

THE CHAIR:

Senator Cook.

SEN. COOK:

Thank you, Madam President. I appreciate the Chamber's indulgence of my questions and putting information on the record. It did not take nearly --- it took longer actually than I thought it would today, but it certainly did not take nearly as long as some people feared, nor would it have on Thursday, but thank

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you very much for the opportunity to debate the bill.

Thank you.

THE CHAIR:

Senator Daily.

SEN. DAILY:

Thank you, Madam President. If there's no objection, I would move this to the Consent Calendar.

SEN. COOK:

I object.

THE CHAIR:

There is objection. In that case, would you care to respond further? Senator Somma.

SEN. SOMMA:

Thank you, Madam President. I just wanted to thank Senator Daily for her responses in acknowledging through legislative intent that the fact Bridgeport, Waterbury and Colchester facilities are, in fact, under the moratorium that's proposed in the bill.

I'd also like to acknowledge the leadership of Governor Rowland in proposing a moratorium to address community health and safety concerns, not only in his home town, but he's demonstrated state wide concern for the communities of Bridgeport and Colchester. So I'd like to acknowledge that and thank him for his leadership on this.

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THE CHAIR:

Thank you, sir. Senator Upson.

SEN. UPSON:

Thank you, Madam President. I rise in support of this bill. There's a proposal in Waterbury in my district, that would affect not just Waterbury but the entire Naugatuck Valley, since the air flows down to Naugatuck. I propose, and support the moratorium.

I just want to say that somehow, some of the businesses in downtown Waterbury have gotten permits, and we are the last to know. By the time they get a permit, there's nothing we can do about it. And we've had such businesses of a group that burns, it's called "dirty soil," so to speak. Soil that has contaminants.

We also have a plant, this proposed plant was going to add to it. We have several chemical companies in Waterbury that use the Naugatuck River, unfortunately. We also have a storage facility for different contaminants.

And while this moratorium of two years will alleviate some of the problems we're having, because these all are near residential districts. They're all in roughly the northern -- actually they go along the river. So they affect the entire City of Waterbury. And add to that the waste treatment facility, which

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also is a major problem with pollutants, or has one. But also during this session, besides this moratorium, we should have some notice -- some bills from the House coming up on notice.

So legislators and the public will have notice in advance of the permitting process, so we can have a say in our neighborhoods. So that the neighborhood of a large city will not be subject to industries which generally hurt the health of a public.

So, I thank the committee for supporting this bill, and I ask that you also look into these other bills that make the public's right to know even greater, so that we don't need a moratorium bill like this. Instead we can have the notice provided as individual projects come before each town, and the public can be part of the process. Thank you. I have no objection of going to the Consent Calendar, if that's what the Committee Chairman is asking.

THE CHAIR:

Senator Daily.

SEN. DAILY:

Thank you very much. And I thank the Senators for their comments as well. And I think it is important to note for appreciation, the initiative of the Governor. And to recognize, as Senator Upson did, the activism of

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local neighborhood groups who have proven once again that you can fight city hall, and you can fight the state house, and you can take concrete and substantive steps to protect your property rights and your health rights.

THE CHAIR:

Senator Penn.

SEN. PENN:

Thank you, Madam President. I just rise to throw my support behind the passage of this bill, and thank everybody who was involved in that process and the Governor, and the chairlady, and the committee. And I also stand in full concurrence with Senator Upson's remarks.

Particularly, I know it's been happening in my town. Unfortunately, it's been a history of so many of these bad endeavors and so-called good projects always placed on certain areas of towns where it affects the most of our elderly and our poor.

Seems like it gets to be a systematic way of life. What I also don't understand how we just keep talking about restriction of competition when the issue should be about public health. Quality of life issues. You talk about 11,000 so many dollars per mile as parting, putting asphalt down.

I don't know what it cost for a new pair of lungs. Or, what the going rate is in the hospitals when most of our seniors and those affected by these process has to sit on respirators. Not enough of the conversation of the questioning as far as my concern has been to the quality of life.

And I most surely would restrict anything that brings down the quality of life and puts into spiral motion downwards, particularly affecting those that are least able to protect themselves. Just wanted to say those few things, Madam Chairman, cause I think it very strongly about that. About the issue, I want to be short.

Cause so many times our debates, are unnecessary debates about the wrong issue. Subject matter comes out and not getting to the heart of the issue. Lot of dialogue, lot of rhetoric about the wrong things. And not for the right reasons. But I urge its passage. Thank you, Madam Chairman.

THE CHAIR:

Thank you, sir. Will you remark further? Senator Scarpetti.

SEN. SCARPETTI:

Thank you, Madam President. This will be very short. Madam President, I wholeheartedly agree with

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this bill being passed. As Senator Penn alluded to, there are two asphalt plants going on in my City of Bridgeport. And people are very, very angry. In fact, last night there were about 600 people at a town meeting in the city hall.

And they were very, very vocal. And I know they'll be very happy. So I do -- I'm not going to prolong this, Madam President. I just want to thank all my colleagues for realizing that there is a problem. And I thank the Governor, and thank you, again very much.

THE CHAIR:

Thank you, Senator. Will you remark further on the bill as amended? Senator Handley.

SEN. HANDLEY:

Thank you, Madam President. I, too, am very much in support of this bill. And I particularly want to thank Senator Daily for her very rapid response to the needs, not only of her own constituents, but the rest of the general area around Colchester. I'm very proud to be part of this effort. And I thank you very much for your work.

THE CHAIR:

Will you remark further? Will you remark further? If not, will the Clerk please announce a roll call

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vote, the machine will be open.

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 ordered in the Senate. Will all Senators please return to the Chamber.

THE CHAIR:

Have all members voted? If all members have voted, the machine will be locked. Clerk please take a tally.

THE CLERK:

Motion is on passage of SB597 as amended.

Total Number Voting	34
Those voting Yea	32
Those voting Nay	2
Those absent and not voting	2

THE CHAIR:

The bill is passed.

SEN. DAILY:

Madam President, I would ask for immediate transmittal to the House. Suspension of rules, and immediate transmittal to the House.

THE CHAIR:

Motion is for suspension of the rules. Without

JOINT  
STANDING  
COMMITTEE  
HEARINGS

ENVIRONMENT  
PART 4  
1071-1421

1998

001200

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ENVIRONMENT

March 11, 1998  
1:00 p.m.

PRESIDING CHAIRMEN: Senator Daily  
Representative Stratton

COMMITTEE MEMBERS PRESENT:

SENATORS: Handley

REPRESENTATIVES: McGrattan, Nystrom,  
Collins, Maddox, Piscopo,  
Prelli, Roraback, Abrams,  
Backer, Caruso, Davis,  
Mikutel, Mordasky,  
Mushinsky, Roy, Wallace,  
Widlitz

JENNY CONTOIS: (Inaudible-not using mike. Tape started  
in the middle of this testimony.)

SENATOR DAILY: Thank you very much. Are there any  
questions of the First Selectman? Thank you. I  
have a question, I'm sorry. The language that was  
distributed that was sent to our office from the  
Governor's office, does that in your estimation  
provide the kind of protection that people in  
Colchester are looking for? Did that affect you?

JENNY CONTOIS: (Inaudible-mike not on)

SENATOR DAILY: But as drafted, it doesn't, is that what  
you're saying? Okay, thank you. The next speaker  
to have signed up is Robert Lee, the Town Manager  
of Hebron, followed by Representative Joan Hartley.  
Good afternoon.

ROBERT LEE: (Mike not on.) My name is Robert Lee. I am  
the Town Manager of Hebron. I'm here to speak in  
favor of the passage of Proposed SB597.  
(Inaudible) will be located approximately 500 feet  
from the Hebron town border. The emission from  
this asphalt plant will affect Hebron's citizens  
and our quality of life.

Several years ago the Town of Hebron along with the

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ENVIRONMENT

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Town of Colchester requested an interim change in the location of (inaudible) with the conservation and development of a policy (inaudible-mike not on) of Connecticut, 1992 to 1997 otherwise known as (inaudible-mike not on)

In November, 1993 William Cibes, then Secretary of OPM recommended that the requested be denied because the proposal quote did not conform to the locational strategies of the C&D Plan, unquote. It was inconsistent with the conservation values associated with the Salmon River and its tributaries.

The Hebron/Colchester proposal called for a (inaudible) for any proposed development. It was opposed by OPM because the Jeremy River was and is one of the few river corridors recognized by the C&D Plan as having significant unbroken stretches of scenic and natural resources with high potential for outdoor recreation opportunities.

The Department of Environmental Protection made the following comment with respect to the Jeremy River and I quote, no proposal for development should be allowed which would diminish the (inaudible) quantity or quality of these streams in any way, especially important are sedimentation for which the Jeremy River (inaudible) particularly vulnerable, excessive storm water run off. The entire water shed (inaudible), chemical contamination. Specifically speaking petroleum resident for parking lot which can interfere with salmon (inaudible) and loss of our (inaudible) vegetation.

Petroleum contamination (inaudible-mike not on) It is highly unlikely that intensive development typical to industrial parks can occur without resulting in some (inaudible-mike not on.)

I could not think of a more intense industrial development than an asphalt (inaudible) plant.

(TAPE WENT BLANK AT THIS POINT.)

SEN. DAILY: Thank you very much. Are there questions?

Senator Handley.

SEN. HANDLEY: Thank you, good afternoon, Mr. Lee, how are you? I'd like you to comment at least a little bit on the issue of the roads that the asphalt trucks would be driving over. I was a little late. I don't think you discussed that in your testimony, but the area of fugitive emissions and the roads I think are of some significance.

ROBERT LEE: (Mike not on) There is concern in the community that that roads will be, trucks will be passing by and the possible effects of fugitive emissions will affect such facilities as the Hemlock facility which is located on (inaudible) Street (inaudible). That's a facility that handles (inaudible) a lot of handicapped children, adults who would be particular susceptible to the possible effects of this plant. We see some facilities in the area (inaudible.)

SEN. DAILY: Thank you. Are there other questions? Mr. Lee, I know your testimony addresses SB597 and the plant in Colchester. But does your town, have they adopted any ban on asphalt plants for your town?

ROBERT LEE: Well, our town under our planning and zoning regulations, we do not have provisions in our regulations that will allow (inaudible-mike not on) Our community in wrapping up the planning and zoning regulations did not see such a facility as something that (inaudible-mike not on) was not something that we thought was appropriate for our community. (Inaudible-mike not on) we were talking about something along the lines of a business park, something that would be not industrial, but something that would involve you know, perhaps some research and development, you know (inaudible) and even at that point the (inaudible) very strongly against this and it's just very disturbing to me that them knowing that this was perhaps on the boards could have done something back then to prevent us from being in the situation we're in today.

SEN. DAILY: So you think that your zoning language precludes the development of an asphalt plant but

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you don't have a prohibition.

ROBERT LEE: (Inaudible-mike not on)

SEN. DAILY: And your testimony was on SB597 but do you have any comments on the language that's been delivered by the Governor's office that it's a moratorium or across the board.

ROBERT LEE: Oh, I agree wholeheartedly that perhaps a moratorium (inaudible) immediately and maybe some consideration (inaudible) ban within certain distances is something that should be considered later. I think a moratorium (inaudible) should come first. I believe that the DEP has not come forward to explain their standards to a degree that people are going to be scared about building. I think that there's some unknown (inaudible-mike not on) but I think it deserves more study.

I think that there's a lot of questions to be answered about the (inaudible-mike not on) allowing another (inaudible) natural gas power plant is more efficient. Why is it that our regulations still have it? (Inaudible-mike not on)

SEN. DAILY: That's an answer to a question I didn't ask. Any other questions? Thank you very much for your time, Mr. Lee.

ROBERT LEE: Thank you.

SEN. DAILY: Representative Hartley, followed by James Stahl and David Leff.

REP. HARTLEY: (TAPE WENT BLANK AT THIS POINT.)

SEN. HANDLEY: I have one question. The bill, SB597 calls for a one-third mile buffer. In your looking at this issue, do you feel that that is sufficient, that the third mile from the outside perimeter is big enough.

(TAPE WENT BLANK AT THIS POINT.)

DAVID LEFF: Senator Daily, members of the Committee, it's good to be with you on this blustery March

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SEN. DAILY: Are there any other questions on those two bills?

DAVID LEFF: Thank you very much. At this time I'll yield to Assistant Commissioner Stahl.

JANE STAHL: Good afternoon Senator Daily, ladies and gentlemen of the Committee. It's a pleasure to be before you this afternoon, although it's a little less of a pleasure now that I know you've got a question on recycling that I might not be prepared to respond to.

There are four bills that I would like to present testimony on this afternoon and I'll take them in numeric order so as not to cast any import on one as opposed to another.

The first bill is SB413 AN ACT CONCERNING EXEMPLARY ENVIRONMENTAL MANAGEMENT SYSTEMS. The Department supports the concept of developing programs that encourage business and industry to conduct their operations in an environmentally sound manner. We have in fact been working with our colleagues at EPA, with our colleagues in industry and business to develop appropriate programs to enhance the ability to comply with our regulatory programs and in fact, to enhance compliance with those programs.

We do have some minor changes to the bill to provide more flexibility in creating and implementing a successful program. Most of the changes are in fact resource related. We suggest that expedited review of permit applications be made one of the variety of discretionary benefits that the Department can provide under this kind of a system.

The advisory board that's discussed in Subsection d we believe would best be suited to assist DEP on general policy direction and to make recommendations on applications, but it should continue to be the Department's responsibility to formally approve applications.

In addition, we've demonstrated a commitment to working with advisory boards through our various

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changes that we've identified and would be very happy to work with the Committee to provide language to effectuate those changes.

Lastly, Raised SB597 AN ACT CONCERNING THE SITING OF ASPHALT BATCHING FACILITIES. We have several comments concerning this proposed bill. First of all, as currently drafted, we're concerned that the SB597 would be applicable only to one type of asphalt manufacturing facility and we think it should be amended to apply to include continuous mixed asphalt facilities as well as asphalt batching facilities so as not to inadvertently exclude facilities which may be of concern.

Secondly, as this proposal addresses the siting of a particular land use, we believe it is most appropriately implemented through local land use authorities. This would allow the public to be advised of and comment on applications before local land use boards and commissions to address siting concerns within their purview.

As you know, like many other facilities, the owners or operators of asphalt facilities are required to apply to the Department for environmental permits before they begin to construct or operate facilities.

The Department's considerations and the public's comments to us must focus on the ability of any proposed activity to meet specifically established standards regarding air and water quality. We would request that if this bill is adopted, it be adopted as an amendment to title 8 of the General Statutes relating to local land use authorities.

To the extent that it is expected to apply to pending permit applications before the Department of Environmental Protection, we would suggest that it clearly establish a date beyond which pending applications with the Department would be affected.

Additionally, as you know, the Governor's office has asked the Department to review in conjunction with other pending studies, the effects of asphalt facilities. We support the Governor's proposal of

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a moratorium that was submitted to the Committee for your consideration.

The proposal that was circulated contains two components that are critical for the Department and that is a conclusion date for a moratorium and clear impact on pending applications before the Department. In addition to those two specific issues, we would request that any moratorium language provide the Department with specific direction as to the environmental impacts that you would like us to study or address for the pendency of the moratorium.

In brief, if there is in fact going to be a moratorium that will affect the Department's programs, we want to know what the expectation is by the end date of that moratorium. We don't want to be in the same position we are today. We want to know that we have used this time wisely and well to address the concerns of the Committee and the only way that we can do that is if you specifically identify for us the issues that you would like us to address.

SEN. DAILY: Thank you very much. I would just (inaudible-mike not on) questions on the bills in the same order that they were presented. (Inaudible) Representative Maddox.

REP. MADDOX: Thanks. You can relax. I actually am with you on it. What my question was, and my concern was, is not watering down the standards. I'm just curious, has the Department basically given any newspaper a waiver? SB439

JANE STAHL: I'm sorry?

REP. MADDOX: Has the Department as you said, on existing legislation now the commissioner is allowed to, if the newspaper cannot meet this recycled content they can come to him and request sort of a waiver from the law. Has the commissioner granted waivers?

JANE STAHL: I honestly don't know. I am unaware of any waivers that have been granted or of requests that

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wells.

SEN. DAILY: I think the Committee (inaudible-mike not on) Are there any other questions about SB371. SB571  
SB597. Everybody's hand went up. Senator Handley.

SEN. HANDLEY: Thank you. Thank you for your testimony. I have a number of questions that deal in part with process and then with this particular bill. You are arguing in the early part of your testimony that local authorities should be the most effective place to deal with issues of siting.

What role does the Department of Environmental Protection play if there is a local authority which can make a decision which has significant environmental effects on a neighboring town. Does the Commission have, or the Department have a role in that kind of inter-city concern, or municipality.

JANE STAHL: It really, I'm going to try and keep this fairly narrow, because of the type of facility that we're dealing with today.

I think it's critical for us to recognize that the Department's jurisdiction really addresses the standards and the emissions and discharge standards of things going out into the air, things going into the water, things going into the land regardless of where they are located which is a basic local zoning issue.

So to the extent that a municipality gives approval under its land use regulations, to a specific type of facility, and yet that facility needs to be authorized by the Department with regard to air or water emissions, the Department is not bound by the boundaries, if you will, of a municipality if the air quality impacts will fall beyond a town boundary, then that is something that the Department of Environmental Protection must consider within its statutory jurisdiction.

If the water quality impacts transverse town lines, then that is something that the Department of Environmental Protection must consider. The

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Department does not have any overarching land use authorities or ability to say that just because a land use is acceptable in one municipality it can then, the state can't just step in and say, but what about this adjacent municipality.

SEN. HANDLEY: So your job is once again, to test for the environmental impact regardless of the lines of the town.

JANE STAHL: Correct.

SEN. HANDLEY: Okay, another question has to deal with process. As I understand it, in a case such as an asphalt plant or the particular plant under construction, there's a two permit process, a temporary permit and then an operating permit. Can you explain that to me?

JANE STAHL: Not a temporary permit, but there is a two phase system, if you will. There are permits to construct and then permits to operate and that's, I'll call it a vestige but it's really too alive to be considered a vestige. It's a function of the way our statutes are written that there are two separate considerations and determinations that the commissioner must make.

SEN. HANDLEY: Is there a public hearing associated with each of these permits?

JANE STAHL: There is public notice associated with, upon a tentative determination by the Department of applications before it. Public hearings are in, with regard to the air permits are largely discretionary but in some instances may be required upon a petition by a certain number of people.

SEN. HANDLEY: So that public input is relatively modest, then, in this case.

JANE STAHL: That I think is not necessarily so. The public notice of tentative determination offers an opportunity for comment. Generally, if it's a non-hearing circumstance, there's a comment period through which any member of the public, any interested officials can send written comments into

the Department. If issues are raised that require interactive deliberation, we will often, you know, as a discretionary matter, either hold a public meeting or a public hearing or get interested parties together to make sure that the issues are fully explored and evaluated.

SEN. HANDLEY: Do you have any idea in the Colchester area issue whether there were public hearings held in the early stages of this construction?

JANE STAHL: I don't believe so. I know that we're in the process now, a bit awkward. We have on the application that is pending before us, we are in the midst of a public hearing to receive and evaluate, comment on the application to operate.

SEN. HANDLEY: It does seem a little late in the game, but that's another matter. How much do you rely on making your decision, in terms of giving a permit on earlier information. We've already had testimony about an earlier DEP report saying that this site was close to environment, the one in Colchester again, close to environmentally sensitive area. How much was that particular document, what kind of a part does a document such as that, what part does it play in a decision such as yours?

JANE STAHL: Let me, if I may, move this into the abstract because you know, again, we do have a pending application before the Department and I believe it would be inappropriate for us to discuss in this forum something that is before a hearing officer for adjudicatory purposes.

Let me suggest, however, that the standards and criteria of the Department are what guide both our, the information that we require and that we are allowed to take into consideration. If in fact there is information available, with regard to specific environmental considerations, that would be affected by the activity that is being proposed, that is taken into consideration.

Now again, I need to speak to you in the abstract because we have a pending decision before us.

There are, the Department cannot act outside the bounds of its authorities, however, and if an applicant comes to us under a statutory scheme that says if the emission meets the standard, then it is acceptable. There is really little room for us to make other considerations.

If, I guess I've said enough for some people. (Laughter) If the application pending before us is in fact subject to a wide range of considerations, then we can bring in additional information. So, for example, and again, speaking somewhat in the abstract, if we are dealing with a permit to operate a facility in accordance with the state's air standards, we can't in that instance, evaluate other than those air standards.

SEN. HANDLEY: I was talking about, in this case I was talking about a water issue. Is that equally the case?

JANE STAHL: Equally true. If we have, if a facility is under the regulatory jurisdiction of the Department, with regard to a water discharge, then our review of the proposed activity needs to involve all possible information to determine whether the facility can meet our water quality standards or can be conducted in such a way to insure that our water quality is protected.

SEN. HANDLEY: Presumably, an earlier report would be part of the evidence.

JANE STAHL: Could in fact be part of the evidence.

SEN. HANDLEY: Okay. If there is significant change in the operation or the plan of operation from the time the original permit is given and the operating permit is given, is that taken into consideration? If for example, the original permit provided for a modest kind of activity and the operating permit calls for a significant expansion of that activity, is that a factor in granting, is that change a factor in granting such a permit?

JANE STAHL: That would, in fact, be a consideration.

SEN. HANDLEY: Finally, the two bills, there is a bill before us and SB597 and then there is the moratorium which the Governor has proposed. Is it your understanding that either this bill or the moratorium would have the effect of stopping the operation of the plant in Colchester?

JANE STAHL: Stopping an existing plant from operating?

SEN. HANDLEY: The plant is under construction. It is not in operation.

JANE STAHL: My understanding is and again, it depends on the specific language that is adopted, but both of these bills purport to address pending applications before the Department. If that is made clear, then in fact and a decision is not made on the Colchester application prior to the enactment of this legislation, then it would take effect. In other words, the legislation would take effect and apply if the application is still pending. Is that clear, or did I --

SEN. HANDLEY: I'm not sure it's totally clear.

JANE STAHL: I'm sorry. Let me restate it then, because I, let me back up. The Governor's moratorium language says that it is to apply to pending applications. If that language is put into law before the application, the Colchester application is decided, then it would in fact stop our continued processing of that application.

SB597 as I said in my testimony, if it is going to be implemented through the Department, we'll need to make that factor clear as well.

SEN. DAILY: I'd like to remind Committee members and all the people who are here to offer testimony and hear discussion of all these bills, that we are not here to discuss the body of the application made by any plant to DEP. What we're looking at, in regard to the asphalt plant, two proposed bills and a concept that was provided by the Governor's office which was language on a moratorium.

And in order not to cross the line and have some

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effect we can't have on a pending application, or to put anybody in a position of not being able to answer questions, I'd like to ask us all to remember that distinction as we proceed with questions. Representative Mushinsky.

REP. MUSHINSKY: Thanks. I have three questions. First, you mentioned that DEP considers this a local siting issue and I know that in many towns they really don't have the health department staff to analyze what a buffer would look like.

Therefore, wouldn't it be more appropriate if your agency and the Department of Health analyzed how large a buffer is recommended rather than leaving it up to local land use decision making.

JANE STAHL: I think that that's precisely the kind of question Representative Mushinsky, that if you want us to evaluate, needs to be clearly articulated either within a moratorium statute or within some other language to give us the capability to in fact look at those issues.

REP. MUSHINSKY: Okay. I'd suggest that it's more than land use. There's really some environmental health aspects here, too and maybe you're better equipped with your staff to help analyze that.

JANE STAHL: Again, if in fact there are environmental health issues arising from this specific type of facility that the Legislature would like for us to address and recommend buffer areas or operating distances and the like, then that's something that we should be specifically directed to do.

REP. MUSHINSKY: Okay. Second question is, a previous witness talked about waiting for EPA to finish a study. Do you know what they're referring to and when the study will be finished?

JANE STAHL: What they're referring to is a study that EPA is conducting and for which there actually is a draft response that is looking at the measurable fugitive emissions. In other words, what emissions are being generated and disbursed from asphalt plants. I believe, if my understanding is correct,

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these are not necessarily smokestack emissions if you will, but the emissions generated as the asphalt is being loaded into trucks, other vessels or vehicles for movement.

REP. MUSHINSKY: And what's the time table for that study?

JANE STAHL: My understanding is that they wanted to conclude the study some time this summer and I'm going to look around, I thought I brought someone who could assist me. Is it this summer? They're shooting for some time this summer. As I said, we've got the draft study and we're reviewing it. Part of my hesitancy in talking about it is that you know, we were not involved in developing the protocols or the scope and extent of the study so we're still in the process of reviewing that.

REP. MUSHINSKY: Okay. And the third question is, the reason I asked that previous question, it was to see how the moratorium fits with that. And the third question is, when DEP is considering the environmental impact, are you also counting the effect of a new facility closing other older facilities? Are you looking at the cumulative or replacement effect as well?

JANE STAHL: In air permitting generally, or in asphalt?

REP. MUSHINSKY: In asphalt. My understanding is if this proposal comes in, it may mean that other ones are closed. And do you consider that whole net impact of the asphalt emissions?

JANE STAHL: I'm going to seek a little guidance in answering this question. I don't believe we do, because it would be too speculative to say that if there's a new plant and the market stays about the same, then logically an older plant would go out of business or would be removed from the scene. So I think on a plant by plant basis, I don't think we take that overall asphalt emission, you know, into effect. With me is Paul Farrell who's got more expertise on this issue.

PAUL FARRELL: Generally, it depends on the size of the

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source with air permitting and what we're requiring to do under the Clean Air Act. With the larger major sources that we permit, there are modeling requirements that basically requires the model of the emissions and the local impact as well, taking into account other emissions in the area.

JANE STAHL: I'm sure that this will be an unpopular comment, but in the scope of the Clean Air Act, the Department's clean air program, asphalt plants are not considered major sources. This is, you know, is not, they may be locally significant but they are not significant from an air quality perspective.

SEN. DAILY: Representative Collins.

REP. COLLINS: Thank you, Madam Chairman. Normally, the Legislature doesn't acquiesce to what I call NIMBY issues for NIMBY's sake, because what's not in your back yard is going to be in somebody else's back yard. And the Lisbon incinerator issue came to mind as I was, this is like the same sort of thing, it seems.

What I was wondering is, for somebody who has a pending application who has done everything according to Hoyle, like it or not, would this be, if we put a moratorium in or a stoppage of some sort, could this or would this be considered a taking. Would the state have liability, a financial liability to whoever it was. I'll give you three questions and you can spit them all.

The second is, I don't want to have dirt roads, but at the same time, I don't know of any shortage of asphalt. Is there a shortage? Is there an increased demand? Is there a reason for these plants now that has not been before us in the past.

And then following up a little bit on what Mary had asked, this EPA study, apparently coming out in the summer, so I was wondering if the study is coming out in the summer on fugitive emissions, should the moratorium be until that study comes out, or should it be until 1999, or the year 2000 like the Governor has requested, and do you have a feeling

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on any of that?

JANE STAHL: Let me work backwards. Again, as I suggested in my response to Representative Mushinsky, because we had not been involved in the development of EPA study, nor are we yet prepared to discuss its applicability to Connecticut or the extent of its responsiveness to the questions that you may have for us with regard to asphalt plants, I would not recommend that we tie the date of the moratorium to the end of EPA's study.

With that said, sufficient time for us to not only review a final EPA study but develop any additional either study, information needs or statutory protocols that might be necessary prior to the lifting of the moratorium would make me believe that two years is in fact an appropriate time frame.

I said I was going to work backwards. We are unaware of any shortage of asphalt, but that's not necessarily something that we keep track of.

And then the last, or your first question, my last response, give it to me again, Representative Collins, because I want to make sure --

REP. COLLINS: I was wondering (inaudible-mike not on)

JANE STAHL: I think that that's --

REP. COLLINS: I don't know if you can. How many (inaudible-not using mike)

JANE STAHL: Well, I believe there are two pending, three, I am corrected, there are three pending applications. Imposing a moratorium always raises takings questions, and I think that's why we need to be very careful and very explicit in precisely what we're doing.

The application to a pending permit is potentially a delay but not necessarily a denial of an application and I think that you know, there are folks way more capable than I in addressing the takings issue and investment backed expectations

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but my sense is that an appropriately constructed moratorium can be made to avoid a takings issue.

SEN. DAILY: Representative Caruso.

REP. CARUSO: Thank you, Madam Chair. Good afternoon, Commissioner. Bridgeport has two proposals for an asphalt burning plant. It's not really a NIMBY situation, it's a concern of our citizens in the city. If I could ask you a few questions.

Have any applications over the last year to year and a half been approved by the Department for this type of facility?

JANE STAHL: I would have to get back to you on that.

REP. CARUSO: I'd like to know if in fact all of them are pending or if in fact something has already been approved by the Department because I think that raises the question of retroactivity, you know, back to those plants that have already been put on line. So if you could provide that, I would appreciate it.

Another question. You raised the point about a two year moratorium, and I was wondering how you came up with that figure of two year, or if in fact you needed more than two years in order to fully study the issue?

JANE STAHL: Again, this is, two years appeared to be a reasonable amount of time given the fact that whether we're going to rely on it fully or not, we will have some basis for moving forward when EPA concludes its study this summer.

We are also not exactly working from square one. We do have information on asphalt facilities and their emissions, their general emissions rates and our concern and you know, again, at the risk of making a very unpopular statement, the documentation and the information that has been available to us to date indicates that asphalt facilities do not pose a significant health threat.

Now again, you know, we need to move forward and

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see and verify these things, work from the basis of EPA's study to see if in fact there's additional information that we need to gather, but two years appeared to be a reasonable time to both gather that information and come back to the Legislature if necessary.

REP. CARUSO: You're not, Commissioner, I hope not predetermining the outcome of this study by saying that so far all of your data to date shows no problems.

JANE STAHL: I am merely sharing with you the information upon which we have acted up until this point in time. As you know, asphalt plants are not new to the state. Our air quality and air emissions regulatory program has addressed them in the past.

REP. CARUSO: I think what's new to the state, though, if I could, Commissioner, this is where I probably, a lot of the questions are coming in as they're being now located or positioned in residential communities. A little different than years past and I think that's what's raising the questions.

If I could, other states, apparently there seems to be an onslaught recently of asphalt plants in Connecticut in different towns, in particular in urban centers and I'm just wondering, in other states, are there studies that have been done or other situations where the states have come up with data that your Department will be reviewing?

PAUL FARRELL: None that I'm aware of, but if there are, we'll find them and we'll review them.

REP. CARUSO: You raise some points, Commissioner, on topics that you had asked the Committee to review. If I may say, us being the lay people, we would really turn to you for the guidance as far as environmental expertise and study. But if I could suggest a few points of areas that maybe your Department could look at.

I would think public health issues would be an issue. I don't know if your Department does it or

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another department would look at that. I would look at, of course, the air and water quality issues that would be raised. Another issue I would raise, too, that maybe falls environmentally but often isn't studied is the quality of life issues in relation to environment. I think those are issues that are studied, for example, by Yale University in many of their studies. Not so much on the scientific data. That's been determined by the quality of life and its impact on the environment that it would have. Greenery, open space, things of that nature that that affected as well.

And I'd also like to see a review if you could possibly, as far as disparity sometimes that does exist within the state. For example, it appears that in urban centers and probably more than I would appreciate it, it appears that the cities are the ones that get the incinerators, the rock crushing facilities, all of the things that maybe are distasteful in other communities and I'd like to see a review done on the disparity that possibly is existing when you're locating such facilities throughout the state.

I think that would be helpful in making determinations so the questions of NIMBY don't continue to rise, but are addressed, you know, intelligently and factually on information that we could receive. I just would like some of your comments to those points.

JANE STAHL: I, you know, again, I believe that the Department will respond as it always has in the past to the direction of the Legislature. If you can define for us what you mean by quality of life and they are in fact issues that are within the Department's expertise and mandate, we will address them.

We need air quality, water quality, those are clearly things that are within our expertise and which are to a large extent the specifics that we address in reviewing applications before us.

One of the turns of phrase that you used in making

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your comment were considerations that we make when locating these facilities. We do not locate these facilities. We respond to applications that are brought to us.

The first line when a manufacturer, an industrial user, a residential developer, a commercial developer, their first view of the state is often on the basis of local zoning regulations. Are they in an industrial zone? Can they locate legally, with regard to local zoning and land use authorities, within that zone.

By the time they get to the Department of Environmental Protection, the siting decision has often already been made and has been governed by and directed by local land use plans. And that, I think you know, is a very important notion and one that we need to consider as we move forward here.

REP. CARUSO: I think if I could ask you, Commissioner, before you proceed. All I'm asking for, if the Department in fact can do that because in order for us to make proper policy, even on zoning issues, what should belong in towns, we need to see how, when you spread out over the state, where many environmental issues are being located and in particular, incinerators, rock crushing plants and the list goes on and on and on, medical waste burning and so forth, to see exactly the policy that's being directed and so that we can make and determine factually on whether or not we should be continuing to put more of those types of environmental requirements into cities or into urban communities.

If I could just ask you on the question of the quality of life affects, that maybe it isn't as quantitative as some of the other scientific data would be, but nonetheless it's becoming more and more an accepted study of dealing with quality of life issues as they relate to the environment and public health. That's also being used now to determine policies. It's being done throughout the country and I would only ask that your Department look at that as a part of your review of environmental issues.

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Often it's not just an area of water qualities, there's other issues that determine it. But thank you for your time, I appreciate it.

JANE STAHL: Thank you.

SEN. DAILY: Are there other questions? I have a question. The discussion about study. I'm quite confused about what that, what you're referencing. Is that the EPA study, and if it's not, in the Governor's language, or in the two drafted bills, there's no mention of study.

JANE STAHL: The study that has, I think we probably caused your confusion, Senator. There is an ongoing study by the Environmental Protection Agency and that is, that's basically in draft form at this point. The study has been virtually completed, I understand and there are some draft findings that we are currently reviewing.

If, however, there are additional areas that you, that the Legislature would like the Department to specifically address during a moratorium period, then we need for you to tell us that so that we can develop and conduct whatever investigations or studies or literature reviews, as might be required, so that we don't end up at the end of a moratorium period precisely where we are today.

So that we don't come back two years from now and say, well, the same standards are in place, the same information base is out there and there are no differences in the requirements, let's lift the moratorium and get back to where we were. We want to be in a better position to respond to any outstanding questions.

SEN. DAILY: Okay, so nobody who's introduced language or drafted language or drafted a bill has suggested a study. You're saying the Department is suggesting that the Legislature request a study.

JANE STAHL: Either request a study or direct us to simply utilize the EPA study and existing literature to make sure that we are addressing the health effects, the air quality effects, the water

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quality effects of asphalt plants.

SEN. DAILY: (Inaudible-mike not on)

JANE STAHL: Yes.

SEN. DAILY: (Inaudible-mike not on) Thank you. Are there any other questions on any of the bills? (Inaudible) Thank you very much.

JANE STAHL: Thank you.

SEN. DAILY: Mayor Giordano. Followed by William Garrison.

MAYOR PHIL GIORDANO: Good afternoon, Madam Chair, members of the Environment Committee. I'll keep my comments very brief. I know there's a lot of people that still want to speak on a lot of the issues here this afternoon. In fact, I'll say to Assistant Commissioner Jane Stahl, ditto. How's that? Is that brief enough for the Committee members.

I'm here to speak primarily on two issues. The SB597 and the Governor's proposed moratorium. In terms of SB597, I know Assistant Commissioner Stahl already indicated to include not only batching but the drum facilities as well, which could be more detrimental than the batching plant to the environment.

In terms of Waterbury, we're in favor of a moratorium. I think as most of the Committee members may or may not be aware, Waterbury itself is in the process of instituting a moratorium on batch and drum plants in the City of Waterbury and we're in favor of a statewide, we support a state wide moratorium.

And there's really, there's basically two reasons for that. Number one, there's an EPA study which has been discussed already and its results should come out some time in late summer, early fall. And really the second reason is that Waterbury is not a unique city like any other city. I heard the Commissioner speaking about, how easy is it for an

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asphalt plant or any other environmental, any other company that requires an environmental permit, how easy is it for them to come into a city and is it incumbent on the localities or municipalities to figure out where the sites are.

When you look at a city like Waterbury, Bridgeport, New Haven, New Britain Meriden, these have been traditionally mill cities, industrial cities and our zoning regulations really reflect that. And it's rather easy for a company such as an asphalt plant to look at what our zoning is and to simply come in and select a site and be fine for that particular zoning and now it's just requires DEP approval and when it gets to that level, DEP really can't, what they are here to determine, or there to determine is, are there any detrimental effects to air, water and things of that nature. But the site has already been preselected.

What we want to do in Waterbury and what I think would be beneficial around the state and therefore supporting the moratorium is to allow us an opportunity to redraft our zoning regulations. We would need some time to do that. Most of our cities, including Waterbury, have a comprehensive plan that they back to its industrial base and speaking for Waterbury specifically, its comprehensive plan dates back to 1973.

So what we need to do is go back and redraft not only our comprehensive plan for the City of Waterbury, but also redraft the zoning regulations for the city. So we would favor a moratorium statewide that would allow us some time and other cities in the State of Connecticut some time to redraft the zoning regulations, knowing how easy it would be to simply come into a zoning area and put in a plant such as an asphalt plant.

I'm not going to take too much time because I know there's a lot of people here who want to speak on certain issues, but I know that there were some questions by the Committee members in terms of local questions. So I'm willing to entertain any local questions that this Committee might have, or any other questions for that matter.

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SEN. DAILY: Thank you very much. Are there questions?  
(Inaudible-mike not on)

MAYOR PHIL GIORDANO: Twenty-four hours. Thank you. And I see that there's a lot of people from the City of Waterbury here that are testifying and these are people that have put a lot of time and effort into a lot of issues with the City of Waterbury, specifically environmental issues and they're very bright, hard working people and I think this Committee is going to be extremely entertained by their knowledge in environmental law and environment. I'm glad they showed up here to present to you the City of Waterbury. And thank you again for the opportunity to speak. Thank you.

SEN. DAILY: (Inaudible-mike not on)

WILLIAM GARRISON: Thank you very much. Our primary concerns as elected public officials is the health, welfare and safety of our constituents. This asphalt plant project flies in the face of all our safety concerns. Nothing about this project promotes the region's safety, health and welfare.

The location of this proposed project couldn't be more inappropriate. Various DEP reports and findings describe this rural area as pristine, ecologically significant. The project is not consistent with the rural character and support facilities of the area and on and on and on.

The Jeremy River and Black Ledge River form the Salmon River whose waters have been described as drinkable without water treatment. Can the DEP guarantee that this quality could be maintained after construction of this plant? I mean guarantee unequivocally.

Residents in the three town area including Hebron, Colchester and Marlborough, fear, reasonably health problems in the future. These people expect direct answers to health questions and there have been few scientifically provable answers to allay their fears.

Other than economics, what is the compelling

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reasons for approval of this plant? Portable plants can be transported in for large projects. Local contractors for years have successfully used existing asphalt plants. I cannot believe that DEP has chosen this project to become a user friendly agency. Thank you. I appreciate the opportunity to voice the very serious concerns of the citizens of Hebron.

SEN. DAILY: Thank you very much for taking the time to do so. Other questions of Mr. Garrison. Thank you again.

WILLIAM GARRISON: Thank you.

SEN. DAILY: Senator Fonfara and Cheree Heppe, followed by Larry Butler from Waterbury. Larry Butler, then Representative Samowitz and then we'll go back to Senator Fonfara.

LARRY BUTLER: Good afternoon. For your record, my name is Larry Butler. I'm an alderman from the City of Waterbury. I'm here in support of SB597 and I hope that you would consider previously mentioned amendment to change the language that speaks of batching asphalt plant to batch and drum or continues operation, however you want to refer to it as so that none of these types of asphalt plants would escape this bill.

I'm also in favor of a moratorium. It's much needed. Until we know the impact I think we need to enforce a moratorium.

Recently at a hearing in Waterbury about asphalt

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plants there, DEP official pointed out that it is the guidelines that this body puts forward that they use to apply their permit process. So really, we're counting on this body, the General Assembly, to actually put language in statutes in place to help them do their job.

The person here earlier from the DEP really sounded like they were looking for some specific language

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and definition so I wholeheartedly hope that you provide them with some.

I have three areas that I'd like to speak of. One is municipal notification. There's a great need to alert municipalities about these type of plants or any other major environmental concern so that the municipalities can appropriately respond.

If an official from the DEP expects municipalities to take on more responsibility in this process, well, they better notify us. I'm not saying that I agree with them because I don't. I think the DEP is in place to address environmental concerns and it's their job and I don't think they should be pawning it off on municipalities. Clearly, water, rivers and air quality doesn't stay within the confines of cities.

Secondly, I'd like to speak on the process itself of applications. It seems to me there's a great need for studies on cumulative effect. Giving an example in Waterbury where the proposed asphalt plant is planned to be built, almost directly across the street is another company that in recent years has had emissions that were released into the air that caused fire marshals to come and cordon off two block area.

Now if you're just going to allow DEP to give permits based on what's coming from their site, you're going to miss what would happen if they were there and these emissions and vapors came from a company right across the street. What would be the effect? We have to look at the cumulative effect, especially in heavily industrial towns. That's something you need to look at going forward and having DEP address.

Finally, I'd like to speak on stations that monitor the air quality. It seems to me from various reports that I've heard, there is a big need to have some quality monitoring for these areas, these industrial areas.

We in Waterbury already have two asphalt plants. I don't think we need a third. But there's other

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businesses that have applied for and have acquired air permits and we really need to look at monitoring the overall effect because we live in a valley and air just remains stagnant and we really need to get a handle on what's in our valley.

So I hope that this body goes forward and gives the DEP the guidance, the definition in the statutes to do, in my opinion, a better job of protecting the public. Thank you very much.

SEN. DAILY: Thank you very much. Are there any questions? Thank you again.

LARRY BUTLER: Thank you.

SEN. DAILY: Senator Fonfara.

SEN. FONFARA: Thank you, Senator Daily.

SEN. DAILY: (Inaudible-mike not on.)

SEN. FONFARA: Cheree, if you'd like to come up.

SEN. FONFARA: Thank you, Senator Daily and members of the Environment Committee. I'm John Fonfara, State Senator from Hartford and Wethersfield, and I'm here to testify on behalf of Raised SB438 which enables the owners of guide dogs to seek economic and noneconomic damages against any person who steals or attacks a guide dog and enables the owner to bring action against any owner of a dog which attacks a guide dog.

There is companion legislation that has been introduced by a member of this Committee, Senator Handley, Raised SB604 which is the Judiciary Committee currently. The current law establishes liability for damage to a person or property done by a dog and Section 22-364 provides that a violation of the requirement that an owner of a dog shall restrain such dog when in the proximity of a guide dog. Such violation shall be an infraction.

And what this bill does is attempts to give rights to owners of guide dogs that have been attacked or have been stolen and further elaborates what those

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why it died pretty recently?

SEN. FONFARA: I'm not aware of it.

SEN. MUSHINSKY: I think it died.

SEN. FONFARA: This bill?

REP. MUSHINSKY: Or something very similar to this,  
about attacking a guide dog.

SEN. FONFARA: In previous years?

REP. MUSHINSKY: Yeah.

SEN. FONFARA: I'm not familiar with that.

REP. MUSHINSKY: Okay, thank you.

SEN. DAILY: Are there any other questions?

SEN. FONFARA: If I could just say, Senator Daily.  
While clearly this is an issue with respect to  
legal liability, I think it is important that this  
Committee take a position on it with respect to its  
importance to the issues you do have jurisdiction  
and in that respect, I hope that the Committee can  
support the bill and send the message to the  
Judiciary Committee when they entertain the bill.  
Thank you.

SEN. DAILY: (Inaudible-not using mike)

REP. SAMOWITZ: Senator Daily, fellow Representatives,  
I'm here to testify in favor of SB597 AN ACT  
CONCERNING THE SITING OF ASPHALT BATCHING  
FACILITIES. And I also want to emphasize and lend  
my support to the previous speakers who want to  
include the drum and other types of asphalt  
facilities.

I think it's important to recognize particularly  
what is going on and I think that in the urban  
areas and in Bridgeport, in particular, where there  
seems to be a proliferation to and a rush to tar up  
the city with asphalt plants. I think that you'll  
hear from other speakers here today who are living

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where a proposed asphalt plant is being sited right next to a large cooperative that is right next door to a large cooperative which houses a lot of elderly people.

And I think as Representative Caruso has said, it isn't just one asphalt plant that we're dealing but it's a whole ambient area. Every meteorologist knows that the City of Bridgeport, the temperature is lower than the rest of the state. There's studies that have shown there's an increase in asthma in the City of Bridgeport. There's a higher incidents of asthma than any other place in the State of Connecticut.

And it's time that we ask ourselves, why is this happening and what is the relationship over here, because we are dealing with human lives. They may be urban lives but they're human lives and I think they are (inaudible) to address the issue of why all these plants and the total effect on the ambient air and I urge support of SB597 or as amended in the moratorium. Thank you.

SEN. DAILY: Thank you very much. (Inaudible-mike not on.) John Garoppolo followed by Kevin Case.

JOHN GAROPPOLO: Can you hear me? Okay. My name is SB438 John Garoppolo. I am from Manchester. I've been a guide dog user, Fidelco guide dog user for five and a half years and there isn't too much that I, as far as the trauma, I don't want to take much time because time is going on.

It's probably very similar to having someone, this bill covers theft, having someone steal your gift of sight as well as probably your closest friend. My dog was attacked two years ago and someone asked a question about, this has already been thrashed over. It was two years ago. There was no legislation on the books in the State of Connecticut for this happening, to cover this occurrence.

So the bill is, or the amendment to a bill that now exists just isn't strong enough. When it was passed, it was passed at the 11th hour and is

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The Water Diversion Policy Act was enacted in 1982 in recognition that an adequate supply of water for domestic, industrial and certain other uses was essential to the health, safety and welfare of the citizens of the State of Connecticut. The act required that all diversions maintained prior to July 1, 1982 were to be registered with the commissioner and that after July 1, 1982, no person could commence to divert water without first obtaining a permit from the Commissioner of DEP.

Subsequent to the enactment of the Diversion Act, and adoption of the regulations in 1990, DEP required all water utility diversion holders to come before the Department for a registration review process. The water suppliers complied with DEP's direction and in many case, diversions which were duly registered were not recognized at that time by DEP.

Subsequent efforts by the utilities to obtain permits for sources have involved lengthy and costly processes, with no assurance of an outcome that provides for the necessary public drinking water supply to the state.

Finally, CWWA supports the intent of this bill and endorses measure that will facilitate a more reasonable, timely and predictable diversion permit process for public drinking water supplies. The Association would like an opportunity to provide the Committee with revised language that would insure that the proposal does not adversely affect any of our members or contradict or duplicate other provisions in the statutes. Thank you.

REP. STRATTON: We will look forward to talking with you. Other questions? Thank you.

FRED KNAUS: Thank you.

REP. STRATTON: Tom Turick, followed by Representative Linda Orange. Tom? Brian Hariskevich, followed by Mary Brunoli.

BRIAN HARISKEVICH: Good afternoon. Thank you for taking the time to let me speak here. My name is

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Brian Hariskevich. I live at 33 Adams Street in Bridgeport in the east end. I support SB597. I would like to see it amended to a half mile and include continuous mixed plants as well.

Second best would be this moratorium. Both of them, though, I would like to see connected to a study on both the ambient air quality, water quality and the impact on the quality of life.

And I'm just wondering, why is the quality of life so hard to define? When the woman from the DEP was here, she sounded like a lawyer. You had to really put it down in exact words as to how you know, how you want to define this quality of life, like it's so elusive.

We need a state law to insure where these types of plants are put. We're not sure exactly what impact they have, but you know, when you take a lot of dirt and a lot of rocks and crush them, and you have these in open air vats that send this up into the air as airborne particulates, and you're mixing them with an oil substance that might drain on to the ground and Lord knows what happens when it gets loaded into these trucks and the condition that these trucks are in that are collecting this stuff, what they're going to drop on the ground.

This particular plant that happens to be in my neighborhood is right on Long Island Sound and the drainage pattern for this is to be into Long Island Sound. When the engineering department got a hold of the plans the first time, they said, well, we're not for it because you don't show us where the runoff is going to go. And the second plan they said, oh, it's going to go into Long Island Sound. Engineering said, okay, no problem.

We already have in our neighborhood a sewage treatment plant. You just heard about the newspaper recycling plant that I hope that Bronx beats us out too. You know, that's right up the street. Not to mention right down the street from my neighbors here, the Percells will be speaking in a minute, right down the street from them is an illegal rock crushing and soil sorting plant that

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the zoning department refuses to censure. They refuse to put a cease and desist against them.

This is the same town in which, and the same street in which Mt. Trashmore was located. Some of you may have heard of it. I fought it. You know, I was yelling down an empty hallway for a long time, regardless of the fact in the end the DEP and the Attorney General's office fought it, the fact is, nobody wanted to do anything about it. The zoning department refused to do anything about it and the city continued to give them contracts. All right.

The city's giving their all and stuff into this illegal place I was telling you about, it's a paving company that sorts rock and crushes rock, etc. and the city trucks are going in there and dumping their stuff.

Now bear in mind where all this is located. Now, I happen to live right near Pleasure Beach, a 38 acre island that was always a family recreation area. This plant is directly at the bridge on Long Island Sound right to the left of it on a 2.8 acre lot that is located on Long Island Sound, okay? This 38 acre lot, millions of dollars have been spent of federal and state money to insure that it one, the soil erosion etc wasn't going to happen and that it was going to maintain its family status.

We can't replace that land. My neighbors live across the street from that land. We need state law to direct our zoning departments to enforce and to do what's best to keep the air and water clean because we don't need to put a Century 21 sign over the city and do anything you want, but that's what's happening in Bridgeport. Do anything for a job. They'll promise you, like the dog track came in and they promised 700 jobs. There's about 30 there and they never paid a penny in taxes.

You know, this is land. Land is a finite thing. You can only get so much of it. And one thing I would say in closing is, land, it's not a gift from our parents. It's on our loan from our children and whatever is going to be there is going to be there. You can say Bridgeport's a dirty city and

give them anything, but I'm here to tell you that I don't want to put up with just anything. I'd like to see some clean development and we can do better than to rush and hurry up and put these places in when there are no standards.

Write the standards and then let them locate in decent places. Thank you.

REP. STRATTON: Thank you very much for your testimony. Are there questions? Thanks. Representative Linda Orange, followed by Mary Brunoli.

REP. ORANGE: Thank you. Representative Stratton, members of the Environment Committee, I'm sorry I wasn't here when my name was called previously but you know how us freshmen are.

I am here today to testify on SB597 AN ACT CONCERNING THE SITING OF ASPHALT BATCHING FACILITIES. Thank you for drafting this bill on my request. This bill would provide a buffer zone between asphalt batching facilities and certain sensitive areas.

It would protect sensitive areas from being harmed by asphalt plants including hospitals, nursing homes, schools, areas of critical environmental concern, water courses or areas occupied by residential housing.

This issue directly affects my district, especially the Town of Colchester and its residents. The asphalt plant is located in Colchester, 50 feet from Route 2 and is expected to have three exhaust stacks, 70,000 gallon fuel storage tanks and additional machinery to produce asphalt. The plant will discharge into the state culvert which drains into a feeder stream and then into the Jeremy River. Its location is 500 feet from residences and 500 feet from the mentioned Jeremy River. The potential for an environmental disaster greatly exists.

The plant would also release more than 50 tons of pollutants from emissions each year, which would increase the risk of asthma attacks and cancer to

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nearby residents. And may I add that I have had several, many constituents concerns that people who do have asthma that live directly in the area.

All the above reasons the asphalt plant must not be allowed to operate within sensitive areas. SB597 would prevent this from happening and protecting our citizens. I ask today that you take into serious consideration this bill and the views that have been and will be expressed by those at this hearing. Thank you for your time.

And I also would like to note if the bill needs a little work, I'd be more than happy to be involved.

REP. STRATTON: Thank you very much. Are there questions? If not, thank you. Mary Brunoli, followed by John Percell.

MARY BRUNOLI: Good afternoon members of the DEP Committee. I'm here to shorten your afternoon. Well, at the outset, the president of the National Federation of the Blind of Connecticut would have been here but the doctor has asked him to, he is diabetic and he has to remain at home for the time being, and also the head of the Canine Travelers who also had a family problem. It would be the last minute on this day.

However, my name is Mary Brunoli and I am the chairman of the legislative committee of the National Federation of the Blind of Connecticut. And I am a cane user but I am very fond of animals and I'm very concerned about guide dogs. I've known a number of cases of problems with guide dogs with attacks by people as well as by animals. Would you believe it? And I'm very much concerned for this bill SB438 and I think it will go a long way to helping to solve these problems. So I am heartily in favor of this bill. Thank you.

REP. STRATTON: Thank you very much for coming up to testify. John Percell, followed by Rosemarie Percell, or if you'd like to come up together, you can do that, too.

JOHN PERCELL: My name is John Percell. I live at 158

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Seaview Avenue, the corner of Central Avenue in the east end of Bridgeport. I've lived there for all of my 43 years. My family has lived at the same location since 1946. I'm here today because Manuel Otinho, the owner of Mark Four Construction has proposed an asphalt processing facility at 5385 Seaview Avenue, directly across the street from my home. SB 597

I'm here to beg the State of Connecticut to take the first step to try to take control of the terrible situation faced not only by my neighborhood but by neighborhoods across the state and across the country. I wrote out this statement yesterday and because it turned out to be far too long. Sorry. I wrote out a statement yesterday but it turned out to be far too long to be acceptable, so I decided to read the message that I've been running on my answering machine for the last two weeks concerning the asphalt plant.

Some of it may seem a little strong, but please bear with me. Quote. Manuel Otinho, the owner of Mark Four Construction who lives up in a nice big house in Easton wants to put a huge asphalt processing plant on the corner of Seaview and Central Avenues along the Pleasure Beach access road.

You probably thought the east end was already as dirty as it could get. When Mark Four Manny plans to make it a lot dirtier. His plans will include a lot more tanker trucks and dump trucks racing around on our already overcrowded streets. The poisonous stench of hot asphalt similar to a road being paved or hot tar roofing job will drip for blocks on the Long Island Sound breeze. The dirt and the toxic diesel fumes from the estimated 160 trucks per day, as well as the dirt from the plant itself will also travel for blocks in the same breeze.

This means more filth coming through your windows, covering your laundry, your cars and everything else you own. It also means more dirt and toxic fumes in your lungs and your family's lungs. Then you have the roaring noise from the giant machine

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that will also be heard for blocks. There's not much left in the east end that hasn't already been ruined by these wealthy out-of-towners. They'll do anything and hurt anyone if it means fattening their own bank accounts. They'd sell their own mothers if they could get a good price. Parasites like Mark Four Manny have made living in our neighborhood a dirty and difficult struggle.

If they continue to have their way, life here won't be difficult, it will be impossible. Manny's only able to get away with crimes like these because he has many connections in the City of Bridgeport. Companies like Mark Four have enjoyed a very cozy relationship with the city for many years. This kind of special treatment of a few at the expense of a majority has to stop. Now it even has people like Joe Savino the harbormaster and Joe Riccio of the port authority writing letters claiming that an asphalt plant would be consistent with the harbor's plan of development in a particular system with the development on the Seaview Avenue corridor. I say they're liars.

Nowhere in the plans for the harbor or Seaview Avenue does it say anything about turning the area into a dirtier, filthier dump than it already is. The plans are supposed to make things better, not worse. Then we have Lisa Preziale, former city council president and current city council representative for the 132nd district who just happens to run her own construction business out of the Mark Four offices at 1137 Seaview Avenue. But I'm sure there's no conflict of interest there.

Please send a message to Mark Four Manny by coming to the public hearing, etc. etc. and demand that this lunatic proposal be denied. Things like asphalt processing plants must only be placed in unpopulated areas. Unquote.

And I'd just like to add that illegal activity at this site in question began back around 86, 87 despite countless complaints by myself and others, nothing was done to stop it. Every single time an inspection was scheduled by the city, all activity at the site would mysteriously and conspicuously

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cease and as soon as the inspector left the site, business as usual would immediately resume. The city recently had the opportunity to alleviate some of these problems when it rewrote its zoning maps, but instead of ironing out some of the problems facing the residents, the city chose instead to make it easier for a few special interests to devour what little remains of our neighborhood.

For example, the site in question was changed from a combination of light industrial and business to a heavy industrial zone without notifying any of the adjacent property owners. Our own property was changed from business to light industrial without our knowledge. As for the other homes that run along Seaview Avenue that had been zoned residential A, they were downgraded to residential C, also without notifying the owners of the property.

The city also could have taken the rewrite opportunity to provide some sort of buffer zones to protect people from blatantly offensive and dangerous uses of properties which border properties used for residential, I'm sorry.

REP. STRATTON: Thank you very much.

JOHN PERCELL: Can I finish?

SEN. DAILY: Yes. Rosemarie.

JOHN PERCELL: Can I finish?

SEN. DAILY: No, the three minutes have expired. That was the bill. We'll accept your written testimony as I stated at the outset.

ROSEMARIE PERCELL: My name is Rosemarie Percell. I was born March 11, 1929 in the east end of Bridgeport and I'm still there. I've watched it go downhill day after day, year after year and it breaks my heart. It was a wonderful place to be brought up. It was like hometown USA years ago and they just had it go down the tubes.

Pleasure Beach was a beautiful place to go. Now

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it's abandoned and destroyed. You couldn't go over there even when the bridge was in one piece because you were stepping on dope vials, syringes, and they just let it go away.

I don't want to move. I can't afford to move. But I don't want an asphalt plant right in front of my house directly across the street. I don't know how they can do that. I've got heart problems. I've been diabetic for 39 years. I've lost my leg four years ago. I'm losing my sight. I'm legally blind now for the last two years and now I'm suffering from severe anemia. And I don't know whether all these environmental problems have contributed to this, but I'm very upset.

And I hope you don't let them build down there. Thank you.

SEN. DAILY: Thank you very much. Representative Caruso.

REP. CARUSO: Rosemarie and John, thank you for coming up and testifying today from the city. Just want to ask you a few questions.

ROSEMARIE PERCELL: Sure.

REP. CARUSO: The proposed asphalt plant you said is directly across the street from your house?

ROSEMARIE PERCELL: Yes.

REP. CARUSO: So if you walk out, it would right in front of you there, huh?

ROSEMARIE PERCELL: If I walk out of my front porch, directly across the street is where the asphalt plant is.

REP. CARUSO: Do you folks know if DEP has approved for the asphalt plant to go up and has there been a hearing in that area about this?

ROSEMARIE PERCELL: I haven't heard anything about that, nobody notified me as a property owner.

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JOHN PERCELL: The Public hearing comes up March 23rd and from my understanding the state permit has to follow the city special (inaudible).

REP. CARUSO: So the state permit yet hasn't been approved then?

JOHN PERCELL: I believe so.

REP. CARUSO: Just checking, based on the testimony of the deputy commissioner. Okay, thank you very much. Once again, thanks for coming up.

ROSEMARIE PERCELL: Thank you for listening.

SEN. DAILY: Thank you. Franklin Pilicy.

FRANKLIN PILICY: Senator Daily and Representative Stratton, my name is Frank Pilicy and I'm from Watertown, Connecticut and I'm here today on behalf of Contractor Supply of Waterbury, a limited liability company.

It's the opinion of Contractors Supply that there's no genuine health risk or environmental risk from the proposed asphalt plant. Any moratorium should also suspend operations of all existing as well as proposed asphalt plants. Clearly, if there's any genuine risk of any nature, the risk is far greater for the older plants.

It makes no sense to stop new plants or to regulate new plants into economic non-feasibility and thereby perpetuate the older plants that already exist. If there is a genuine health risk or an environmental risk, then this bill should require the older plants to meet the present technology.

The bills that are proposed advance the exact opposite result and perpetuate the older plants that are a far greater risk if, in fact, there is a risk.

On behalf of Contractors Supply, I'd like to report there's a genuine and urgent issue of vested rights at play here. Contractors Supply has spent the last three years seeking and receiving all the

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local and state permits to locate and construct and operate the plant. The only pending application to DEP is a reapplication for the reissuance of the operating permit pursuant to standards that have previously been proven to be satisfied by Contractors Supply.

We know from the DEP testimony that in the overall scheme of regulation of air quality, asphalt plants are not an urgent or a high priority and asphalt plants are not a major pollution source. If legislation of this nature passes, there will be compelling arguments to similarly stop just about every industrial activity that is regulated by DEP upon the request of any citizen or any group of citizens.

With respect to SB597, local opposition to Contractor Supply application has resulted in efforts to legislatively establish this proposed ban on new asphalt plants. There's several concerns about this bill. First and most important concern is the nature of the proposed legislation. This legislation is a ban on new asphalt plans and contravention of local zoning authority with no scientific basis for the legislation.

While questions have recently been raised concerning levels of fugitive emissions from load out of asphalt into trucks, this issue is one of many being studied by the United States Environmental Protection Agency and the impact of these fugitive emissions will soon be much better understood.

However, this legislation ignores efforts to better understand these aspects of asphalt production and panders to a not in my back yard mentality that reacts without understanding the real health effects of an industry. It is a blatant attempt to undo what local zoning and what the present DEP standards may be approved.

To my knowledge, the Connecticut General Assembly has never before banned a specific industry without allowing a review of how a particular facility would affect human health and the environment.

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Even low level radioactive waste disposal sites and hazardous waste disposal sites are subject to a site by site review.

For example, prior to grant a permit to site a hazardous waste disposal site, the Siting Council must consider a number of factors including the impact of the proposed facility on a municipality and the affected geographic areas in terms of public health, safety and welfare, the protection of the public and the environment from accidental releases, the protection of the public and the environment from exposure to hazardous wastes and a degree of consistency of a proposed facility with local and regional land use plans and regulations and the state conservation and development plan in place at the time of the application.

SEN. DAILY: Thank you very much. Will you summarize?

FRANKLIN PILICY: I will. Contractor Supply of Waterbury a limited liability company, is in the process of applying for the final air permit that was once issued previously. The client specifically purchased this site in a heavy industrial zone in Waterbury, knowing that the asphalt plant was specifically permitted in that zone under the Waterbury zoning regulations.

Connecticut General Statutes Section 8-2h provides that changes in zoning do not apply where applications have already been filed or applications have already been approved. The General Assembly is now attempting and would attempt, would accomplish perhaps, depending upon the language of this bill, to undo what local legislation and state DEP has permitted this individual, this company to pursue for three years. They spent three years next week since he began looking at the zoning book, obtaining a permit for this site and pursuing the various regulatory approvals that are required at the state as well as the local level.

It's the position of Contractor Supply that these standards are quite strict and it's taken a long time to meet those standards and that it would not

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be appropriate for the Legislature to undo at this point, the vested rights that have accrued to this particular applicant.

SEN. DAILY: Thank you very much.

FRANKLIN PILICY: Thank you.

SEN. DAILY: Any questions? Representative Caruso.

REP. CARUSO: Yes, Sir. You raised the point of the State of Connecticut is attempting to do the legislation to ban this type of facility. How do you perceive ban when the word is moratorium?

FRANKLIN PILICY: I think my interpretation of the moratorium proposes a suspension of any possibility to commence a facility that's nature for a specific period of time. I have a different view of the language in SB597 and I have a deeper concern about what that language may look like in a final bill based upon comments that I've heard at today's hearing.

REP. CARUSO: Well, I just, I'm just trying to figure how you feel it's a ban when it's a moratorium. Moratorium is not an outright ban. It's a period of time in which the state can review standards and other issues that have come concerning these facilities. Do you feel, I'd just like to ask you a question. Do you feel that the State of Connecticut doesn't have the right

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(GAP FROM CASS. 2 TO CASS. 3)

FRANKLIN PILICY: What I am prepared to say is that what I have said, that there are some very urgent vested property right issues at play here, that this particular applicant has spent over three years following the procedures that were in place three years ago and are still in place today at the local level and some very stringent standards and a very lengthy and thorough application proceeding at the Department of Environmental Protection.

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I think this applicant has done everything that a prudent business person would do and the additional aspect of this is that the Connecticut Legislature has also, working with the local community, designated this heavy industrial zone as an enterprise zone. So the invitation for the applicant to site this plant at this location has been there in the zoning regulations as well as in the enterprise zone which encourages. And again, a great portion of this property was unused for a long period of time.

This property owner has purchased three separate pieces of property to combine a site because the zoning regulations invite the property owner to put this facility at this location. The DEP standards invite this applicant to go to DEP and if the applicant can meet the standards, obtain the appropriate permits.

REP. CARUSO: I'm just trying to ask, maybe just ask a question very quickly and maybe you can give me a yes or no. I'm just asking the question, do you feel the State of Connecticut does not have the right, I'm not saying the Legislature, but the State of Connecticut Department of Environmental Protection after issues are raised or issues of public health or environment, that at any time it does have the right to review those issues in order to make its decision based on health and environmental issue?

FRANKLIN PILICY: I feel the State of Connecticut Department of Environmental Protection has the right and they have stated that a policy consistent with that right to regulate the air quality in accordance with the standards that are presently in existence and those air standards have been demonstratively met by this applicant. I feel that if the goal of this legislation is to address a perceived or a real environmental or health risk, then it does not make sense to penalize or delay or overregulate the new plants and perpetuate the existence of the older plants that clearly present a greater risk. There is a risk.

REP. CARUSO: I'd just like to, for the record just for

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intent in case it becomes legal, that I believe from reading the legislation a moratorium is being called for as an opportunity for the government, if you will, to look at issues that have come up in public safety, environment or health related issues in residential communities. And I think at any time the government does have, as long as, and I don't think in your case an application has been approved yet, it's pending, I think has the opportunity to do that. And I think people are prejudging what the outcome of this moratorium will be. I think for the record, I think part of the moratorium will be to review those issues. So I just want to state that for the record.

FRANKLIN PILICY: For the record, Sir, I'd just like to respond briefly that this particular applicant has spent three years in the pipeline of the regulatory approval proceedings and has in fact previously obtained every permit at the state and local level.

Having said that, it's clear that the permit to operate has expired due to the delay in getting the facility up and running, but that permit has been reapplied for and there's a present request that it be reissued. And that's what's presently before DEP. But this individual, this company has spent three years doing everything that the local and state government tells this company should be done for this activity.

I feel that we know from the prior testimony that asphalt plants are not the major polluters. They're not the presenters of the more dangerous risks and I feel it's a very, very serious substantial precedent for the Legislature to pass a moratorium or an outright ban because anybody that comes in with a business activity of one of the more substantial polluters or one of the perceived or real higher risk health or environmental business activities, there's going to be a compelling argument on behalf of any individual that comes to the Legislature and asks for a moratorium or a ban for that business activity.

I think that there's no scientific evidence to support the harsh measure of a moratorium or an

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outright ban.

SEN. DAILY: Are there any other questions? Thank you very much.

FRANKLIN PILICY: Thank you.

SEN. DAILY: Charles Savitski followed by Al Ouellette.

CHARLES SAVITSKI: My name is Charles Savitsky. I live in Hebron, very close to the proposed asphalt plant in Colchester. I'd like to talk about the Jeremy Brook and Salmon River.

The flood of 1982 covered the asphalt plant site under 10 feet of water due to a megastorm. If we believe President Clinton, Vice-President Gore, many noted scientists and weather people, we are into global warming. Storms like that of 82 and like the storm this past Monday which Channel 30 News reported dumped 5-1/2 inches of rain in the Colchester area, will become the normal.

What step is DEP taking to safeguard this area from being flooded and stopping contaminants from getting into Jeremy's River and ultimately Salmon River.

The Department of Transportation is planning to pave Route 2 this year. Will DEP take into consideration the cost savings of having an asphalt batching plant so close to Route 2 when Route 2 is paved, saving the DOT a considerable sum of money in trucking costs. Thank you very much.

SEN. DAILY: Thank you very much. Al Ouellette followed by Barbara Moroch.

AL OUELETTE: Good afternoon, Madam Senator. Listening to Contractor Supply and the DEP representative sounded like I was listening to the tobacco industry hearings again where there's nothing wrong.

For the record, Colchester, by the way I'm Al Ouellette and I live in Colchester and I'm the spokesperson for Colchester Concerned Citizens.

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We've been fighting this asphalt plant for almost ten years. It was denied in the town through the local permitting. However, due to a technicality within the zoning board of appeals it ended up in the courts and the town ended up with it remanded back to the town because we violated the 30 days of allowing for a hearing.

In 1991, when we were looking at the legislation the abutters, be a town and abutting towns were supposed to be notified in writing of a permit such as this. Some time before 1995 when the applicant applied, that was repealed. We were not aware. The only way we were to find out was a small legal notice in the newspaper at a size that we can't read, one time, that phase one permitting had been applied for. We missed it. We didn't see it. 10,000 people in the town including the newspapers, did not see it. We were made aware of it when we saw them constructing and then we filed for a hearing when they went before their phase two permitting.

To correct the DEP representative, on the permit from DEP it says a temporary permit to construct and operate. It had a one year time frame on it which expired January 16, 1998. Within that permit there was requests that had to be testing done, stack testing because the permit exceeded three pollutants, formaldehyde, PAH, which is polysit, I don't remember, polysitic aromatic hydrocarbons and particulates, all carcinogenic, all cancer causing.

I have presented to the Chair or to Senator Handley some findings with PAH dealing with how it does cause cancer, so I'm concerned that how people can say there is no evidence and there is nothing wrong.

When the DEP held a hearing in Colchester recently, February 26th, I believe was the date, we were not allowed to talk about the water issues. We were not allowed to talk about the flood of 1982. We were not allowed to talk about the fact that the plant sits on an aquifer. We were not allowed to talk about the fact that it would discharge into Meadow Brook which feeds Jeremy's River, both of

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which are stocked with salmon.

There's a letter from Steve Gebhardt from DEP that addresses that concern which I will present at the end of this hearing. In addition to that, there is a memo from the Office of Policy and Management, William Cibes that dates 1993 that talks about a proposed industrial site in the immediate area, but it talks about the Meadow Brook, it talks about the sensitivity and it talks about the wells, the need for pristine water.

There are 46 plants in Colchester, within 25 miles of Colchester, I mean there's 46 plants in the state. Within 25 miles of Colchester there are 4 plants. I find it hard to believe that anybody can tell me that 50 tons of pollutants going into the air will not harm people.

I find it hard to believe that volatile organic compounds will not harm people. I find it hard to believe and accept that an asphalt plant can be constructed within 500 feet of a river, 500 feet of residences, 180 feet from a business? Fifty feet from a highway.

SEN. DAILY: (Inaudible-mike not on)

AL OUELETTE: Yes. We're in total support of the bill SB597. In addition to that, we're in total support of the moratorium and we encourage this Committee to look favorably upon that, move it forward with the regulations before we kill more people with pollution. Thank you.

SEN. DAILY: Are there any questions? One question. You said that approvals were given at the local level?

AL OUELETTE: The approval was denied at the local level. It went through the courts and it was remanded back because of not meeting the requirements of the hearing, the deadline the town had to approve the application.

SEN. DAILY: So yes, it's been approved. Okay, thank you.

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AL OUELETTE: I have written statements from people I'd like to give.

SEN. DAILY: Thank you, please do. Representative Caruso has a question.

REP. CARUSO: The real telling issue here is the DEP according to your testimony issued a temporary permit for operation?

AL OUELETTE: Temporary permit to construct and operate, to test, to do stack testing, to -- in the permit it says that they're going to receive three of these pollutants, of the maximum allowed pollutants.

REP. CARUSO: Okay. So they approved the ability to test to operate the facility.

AL OUELETTE: That's correct.

REP. CARUSO: And then the owner of the facility you're stating, failed to meet those emissions?

AL OUELETTE: That's correct.

REP. CARUSO: Okay, so in fact, the owner had an opportunity to run that facility. It wasn't something that the DEP took away from them?

AL OUELETTE: That's correct.

REP. CARUSO: It was the failure of that facility to meet the standards that were set forth.

AL OUELETTE: That's correct.

REP. CARUSO: Okay, thank you.

AL OUELETTE: Now, as I understand it, Senator, DEP went right to giving them an operational permit or deemed it, I've been informed today that they don't have an operational permit but they've made a tentative agreement to give them an operational permit even though they didn't meet the requirements of the temporary permit.

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SEN. DAILY: Barbara Moroch followed by Merc Pittinos.

BARBARA MORACH: Thank you, Senator Daily and members of the Environment for listening to me. I am in favor of the passage of SB597. There's a personal interest to my family and myself in this passage. The change I would like would be that it would be one mile, not one-third mile.

I have provided back up exhibits which you should read very carefully. The information has been very intense and I did a lot of research. I want to tell you, My name is Barbara Morach. I live 700 feet from the proposed asphalt plant in Colchester. Our house is on the same elevation as the stack height of 110 feet and directly east of that prevailing winds move west to east. Any minute quantities of toxic emissions will hit me directly and consistently all day long.

I take issue with the comment of Assistant Commissioner Jane Stahl when she says asphalt plants are clean. They are not clean. They are dirty. The minute quantities of the dirty toxic emissions will hit me, bombard our house every day for eight hours a day or more, if the plants work overtime. Especially since I know, I've seen the violations of asphalt plants that were allowed to operate in violation. That means that all the emissions of the time they are working will be on my house every day and I have no way of knowing this.

The toxic chemicals that were addressed by Al Ouellette, the PAH, one of them is called benzopyrene which has a risk factor of 35% higher than the government standards.

My mother, Ennie Lennon lives with us. She has chronic lung disease, or emphysema, and the effects of fugitive emissions on her health will be severe. Her rights under the American With Disabilities Act must be protected. Fugitive emissions are of a grave concern with a 300 ton per hour asphalt producing plant, the requirement for trucks coming in with gravel, going out with hot asphalt, will be approximately 50 trucks per hour, 60,000 trucks per

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season.

Covered or not, these toxic chemicals from the steam will escape. Also carbon monoxide, fumes and fugitive emissions, ozone. This proposed plant being right on top of Route 2, this traffic on Route 2 has more than doubled since the opening of two casinos. We already experience bad odors and haze from spring through fall, it being in a valley.

With an asphalt plant and trucks on their property and roads, the combination of hydrocarbons, nitrogen dioxide, will combine to produce ozone, or smog. Particulate matter and sulphur dioxide produced by the burning of the fuels of industry and diesel vehicles, can affect people with asthma and young children even with brief exposure.

Our well water. We are, our water is protected by the federal law which is called the Safe Drinking Water Act. And part of that is called the Well Head Protection Act. But this water will be polluted because what goes up must come down. These toxic chemicals, minute as they are, will consistently and continually find their way into our drinking water and into our gardens.

Because the flow of water is slow and subject to little turbulence, contaminants are not easily diluted or disbursed, so pollution will last a long time and difficult to remedy. Who will speak for the fish, the animals and the birds. I will.

This proposed plant is on an aquifer and the adjacent Meadow Brook which is a feeder stream for salmon, a tributary of the Jeremy River which flows to the Salmon River and the Connecticut River which is not far away, are protected by the Interstate Atlantic Restoration Project funded by U. S. Fish and Wildlife Service, Wildlife Forever, Vermont, Massachusetts, New Hampshire and even Connecticut. As part of this funding, wild turkey and the bluebird have been reintroduced to this region.

Heavy industry such as asphalt producing plants should not be permitted in sensitive areas because

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they would be in direct conflict with the DEP's mission statement and I quote, their 1998 mission says, the mission of the Department of Environmental Protection is to conserve, improve, and protect the natural resources and environment in the State of Connecticut in such a manner as to encourage the social and economic development of Connecticut while preserving the natural environment and the life forms it supports in a delicate, interrelated and complex balance to the end that the state may fulfill its responsibility as trustee of the environment for present and future generations. Thank you.

SEN. DAILY: Thank you very much. Are there questions?  
Merc Pittinos followed by Peter DiTomasso.

MERC PITTINOS: Yes, it's Merc. Good afternoon, Senator Daily, Representatives of the Committee. My name is Merc Pittinos and I am the toxics organizer for the Toxics Action Center a privately funded, nonprofit, nonpartisan environmental organization based in West Hartford, and we assist community groups throughout the state that are fighting toxic and public health threats in their neighborhoods.

I'm pleased to be here to speak today on the Connecticut Raised SB597, the Senate Bill AN ACT CONCERNING THE SITING OF ASPHALT BATCHING FACILITIES. We strongly support legislation to provide a buffer zone between asphalt plants and sensitive areas like hospitals, nursing homes, schools, areas of critical environmental concern, water courses and areas occupied by residential housing.

Across the United States there are currently 3,600 asphalt plants that are active. Forty-six of these plants are in Connecticut and currently there are no less than four additional plants proposed to be sited in the state, one in Colchester, one in Waterbury and two in Bridgeport.

Residents from these towns have expressed deep concern with the proposed plants. This concern lies largely with their release of emissions from asphalt plants. These industrial facilities emit

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particulate matter, volatile organic compounds, VOCs and polycyclic aromatic hydrocarbons, PAH, all of which impact public health. These toxic chemicals reduce lung function, increase asthma attacks and cause premature death.

Despite these health impacts, there are neither state nor federal laws which regulate fugitive organic emissions from asphalt plants. These are emissions that are released when asphalt is loaded on to trucks as trucks travel from the plant and even after asphalt is laid on roadways.

A buffer zone between asphalt plants and certain sensitive areas would help to alleviate some of the potential health impacts from asphalt plant emissions.

To insure that this bill adequately protects sensitive areas in Connecticut from asphalt plant emissions, I ask that you consider two changes to the bill as it's currently written. The first is that I propose that the name of the bill be changed so that it includes all asphalt plants and that the language within the bill includes all asphalt plants. The proposals that I have would either be that it be AN ACT CONCERNING THE SITE OF HOT MIX ASPHALT PLANTS or AN ACT CONCERNING THE SITING OF THE TWO MINUTES CONCRETE MANUFACTURING FACILITIES, so that we can be sure that citizens in Connecticut are protected from batch plants and drum plants.

And then I also propose that the buffer zone be extended to one-half a mile in linear distance from any hospital, nursing home, school, area of critical environmental concern, water course or area occupied by residential housing.

This bill as it's currently proposed very closely resembles Massachusetts House of Representatives Bill No. 2915 which I submitted in my testimony. And the Massachusetts bill would require that no asphalt facility could be located within one-half mile in linear distance from any hospital, nursing home, area of critical environmental concern, or area occupied by residential housing. And since the emissions from asphalt plants do pose a threat

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to public health, since there will be emissions from asphalt plants, they cannot be controlled, I ask that you extend the buffer zone to one-half a mile and that the bill as it's currently written be amended so that that distance is extended to one-half of a mile.

And to me it doesn't seem to make a lot of sense in a neighboring state, to have legislation that has gone through three readings and would basically put a linear distance of one-half a mile between asphalt plants and areas of critical concern, and then here in Connecticut roll back that legislation so that it will only protect residents that are a third of a mile from the plants.

I really appreciate the opportunity to speak today and appreciate your consideration of these comments and proposals.

SEN. DAILY: Thank you very much. Are there questions?  
Representative Caruso.

REP. CARUSO: Merc, you raise the point about Massachusetts passing legislation. Has that been challenged legally?

MERC PITTINOS: The legislation has not been passed. It's currently before the House and it's waiting to be voted on.

REP. CARUSO: Okay. Did Massachusetts set up a moratorium or anything of that nature, or --

MERC PITTINOS: The State of Massachusetts currently doesn't have a moratorium, although the State of North Carolina currently has a moratorium on the permitting of asphalt plants.

REP. CARUSO: And how is Massachusetts dealing with pending applications and prior to legislation. Do you have any knowledge of that?

MERC PITTINOS: I don't have any knowledge of that.

REP. CARUSO: Now, North Carolina does have a moratorium in place?

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MERC PITTINOS: The Department of Environment and Natural Resources in North Carolina which is the equivalent of the Connecticut Department of Environmental Protection has placed a moratorium on the permitting of additional asphalt facilities until the issue of fugitive emissions is resolved by the Environmental Protection Agency.

REP. CARUSO: How long has the moratorium been in place in North Carolina? Do you have any idea of that?

MERC PITTINOS: It was originally, it began with the denial of a permit for an asphalt plant in North Carolina last summer and it was recognized in a letter that was sent to Representatives in the State of North Carolina at the end of December.

REP. CARUSO: Was the State of North Carolina legally challenged on it? Do you know?

MERC PITTINOS: I'm not aware if they've been legally challenged.

REP. CARUSO: Okay. Is there any other state that does a moratorium, do you know?

MERC PITTINOS: Not to my knowledge.

REP. CARUSO: I know when the incinerator issues came up in past years, there were moratoriums placed in different states on that issue. Are you familiar at all with those moratoriums, or --

MERC PITTINOS: No, I'm not familiar with those.

REP. CARUSO: I'd like to, if you could get me information as far as the toxic emissions that you speak of, I'd like to see that, because so far testimony has been conflicting. Some people that are owners who are principals of the company say that there is no risk and I'd like to see your information if you could, okay?

MERC PITTINOS: Sure. And one of the things that I'd just like to add on top of that. One of the main problems, especially with the fugitive emissions is that there is no data really anywhere that

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quantifies those fugitive emissions, but the industry doesn't have data which can quantify those emissions. The EPA doesn't have data that can quantify those emissions and citizens themselves don't have data that can quantify them. It would be nice to sit here and say today that fugitive emissions don't pose a threat. My inclination is that they do.

But in addition to that, one of the things that we've heard from Assistant Commissioner Stahl was that these plants are not a major source of pollution and until the issue on fugitive emissions is resolved, it is possible that they could be a source of, a major source of pollution because we have no idea in what quantity the emissions are being released from the load out of asphalt plants.

SEN. DAILY: Thank you. Representative Mushinsky.

REP. MUSHINSKY: In Massachusetts, do they look at increasing the buffer distance on the downwind side. Because the prevailing winds in our state are basically east to west.

MERC PITTINOS: I'm not aware if they, when they wrote this legislation whether or not they took into consideration wind patterns.

REP. MUSHINSKY: Yeah, it almost makes more sense. This is probably where we should let DEP come up with the buffer, but it probably makes more sense to allow a wider buffer on the downwind side. Prevailing winds are usually in one direction. In other words a wider buffer on the downside.

MERC PITTINOS: Right.

SEN. DAILY: Further questions? Thank you very much.

MERC PITTINOS: Thank you very much.

SEN. DAILY: Peter DiTomasso followed by Elaine Denze.

PETER DITOMASSO: Good afternoon, Senator Daily. Thank you for conducting this hearing and members who are still in attendance, thank you for sitting through

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all this. I'm a lawyer by occupation. I practice personal injury law across the street at 21 Oak Street. I live in Hebron about two to three miles of the Colchester site and I'm going to try to do something that lawyers are accused of not being able to do, which is speak in plain English and talk frankly and straight.

In Colchester, the developer is already in violation of the existing standards, which themselves are inadequate and nobody is doing anything to stop this project. DEP is not doing their job.

You know, what we heard earlier today is what we heard back in February in Colchester. You ask DEP a question and your eyes glaze over as you listen to them go on and on. And I'm serious. I'm not trying to say this to be funny. It's, you know, you ask them a straight question and they can't tell you whether it's temporary, whether it's permanent, whether it's generally, whether it's specific. And they throw out all these phrases and nobody knows what it means.

Let's just talk about this bill that's before the Committee, SB597, for a minute. All it says is that you can't build these things within a third of a mile of certain homes, schools, waterways. Makes good sense. Now, if I'm a member of this Committee, what am I weighing? If I vote for this bill, I'm saving peoples' lives. In Bridgeport, in Waterbury, in Colchester, in Hebron, in all the surrounding communities of these four proposed plants. That's what happens if I support SB597. I might be helping little children stay healthy. I might be helping children's parents survive cancer potential. I might be decreasing traffic hazards and a bunch of other good stuff.

And on the flip side, if I oppose this bill what am I accomplishing? I'm helping somebody make some more money, perhaps? I might get a campaign contribution from a developer next time around when I'm up for reelection. I mean, I'm sorry. You call on the telephone, if you call the Senate or the House, they say House Republicans or Senate

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Democrats. They don't say this is the House or this is the Senate. It's a Republican answer or a Democratic answer.

SEN. DAILY: (Inaudible-not using mike)

PETER DITOMASSO: No. My point I guess, Senator is, some things should not be partisan issues and this is one thing that should not be a partisan issue. I have a six year old son who says to me, how come, Daddy, and that's why I'm here by the way. I'm here because I promised my six year old that I would keep trying even though I personally believe I'm wasting my time.

He said to me, how come they can build this if nobody wants it. And I said well, because the people that own the property have a right to use and enjoy their property also as long as they're in compliance with the law. And the law allows them to pollute a little bit but the law doesn't allow them to pollute a lot, so we have to show that they're polluting a lot and not a little.

And I sit and I listen to myself and I say, have we gotten this stupid? Can we use a word like stupid? Are we as adults who are in charge in this society of making laws, are we that dumb that we actually have to sit here and entertain whether an asphalt plan on top of where people live is a smart thing or a stupid thing to do? I mean, really, have we digressed to that.

There can't be any doubt in any intelligent person's mind that it's not smart to put this Colchester asphalt where it's being proposed to be put. There's no up side at all. There's no up side to building it, there's no up side from your perspective to opposing this bill other than perhaps staying on good terms with a handful of developers.

And the argument that the developers and their representatives who might be here making today, the only argument is, hey, we tried to comply with the law as it exists and we shouldn't be penalized. That's the essence of their argument. I have

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rights to. You know what? They do have rights, too. But they don't have the right to spew poison two to ten miles in a radius as the crow flies. They don't have that right.

SEN. DAILY: (Inaudible-mike not on)

PETER DITOMASSO: That's it, my summary is that the DEP has failed us miserably and that unless this Committee promptly gets SB597 to a floor vote and gets it enacted, there's going to be more people that are going to eventually die because of this. It's that simple. They're going to die. And it's just a matter of time and there's not going to be any concrete direct proof that it's because of this when it happens ten years from now. You have a chance to do something about it, I hope you use your opportunity.

SEN. DAILY: Thank you. Are there questions? The next speaker is Elaine Denze.

ELAINE DENZE: I'm Elaine Denze. I reside in Waterbury. I'm president of the Town Plot Neighborhood Association, a community organization representing approximately 170 families. Town Plot, to give you a little history, is the first settled community in Waterbury and we take great pride in our community.

Members of the Environmental Committee, thank you for giving me the opportunity to speak on behalf of SB597. This bill would protect natural resources and the health of all citizens, especially in large cities. The distance of one-third of a mile is of great advantage to Waterbury citizens.

We realize that asphalt plants might be necessary, but they are hazardous to our health and the environment. Waterbury is a population of 107,000 people. We have been dumped on long enough. As a health professional, I am very concerned with health issues. Health effects from the environment include lung diseases, which include asthma, emphysema, some lung cancers and many allergies, sinus problems and other health related issues.

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This past year I have been under doctor's care for some serious environmental allergies. This bill SB597 would put a halt on an asphalt plant that is proposed for Waterbury. We have great concern for saving the river which is in very close proximity to this asphalt plant. We have spent many manpower hours cleaning up the river banks and encouraging fish life.

It is important to stress to our young citizens that protecting our environment is vital to their survival. We as adults have suffered the hazards of sloppy environmental regulations by many polluting companies not being monitored properly by the DEP.

We have endured the factories and put up with it in our young years because it was a means of survival. Commissioner Stahl mentioned zoning laws in each city. So does this mean that all industrial zoned cities will be the only ones to carry the burden of pollution? Rural areas will continue to be exempt with the exodus of residents to the suburbs. Is this truly a sign of progress for our large cities?

I ask that SB597 pass so the citizens of Waterbury could live a healthier quality of life and remember, Waterbury is the center of the universe.

SEN. DAILY: Thank you very much. Are there any questions? Kathleen McNamara followed by Lawrence DePillo.

KATHLEEN MCNAMARA: My name is Kathleen McNamara. I'm a resident of Waterbury. I'm also president of the Bunker Hill Neighborhood Association. For the past two months I've been gathering the latest studies, issues and decisions rendered on state and local levels concerning asphalt plants across the country and that's what I've been doing for a solid six or seven hours of the day.

A great majority of those studies I've brought here today and turned over to the Environmental Committee. Those studies contain medical reports. They contain findings of local boards across the State of Massachusetts, including four communities

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which successfully fought off asphalt plants where they were zoned because of health issues, public concern issues, quality of life issues, a number of traffic issues, you name it, you've got it.

These reports, these studies have been in existence for a number of years. It is really sad that our DEP has not taken the initiative to do their homework and is just now starting to look into fugitive emissions.

The local expert in Massachusetts, Dr. Roddie Notcarney on fugitive emissions has findings which you can obtain and you can probably get his name from Merc Pittinos. But he is widely considered the expert on fugitive emissions and he maintains that the fugitive emissions from an asphalt plant are ten times the level of what is going up that smokestack.

In the case the projected pollutants going up the smokestack of Contractor Supply in Waterbury, they're asking for 124 tons a year. We could therefore possibly be expecting ten times that in fugitive emissions, a plant which is attempting to locate three blocks from residences, within a third of a mile of Waterbury Hospital, Easter Seals Rehab Center, you name it. There's a health center around there. There's a home, there's a concern, a number of schools.

What have I found in the last two months? I'll try to be a little bit brief here. First of all, in terms of medical studies, asphalt plant production has been linked by medical studies to a wide variety of cancers and respiratory illnesses. The most recent study is by Knox and Gilman, the Journal of Epidemiology and Community Health and it links significant increases in childhood cancers to a geographical area three miles around asphalt (inaudible) industries.

The New England Journal of Medicine, the American Cancer Society, the American Lung Association and Harvard University have all linked particulate air pollution to asthma attacks, respiratory illness and increased mortality rates in cities.

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I'd like to read you a statement by the Boston Board of Health last May 1, 1996 and they ruled on an asphalt plant attempting to locate in a residential area of Boston. The board finds that the business proposed here may be dangerous to the public health, that the existing health of the surrounding communities has been compromised with high levels of fugitive, of respiratory ailments, asthma and other illnesses and that fugitive emissions from the proposed plant are likely to increase lung and other cancer rates.

Most chilling in the Boston testimony was the following statement from Dr. Alaru from the Office of Environmental Health and this really disturbs me and it really goes right to the heart of the issue of public health and welfare versus zoning rights. The special populations of the very young and the very old are at greater risk for toxic exposure due to age and health status. Children are at a greater risk because of their higher rate of respiration, a larger lung surface area and differing metabolic processes.

Furthermore, the children under five and the elderly are the least likely to leave their home on a regular basis for significant periods. As a result, as they will experience exposure during peak production and processing hours, their cumulative exposure will be higher. Similarly, those children who both live and attend school in the impact area will receive near continuous exposure.

I know my time is running out and you have the information that I've passed on to you. I'd just like to make one final comment in reference to Contractor Supply. The picture that was painted by the representative from Contractor Supply earlier today is not quite as rosy. They have no local building permit. They let expire their DEP permit that they obtained two years ago and they did not work to build that plant. They went to reapply and that's when citizens in the area noticed that reapplication notice.

Thirdly, the city is intervening in the DEP

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permanent hearings. They are objecting to the building of that asphalt plant at that site and the city is attempting to impose a moratorium. So I don't see a rosy picture there for Contractor Supply.

SEN. DAILY: Are there any questions of Ms. McNamara?  
Lawrence DePillo followed by James Latimer.

LAWRENCE DEPILLO: Good afternoon distinguished members of the Senate and House of Representatives, ladies and gentlemen. For the record, my name is Lawrence DePillo and I reside at 11 Steuben Street in the City of Waterbury. I thank you the members of the Environment Committee for allowing me the opportunity to provide comments regarding raised SB597 AN ACT CONCERNING THE SITING OF ASPHALT BATCHING FACILITIES.

On behalf of myself and many concerned taxpayers in Waterbury, I thank the entire Waterbury delegations and other members of the Senate and House of Representatives that co-sponsored and support this most important legislation.

Asphalt production is necessary but an environmentally unfriendly activity. Anyone that has ever been stuck behind a 10 wheeler carrying freshly made asphalt or in traffic as asphalt is being applied to a street or highway does not open their car window to enjoy the very distinctive odors asphalt produces.

We can escape the fumes if we pass the truck or drive past the construction site, but if your residence is located within close proximity to an asphalt producing plant, you're stuck. And if you happen to be asthmatic or suffer from another related lung disease, you may be a prisoner of your own home.

The solution, you move or you can sell your homes, the largest asset most people own, at a reduced value and move to another city or town. But due to the Connecticut DEP, you may have to move again. Your new neighbor may be another asphalt producing plant.

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Asphalt producing plants, although necessary, should not be located in close proximity to residences, schools, hospitals, nursing homes and the like. This legislation before you today is absolutely required if it is your intent to protect the health and quality of life of our children, our elderly and ourselves.

Nobody wants to deny a business the opportunity to make a profit, but it should not be achieved by lowering the living standards for children and the elderly. This bill is not about taking jobs away from workers or eliminating property rights, but it is about insuring that plants are constructed and operated safe distances from residences. This bill is about protecting the health and quality of life of everyone in order that they might enjoy a long, healthy and productive life.

Raised SB597 as proposed is needed because unfortunately we have a Connecticut Department of Environmental Protection that is a permitting and not a regulatory agency. As assistant commissioner Stahl pointed out today, local zoning is not the DEP's problem. But it is the problem of the people. People, the victims of zoning decisions made over 20 years ago before the health hazards of asphalt plants were documented. The DEP cannot and will not protect us, but you can.

There are a couple of statements that were said earlier that I would like to clarify. First, Waterbury's heavy industrial zones were in close proximity to the Naugatuck River and large brooks in Waterbury for over 100 years for the purposes of water power and process water. They are enterprise zones, but the reason they're enterprise zones is because that old industry along that river was purchased as industrial property and not being used the way that property was originally intended to be used which was for manufacturing in the metals industry which is what Waterbury is all about.

And I would just in closing like you to know that in my opinion, Contractor Supply LLC has no valid building permits from the City of Waterbury and never has been granted any valid building permits

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from the City of Waterbury. They simply have a letter from a former building inspector that says that this is a valid industrial zone. There are over 10 community groups representing all aspects of the city's residents and they are intervening in the permit process with the DEP as well as the City of Waterbury. I thank you very much and pray that the members of this Committee will enthusiastically support this bill. Thank you very much. Any questions?

SEN. DAILY: James Latimer to be followed by Ronald Fazekas.

JAMES LATIMER: James Latimer, and I'm also from Waterbury and I'm in favor of SB597. This is a unique chance for every member of the General Assembly to be a champion for his or her constituents. Every Connecticut resident is affected by the air. If any legislative measure can be implemented to keep our air quality good, then you lawmakers are the ones responsible to keep us healthy, especially people who live in poor industrial areas where air quality may not be very good to start with.

This bill must be passed into law quickly. You are dealing with the universal necessity for life for millions of people in this state. Thank you for your time.

SEN. DAILY: Thanks very much. Are there any questions? Ronald Fazekas followed by Joan Sprague. And Joan will be followed by Paul Jacobi.

RONALD FAZEKAS: Good afternoon, Senator Daily and members of the Commission that are still here. Joan Sprague and I are residents and board members of Seaside Village Homes, Incorporated. It's a 257 unit cooperative that was built in 1917, ten years prior to the institution of zoning. As a result, we're located on the line of a heavy industrial zone with a section that is now placed an application in with the zoning board of Bridgeport to build an asphalt plant.

The lady from DEP mentioned that placement of such

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items is a zoning problem but I think in the past, as other people have brought up, zoning has not always shall we say, stood the residents of a town in its best stead and we are strongly in support of SB597 because of the distance involved.

We have a copy of the plan that was submitted to the zoning board of Bridgeport as well as a city map showing our proximity to the plant. Joan and I live on the same street. Joan's back door will be approximately 30 feet from the property line with only a 10 foot buffer strip to the equipment.

Now, there's always been heavy industrial. We understand that. As I said, we predated zoning. This couldn't happen today and there's always been industry there. But the fact is, let's just not even speak about potential health hazards, let's talk about that elusive thing, quality of life.

The fact is, this is a factory outdoors. That's really what it amounts to. You haven't been to an asphalt plant. We have. My father is in the construction business. I've been to asphalt plants any number of times. They're loud, noisy, smelly and I think all of us are aware of the annoyance of back up alarms.

Back up alarms are exempt from any State of Connecticut DEP standards for noise because they're OSHA regulated safety devices. Their decibel rating is almost double that of what would be permitted at the property line of a factory and as a friend of mine who said that was on vacation in a hotel that was undergoing construction, it seemed like the machines only went in reverse.

I can only stress more the fact that the SB597 bill be passed because that gives specifics of distances and such while a moratorium, two years, three years, will go by the wayside and suddenly it's over and we're back at square one. Joan has something to ad.

JOAN SPRAGUE: I would only like to add, and I listened to the lady that was concerned about the plant to be constructed on the east side. In our village,

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about 30% of our residents are senior citizens. They've lived there, some of them their entire lives and if this plant comes in, there will be many of them that I'm sure will not live there much longer and their quality of life, as Ron said will be down the tubes.

We have young couples with small children. Their homes are adequate. It's economical as a starter home for families and there are small children there that play in the area. If this plant goes into effect, our quality of life is gone. The serenity and beauty of that village that's been there since 1917 will be destroyed.

RONALD FAZEKAS: In closing, I'll just mention, Joan is a 43 resident of Seaside Village. My granddad was one of the carpenters who built it and our neighborhood is on the National Historic Register of historic places as the first planned garden community in the United States. I thank you for your time.

JOAN SPRAGUE: Thank you.

SEN. DAILY: Thank you very much. Paul Jacobi, followed by Harry Heller. Harry Heller, followed by Robert Silvestri.

HARRY HELLER: Senator Daily, members of the Environment Committee, my name is Harry Heller. I am representing Fedus Associates and Sonocol Northeastern. Fedus is the developer of the Colchester site. It is a limited liability company owned by Sonocol Northeastern which is a company involved in the excavation and processing and manufacturer of earth products with facilities in Griswold, Montville and Groton, Connecticut employing 140 of your constituents.

Fedus and Sonocol submit that Raised SB597 is an ill-advised and inappropriate legislative overreaction to environmental concerns which have been raised with respect to the manufacturer of bituminous concrete and recent permitting proceedings including Fedus' proposed Colchester facility and a similar facility in Waterbury,

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Connecticut.

The environmental concerns being raised with respect to the bituminous concrete manufacturing facilities have focused on fugitive emissions. We need to segregate the fugitive emissions from the stack emissions. The stack emissions from a bituminous concrete plant are no different from the stack emissions from the hospitals, the schools and other industrial, commercial and manufacturing facilities in the State of Connecticut which are exempt from this bill. All those stack emissions are, are emissions from the burning of #2 fuel oil, the same oil that you burn in your homes if you have oil heat.

As of this date there have been no empirical studies which quantify the amount or effect of the fugitive emissions. In conjunction with an application filed by Tedesca Equipment Company in Massachusetts, the Massachusetts Department of Environmental Protection concluded that the fugitive emissions would be approximately one ton per year and the opponents of the facility made claim that the emissions would exceed 300 tons per year. So you can the divergence of the analytical methods that have bandied about by both sides before you this afternoon.

Article 10 Section 1 of the Connecticut Constitution of 1965 authorizes the delegation of legislative authority to political subdivisions of the State of Connecticut, the so-called home rule provisions. Pursuant to this authority to delegate, land use regulation is vested in the municipalities of the State of Connecticut pursuant to the provisions of Section 7-148 and Section 8-1 of the Connecticut General Statutes.

Zoning is the basic technique for the public regulation of land development and use in the State of Connecticut. The central concern of zoning is the interaction of land uses and an attempt to order those uses to minimize their adverse impact on each other.

CGS 8-1 grants to each municipality the right to

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establish a zoning commission and acting through that commission the power to regulate land use within the community. Zoning commissions have been granted broad discretion by the Connecticut courts in the determination of land uses through the adoption of local regulations. The court allows zoning authorities this discretion in determining the public needs and the means of meeting it because the local authority lives close to the circumstances and conditions which create the problem and shape the solution.

SB597 is an apparent attempt to divest municipal land use regulatory authorities of permitting jurisdiction with respect to one particular type of industrial use. It is inconsistent with the delegation of zoning authority to municipal commissions contained in 8-1 and runs contrary to the principles of land use regulation as it has developed in the State of Connecticut since the adoption of the enabling legislation in 1925.

SB597 is an overt attempt to divest from local control, the power and authority to determine the nature and locus of permissible land use within its territorial limits.

Fedus and Sonocol can find no empirical data which would justify a 1760 foot separating distance for a bituminous concrete manufacturing facility from the enumerated abutters in the legislation.

We would submit to you that there are already ample controls in the regulatory process to protect the public health, safety and welfare with respect to these facilities. Assistant director Christopher James has indicated in our permitting process before DEP that no plants will be permitted for air quality compliance until such time as fugitive emissions have been evaluated and demonstrated to the Department not to constitute a safety hazard.

We submit to you that that is the proper area for these matters to be and I would just request, we have other issues with respect to vested rights. I realize that I've exceeded my limit. I've sat here for the past four hours listening to this Committee

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let some people talk for 10 or 15 minutes. However, I would request that you read the section of the testimony that we have submitted to you in writing, concerning the vested rights issue because we believe, that is on Page 4 and 5 of our testimony. And I would just conclude by saying that we believe there are vest rights issue and for that reason a December 1, 1997 operational date as proposed in the legislation is inappropriate. It should not apply to facilities for which permit applications have been filed and are being diligently processed. Thank you for your attention.

SEN. DAILY: Thank you. Robert Silvestri, followed by Steve Gurney.

ROBERT SILVESTRI: Hello everyone. My name is Robert Silvestri. I'm a lifelong resident of Waterbury, Connecticut and we're here in support of Raised SB597.

Well, tonight we learned many things. Among them some older things, nicotine is not habit forming, agent orange is good for you, there were no poison gases released in Desert Storm and asphalt plants run clean and quiet.

I'm not going to go into some of the things that I was going to talk about because it's been pretty well covered by all the people that went before me. But I do have some problems with the attitude of the DEP in some areas.

One of the things that was brought up was the phrase, no significant risk. I guess you don't have any risk if you work in the DEP building, but I think there are a lot of risks involved in having an asphalt plant even in your city.

I would like to just read something here that was taken from a book called Environmental Protection-Law and Policy, published by Little Brown & Company and one of the things that this gentleman talks about is what we're talking about and he says, describing the direct physiological effects of air pollution on humans can be like describing the

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shape of an iceberg floating in the sea. A few historical episodes, periods of intense air pollution concentrations when mortality rates have risen sharply stand out clearly and are described thoroughly in the literature. Numbers of persons, symptoms, circumstances and the associated statistics can be clearly linked to air pollution without strong dissention.

But we know that the most massive health problem with air pollution is not associated with identifiable episodes, but the gradual erosion of health by frequent and long-term exposures. Hypotheses linking this type of exposure with specific illnesses require murky assumptions and estimates that are easily attacked piecemeal by dissenters.

And he brings about this example which is a little more extreme than what we're talking about but nonetheless, the end of this will make our example for us.

Crises circumstances existed in the horseshoe shape Monongahela Valley around Anora, Pennsylvania in October 48. Toxic fumes and smoke were rising from numerous factories along the river and freight trains operated on both banks with coal burning steam locomotives. The air was cold and damp. For more than five days after October 26th, no breezes disturbed the thickening fog that accumulated in the valley basin. About 20 deaths were attributed to the episode and nearly 6,000 persons, representing nearly half of the area's population were stricken with irritation of the eyes, nose and throat, labored breathing, coughing, chest pains, headaches, nausea and vomiting.

But most important, I'm sorry, but most victims of air pollution will not die during an air episode. They will contract a respiratory disease or another symptom associated with air pollution and gradually weaken and typically die from pneumonia, a heart attack or failure of some other vital organs. Or they will bear a child with a birth defect that future medical research will link to an air pollutant. Or perhaps they will develop a disease

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such as cancer, caused by dimly understood set of factors of air pollution as only one possible component.

These are some of the things I think we're up against when we're talking about an asphalt plant and the kind of pollution that an asphalt plant emanates. Basically, I think that's what I wanted to bring about is the fact that you cannot right now identify what the pollutant can be, but we know there are a number of pollutants in the atmosphere that an asphalt plant gives out and we should be very careful in approving any kind of asphalt plant that is anywhere near a residential area. And that ends my presentation because I see everybody wants to go home.

REP. MUSHINSKY: Thank you. There's still a lengthy list. I appreciate your testimony.

ROBERT SILVESTRI: Thank you.

REP. MUSHINSKY: The next speaker is Steve Gurney, followed by Bill Jenkins.

STEVE GURNEY: Good afternoon, Representative Mushinsky. Senator Daily, Representative Stratton, other Committee members and staff. I'm the program coordinator and legislative director of the Connecticut Public Interest Research Group. CONNPIRG is a nonprofit, nonpartisan environmental and consumer watchdog organization that has served the Connecticut public for nearly 25 years.

I'd like to support SB413. I'd like to support SB571 if Section 2 is removed so that additional diversions cannot occur outside of the permit process. I'd like to support SB439 for the following reasons. It provides publishers with some flexibility as they continue to increase the proportion of recycled paper that they use. Tree free paper has the benefit of substantially reducing habitat destruction. There are no discharge of coring compounds like dioxin, elimination of erosion and river tributary problems, providing 40 times more fiber per acre per year than trees.

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It is a sustainable process. It reduces global warming by forest preservation. There's the lower total cost and there's an elimination of taxpayer subsidies to cut trees on public land.

I support the original intentions of this bill as it was developed. However, I am first of all, concerned about the testimony of the Connecticut Daily Newspapers Association. Their testimony is not factually correct because an exemption can only occur when there is a demonstrated hardship and they have a recycling agreement with the Northeast Recycling Council.

I'm also concerned that if this bill passes, that there's potential for NRC to be somewhat lax in terms of the requirements. We need language that addresses the choice between recycled paper and tree free paper, by the way, which also can be recycled. There needs to be a transition period for the movement toward tree free paper in the long run to insure that we are not left with a surplus of recycled paper. We certainly do not want to encourage the growth of incineration.

Finally, I'd like to conditionally support SB597 and I'll make this brief. I have submitted written testimony that has a lot of details about public health impacts and impacts to the environment. Basically, I'd like to repeat that fugitive organic emissions from asphalt plants are not controlled, monitored or regulated and they have not been identified by the USEPA or the Connecticut DEP.

The State of North Carolina has implemented a moratorium on the construction of new asphalt plants until the fugitive organic emissions issue is adequately addressed.

The conditions I have in terms of supporting this bill are that two states have proposed legislation, Massachusetts and Texas that basically are very similar to this bill and have a half mile buffer zone. I'm confused about why Connecticut would adopt legislation from a neighboring state and reduce that buffer zone to one third of a mile. I think that should be restored to half a mile for

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the buffer zone.

I'd also like to support this bill if all asphalt plants are included in the language and additionally would like to express my support for the moratorium for new asphalt plants in Connecticut. Thank you for your time, consideration and hard work.

REP. MUSHINSKY: Well timed. On the most, that was very well timed. On the most, on the last bill on your testimony list, the asphalt bill, when you're talking about applying to all plants, you would not be speaking of the siting requirements would you? Because that's not going to be possible. Are you speaking to the buffer applying to all existing?

STEVE GURNEY: No, not all existing plants. All new plants.

REP. MUSHINSKY: Okay. I wanted to ask you, to follow up on SB439 the recycled content. I'm the author of that original law and the reason we wrote that law years ago was to get rid of a problem for the municipalities. They were stock piling waste paper that they had collected in their recycling campaigns. Paper is a recycled list item in Connecticut. So they were collecting it and warehousing it and they could not market it, and that was the reason for this law.

We required content stepped up over time by the industries that use the paper, and sure enough, they started to use it based on the requirement and the newsprint makers started to add recycled content to their paper.

So Section 2 of the bill which promotes the use of canai, a non-tree paper, worries me a little bit, not because I'm opposed to canai, I think it's a great substitute. But I'm worried that if we allow the purchasing agency in the Department of Administrative Services to buy this instead of the recycled content paper that we're removing a major customer for the recycled paper. And the municipalities may be back in that situation they were in when we passed this law, stockpiling the

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paper in a warehouse and not being able to move it. And then we're back where the Environment Committee was in the mid-eighties hoisting waste disposal facilities on areas that didn't want them.

So that's what makes me nervous about Section 2 and I do understand the advantages of canai but I'm hoping that you would think about some language we could include in here requiring the DAS to only have that second choice if the municipalities were not burdened with an excess of waste paper. But I think as long as that possibility is there, that our first priority should be to such up the waste paper.

STEVE GURNEY: As I understand it, the Committee is planning to amend the bill and I'd be happy to work with the Committee to help you with that language.

REP. MUSHINSKY: Okay. I know CONNPIRG has a long history of working on waste disposal siting so I know this connects to your other, the other positions of your organization. Okay, well thank you. I'd appreciate it if you'd work with us on that.

STEVE GURNEY: I'll also give you copies of this information about tree free products.

REP. MUSHINSKY: The Clerk could take that and if you just have one, people could make copies.

STEVE GURNEY: Thanks.

REP. MUSHINSKY: Thank you, Steve. The next speaker is Bill Jenkins, followed by Bruce Contois. Is bill here? Okay. Bruce Contois here? Sorry if I mispronounce it. Followed by Tony Koenig.

BRUCE CONTOIS: Good evening. My name is Bruce Contois. I live in Colchester, Connecticut. I'd like to thank the Environmental Committee, especially the diehards that are still there and those of us who have things to say that are in attendance waiting to speak our minds.

Many of us in this room probably recall the days of

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the good old days of cobblestones and concrete highways. Wouldn't it be nice if we could go back to those days again. We wouldn't be here if we could.

At the meeting held on February 26th in Colchester, Connecticut, held by the DEP air quality division, one of the citizens of Colchester made a comment that got a little chuckle, but the more I thought about it, the more I thought he was really on to something. He said, why don't you put the thing inside of a dome? Well, that makes a lot of sense. Put it inside of a dome and do the same thing underneath the dome that they're doing over here in Hartford at the dump.

Rubber insulation underneath, a rubber membrane underneath the ground to keep seepage and runoff under control. A big dome that they can drive all the trucks they want in there, back them up as often as they'd like and put canaries by the exhaust outlet and if any canary dies, then you shut down until you clean up the exhaust.

You can paint the outside of the dome with trees and flowers and we'll never even know it's there and you can put it as close to the residents as you want because it's not going to impact them.

Commissioner Stahl pleaded with this group earlier for some language in SB597 and I have some thoughts on that, that this Commission might like to entertain. Any applicant who has past violations, not be granted permission to operate a new facility. Rubber membranes be placed underneath the site and underneath the storage tanks where they're going to keep the #2 oil. You increase the maximum fines for offenders such that instead of a \$25,000 slap on the wrist which takes months and years to finally get to, they get something significant, something in the line of the kind of fines that the state is dishing out to Northeast Utilities for their violations. Make it really hurt.

There's no fire plan in place that I've been able to ferret out and I wonder why the local fire

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department doesn't have a plan in place to protect against a spill?

The applicant should be required to maintain all roads. In Colchester, we're talking 100,000 truck trips. If you divide, do the math, 500,000 ton annual capacity and that's an eight month annual capacity, by a 20 ton truckload, you come up with 100,000 truckloads on a small little country road. The applicant should be responsible to maintain the roads.

And, the applicant should not be allowed to use water from the water table or well water which is going to compete with the local residents. There was a study done in England. In fact, they have a moratorium. Their study concluded based on fugitive emissions, that this type of manufacturing facility, you're five times more likely to get cancer living next to one of these babies than you are next to any other type of, I lost the word, this type of manufacturing. It's not good. It's bad and I am pleased to have had the opportunity to sit in front of this group and my fellow citizens. I certainly appreciate your time and know that you'll come to a correct decision. Thank you very much.

SEN. DAILY: Thank you. Any questions? Tony Koenig, followed by Bob Washburn.

TONY KOENIG: Thank you, Senator Daily and remaining members. My name is Tony Koenig, owner of Timberlog Building Systems in Colchester. I do have some concerns and of course the great majority of concerns over these past four hours have been brought up by other people so I'll keep my comments very short.

I am in support of SB597 as well as the moratorium. Also, as a business owner I have an obligation to my employees to protect their health and welfare and I can't help but think that both the allotted emissions and the fugitive emissions will do nothing but harm my employees long term.

My insurance carrier, workmen's compensation

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carrier has requested that I ask the applicant for copies of the MSDSs on the chemicals that they will have in storage on the site. Also, as an employer, I'm concerned with the air quality that we're going to have as far as the people that are visiting me, as far as my vendors and my customers.

There are many, many other concerns that I have, too, but once again, because of the hour I'm going to pass on them. I do hope that you will all support SB597 as well as the support to the Governor on the moratorium. Thank you.

: Tell me where you're located?

TONY KOENIG: Sorry. Oh yeah. I'm located approximately 200 feet from the proposed plant in Colchester.

SEN. DAILY: (Inaudible-not using mike) Bob Washburn followed by David Leith.

BOB WASHBURN: For the record, I'm Bob Washburn and I'm just going to read to you some letters that are already on file with the DEP at the hearings and then I'll just briefly go over some things.

Dear Sirs: As an employer I'm concerned that if the asphalt plant is allowed to operate, it will be impossible for my company to insure compliance with environmental laws and regulations for the work place which this state has.

Fumes, gas and fugitive emissions will fill my building. Noise levels will be above allowable decibel levels. I will not be able to control the quality of air that employees, subcontractors and suppliers will breathe while at my work place.

That's my response as an employer. Now as a property owner. I own the building that abuts this site. My building is about 20 feet above and 175 feet away from the location of the mixing drum. The second floor is primarily office space.

I have concerns I would like to have addressed. Air concerns. I understand that the product is 300

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degrees Fahrenheit when it leaves for a job site. Tar must be maintained at 300 degrees Fahrenheit plus 24 hours a day. The sand and stone exceeded 300 degrees Fahrenheit plus burners and heaters will be running 24 hours a day, seven days a week.

This activity, along with the filling of trucks will produce strong odors and gas. Stack emissions from the drum mixer will be a stinking fog. It is sure to seep into all structures within a thousand feet and may well affect traffic conditions on Route 2 on the old Hartford Road in the form of fog.

Emissions will drop tons of ash and who knows what else on the area. I noticed the recycle option on the site plan. Recycled material could contain toxic waste and that mixed with asphalt producing more pollutants in the stack emissions. I expect a lot of fugitive dust from sand and stone when it is trucked in the gravel work area and dumped. More dust when dumped when the coal feed hoppers are filled. In a plant that could produce 300 tons per hour, there will be a lot of activity in this area.

I did not see any anti-tracking notes on the site plan to keep mud and dust off Finition Lane and Old Hartford Road. I am very concerned with the quality of air people will breathe on my property. I have no control over the other plants will make.

Water concerns. In June of 1982 this site was under water when the Jeremy River flooded. A plant like this will have an adverse affect on the Jeremy and the Salmon Rivers should a flood again occur. It will affect the state's salmon restoration project which I understand has cost over \$30 million.

What will keep the fuel circulating oils and tar from washing into the Jeremy River? They're assured, be a base water quality study done on Meadow Brook, the Jeremy River before this plant operates. We need to know how the tons of falling ash from emissions will affect the area property and waterways.

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There should also be a well study done on all wells within a thousand feet of this site as they will be affected by the activities at this site.

Noise concerns. I understand the burners and heaters together burn 720 gallons an hour of #2 fuel. This means over 12 gallons a minute is burned. There's no question in my mind that the noise level will be that of a jet engine running.

There will also be heavy equipment moving sand and stone to the hoppers. Am I supposed to stop now?

SEN. DAILY: Please summarize.

BOB WASHBURN: Basically, in summary, there's vibrations which are going to occur. Picture a huge drum turning with thousands of tons of material in it. There will be ground vibrations. There's also fire concerns because of the large quantities of fuel that are stored on the area. I'm going to submit that as some evidence and also if I might bore you for one more minute. This is a site plan which I will leave for evidence.

But I want to point out one note in this original site plan. It is written by Richard Snarsky, a certified soil scientist. There are no inland/wetlands soils or water course present on this property. That is totally wrong. This site is set on an aquifer and just before Finition Lane there is a culvert which goes under the Old Hartford Road which drains down onto this site.

In these pictures that I'm going to give you as evidence, you can plainly see, this was taken in January when we had a small rainstorm. Plainly see the water runoff and the erosion on the hill. Just three days ago when the main rainstorm we just had, this whole area was totally washed out and it went over onto Route 2, went right through the little black fence they have and filled up the culvert which goes into Meadow Brook.

I'd better quit.

SEN. DAILY: Were you able to take pictures (Inaudible-

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not using mike)

BOB WASHBURN: Yes, Tony Koenig has pictures. In other words, basically this is not the site for this type of an operation. As I said, within less than a thousand feet there's seven homes and two businesses. I just wish this Commission or Committee, would look at the big picture, don't have tunnel vision like the DEP and just look at air. Look at the big picture. The impact on air, water, noise, vibrations, heavy truck traffic. This is not the area for this. Thank you.

SEN. DAILY: I'd ask you if you have submitted that information to DEP.

BOB WASHBURN: Most of it, yes. In other words, my letters I submitted.

SEN. DAILY: The letters, the site plan, the pictures.

BOB WASHBURN: The site plan I didn't give to them at that hearing because all they wanted to know was air. They didn't want to know anything else.

SEN. DAILY: I would advise that it's in your best interest to take these back and submit them to DEP.

BOB WASHBURN: No, I have copies of that site plan, no problem. I want you people to have it so that you can make hopefully, intelligent decision.

SEN. DAILY: I think it has been clear during the day, we won't make the decision on that permit. I mean, that's a DEP authority and we have no --

BOB WASHBURN: No, but in regard to this moratorium.

SEN. DAILY: Right.

BOB WASHBURN: Because that's something you definitely need to stop this and sit down and really look at things. I mean, this is no place for this.

SEN. DAILY: I think that counsel for your town has said that the moratorium suggested by the Governor doesn't stop this.

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BOB WASHBURN: Pardon?

SEN. DAILY: I think there might be a problem in whether or not this moratorium language would stop the Colchester plant. I just wanted you to be aware.

BOB WASHBURN: I was of the impression that it was operating unless I misread your letter, it was operating plants. This plant is not operating.

SEN. DAILY: We can't have a discussion about that. I just want you to know that that's a possible. I mean, we'll do our best to work and --

BOB WASHBURN: Well do it quickly so you'll stop this plant, okay?

SEN. DAILY: Thank you again for your time and your testimony. David Leith, followed by Mark Gross.

DAVID LEITH: Good afternoon. My name is David Leith. I live in Colchester approximately a mile from the proposed asphalt plant. I just came down and voiced my opinion about the bill SB597. I am in favor of it with perhaps the change of the distance from a third of a mile to a half a mile. I think a half a mile would be more suitable.

I am also in favor of the moratorium with the exception of the wording considering batch plants. I would like it to include all asphalt plants. And I don't know if two years is perhaps enough time to sufficiently examine the information that they're collecting and come up with definitive answers about fugitive emissions.

Some of my reasoning for supporting both of these, the bill and the moratorium will follow here. I've taken some random notes as I sat here and listened to the people testify today, or give information.

I take exception with the statements made that asphalt plants are not a major source of pollution and they do not promote significant health hazards. I think if the Committee here would examine things like the truck traffic that they will bring to the area, the runoff from rainstorms, you know, that

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the petroleum products be going into aquafilters, the air emissions, fugitive emissions and any sort of disaster. I mean, if we have a fire at this plant there's you know, tens of thousands of gallons of fuel oil on the premises, you know. God knows what could happen. I think these all would create significant health hazards.

By their own numbers, this plant will emit tons and tons of particulate into the air. I don't know how they consider that not to be a major source of pollution. I know when I go to my auto emissions I certainly am restricted to have a lot less pollution put into the air there by the state. I don't understand why they don't consider tons and tons to be a major source.

I'd like to echo some of the statements by previous speakers. Notification. I think it's important for towns and property owners to be notified of such goings on, people seeking permits for these sort of situations. I don't understand why we've changed laws to make it that we don't have to be notified or notified in a manner that's very, very hard for us to find out what's going on. I think it leads to the sort of meetings that are very late in the process and now you realize all our objections and everyone is asking, gee, why didn't you speak up sooner?

As far as local zoning issues, I think the local zoning board approval of these things doesn't mean that we as citizens approve of it. At times, we're unaware, we're perhaps deceived by fancy lawyers, you know, the best lawyers money can buy. Sometimes people on zoning boards have undue influence on the other members and they make decisions that they wouldn't normally make.

I'd like to remind the Committee that any business will do everything that's legal, especially concerning environmental issues like this. Whatever we don't restrict from doing, they will do. Their lawyer offered testimony about how they're the same as any home or hospital or school and the only thing that they're going to burn at their plant will be #2 fuel oil.

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What he didn't go on to tell you is that a lot of times they use recycled asphalt in their asphalt and you know, on any road, you don't know what's been spilled on it. There's probably hydraulic and transmission oils from cars that have driven on it. Years ago we had PCBs around. They could all contain that.

Some federal programs require the use of tires in their asphalt because it's a way of using up old tires. Perhaps he'll use some of that. So I guess unless we specifically make it illegal for these people to use those sort of things, they're very apt to use them and they don't present any of that information in their guidelines. They just say, all we're going to do is burn this type of oil and I don't think that will probably happen.

Let's see if I covered it all, here, to try to get it in real quick. I was just, a few things I was concerned about. I know the Committee here has dwindled to a very small amount of folks. I was curious if our concerns will be voiced to the rest of the Committee. I don't know what the Committee consists of member-wise. I don't know if all these chairs are supposed to be full or not, I haven't been to a lot of these meetings. So I just hope that they will in fact get this information as we present it.

And I'd like to say that I think if you had these sort of meetings locally, I know I'm a working guy. I need to take time off from work to be here. If any of you heard about the meeting we had after hours at our town, you would have seen a lot more people show up at these meetings and give their opinion.

So again, I thank you for your attention and I hope you'll you know, decide the right way to go on these things.

SEN. DAILY: Thank you very much. I tried to explain at the outset about attendance and about the information. All of this is recorded and made available to members of the Committee. All of the information that has been handed in and submitted

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is also made available to every member of the Committee. And the Committee members are very diligent in reviewing that information and understanding your opinion.

DAVID LEITH: Okay, great. Thanks.

SEN. DAILY: And they can't all be here either. I have to say in defense of my colleagues. All around the building there are other meetings going on at the same time. We all sit on more than one Committee. Mark Gross, followed by Carol Krewalk.

MARK GROSS: My name is Mark W. Gross. I am the owner of For the Birds which is a wildlife sanctuary registered with the National Wildlife Federation and a small business that makes products that enable my customers to attract wildlife to their properties.

Our products have been sold throughout New England and as far away as the State of Kansas. For the Birds is registered with the Town of Colchester, Connecticut, the State of Connecticut and the State of Rhode Island and has been in business for five years.

Said sanctuary is located 850 feet away from the proposed asphalt plant. I wish to speak for those who are unable to speak for themselves. First of all, the Atlantic Salmon. The State of Connecticut DEP since 1965 has spent an estimated \$25 to \$37 million and thousands of man hours in efforts to restore the Atlantic Salmon in Connecticut's rivers and streams.

The salmon is intolerant to even microscopic forms of pollution because they mark their stream so that they can return from the Atlantic Ocean to the exact stream to breed. Atlantic Salmon does not die off after breeding but returns to the ocean again hopefully to breed again.

Atlantic Salmon can weigh up to 100 pounds. It is a proven fact, based on intensive studies, that one gallon of oil can ruin one million gallons of water, a year's supply of water for 50 people and

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create an acre slip on surface after. My source for the information is Motor Service Magazine, December 97.

Cass. 4

(GAP FROM CASS. 3 TO CASS. 4)

built 250 feet away from the Jeremy River, 600 feet from the Salmon River would destroy the Atlantic Salmon populations which inhabit them due to airborne emissions which are oil based, toxin and cancerous in nature. The efforts and man hours and monetary nature of sportsmen, conservationists and organizations will be undone by this proposed asphalt plant.

Furthermore, I speak for the Eastern Bluebird, the Wild Turkey, the Ring Neck Pheasant and the Rough Grouse and other birds that not only inhabit my sanctuary in this area, but have been a source of restoration projects by the State of Connecticut DEP and concerned citizens and organizations for 25 years at the cost of multi-millions of dollars and thousands of man hours, not including those who volunteer their services.

It has been proven that all species are intolerant to airborne pollutants. Studies have indicated that not only is loss of habitat a major source of destruction of birds as a whole but that airborne pollutants have been a major factor in destroying trees, plant life, shrubbery, that is critical for aviaries survival.

Airborne pollutants are responsible for destroying the eggs of nesting birds and have been linked to deformities that are occurring in birds. Almost done.

Two years ago the House Finch developed an eye disease that killed thousands of their population by allowing them to be more prone to predators and causing them to be unable to find sources of food and water necessary in their survival. Airborne pollutants are responsible for killing tens of thousands of migratory hawks last year alone. This

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information comes from the Cornell University or Ornithology in Ithaca, New York.

The State of Connecticut DEP is mismanaged, to say the least. One branch of said department is unaware of the efforts in its own branch of state government. It seems willing to undo their own efforts by allowing the proposed asphalt plant as being built in Colchester, Connecticut to proceed.

DEP has a long history of being unable to enforce violations by asphalt plants because they are understaffed. DEP seems willing to throw away millions of dollars to allow this plant to proceed.

DEP itself needs to be managed by a responsible administrator who knows what is going on within his or her branch of state government. In summation, if the proposed plant that's being built in Colchester, or any proposed plant is allowed to proceed with total disregard to environmental and/or wildlife concerns, it will lead to a catastrophic chain of events until it destroys human life itself. Thank you.

SEN. DAILY: Thanks very much. Carol Krewalk.

CAROL KREWALK: My husband is going to sit with me, he's got a few things.

TOM KREWALK: I'm a little lower on the list.

CAROL KREWALK: I'm going to try to get him into my three minutes. Thank you very much for hearing me. My name is Carol Krewalk and I am here to request you support the passing of SB597.

I live directly across the street from the Colchester proposed asphalt plant and have received absolutely no assurance from the DEP or Fedus' attorney that the quality of life my husband and I presently have is being protected.

We have rights to have our health, welfare and property value protected through our town zoning regulations and I do not feel that any of this is being done. The approving of SB597 could give us

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these assurances and protect future citizens from having to go through the anguish and hardship that my husband and I are going through trying to protect our personal rights and stop the operating of the Colchester plant.

There are so many questions still left unresolved concerning fugitive emissions from the loading and transporting of the asphalt. However, one thing we do know is, DEP requires the applicant contain 99.5% of stack emissions.

My husband and I have no particulates or toxic emissions on our property now and we do not find even the .05% is acceptable that they say is. We live less than 400 feet from the Colchester proposed plant and cannot even imagine what the operation of this plant would do to our well being, our animals, our home and our health.

The Colchester asphalt plant they are trying to obtain an operating permit for is also approximately 300 feet from a Class A river which my husband is going to address.

Another thing, as was stated by Jane Stahl, she says that regarding all environmental issues that there will be, that they will be addressed. Yet I have sent letters. I have sent letters to the Governor. I have sent letters, I have spoken to Blumenthal's office. I have talked to the DEP. I have sent them over 24 letters. Do you think I have received one response? All I keep being told is, oh, they'll be addressed at the hearing, they'll be addressed at the hearing.

If I'm not in trouble here and if there's no health concern, then why can't they put it in writing? I'd like to know.

In closing, I once again request you support the passing of SB597. The only change I do request is, I do feel that the half a mile is a lot better than a third of a mile if that can be done. I feel more regulation should be set forth concerning batch plant operations to protect the people and I'm sorry, I do not believe DEP is protecting us at

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all. I think they're all in the politics. They're afraid of getting their hands slapped and they're not doing, excuse my language, a damned thing.

TOM KREWALK: I also urge that SB597 be supported for the public and environmental safety and I don't feel comfortable with burning 750 gallons of oil per hour less than 200 feet from my house. He says it's only, the attorney says it's only #2 fuel oil. I don't burn that in a whole year. He's going to burn it in one hour. And he's going to have 70,000 gallons of fuel 400 feet from my house. We have no hydrants. We have no water there. We have no way of putting a fire out. We've seen that. We had a major fire a couple of hundred feet away about five years ago and it was very bad. There's no water to put on it to put it out.

I believe it should be a half a mile buffer zone along these areas. And I urge that this bill should be supported.

SEN. DAILY: Thank you very much.

TOM KREWALK: For everybody's safety.

SEN. DAILY: Any questions? Mark Pappalardo. Tammy Wolfe.

MARK PAPPALARDO: Thank you, Senator Daily and members of the Committee. I had a prepared statement to read today but since most of it has already been said, I'm just going to make my comments in responses to some of the things I've heard today.

I would like to take exception with some of the things that the Assistant DEP Commissioner has stated today. At the public hearing in Colchester on February 26th, we have been told, and it is a matter of public record, that it was a temporary operating permit that Fedus Associates LLC was currently operating under and we later also found out that that permit expired in January of this year.

In addition to the issue on public hearings, the air quality hearing on the 26th was only held after

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letters and petitions were sent to the DEP requesting the hearing and at the public hearing on air quality, there was no scheduled hearing on water quality issues until the audience decided that they wanted to talk about both issues that night, at which point the hearing officer talked to some water quality engineers that were there and they decided at some point in the future they will set a date for a water quality hearing. So now it may be a little late in the time line, but we're getting it.

In addition, two of the areas that have been mentioned that are around the proposed plant, outside of the one third mile radius we also have day care facilities and we also have Colchester's main park and recreation complex which is about a mile and three quarters from the plant.

However, it's about at the same elevation as the height of the tallest smoke stack that is proposed, and is directly downwind from the proposed plant. I live about a quarter of a mile from there in a valley below the park.

The plant itself sits in the valley so on a windless day, any emissions from the plant's smokestack with fugitive emissions from the trucks will stagnate right within that area over Route 2 and over the surrounding homes and businesses. It won't go anywhere until there is a wind and that wind usually is southeast which would flow it right over the lower side of Hebron, Colchester, Salem, Lebanon and down into Norwich. So we have a lot of affected towns just besides Colchester.

I am here today, obviously, to speak in approval of SB597. I also would like to see it amended to change the distance from one third to one half of a mile in linear distance from a proposed plant.

I would also like consideration to be given to those areas to extending the distance in a downwind situation where you may not have a school or a nursing home or a hospital or something within a half mile but you may have it within three quarters of a mile. Three quarters of a mile as the crow

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flies is still a relatively close distance.

In closing, again, I'd like to thank you for hearing us today and putting up with the lateness of the hour. I do know Attorney Heller had exceptions with being here for four hours, but he was paid to be here for four hours. So, a lot of us took time off from work to be here and speak in favor of this bill. Thank you.

SEN. DAILY: Are there any questions? Thank you very much. The next speaker is Tammy Wolfe. Followed by John Hibbard.

TAMMY WOLFE: Yeah, I think it would be a little hard for Tommy Wolfe to give birth in another month. I've never spoken in front of people before, so if I sound shaky forgive me.

I'm definitely in support of the moratorium and especially SB597. I'm a resident that lives within one half mile of the site and I'm extremely concerned and worried, especially about the specific location of this plant, obviously, because of its proximity to residents and to my home.

I sent a letter to Senator Daily and I'd like that to be included in the records. I don't know if that's possible.

I'm trying to skip over things that have already been said. Just please, for the citizens of Colchester, we're really in dire need of your support, help and protection, not only for our health reasons but just daily living activities of the people that live in that area.

It's a fact, as you've noticed, that this plant doesn't have access to town water and it's going to be using several hundreds to maybe even thousands of gallons of water a day just to wet down the area in the process of what they do, which I'm trying to get familiar with.

As they're doing this, what's going to happen to my well? Will it run dry? Is it going to become polluted if that area does become flooded? I have

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a friend where their well, they aren't allowed to use their water a couple hours a day because their water table is low. Is that going to happen to me?

Let's see. The other real concern, too, we've talked a little bit about the travel of the amount of trucks that will be on that road. Old Hartford Road is not a route. It's a small country road. There are no sidewalks. There is no soft shoulder, so there's no safe place for pedestrians to walk on that road or to ride their bikes. There are lots of children that live in that area. There's curves and blind spots and already in the production, not production but in the building of this plant, huge trucks have been flying by at excessive, they're obviously going above the speed limits and we're waiting for a disaster to happen, so we need to look at what kind of a road the sites are being on.

My husband also suffers from asthma and there's many nights that he might need to use his inhaler two or three times a night to maintain his breathing. What will happen to my husband and possible child because asthma can be hereditary and as the pollution fills our air. Will we have to move in order for my husband to be able to live and breathe.

This leads to another significant family problem, although it's not environmental. If you're in my situation and you're a resident that lives in that area, my husband and I moved to Colchester for the country air and for the country living. We scraped and saved every penny that we have to build a house and to live in a place where we, I'll finish it up quickly.

But we have less than 20% equity in our house and if our property values go down by 20% and we have to leave, we'll have to pay to move and then have no money left to buy a house. And I love Colchester. I love my home and I don't want bad things to happen to myself, the residents and the wildlife around that area. I'm sorry. Thank you for listening to me.

SEN. DAILY: Don't be sorry. You did a very nice job.

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Are there any questions? You should know, Tammy that your letter and all letters received are (inaudible-mike not on)

TAMMY WOLFE: Okay.

SEN. DAILY: John Hibbard is the last, the very last person on our list. Is there anyone else here who did not sign up and wants to speak?

JOHN HIBBARD: Senator Daily, members of the Committee, my name is John Hibbard. I'm executive director of the Connecticut Forest and Park Association and I'm speaking on behalf of the Association in relation to SB559 regarding the notification to municipalities of certain tree cutting which would require the Department of Transportation to notify the tree warden in the municipalities where he is allowed to, or has permitted tree cutting or intends to permit tree cutting to take place.

This addresses somewhat of a problem as the Department of Transportation has jurisdiction over tree cutting along the state highways and the municipal tree wardens do not. I believe Representative Mushinsky is familiar with the problems associated with this. I don't know if anyone else testified on this bill today or not.

As a resident of Hebron, I wish to register in support of HB597 concerning the siting of asphalt batching facilities. During the long period of time when the facility in Colchester was being proposed, whatever route it's taken, I've been a town official in Hebron during that period of time and it was off again, on again proposition as people from both Hebron and Colchester have testified to and I think we need to take a pause and find out exactly what the situation is regarding this proposed plant before it proceeds any further.

I believe other town officials from Hebron, including the chairman of the board of selectmen and the town manager spoke on this issue as well as other Hebron citizens.

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I do wish to point out that we attempted to have the State Plan of Conservation and Development changed in the early nineties to allow us to change to a business zone on the opposite side of Jeremy Brook and that was not allowed. So that I find it a little strange that we're considering an asphalt plant construction on the other side of the brook at this point in time. Thank you very much. I'd be happy to answer any questions that you might have.

SEN. DAILY: Thank you. Are there any questions?  
(Inaudible)

JOHN HIBBARD: Probably from that agency.

SEN. DAILY: Thank you to everybody who appeared today.  
(Inaudible-mike not on)

(Whereupon, the hearing was adjourned.)

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## ConnPIRG Citizen Lobby

Connecticut Public Interest Research Group

41 South Main St., Suite 1 • West Hartford, CT 06107 • p (860) 233-7554 • f (860) 233-7574 • connpirg@pirg.org

**Testimony of Steven Gurney  
Environment Committee Public Hearing  
March 11, 1998**

**Conditional support for:**

**SB 597 - An Act Concerning the Siting of Asphalt Batching Facilities**

TO: Chairpersons Sen. Daily and Rep. Stratton, other Committee Members, and staff:

Good afternoon. I am the Program Coordinator and Legislative Director for the Connecticut Public Interest Research Group (ConnPIRG). The PIRGs have a long history of working to reduce air pollution in Connecticut and around the country.

Fugitive Organic Emissions from asphalt plants have not been identified or quantified by the US EPA or the CT DEP. Fugitive Organic Emissions from asphalt plants are not controlled, monitored, or regulated. However, when the same pollutants are emitted by other industries they are regulated by state and federal laws.

Some of these pollutants are known carcinogens. The health impacts of additional pollutants emitted by asphalt plants are not well known. The lack of data and knowledge about certain chemicals and their effects on public health are never good reasons for not taking sufficient precautions.

The State of North Carolina has implemented a moratorium on the construction of new asphalt plants because the concerns about Fugitive Organic Emissions have not been adequately addressed.

ConnPIRG is supportive of any precautionary measures to protect public health and the environment. We support the establishment of a buffer zone for asphalt batching facilities as a one such precautionary measure. Legislation has been passed in Texas and Massachusetts that establishes a buffer zone of one half mile between asphalt batching facilities and any hospitals or residential areas.

Senate Bill 597 is nearly identical to the Massachusetts bill (HB 2915) with one important exception. The Connecticut legislation proposes a buffer zone that is only one third of a mile. Why would Connecticut choose to use the legislation from a neighboring state as a model, but weaken the very backbone of the bill's goal? ConnPIRG will support SB 597 on the condition that the buffer zone is increased from one third mile to one half mile. Given the fact that Connecticut's air pollution ranks among the highest in the country, we should take every opportunity to assume a leadership role to protect public health.

Thank you for your time, consideration, and hard work.

*Connecticut's Public Interest Watchdog*

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Kathleen McNamara  
30 Newton Terrace  
Waterbury, CT. 06708  
203-757-9519

I am here today to express my support of Bill 597 which would prohibit an asphalt plant within 1/3 mile of a residence, school, hospital, watercourse, nursing home or area of critical environmental concern. I am a resident of Waterbury, a president of the Bunker Hill Neighborhood Association and a Commissioner on the Waterbury Board of Health. For the past two months I have been gathering information from communities, health boards and environmental groups across the country relating to the latest studies, issues and decisions rendered on state and local levels concerning asphalt plants placed within residential areas. Why the interest in Waterbury? As you may already know, the City of Waterbury and ten neighborhood associations have filed papers to intervene in the DEP hearing to grant Contractor's Supply LLC a permit to build and operate an asphalt plant on 157 East Aurora Street. This location is approximately three city blocks from residences, in an area with several schools, nursery schools, the Easter Seal Rehabilitation and Health Center and Waterbury Hospital.

The issues I have uncovered in the past two months are many and I will attempt to summarize some of the major points.

The first issue, and the overriding issue, is health. Asphalt plant production has been linked to a wide variety of cancers and respiratory illnesses. The most recent study by Knox and Gilman, Journal of Epidemiology and Community Health, 1997;51: 151-159, links significant increases in childhood cancers to a geographical area three miles around asphalt / bitumen industries. The New England Journal of Medicine, 1993;329:1753-59 links particulate air pollution with mortality in American cities. A more recent 1995 follow-up study by Harvard University and the American Cancer Society is the largest, most comprehensive long-term study of a growing body of epidemiological evidence showing the adverse health effects of particulate air pollution. The American Lung Association also links particulate air pollution with persistent coughs, outbreaks of respiratory illness, asthma attacks and death.

The health concerns over particulate air pollution from smokestacks and fugitive emissions from the loading and traveling of asphalt trucks away from asphalt plants led to the Boston Board of Health Resolution on May 1, 1996 to prohibit an asphalt plant near residences and hospitals in the Boston area. According to the Boston Board of Health:

"The Board finds that the business proposed here may...be dangerous to the public health," that "the existing health of the surrounding communities has been compromised with high levels of respiratory ailments, asthma, and other illnesses," and that "fugitive emissions from the proposed plant are likely to increase lung and other cancer rates."

Since I started researching asphalt plant issues, I have been in touch with members of the Boston Board of Health and Office of Environmental Health. As they explained to me, their findings were the result of much effort on their own part in terms of research, but that this effort was encouraged by the community groups and environmental groups who were more up-to-date on the latest findings concerns the hazards of asphalt plants. This led to the Boston Board calling all over the country to ascertain what problems were occurring in communities with asphalt plants near residential areas. I have the records of their findings and also medical testimony submitted to the Boston Board of Health that I am passing on to you today.

Perhaps the most chilling were statements made by Dr. Ngozi Oleru, Office of Environmental Health, Boston Department of Health and Hospitals:

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"The Special populations of the very young and very old are at a greater risk for toxic exposure due to age and health status. Children are at a greater risk because of their higher rate of respiration, a larger lung surface area and differing metabolic processes. Furthermore, the children under five and the elderly are least likely to leave their home on a regular basis for significant periods. As a result, as they will experience exposure during peak production and processing hours, their cumulative exposure will be higher. Similarly, those children who both live and attend school in the impact area will receive near continuous exposure."...

In his comments Dr. Oleru identifies sensitive receptors in terms of adverse health effects from an asphalt plant to be schools, hospitals, prisons, playgrounds, residences elderly housing etc. The study goes on to discuss experiences of communities outside Massachusetts with asphalt plants and points out that Texas has a regulation prohibiting construction of a hot mix asphalt plant within 0.5 mile of other buildings.

Some of you may have heard about moratoriums in other states on the future construction of asphalt plants, such as the moratorium in North Carolina. There are also city and town moratoriums cropping up across the US. as cities seek to protect their citizens from health hazards we are only now starting to realize, much like asbestos of years ago. The towns of Lancaster, Wrentham, and Uxbridge Massachusetts have in the last few years waged successful battles against asphalt companies. New battles are emerging all over our state, and in Michigan, Ohio, California and New York, to name a few others of which I am personally aware.

The health hazards have to do not only with the pollutants and particulates constituting the emissions going out of the smokestacks, but also with the same pollutants and particulates occurring in what have been termed "fugitive emissions." In other words, whatever is going out the stack from an asphalt plant is also being emitted at ground level when ever asphalt trucks are loaded with hot asphalt and also when trucks rumble through residential streets. These fugitive emissions have been estimated by experts to be as high as ten times the amount going up the stack. They have gone unmonitored and unregulated by state DEPs, even though their existence has been known and acknowledged for years.

What is in those fugitive emissions? The list is long in terms of specific chemical pollutants with hazardous side effects. What has been mentioned most often here today is particulate matter. The asphalt fumes are made up particles, which contain many different hydrocarbons. PAHs (polynuclear aromatic hydrocarbons) are carcinogenic and VOCs (volatile organic compounds) are suspected carcinogens. According to the ALA, "The health risk from an inhaled dose of particulate matter depends on the size and the concentration. Size determines how deeply the inhaled particles will penetrate into the respiratory tract where they can persist and cause respiratory damage...Particles less than 10 microns in diameter are easily inhaled into the lungs."

In the case of asphalt fumes, the particles are small, typically 0.2 micron in size and are deposited deep in the lungs of anyone breathing these fumes. These fine particles travel long distances and may be airborne for several days. According to Dr. Ravi Nadkarni, widely considered an expert on fugitive emissions, these facts mean that "an asphalt plant is delivering known cancer-causing substances in respirable form to inhabitants in a 1 to 2 mile radius from the plant on a daily basis." (submission to the Boston Board of Health)

There are other issues besides health-odors up to a mile away, noise and vibrations by tens of thousands of trucks. soot and grime on buildings within 1/2 mile, property value decline by 15-20 %, watercourse pollution by the same carcinogens people breath, quality of life problems. Some of these also have related health effects. Odors cannot be prevented in the asphalt industry. Dr. Alan Hirsch presented a study to the Boston Board of Health on the health effects of asphalt odors. The picture is not pretty for neighborhoods or people affected by an asphalt plant whether it be pollution, odors, noise, dust, soot, traffic, quality of life or property values.

001395

Why should you, the legislature of the State of Connecticut get involved? Is this your concern? Why not pass it off to the local cities or communities? How about the DEP?

The problem is that the DEP often passes siting issues off to local communities. They say it is not their concern—they are not responsible for siting, no matter what the health implications. The DEP looks to place responsibility on the shoulders of a town or city because they didn't change their zoning, or didn't have the foresight to know 20 years ago what future medical research would reveal today.

Real people become victims of poor zoning, or a lack of funds by the respective town or city to redo its comprehensive plan. Often, in larger cities, the poorer neighborhoods and their residents are the victims. Owners of a prospective asphalt plant look for cheap property in older towns, or property in poorer sections of a large city, where the inhabitants are the least educated or the least equipped financially to fight back, both on a local and DEP level. Residents are also subject to local politics as many issues of real concern become political chess pieces. Many citizens lack the socio-economic status that oftentimes generates political clout or even attention. They don't know how to fight back.

For all these reasons, our state legislature, at this point, is the only body that can protect equally all the citizens of Connecticut, rich or poor, city or suburb, educated or ignorant as to the hazards of such plants. What might take years of education and political maneuvering in towns and cities across this state, you can accomplish in one legislative effort. You can guarantee that people's health and welfare rights are protected equally across the board. Make no mistake—some will try to portray this as anti-business or anti-industry. We need asphalt, we need to pave our roads. We just need these plants located so that the health of Connecticut citizens will not be jeopardized. That is not too much to ask.

001396

FROM : THE GENERAL AGENCY INC

PHONE NO. :

Mar. 10 1998 03:52PM P2

TESTIMONY CONCERNING SENATE BILL NO. 597

BY WILLIAM GARRISON, CHAIRMAN, HEBRON BOARD OF SELECTMEN

MARCH 11, 1998

RE: PUBLIC HEARING COLCHESTER ASPHALT PLANT PROJECT

OUR PRIMARY CONCERNS AS ELECTED PUBLIC OFFICIALS IS THE HEALTH, WELFARE AND SAFETY OF OUR CONSTITUENTS. THIS ASPHALT PLANT PROJECT FLIES IN THE FACE OF ALL OUR SAFETY CONCERNS. NOTHING ABOUT THIS PROJECT PROMOTES THE REGIONS SAFETY, HEALTH AND WELFARE.

THE LOCATION OF THIS PROPOSED PROJECT COULDN'T BE MORE INAPPROPRIATE. VARIOUS D.E.P. REPORTS AND FINDINGS, DESCRIBED THIS RURAL AREA AS; PRISTINE; ECOLOGICALLY SIGNIFICANT; THE PROJECT IS NOT CONSISTENT WITH THE RURAL CHARACTER AND SUPPORT FACILITIES OF THE AREA, AND ON, AND ON. THE JEREMY RIVER AND BLACKLEGDE RIVER FORM THE SALMON RIVER WHOSE WATERS HAVE BEEN DESCRIBED AS "DRINKABLE WITHOUT WATER TREATMENT". CAN YOU, D.E.P. GUARANTEE THAT THIS QUALITY CAN BE MAINTAINED AFTER CONSTRUCTION OF THIS PLANT? UNEQUIVOCALLY?

RESIDENTS IN THE THREE TOWN AREA INCLUDING HEBRON, COLCHESTER AND MARLBOROUGH, FEAR, REASONABLY, HEALTH PROBLEMS IN THE FUTURE. THESE PEOPLE EXPECT DIRECT ANSWERS TO HEALTH QUESTIONS AND THERE HAVE BEEN FEW SCIENTIFICALLY PROVABLE ANSWERS TO ALLAY THEIR FEARS.

OTHER THAN ECONOMICS, WHAT IS THE COMPELLING REASONS FOR APPROVAL OF THIS PLANT? PORTABLE PLANTS CAN BE TRANSPORTED IN FOR LARGE PROJECTS, AND LOCAL CONTRACTORS, FOR YEARS, HAVE SUCCESSFULLY USED EXISTING ASPHALT PLANTS. I CAN NOT BELIEVE THAT D.E.P. HAS CHOSEN THIS PROJECT TO BECOME A "USER FRIENDLY" AGENCY.

I APPRECIATE THE OPPURTUNITY TO VOICE THE VERY SERIOUS CONCERNS OF THE CITIZENS OF HEBRON.

THANK YOU.

001397

**Gavigan, Teresa**

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**From:** S33  
**Sent:** Monday, March 09, 1998 10:42 AM  
**To:** 'Toolmanmjs'  
**Subject:** RE: Say No to the proposed Asphalt Plant in Colchester

—Original Message—

**From:** Toolmanmjs [SMTP:Toolmanmjs@aol.com]  
**Sent:** Sunday, March 08, 1998 5:37 PM  
**To:** Daily@senatedems.state.ct.us  
**Subject:** Say No to the proposed Asphalt Plant in Colchester

On February 26, 1998, I attended a hearing chaired by the Department of Environmental Protection in the town of Colchester for the purpose of issuing a permit for the operation of an asphalt plant. This plant would seriously affect all southeastern Connecticut. I can't believe that the operation of such a business was even considered due to its proximity to area residents and its location to the Jeremy river ( just 500 ft away). Have we failed as a state to consider the serious impact of such an operation in an otherwise pristine and natural area and use common sense. In addition to the cancer and respiratory irritant causing pollutants, the effects of these on the area ecostructure needs to be considered, after all "what go up, must come down". Has anyone considered the effects of the additional truck traffic in the area, namely child/adult safety, noise and more air pollution?

Do you realize that there are many families in close proximity to this proposed plant, some at the same elevation of the top of the stack of the plant's chimney. Have so called "fugitive" emissions from open truck loading operations been evaluated? What about changing the natural beauty of the region by sticking a 110 ft stack in obvious view of the highway(Rt 2). If the true mission of the DEP is to protect the interests of the public and nature then they should not consider issuing an operating license for this type of plant in this pristine natural area.

I implore you to help me ensure that such a facility not be built in this area. Let's use common sense and deny such a facility be built!!!

Thank you,  
Michael Sforza  
375 South Main St.  
Marlborough, CT 067447  
Tel # 860 295-0541(home)  
444-4257 (work)

Email toolmanmjs@aol.com

001398

3/10/98

Statement of John Percell, 158 Seaview Ave., Bridgeport, Ct.

Re: Bill No. 597 (AN ACT CONCERNING THE SITING OF ASPHALT BATCHING FACILITIES)

My name is John Percell. I live at 158 Seaview Ave., at the corner of Central Ave. in the East End of Bridgeport. I've lived there for all of my 43 years. My family has lived at the same location since 1946. I am here today because Manual Mountinho, the owner of Mark IV construction has proposed an asphalt processing plant at 53-85 Seaview Ave., directly across the street from my home. I am here to beg the state of Connecticut to take the first step to try to take control of a terrible situation faced not only by my neighborhood, but by neighborhoods across the state and across the country. I wrote out a statement yesterday, but it turned out to be far to long to be acceptable, so I've decided to read the message that I've been running on my answering machine for the last two weeks concerning the asphalt plant. Some of it may seem a little strong but please bare with me. "Manual Mountinho, the owner of Mark IV construction, who lives up in a nice big house in Easton, wants to put a huge asphalt processing plant at the corner of Seaview and Central Aves., along the Pleasure Beach access road. You probably thought the East End was already as dirty as it could get. Well Mark IV Manny plans to make it a lot dirtier. His plans will include a lot more tanker trucks and dump trucks racing around on our already over-crowded streets. The poisonous stench of hot asphalt, similar to a road being paved or a hot tar roofing job will drift for blocks on the Long Island Sound breeze. The dirt and the toxic diesel fumes from the estimated 160 trucks per day as well as the dirt from the plant itself will also travel for blocks on the same breeze. This means more filth coming through your windows, covering your laundry, your cars and everything else you own. It also means more dirt and toxic fumes in your lungs and your families' lungs. Then you have the roaring noise from the giant machinery that will also be heard for blocks. There is not to much left in the East End that hasn't already been ruined by these wealthy out-of-towners. They will do anything and hurt anyone if it means fattening their own bank accounts. They'd sell their own mothers if they could get a good price. Parasites like Mark IV Manny have made living in our neighborhood a dirty and difficult struggle. If they continue to have their way life here won't be difficult, it will be impossible. Manny is only able to get away with crimes like these because he has many connections in the City of Bridgeport. Companies like Mark IV have enjoyed a very cozy relationship with the city for many years. This kind of special treatment of a few at the expense of the majority has to stop. Now he even has people like Joe Savino the Harbor Master, and Joe Riccio of the Port Authority writing letters claiming that an asphalt plant would be "consistent with the harbor's plan of development, and in particular is consistent with the development on the

001399

Seaview Ave. corridor". I say they are liars! Nowhere in the plans for the harbor or Seaview Ave. does it say anything about turning the area into a dirtier, filthier dump than it already is! The plans are supposed to make things better not worse. Then we have Lisa Parziale, former City council president and current city council representative for the 132nd district, who just happens to run her own construction business out of the Mark IV offices at 1137 Seaview Ave., but I'm sure there is no conflict of interest there. Please send a message to people like Mark IV Manny by coming to the public hearing at Bpt. City Hall on Monday, March 23rd, at 6:00 P.M. and demand that this lunatic proposal be denied. Things like asphalt processing plants must only be placed in un-populated areas". Illegal activity at the site in question began back around 1986-87, and despite countless complaints by myself and others, nothing was done to stop it. Every single time an inspection was scheduled by the city, all activity at the site would mysteriously and conspicuously cease, then as soon as the inspector left the site, business as usual would immediately resume. The city recently had the opportunity to alleviate some of these problems when it re-wrote it's zoning maps. But instead of ironing out some of the problems facing the residents, the city chose instead to make it easier for a few special interests to devour what little remains of our neighborhood. For example, the site in question was changed from a combination of light industrial and business to a heavy industrial zone, without notifying any of the adjacent property owners. Our own property was changed from business to light industrial without our knowledge. As for all the other homes that run along Seaview Ave. that had been zoned residential A, they were downgraded to residential C, also without notifying the owners of the property. The city also could have taken the re-write opportunity to provide some sort of a buffer zone to protect people from blatantly offensive and dangerous uses of properties which border properties used for residential purposes, but failed to do so. I believe deliberately. I think you get the picture. I think the evidence is undeniable. If the state doesn't take the first step to correct some of these terrible injustices, they will continue until our neighborhood, and all the other neighborhoods across the state of Connecticut who are facing similar fates, will cease to exist. I can't imagine a more appropriate first step for the state to take than to adopt into law, Bill No. 597, which you now have before you. Our local municipalities have had ample opportunities to provide their residents with a fair and just system of zoning regulations and have consistently failed to do so. Attached to this statement you will find copies of two pieces of legislation, very similar to the one now before you, which have been adopted by the states of Massachusetts and Texas. Once again I beg you to please take whatever steps necessary to pass this critically important Bill No. 597 into law. Thank you very much for this opportunity to express my view on this very important subject.

John Percell  
3/10/98

**HOUSE . . . . . No. 2541**

**By Mr. Reinstein of Revere, petition of William G. Reinstein, Steven Angelo and Robert A. DeLeo for legislation to further regulate the siting of asphalt batching facilities. Natural Resources and Agriculture.**

**The Commonwealth of Massachusetts**

**In the Year One Thousand Nine Hundred and Ninety-Seven.**

**AN ACT FURTHER REGULATING THE SITING OF ASPHALT BATCHING FACILITIES IN MALDEN AND REVERE AND THE TOWN OF SAUGUS**

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

- 1 No asphalt batching facility shall be located in an area which is
- 2 less than one-half mile in linear distance from any hospital,
- 3 nursing home, area of critical environmental concern or area occu-
- 4 pied by residential housing. Said linear distance shall be measured
- 5 from the outermost perimeter of such facility to the outermost
- 6 point of the aforementioned zones, provided, however, that any
- 7 such facility in operation as of December first, nine hundred and
- 8 ninety-six shall not be subject to the provisions of this act.

001401

PHN NO. 8177952941

P. 01/01

Texas Natural Resource Conservation Commission  
Chapter 106 - Exemptions from Permitting

**§106.147. Asphalt Concrete Plants (Previously SE 99).**

Any asphalt concrete facility that complies with 40 Code of Federal Regulations Part 60, Subparts A and I and operates according to the following conditions of this section is exempt.

(1) A New Source Performance Standard pretest meeting concerning the required stack sampling shall be held with commission personnel before the required tests are performed. Air contaminants to be tested for will be determined at the pretest meeting. Stack sampling requirements will not be required by the executive director, provided that:

(A) the applicant submits adequate documentation (including copies of previous test results of the model hot mix plant proposed, including a description of the aggregate materials used in previous tests) demonstrating compliance with the 0.04 grain per dry standard cubic feet allowable;

(B) visible emissions from the exhaust stack are documented at 5.0% or less opacity averaged over six consecutive minutes.

(2) Fuel for dryers shall be sweet natural gas as defined in Chapter 101 of this title (relating to General Rules) or liquid petroleum gas, diesel, or fuel oil with a maximum sulfur content of 1.5%.

(3) All aggregate stockpiles shall be sprinkled with water and/or chemicals as necessary to achieve maximum control of dust emissions.

(4) All permanent in-plant roads shall be watered, oiled, or paved and cleaned as necessary to achieve maximum control of dust emissions.

(5) The plant is located at least ½ mile from any recreational area or residence or other structure not occupied or used solely by the owner of the facility or the owner of the property upon which the facility is located.

(6) Before construction of the facility begins, written site approval shall be received from the executive director and the facility shall be registered with the commission's Office of Air Quality in Austin using Form PI-7, including a current Table 22.

(7) Emissions of particulate matter, sulfur dioxide, or organic compounds shall not exceed 25 tons per year each.

Adopted February 19, 1997

Effective March 14, 1997

001402

March 11, 1998

To Whom It May Concern:

My family resides in the Town of Amston. We have lived in this area for almost 20 years, because we wanted our children to live a good life, free of city crime, pollution and a good school system. I feel the site for the asphalt plant is too close to home. As it said in the paper today rain caused erosion at the site, problems already! I do not want my family to breath in all the pollution from Colchester coming our way its not fair for our town and children to suffer.

Please consider not using Colchester as a site, it would effect all smaller towns around it and we don't want more traffic and the pollution it would bring.

Thank you.

Peter and Pamela Franeski  
9 Attawanhood Trail  
Amston CT 06231

001403

**Gavigan, Teresa**

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**From:** ROGER M. KIRKPATRICK [KIRKPRM@GWSMTP.NU.COM]  
**Sent:** Tuesday, March 10, 1998 6:42 AM  
**To:** Daily@senatedems.state.ct.us  
**Subject:** Environment Committee Focus

Senator Daily,

Being a registered voter in the town of Colchester, I understand that a bill (Bill No. 597) will be raised in the Environment Committee and discussed at a public hearing on Wed., 3/11/98. Being unable to attend the public meeting, I would like to forward my concerns to you. I am extremely interested in seeing this bill go through committee and be passed as soon as possible. The bill, an act concerning the siting of asphalt batching facilities, is necessary to prevent the siting and operation of asphalt facilities literally in the back yards of our children and in the close proximity to our precious natural resources.

As you are well aware of, when the DEP and representatives of Fedus Associates, LLC. met with our town and elected officials to discuss the proposed asphalt plant in Colchester, the people of Colchester could not be more passionate about our pleas for a halt to this project. This was our only available effort to try and stop the operation of this plant before our town, children, and natural resources are destroyed by the operation of this plant and its fugitive emissions.

In this meeting, not one person could provide support for the plant and I truly believe that we were successful in providing adequate support for the DEP to withhold an air discharge permit for the plant. We provided numerous examples of emissions which have been proven to be cancerous, and would negatively affect the respiratory tracts of residents. This would be especially true of asthmatics.

This siting act is needed to prevent the proliferation of such plants in the middle of small communities such as ours. I support this act and the proposed moratorium on the construction of such plants until it is known exactly what we need to do to ensure the safety of our people, children and environment.

Thank You.

Roger M. Kirkpatrick  
60 Carli Blvd.  
Colchester, CT 06415  
(860) 537-1634

001404

MAR-08-98 TUE 06:08 LORIE SCHAPPERT

P.02

March 9, 1998

Regarding Bill 597

To Whom It May Concern,

I would like to express my very deep concern about building asphalt plants near residential areas. There are already many known pollutants from the smoke stack output and disposal of the waste products, and there have not been enough study of the unknown.

I have two children ages eight and nine who suffer greatly from asthma. They did not have this as babies, it developed from breathing the pollutants and "unknowns" in the air. Society has allowed unhealthy limits of disposal of harmful waste products and over the years now a much higher percentage of people have breathing problems and cancer. Ask around and you will be amazed to find how many people take medication for asthma or medication to help them clear their breathing through their nose. I can't find a home that hasn't been touched by cancer.

Over the past few years I have watched my children suffer from asthma. They cough non-stop for days, not hours, including all through the evening. Asthma weakens your immune system. A cold in our house will most likely lead into pneumonia. My son was on so many antibiotics he developed a severe reaction to the antibiotics themselves, he was in so much pain he could no longer walk.

During the last year there have been new medications that have helped both my children. I am so upset to realize that the law is set up so that we will allow the disposal of these harmful products into areas with neighborhoods and schools and we then wait the years while the health problems are developing. The goal at that point is again not geared toward more stringent guidelines for the waste disposal, but to push the medical field to find cures for the illnesses so that businesses can continue to make a bottom line profit. I am suggesting that the responsibility be placed back on the companies and with our regulations for the environment to protection our children, not on the medical community. Net profit should not take a priority over health.

I am unable to attend the meeting personally because my husband is away, we have no family in the area, I work while the kids are at school, and I have to be home for the kids after school. I have been trying to make phone calls, etc, from home to find out more about this. I hope that the legislature will take the time to find out more also.

Sincerely,



Lorie Schappert  
Amston, CT

001405

Jenny Contois



First Selectman

**TESTIMONY**

RE: RAISED BILL #597

An ACT concerning siting of Asphalt Batching Facilities

I am asking for your support for Bill #597 in concept.

I do believe, however, that more defined language would assist us in achieving the goal of appropriate siting if, in fact, siting of these facilities continue to be permitted. I have attached suggestions for language revisions.

Before any siting issues are evaluated, a more important problem needs to be resolved and that is the true impact these facilities have on our environment.

Environmental Protection Agency and Department of Environmental Protection must thoroughly evaluate the impact that fugitive emissions have on the environment and the citizens of the State of Connecticut before any further permits to construct and permits to operate are issued. A defined Moratorium until this research is completed would allow us time to evaluate and develop regulations and policy that address this serious matter.

This along with local and state siting regulations will go a long way in improving the quality of life in our state.

Thank you.

Jenny Contois  
First Selectman

001406

STATE OF CONNECTICUT

Raised Bill No. 597

Page 1

Referred to Committee on ENVIRONMENT

Introduced by (ENV)

LCO NO.3209

General Assembly  
February Session, A.D., 1998

AN ACT CONCERNING THE SITING OF ASPHALT BATCHING FACILITIES

Be it enacted by the Senate and House of Representatives in General Assembly convened:

(NEW) Notwithstanding any application on file with the Commissioner of the Department of Environmental Protection, no asphalt batching facility shall be located in an area which is less than one-third of a mile in linear distance from any hospital, day care operation, nursing home, school, area of critical environmental concern, watercourse, wetland, or area occupied by residential housing. Such distance shall be measured from the outermost boundary line of the property on which use, as an asphalt batching facility, is, or is proposed to be located, to the nearest area or property line on which such listed use above is located, provided that any such facility in operation as of December 1, 1997, shall not be subject to the provisions of this section.

STATEMENT OF PURPOSE: To provide a buffer zone between asphalt batching facilities and certain sensitive areas.

[Proposed deletions are enclosed in brackets. Proposed additions are all capitalized or underlined where appropriate, except that when the entire text of a bill or resolution or a section thereof is new, it is not capitalized or underlined.]

001407

MAR 10 '98 13:01 FROM TIC CSC

PAGE.001

**TO:** Robert Lee  
**FROM:** George and Monique Gonsalves  
**DATE:** March 9, 1998  
**SUBJECT:** Asphalt Plant

Dear Mr. Lee:

I would like to thank you for the opportunity to present my concerns, involving the proposed construction of the Asphalt Plant in Colchester on Old Hartford Road.

Over ten years ago I relocated my family from Enfield to Hebron, since then I have enjoyed the clean safe surroundings. I firmly believe that the construction of this Plant would only destroy the air quality and water purity of near-by rivers and streams, ultimately deteriorating the quality of life that I have come to enjoy.

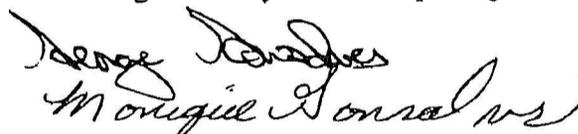
I am the father of five (5) children, I am extremely concerned for the safety of school children, pets, and wildlife that will be exposed to an increased surrounding of heavy truck traffic.

I understand that the fumes from the cooling asphalt is extremely hazardous and would be continuously emanating from the Plant. In addition I am not pleased knowing that approximately 70,000 gallons of fuel is maintained on the Plant grounds. I do not fully understand what type of purification system is used to filter the water used in the manufacturing of asphalt. I would be extremely concerned if this would involve the near-by Salmon River tributaries.

Jones Street, Burrows Hill Road, and Old Hartford Road are what I consider back roads. Extensive heavy truck traffic would create unsafe road conditions. The constant noise of large trucks traveling these back roads would be annoying. In addition it would eliminate the peaceful tranquility of the area.

I am concerned that future property values will plummet as a result of the Plant. I can only qualify this by my own personal reasons for moving to the country. This certainly would affect my decision making process had I known of an Asphalt Plant in my backyard.

Once again thank you for championing this issue,

  
George and Monique Gonsalves

\*\* TOTAL PAGE.001 \*\*

001408

March 7, 1998

Dear Senator Hardley -

The purpose of this letter is to express my extreme concern and opposition concerning the construction of the asphalt plant that is currently being built in Colchester on Old Hartford Rd. This plant is within approximately 500 ft from Nelson - my residence is within 1 1/2 - 2 miles from the site.

The operation of this plant will affect the quality of the air that we breathe, the surrounding pristine water supply currently used for recreational purposes, the peaceful rural atmosphere (which is the reason we moved here) and present a very real health hazard to myself + my children. Studies that have been conducted have

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001409

concluded that the Totone + fugitive emissions from the trucks are carcinogenic. Indeed, a study in England indicated that it conceivably caused an increase in childhood cancers five-fold.

It is apparent that the DEP, based on past performance regarding this plant, does not have the best interest of the citizens in mind. It is inconceivable that this could have gone this far unless the DEP has a hidden agenda and/or a vested interest. Someone needs to scrutinize their practices and their decision-making.

Thank you for your consideration regarding this matter.

Sincerely -

Loni Salinger

Steven Salinger

50 Chittenden Rd.

Hesron, CT 06231

(860) 267-7977

001410

**MARY JO LOGAN  
60 Prospect Hill Road  
Colchester, CT 06415  
(860) 537-6149**

March 11, 1998

Environmental Committee  
State of CT  
Hartford, CT 06106

Ladies and Gentlemen

Asphalt batching plants need more stringent regulations as the present regulations do not protect the residents or environment on which they are being built.

For Example, an asphalt plant is being built in Colchester only 500 feet away from the residents, a bird sanctuary, businesses, and a pristine stream which is stocked with trout and Atlantic Salmon by the State of Connecticut.

The State Department of Environmental Protection has been given information stating that this type of industry is harmful especially in these types of situations. DEP's hesitance to protect the environment appears to result from the lack of adequate regulations allowing them to do so.

DEP is in receipt of a letter written by Mr. Gephart, Senior Biologist, at DEP's Fisheries Division. (copy attached) but continue to grant permits for the construction of this plant which has great potential to do just what Mr. Gephart warns against. This asphalt plant will have a retention pond and culvert system which drains into a state owned culvert which, in turn, drains into the Meadow Brook. The storm of March 9, 1998 caused huge amounts of erosion on the sandy building site. This storm run off was not stopped by silt fences and the sand and mud washed directly into the Meadow Brook. It was clear that a storm of this type, about 4 to 5 inches of rain, was more than any drainage system could handle. If the Asphalt Plant had been in operation there surely would have been petroleum runoff in the storm water, possibly contaminating the existing high water table, and certainly entrance into the Meadow Brook. And certainly could have had devastating effects on a Salmon Restoration Project which the state has spent around thirty million dollars on. Keep in mind, this storm was only approximately 24 hours in duration. The pollution damage from a two day storm, would have been unthinkable. Also note, that in 1982 this building site was under approximately 10 feet of water, so this type of flooding is not unrealistic.

An asphalt plant located only 500 feet away from residential homes will do nothing but devastate the lives of those who live there. In this case the asphalt plant's smoke stack will be about the same height as one home's front door. The cloud of emissions that escape with each load of asphalt dumped will add to stack emissions and pollute their air. How can they escape it? The owner's ability to sell their home and move away will be hampered. As who would buy their house? So what choice will they have? Breathe all the emission and be at risk to cancer and other illness or loose everything and just move away. I don't know about the members of this committee, but some of us have worked very hard over a number of years to get what we have. It is awful hard to save to buy a house for the FIRST TIME- never mind starting over a second time.

A person may have a right to build what they want on their property but they do not have the right to hurt other people or our natural resources.

001411

Senate Bill #597 AN ACT CONCERNING THE SITING OF ASPHALT BATCHING PLANTS, is a start in the right direction. It will protect all of us from the intrusion into our residential neighborhood a dirty, cancer causing asphalt plant. I urge you to send this bill forward for passage in the legislature amending it only to require a one half mile radius from any hospital, nursing home, school, area of critical environmental concern, watercourse, or area occupied by residential housing. This is the RIGHT thing to do.

I also urge you to act favorably on the Asphalt Plant Moratorium proposal set forth by Governor Rowland and to include any Asphalt Plants not yet in operation.

Thank you

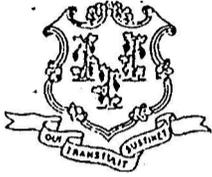
Sincerely

*Mary Jo Logan*

Mary Jo Logan

attachment

001412



STATE OF CONNECTICUT  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
Bureau of Natural Resources  
FISHERIES DIVISION  
MARINE FISHERIES  
P.O. Box 719  
Old Lyme, CT 06371



May 9, 1994

Mr. Al Ouellette  
Colchester Concerned Citizens  
4 Park Rd.  
Colchester, CT 06415

Dear Mr. Ouellette:

I am writing in response to your request for information about the potential impact on the salmon population in Jeremy River by the proposed asphalt plant off of Old Hartford Road in Colchester.

As you are probably aware, the State of Connecticut has been a partner in the Connecticut River Atlantic Salmon Restoration program since 1967. The Salmon River watershed, to which the Jeremy River is a tributary, is a portion of the Connecticut River that has been targeted for restoration. For the past four or five years the DEP has entered into a new phase of restoration: fry stocking. Each spring we stocked about 40,000 small salmon fry into the Jeremy River between Greyville Road down to the confluence with the Blackledge River. (Gillette Brook, an upstream tributary of Meadow Brook, is also stocked.) The habitat in the stream is excellent and the river now supports a year-round population of salmon parr that migrate downstream to the ocean when they are two years old. The section from Rt. 2 down to the headpond behind the Norton mill dam in North Westchester is particularly productive.

After two years in the ocean, surviving adults will return to the Connecticut River, enter the Salmon River, and head upstream to spawn. At this time, we capture all adults for captive breeding but in the foreseeable future, we expect to allow surplus adults past the Leesville dam fishway and head upstream to spawn naturally. The mechanism that allows salmon to find their home streams is both complex and delicate. As young salmon, they memorize, or "imprint to", the odor of the stream. This odor is not something humans can smell, but represents the unique chemical identity of the stream. Factors such as soil types, forest composition, aquatic vegetation, other fish species, and

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001413

water chemistry parameters such as pH, alkalinity, etc. all contribute to this unique odor. When the adults return in 2 years from the sea, they are able to recognize this odor and "home" to it.

Research has clearly shown that heavy metals and petroleum products can interfere with this imprinting-homing mechanism. At levels as low as three or four parts per billion, these compounds can be detected by salmon and prevent proper imprinting and homing. Gasoline, diesel, oil, kerosene, etc. can all have this effect.

I am concerned that an asphalt plant would be run as most industrial sites and that small amounts of waste asphalt will spill from loads or hoppers and accumulate on the ground, parking area, and driveway. Furthermore, asphalt-encrusted vehicles will be parked on the property. When it rains, all of these sources could contribute significant amounts (much more concentrated than parts per billion) asphalt residue into the storm drains and thus into the stream. Although I expect the applicant will provide plans for retention ponds, etc. for the management of stormwater run-off, I question whether a 2 to 3 hour residence in a retention pond would be sufficient to remove these hydrocarbons from the water. One way or the other, asphalt, perhaps in solution, would find its way into the streams. This relatively invisible pollution could scent the entire downstream section of the Jeremy River and the entire portion of the Salmon River, thus inflicting serious physiological harm to the juvenile salmon and preventing them from memorizing their homestream odor. The pollution could also be present at the head-of-time, thus creating a chemical barrier to returning adult salmon, or, in the least, ensure that adult salmon never ascend the Jeremy River.

Any application for an asphalt plant along the Jeremy River should take these matters into account. I would rather see asphalt plants built a long distance from any stream to allow the natural vegetation to trap and retard the dispersal of any hydrocarbon pollution long enough for ultraviolet light and other factors to break down the hydrocarbons before they reach the stream. If a plant is to be sited near a stream, I would hope that it would not be along one of the only three watersheds in the state in which we are actively stocking Atlantic salmon.

001414

I hope this information is helpful and that your organization and other citizens of Colchester can see that this matter gets serious consideration and that any plan that is approved addresses these concerns. Thanks for your interest.

Sincerely,

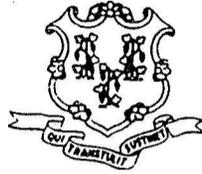


Stephen R. Gephard  
Senior Fisheries Biologist

cc: Mary Jo Logan, resident of Colchester  
Dick Mason, DEP/Water Compliance Programs

(203) 434-6043

001415



State of Connecticut  
HOUSE OF REPRESENTATIVES  
STATE CAPITOL  
HARTFORD, CONNECTICUT 06106-1591

REPRESENTATIVE LINDA A. ORANGE  
FORTY-EIGHTH DISTRICT

52 STANDISH ROAD  
COLCHESTER, CONNECTICUT 06415  
TELEPHONES  
HOME: (860) 537-3936  
CAPITOL: (860) 240-8585  
TOLL FREE: 1-800-842-8267

MEMBER

PUBLIC HEALTH COMMITTEE  
PUBLIC SAFETY COMMITTEE  
COMMERCE COMMITTEE

Testimony  
March 11, 1998

SB 597: AN ACT CONCERNING THE SITING OF ASPHALT BATCHING  
FACILITIES.

Dear members of the Environment Committee, I am today to testify on Senate Bill 597, An Act Concerning the Siting of Asphalt Batching Facilities. Thank you, for drafting this bill on my request. This bill would provide a buffer zone between asphalt batching facilities and certain sensitive areas. It would protect sensitive areas from being harmed by asphalt plants, including hospitals, nursing homes, schools, areas of critical environmental concern, watercourses, or areas occupied by residential housing.

This issue directly affects my district, specifically the Town of Colchester and its residents. The asphalt plant that is located in Colchester is located 50 feet from Route 2 and is expected to have three exhaust stacks, two large fuel storage tanks, and additional machinery to produce asphalt. The plant will discharge into a state culvert which drains into a feeder stream and then into the Jeremy River. Its location is 500 feet from residences and 500 feet from the mentioned Jeremy River. The potential for an environmental disaster greatly exists.

The plant would also release more than 50 tons of pollutants from emissions each year, which would increase the risk of asthma attacks and cancer to nearby residents.

001416

Another issue is the amount of traffic that would be generated by this plant. The number of truck runs would increase dramatically through town and residential neighborhoods. The potential of accidents on residential roads and on Route 2 exists now; this plant will increase this risk.

Above all the previous reasons, asphalt plants must not be allowed to operate within sensitive areas. SB 597 would prevent this from happening and protect our citizens. I ask today that you take into serious consideration this bill and the views that have been and will be expressed by those at this hearing. Thank you, for your time.

001417

## FOR THE BIRDS

Mark W. Gross  
608 Old Hartford Road  
Colchester, CT. 06415

Phone (860) 537-4264  
Email MWG12@JUNO.COM

March 11, 1998

My name is Mark W. Gross. I am the owner of "For The Birds," which is a wildlife sanctuary, registered with The National Wildlife Federation, and a small business that makes products that enable my customers to attract wildlife to their own properties. My products have been sold throughout New England, and as faraway as the state of Kansas. For The Birds is registered with the town of Colchester, CT., the State of CT., and the State of RI., and has been in business for five years.

I wish to speak for those who are unable to speak for themselves. First of all the "atlantic salmon." The state of CT. DEP, since 1965, has spent an estimated 25 - 37 million dollars and thousands of man hours in efforts to restore the "atlantic salmon" in Connecticut's streams and rivers. The salmon is intolerant to even microscopic forms of pollution, because they mark their stream, so that they can return from the Atlantic Ocean to the exact stream to breed. The "atlantic salmon does not die - off after breeding, but returns to the ocean again, hopefully to breed again. The "atlantic salmon" can weigh up to 100 lbs. It is a proven fact, based on intensive studies, that one gallon of oil can ruin one million gallons of water ( a year's supply of water for 50 people ) and create an eight acre slick on surface water. <sup>1</sup> The proposed asphalt plant that is being built is 250' from the Jeremy River, 600' from the Salmon River, will destroy the "atlantic salmon" populations which inhabit them, due to the airborne emissions which are oil-based/toxic/cancerous in nature. The efforts in man hours and in monetary nature of sportsmen, conservationalists, and organizations will be undone by this proposed asphalt plant.

Furthermore, I speak for the "eastern bluebird, the wild turkey, the ringed - neck pheasant, and the ruffed grouse, and all the birds," that not only inhabit this sanctuary, and this area, but have been the source of restoration projects by the State of CT. DEP, and concerned citizens/organizations for 25 years at the cost of multi-millions of dollars and thousands of man hours, not including those who volunteer their services. It has been proven that all aviary species are intolerant to air-borne pollutants. Studies have indicated that not only is loss of habitat a major source of destruction of birds as a whole, but that airborne pollutants have been a major factor in destroying trees/plant life/shrubbery that is critical for aviary survival. Air-borne pollutants are responsible for destroying the eggs of nesting birds and have been linked to the deformities that are occurring in birds. Two years ago, the House Finch developed an eye disease that killed thousands of their populations by allowing them to be more prone to predators and causing them to be unable to find sources of food/water necessary in their survival. Air-borne pollutants are responsible for killing tens of thousands of migratory hawks last year alone. <sup>2</sup>

The state of CT. DEP, is mismanaged to say the least. One branch of said department is unaware of the efforts within its' own branch of state government. It seems willing to undo their own efforts by allowing the proposed asphalt plant that is being built in Colchester, CT to proceed. DEP has a long history of being unable to enforce violations by asphalt plants, because they are understaffed. DEP seems willing to throw away millions of dollars to allow this plant to proceed. DEP itself needs to be managed by a responsible administrator who knows what is going on within his/her branch of state government.

In summation, if the proposed asphalt plant that is being built in Colchester, or any proposed plant, that is allowed to proceed with total disregard to environmental/wildlife concerns, it will lead to a catastrophic chain of events, until it destroys human life itself.

Thank you.

<sup>1</sup>Motor Service Magazine 12/97

<sup>2</sup>Cornell University of Ornithology \_ Ithaca, NY.



001419

regulations, by many polluting companies  
we ~~is that~~ have endured the fortunes  
and put up with it, in our young years,  
because it was a means of survival.

I wish that ~~you pass~~ <sup>pass</sup> Bill 597 so  
that the Citizens of W. Va. could have  
a healthier "quality of life".

001420

My name is Mark Pappalardo and I am a resident of the Town of Colchester. I am here today, to voice my support for approval and enactment of Raised Bill 597, "AN ACT CONCERNING THE SITING OF ASPHALT BATCHING FACILITIES".

As I am sure many of you are aware, such a facility is currently being constructed in Colchester. The developer is currently seeking permits from the DEP. There is a large and continually growing opposition to this plant, among the residents of Colchester.

While I live outside of the 1/3 mile limit mentioned in the raised bill, I and all residents of Colchester and surrounding towns, will be directly impacted by the operation of this plant, if it is completed. Indirectly, this plant would also affect other areas of the state due to environmental pollution.

There are several environmental issues specifically related to this site.

Within the 1/3 mile limit in the proposed bill, there are;

- residential homes (some within 500 feet)
- a wildlife sanctuary,
- watercourses - specifically the Meadow Brook and the Jeremy River (a tributary of the Salmon River and part of the State's Atlantic Salmon restoration project),
- groundwater sources that feed local homes and businesses (there is no city water service in this section of Colchester).
- the site itself sits within a valley, surrounded by mountains on two sides. When no wind is present, any smoke or fog remains hanging above the valley. When a wind is present, fumes and emissions will be distributed throughout the town and surrounding areas.

Outside of the 1/3 mile limit but within 1 to 1 3/4 miles are

- Private daycare facilities for children
- Colchester's main park and recreation complex which includes playing fields, a playscape, and is utilized for summer day camp programs
- A golf course
- and additional wetland and wooded areas

As proposed, the plant in Colchester would produce 300 tons of asphalt per hour  
70,000 gallons of fuel is to be stored on the site, adjacent to Route 2  
All raw material for the asphalt production needs to be delivered to and stored on the site  
The site is only about 4 acres and surrounds other adjacent properties.  
Run-off from the site will drain into a DOT culvert which will feed into the local rivers.

001421

~~Amston~~  
116 Congress Drive  
Amston, CT 06231  
March 1, 1998  
State of Connecticut  
Office of Adjudications  
79 Elm Street 3rd Floor  
Hartford, CT 06106

Attention: Deborah Green

Dear Ms. Green,

We are writing to you in regards to the asphalt plant which is currently being built in Colchester, CT. We were quite shocked to see the building going up as we were led to believe that this issue was laid to rest several years ago.

We reside in Hebron, on the Colchester border, not more that 1-1/2 miles from this plant site. We chose this area thirteen years ago because of its rural beauty. There is a working farm nearby and we border a state forest. It is unbearable to think that in a very short time our fresh air and streams will be polluted by this unnecessary plant.

While we understand that Mr. Fedus has rights, we too have rights. People who smoke no longer have the right to pollute public air in most places. We now know how dangerous second hand smoke is. Asphalt smoke is highly toxic. This is completely unacceptable to us and our two children. One of our children has asthma and both have allergies. We cannot foresee any benefits to our health or our quality of life if this plant is allowed to operate.

Please consider all of the people in Colchester and the surrounding towns who WILL be affected by this asphalt plant.

Sincerely,

*John M. Fiumara*  
*Joseph Fiumara*

Mr. and Mrs. Joseph Fiumara

JOINT  
STANDING  
COMMITTEE  
HEARINGS

ENVIRONMENT  
PART 5  
1422-1772

1998

001422

Re: I need your help with a hot current issue

mailbox:/C%7C/Program%20Files/Netscape/N.../Sent?id=35000C32.6756@snet.net&number=2

**Subject: Re: I need your help with a hot current issue**

**Date:** Fri, 06 Mar 1998 09:46:10 -0500

**From:** DBray <dbray@snet.net>

**To:** Senator Lieberman <Senator\_Lieberman@lieberman.senate.gov>

I wrote to you recently regarding saving Alaska's Tongass Nat. Forest. However, I now have a very pressing, time sensitive issue I would like to inform you about.

I live in Hebron, CT one mile from the site of a proposed Asphalt Plant. My eight year old son can not walk or ride his bike on our roads right now because of the traffic's speed. I can't imagine what our little town roads will be like with 20 ton dump trucks racing down them. Not to mention the damage these trucks can cause to the surface of the roads. If you were ever inclined to take a drive on Jones Street, you would find a narrow, curvy, beautiful Connecticut road. If you take this same drive while there is a dump truck coming the other way, (which I have), you can be forced off the road by the size of the truck as it rides the yellow line. Some of the trucks go slow and give the little cars right of way, but other's bully us off the road. And the asphalt plant is not actually approved or built yet. Although construction is under way.

The main issue related to this proposed asphalt plant is environmental. As you are probably aware, we have a beautiful river nearby, that drains into the Connecticut River... it is called Salmon River and it is in danger from this plant. A smaller river near the site, called Jeremy's River drains into Salmon River. Any runoff, or other drainage from this plant will start killing the Salmon and Trout in Salmon River, and thereby killing the local birds... what about the thousands of residents who fish in Salmon River, what happens when they eat the fish?

Finally, there is air pollution. My understanding is that within a ten mile radius from the asphalt plant, people have increased asthma attacks, and higher chances for lung, throat, kidney, bladder and other cancers. If you were to come to my home on Jones Street, you would find a beautiful landscaped home with two cats and a dog. Assuming the plant is approved, you would be able to look out at the horizon and see these tremendous smokestacks emitting the hazardous pollutants caused by creating Asphalt.

Please speak up on behalf of Colchester and Hebron Residents. Fedus Associates is the company trying to get the permit from the Commissioner of the Department of Environmental Protection at 860-424-3001. Please see if you can contact him and help him refuse the permit for the asphalt plant in Colchester. Also, the First Selectwoman of Colchester is against the plant, but I don't know how much effect she can have on refusing the permit. Her name is Jenny Contois at 860-537-7221. Also, Governor Rowland is supporting a moratorium on the permitting of all new asphalt plants because the fugitive emissions are not regulated. I don't have access to his email or I would CC: him!

I am hoping you realize just how time sensitive this issue is. The construction has been underway for awhile, there is a bridge currently under re-construction to support the weight of these 20 ton trucks. Is there anything you can do to make a difference?

Thank you very much for your time,

The Bray Family

001423

March 7, 1998

Maryann Handley  
State Senator  
4Th District

Dear Senator,

This letter is regarding Bill # 597.

Please be advised that my family and many other Hebron families in the general vicinity of the proposed Colchester asphalt plant have multiple environmental and health concerns.

We are not satisfied with the current DEP findings that have determined the location is acceptable next to natural resources such as the Salmon River State Forest and Jeremy River.

We are also not satisfied with the currently unknown environmental impact the plant will have on ground water and air quality and the ultimate health problems that will result.

Please advise the DEP, EPA, State of Connecticut, Towns of Colchester and Hebron, and Fedus Associates that a very large number of Hebron residents strongly oppose the construction and operation of the Colchester asphalt plant.

I personally believe a Class Action Law Suit against all of the above parties now or the future is in no ones best interest.

Sincerely,



Frank, Jeannette and Austin Fetzer  
135 Seneca Brook Dr.  
Amston, CT 06231  
1-860-228-1265

171 Chittenden Road  
Amston, Ct. 06231

001424

March 7, 1998

Dear Senator Mary Ann Handley

Please help stop the asphalt plant.  
First of all, right now the river is  
clean and fish are jumping!

Birds are flying, and the wind is  
fine, and smells good.

Second of all, the asphalt plant  
will dump garbage in the river and  
ruin the air and make people sick.

Third, the honey from my Dad's  
bees will not be safe to eat.

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Thank you!

Sincerely,

Chris Savitski

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171 Chittenden Road  
Amston, CT 06231

March 7, 1998

Dear Senator Handley,

These two drawings clearly express my thoughts about the asphalt plant being built. It will kill animals, plants, and make people sick as well.

Sincerely,  
Theodore  
Savitski

P.S. Please help stop the asphalt plant from being built.

001427

Mary Ann Hadley

I am writing to oppose any kind of construction for an asphalt plant on or near Old Hartford Road, Colchester, Hebron line. My family and I live in Hebron just a few miles from the site in question. We moved here from the city get away from such heavy and hazardous pollutants. I am disgusted and ashamed to think the DEP would allow such a plant to be built near a pristine river, just to pollute it all over again, when we've come so far to clean + preserve our environment. As our Representative, Please Do Not Allow This Deadly Plant To Be Built

Sincerely  
Richard Wombly  
99 Attanswood Trail  
Hebron, CT

001428

BILL NO. 597

Good Afternoon, distinguished members of the Senate and House of Representatives, ladies and gentlemen; for the record, my name is Lawrence De Pillo and I reside at 11 Steuben Street in the City of Waterbury. I thank you, the members of The Environment Committee for allowing me the opportunity to provide comments regarding Raised Bill Number 597, An Act Concerning The Siting Of Asphalt Batching Facilities. On behalf of myself and many concerned taxpayers in Waterbury, I thank the entire Waterbury delegation and other members of the Senate and House of Representatives that co-sponsored and support this most important legislation.

Asphalt production is necessary but an environmentally unfriendly activity. Anyone that has ever been stuck behind a ten wheeler carrying freshly made asphalt or in traffic as asphalt is being applied to a street or highway does not open their car windows to enjoy the very distinctive odors asphalt produces but instead closes their car windows. We can escape the fumes if we pass the truck or drive past the construction site but if your residence is located within close proximity to an asphalt producing plant your stuck. You will loose your freedom to open your windows and enjoy the fresh air, the use of your property for recreational activities and most importantly, if you happen to be asthmatic or suffer from another lung related illness, you may become a prisoner of your own home. The solution, you move; you can sell your home, the largest asset most people own, at a reduced value and move to another city or town. But, due to the CT DEP you may have to move again. Your new neighbor may be another asphalt producing plant.

Asphalt production is necessary but asphalt producing plants should not be located in close proximity to residences, schools, hospitals, nursing homes and the like. This legislation before you today is absolutely required if it is your intent to protect the health and quality of life of our children, our elderly and ourselves. You will be lobbied by big oil to kill this bill in committee or on the Senate and House floor, but their interest is money and although nobody wants to deny a business the opportunity to make profit, it should not be achieved by lowering living standards for children and the elderly. I understand that construction workers and their unions may lobby against this bill; that would be a monumental mistake. This bill is not about taking jobs away from workers but is about insuring plants are constructed and operated a safe distance from residences. This bill is about protecting the health and quality of life of everyone, the worker, his children and his family in order that they might enjoy a long, healthy and productive life.

This Raised Bill Number 597 as proposed is needed because unfortunately we have a CT DEP that is a licensing and not a regulatory agency. I pray you, the members of this committee will enthusiastically support this bill and I thank you for your attentiveness.

001429

MAR 10 '98 13:01 FROM TIC CSC

PAGE.001

**TO:** Robert Lee  
**FROM:** George and Monique Gonsalves  
**DATE:** March 9, 1998  
**SUBJECT:** Asphalt Plant

Dear Mr. Lee:

I would like to thank you for the opportunity to present my concerns, involving the proposed construction of the Asphalt Plant in Colchester on Old Hartford Road.

Over ten years ago I relocated my family from Enfield to Hebron, since then I have enjoyed the clean safe surroundings. I firmly believe that the construction of this Plant would only destroy the air quality and water purity of near-by rivers and streams, ultimately deteriorating the quality of life that I have come to enjoy.

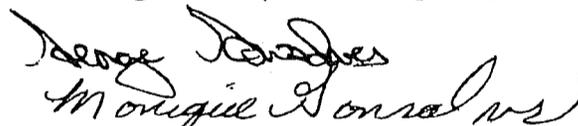
I am the father of five (5) children, I am extremely concerned for the safety of school children, pets, and wildlife that will be exposed to an increased surrounding of heavy truck traffic.

I understand that the fumes from the cooling asphalt is extremely hazardous and would be continuously emanating from the Plant. In addition I am not pleased knowing that approximately 70,000 gallons of fuel is maintained on the Plant grounds. I do not fully understand what type of purification system is used to filter the water used in the manufacturing of asphalt. I would be extremely concerned if this would involve the near-by Salmon River tributaries.

Jones Street, Burrows Hill Road, and Old Hartford Road are what I consider back roads. Extensive heavy truck traffic would create unsafe road conditions. The constant noise of large trucks traveling these back roads would be annoying. In addition it would eliminate the peaceful tranquillity of the area.

I am concerned that future property values will plummet as a result of the Plant. I can only qualify this by my own personal reasons for moving to the country. This certainly would affect my decision making process had I known of an Asphalt Plant in my backyard.

Once again thank you for championing this issue,

  
George and Monique Gonsalves

\*\* TOTAL PAGE.001 \*\*

001430

**PRESENTATION OF FEDUS ASSOCIATES, LLC  
AND SONECO/NORTHEASTERN, INC. TO THE  
CONNECTICUT SENATE COMMITTEE ON THE ENVIRONMENT**

**PRESENTATION WITH RESPECT TO RAISED BILL #597**

Fedus Associates, LLC ("Fedus") is the owner of a parcel of real property located at 631 Old Hartford Road in the Town of Colchester, Connecticut. Fedus is the owner of municipal land use permits to construct and operate a bituminous concrete manufacturing facility on that property. Fedus was further granted a permit to construct and a temporary permit to operate a bituminous concrete manufacturing facility on that property by the State of Connecticut Department of Environmental Protection Air Unit. Fedus is currently promulgating an application for a permanent permit to operate before the Air Compliance Unit of the Department of Environmental Protection.

A majority and controlling interest in Fedus is owned by Soneco/Northeastern, Inc. ("Soneco"). Soneco employs approximately 140 constituents in the State of Connecticut and is engaged in the mining and processing of earth products with facilities located in Groton, Connecticut, Griswold, Connecticut and Montville, Connecticut. Soneco is engaged in the business of manufacturing bituminous concrete at its facilities in Groton and Montville and has been engaged in this business for over 40 years.

Fedus and Soneco submit that Raised Bill #597 is an ill-advised and inappropriate overreaction to environmental concerns which have been raised with respect to the manufacture of bituminous concrete in recent permitting proceedings including Fedus's proposed Colchester facility and a similar facility in Waterbury, Connecticut.

The environmental concerns being raised with respect to bituminous concrete manufacturing facilities focus on the "fugitive emissions" which occur when the asphalt is dropped from the batch facility to the receiving motor vehicle carrier. However, there have not, as of this date, been any empirical studies which quantify the amount or effect of those fugitive emissions. In conjunction with

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001431

an application filed by Todesca Equipment Company in Massachusetts, the Massachusetts Department of Environmental Protection concluded that the fugitive emissions would be approximately one ton per year. The opponents of the facility made claim that the emissions would exceed 300 tons per year.

A third-party analysis prepared by Cambridge Environmental, Inc. on behalf of the Town of Uxbridge, Massachusetts determined that the data promulgated by the organized opponents to asphalt plants claimed fugitive emissions which are at least ten times greater than actual emissions. The independent analysis prepared for the Town of Uxbridge further recommended that well-controlled studies be performed in order to quantify these fugitive emissions and determine not only the quantity thereof but whether or not those quantities and concentrations pose a health risk (a copy of the Cambridge Environmental, Inc. independent review is attached hereto as Appendix A).

Article Tenth, Section 1 of the Connecticut Constitution of 1965 authorizes the delegation of legislative authority to political subdivisions of the State of Connecticut (Home Rule). Pursuant to this authority to delegate, land use regulation is vested in the municipalities of the State of Connecticut pursuant to the provisions of §7-148 and Chapter 124 of the Connecticut General Statutes. Zoning is the basic technique for public regulation of land development and use. The central concern of zoning is the interaction of land uses, and an attempt to order those uses to minimize their adverse impacts on each other. Connecticut General Statutes §8-1 grants to each municipality in the State of Connecticut the right to establish a zoning commission and, acting through that commission, the power to regulate land use within the municipality. Zoning commissions have been granted broad discretion by the Connecticut Courts in the determination of land use issues through the adoption of local regulations. The Courts allow zoning authorities this discretion in determining the public need and the means of meeting it, because the local authority lives close to the circumstances and conditions which create the problem and shape the solution. *Byington v. Zoning Commission* 162 Conn. 611, 613 (1971).

Senate Bill 597 is an apparent attempt to divest municipal land use regulatory authorities of permitting jurisdiction with respect to one particular type of industrial use. It is totally inconsistent with the delegation of zoning authority to municipal commissions contained in §8-1 of the Connecticut General Statutes and runs contrary to the principles of land use regulation as it has developed in the State of Connecticut since the adoption of the enabling legislation in 1925. Senate Bill 597 is an overt attempt

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JURIS NO. 27155

to divest from local control the power and authority to determine the nature and locus of permissible land uses within its territorial limits. This proposed Bill, if enacted, would remove from local consideration the power to determine where, and under what circumstances, a bituminous concrete manufacturing facility would be an appropriate use within the municipality.

Fedus and Sonoco can find no empirical data whatsoever which would justify a 1,760-foot separating distance for a bituminous concrete manufacturing facility from the enumerating neighboring uses or land features delineated in the proposed Bill. In addition, the proposed Bill provides no definition whatsoever of an "area of critical environmental concern" or "watercourse". This Bill appears to be a political reaction to strong neighborhood opposition which has recently been voiced against proposed facilities in Waterbury and Colchester, Connecticut. Fedus and Sonoco submit that a legislative reaction to this issue is wholly inappropriate, sets a dangerous precedent for land use regulation issues in the State of Connecticut and is totally inconsistent with the constitutional concept of Home Rule.

A bituminous concrete manufacturing facility, prior to development and operation, must pass muster before a plethora of municipal and State agencies. At a minimum, such a facility would require zoning commission and building department approvals at the local level and Air Quality and Industrial Stormwater Discharge Permits from the State of Connecticut Department of Environmental Protection. Adequate safeguards exist within the existing regulatory framework to ensure that facilities of this nature are appropriately sited. If fugitive emissions represent a legitimate issue, they can be adequately regulated through the permitting processes before the Air Compliance Unit of the State of Connecticut Department of Environmental Protection. In conjunction with the pending Fedus permit, Christopher A. James, Assistant Director of the Engineering and Enforcement Division of the Bureau of Air Management, testified:

"However, some general conclusions can be made. Fugitive emissions from the loading of asphalt trucks are high enough to trigger review under 22a-174-3 of the RCSA. One can debate the levels of these emissions and whether they are five tons per year or 50, as the experts are currently. Under Section 3, any source with potential emissions greater than five tons per year must submit a permit application and fugitive emissions need to be addressed to the extent quantifiable. Since Fedus has already submitted the application, the level of emissions from fugitive processes should be added to the permit application submitted to

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the Bureau of Air Management for review. In addition, the applicant should submit a top-down BACT review of the processes and equipment available to acceptably control these emissions. I will therefore request that the hearing officer consider this information as part of her review and make the appropriate recommendations."

Proposed Senate Bill 597 is anti-competitive. There are virtually no locations in the State of Connecticut which could satisfy the threshold criteria enumerated in the proposed legislation for the siting of a bituminous concrete manufacturing facility. Any area which might comply with the restrictive siting criteria contained in the proposed legislation would be so far removed from material sources and markets as to make the development of facilities of this nature in those locations economically infeasible. In addition, it is most unlikely that remote areas which could satisfy the Act's proposed permitting criteria would bear a local zoning classification which would permit an industrial use. The net effect of this legislation would be to eliminate the construction of any new bituminous concrete manufacturing facilities in the State of Connecticut and therefore provide a competitive advantage to existing facilities, eliminate the prospect of future competition and ultimately result in higher prices for bituminous concrete for the consumers and users thereof.

The proposed legislation would exempt facilities which were in operation as of December 1, 1997. However, the legislation does not address facilities which cannot comply with the setback requirements of the legislation, but which were either permitted or actually under construction prior to the December 1, 1997 cut-off date. As of December 1, 1997, the Fedus site in Colchester, Connecticut had received all permits to construct a bituminous concrete manufacturing facility, which permits were in full force and effect on that date. The company was acquired by Sonoco/Northeastern, Inc. in reliance upon the validity and existence of those permits, and the acquisition and development of the project was financed in reliance thereon. The legislative attempt to nullify the effectiveness of those permits and thereby jeopardize the expenditure of significant sums of money in reliance thereon is repugnant to the principles of natural justice. Retrospective laws divesting vested rights are impolitic and are unjust. They tend to weaken the very foundation upon which commercial transactions are consummated and threaten the availability of financing which is the life blood of our economic system. In fact, the application of the proposed legislation to the Fedus facility is an ex post facto law in violation of the

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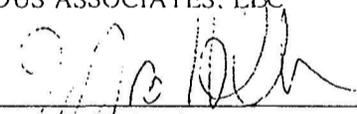
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provisions of Article 1, Section 10 of the Constitution of the United States since it would impose a forfeiture imposed after the fact.

In conclusion, Senate Bill 597 represents an inappropriate legislative intrusion into land use regulation which has been vested in municipal authorities under §8-1 of the Connecticut General Statutes since 1925. It represents a political overreaction to the undocumented hysteria which has recently been generated by opponents to asphalt plants. The regulation of the siting of asphalt plants through legislation at the State level is inappropriate and is inconsistent with the development of land use regulation in the State of Connecticut. Sufficient regulations are already in place, both at the municipal and State levels, to ensure that these facilities are appropriately sited. Land use regulation has worked well under Home Rule and should not be tinkered with by the legislature in isolated instances. It is therefore recommended that this proposed legislation not be supported by the Committee on the Environment.

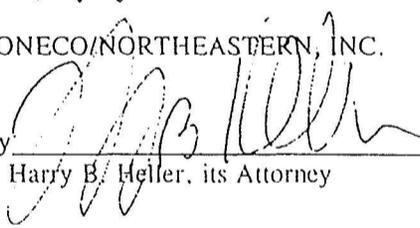
Respectfully submitted,

FEDUS ASSOCIATES, LbC

By 

Harry B. Heller, its Attorney

SONECO/NORTHEASTERN, INC.

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001435

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March 29, 1996

APPENDIX A

Ronald B. Ryan, P.E.  
Environmental Engineer  
Emission Factor and Inventory Group  
Office of Air Quality Planning and Standards  
U.S. Environmental Protection Agency  
Research Triangle Park, NC 27711

Dear Mr. Ryan:

Thank you for forwarding the additional materials on Dr. Nadkarni's calculations of volatile organic compound (VOC) emissions from hot mix asphalt (HMA) as it is loaded out onto trucks. We write *per* your invitation to submit comments on Dr. Nadkarni's calculations.

Our comments were developed as part of our work for the Town of Uxbridge, Massachusetts, for which we are serving as a third-party reviewer of a proposed asphalt plant. We initially received Dr. Nadkarni's comments from the Town's Board of Health, who themselves received a copy as part of comments on the proposed asphalt plant. We have considered Dr. Nadkarni's calculations in some detail, and wish to submit these comments for your own consideration of his analysis.

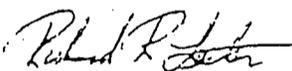
We appreciate Dr. Nadkarni's effort in attempting to derive emission estimates for this process. Based on our analysis, however, we believe that his emission estimates overpredict the actual levels of VOC emissions from HMA loadout (perhaps by a large margin). Both his calculations and our critique, however, are based on a simple analysis of a complex process. Uncertainties in these calculations are substantial. The best way, in our opinion, to quantify VOC emissions from this process would be to measure them in a well-designed field study or experiment.

Please write or call should you have questions on our comments.

Sincerely,



Stephen G. Zemba, Ph.D., P.E.  
Senior Engineer



Richard R. Lester  
Staff Scientist

enc.

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**Comments on the Estimation of Emission of Volatile Organic Compounds  
from Hot Mix Asphalt During Loadout onto Trucks**

Stephen G. Zemba, Ph.D., P.E., and Richard R. Lester  
Cambridge Environmental Inc.

March 29, 1996

Dr. Nadkarni has applied an empirical, but well-tested (in some applications) method to predict the emission rate of volatile organic compounds (VOCs). The equation he employs predicts a mass flux of a contaminant as the product of a mass transfer velocity and a concentration in air (the film-layer concentration) that would be expected to be found just above the surface of the liquid that is evaporating. The key to the calculations lies in estimating representative values for each of these parameters. The typical approach that Dr. Nadkarni follows is to estimate the mass transfer velocity from an empirical correlation that considers (1) the physical/chemical properties of both the contaminant and air, (2) meteorologic conditions, and (3) the size of the source (in this case, a truck bed). Similarly, he uses another typical assumption in which vapor pressure is used as a surrogate for the film-layer concentration.

Dr. Nadkarni's methods have been employed by engineers in a multitude of applications. We have had experience using these equations in attempting to predict the rates at which contaminants evaporate from polluted surface water. The fundamental question, however, is whether the methods are appropriate for predicting VOC emissions from hot mix asphalt during loadout onto trucks.

Based on our experience and review, we believe that Dr. Nadkarni's calculations *overestimate* actual VOC emissions during loadout, at least by a modest, and perhaps by a substantial, degree. The two main reasons that the calculations overestimate are:

- the mass transfer correlation is applied to a physical situation quite different than what it was designed for, and does not account adequately for resistance to evaporation within the liquid phase; and
- the film-layer concentration is likely to be lower than that predicted by Dr. Nadkarni because the surface temperature of the asphalt, which controls the potential vapor pressure above the liquid phase, is likely to be cooler than the bulk (center region) of the asphalt load.

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The mass transfer correlation derives from the results of experiments in which volatile compounds were evaporated from liquid pools. The equation assumes that molecules of a contaminant are available to evaporate at the surface of a pool. To provide this condition, an adequate level of internal mixing is needed in the liquid to provide a fresh source of molecules at the surface. In a one component system (e.g., pure liquid water), mixing is not an issue because all of the liquid molecules are the same (and hence some molecules are always available at the surface). The mass transfer equation was designed for such one component (pure substance) liquids.

In other situations, however, the adequate mixing needed to supply molecules at the surface cannot be assumed. As an example, we attempted to apply the same methodology to a surface water impoundment contaminated with methanol, a fairly mobile organic compound.<sup>1</sup> The emission rate predicted by the mass transfer equation was ten times greater than that measured in field tests.<sup>2</sup> The mixing situation is even more difficult in the case of asphalt. HMA is largely solid aggregate material, and while sitting in the truck, only a thin coating of asphalt cement is exposed to air. Wind cannot penetrate the liquid portion of the asphalt to mix it and thereby bring new molecules of volatile organic compounds (VOCs) to the surface. To move from the center or bottom of the asphalt pile to the surface, VOC molecules would have to rely on molecular diffusion, a process that literally requires years. Thus, the bulk of VOCs present in HMA loaded onto trucks is simply not available to evaporate at the surface.

One could counter that there is a sufficient mass of VOCs present solely in the surface layer to account for the evaporation rate predicted by Dr. Nadkarni (0.75 lbs of VOCs for 5 tons of HMA). A second process, however, is likely to limit the mixing required for mass transfer in the surface layer. Specifically, liquid asphalt, even at a temperature of 300°F, has a viscosity roughly 50 times higher than that of room temperature water (HSDB, 1996). This much higher viscosity inhibits the wind-blown mixing needed to bring new VOC molecules to the surface.

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<sup>1</sup> This methodology is in fact the one recommended by the U.S. EPA.

<sup>2</sup> Some of this difference may have been due to differences in meteorologic conditions assumed for the modeling and those present during the field trials, but we believe that at least part of the difference resulted from the fact that liquid-phase resistance (i.e., the mixing necessary to bring contaminant molecules to the surface to evaporate) was not considered in the mass transfer calculations.

Another factor that suggests Dr. Nadkarni's estimates of VOC emissions are too high relates to the thermal properties of HMA. Specifically, HMA is a relatively poor conductor of heat,<sup>3</sup> which has two implications. First, it provides a sufficient amount of time to allow transport of HMA to a job site and application before it cools and hardens. Second, and of importance to mass transfer calculations, the low thermal conductivity induces a significant temperature gradient from the core of the asphalt to its surface. This means that the surface temperature of HMA will cool faster than the internal temperature. A cooler surface temperature implies a lower vapor pressure, and hence a lower emission rate per Dr. Nadkarni's calculations.

The temperature of the HMA leaving the batch tower is more or less uniform, so the rate at which the outer surface cools is of importance. Some sense of the rate of cooling can be obtained from basic heat transfer calculations. To do so, we apply the solution of transient conduction in a semi-infinite media. The asphalt is assumed to be at a uniform initial temperature of 300°F, and exposed to surface cooling by wind. A graphical solution to this problem is available from Incropera and DeWitt (Figure 5.16, p. 206). Estimating HMA surface temperatures as a function of time after loading requires (1) properties of asphalt and air and (2) an estimate of the convective heat transfer coefficient. The latter parameter can be estimated from the heat transfer correlation for a flat plate, which is directly analogous to the mass transfer correlation employed by Dr. Nadkarni:

$$Nu = \frac{h X_T}{k_a} = 0.037 Pr^{1/3} [Re_T^{4/5} - 15,500] \quad (1)$$

where the terms are:

- Nu Nusselt number (a dimensionless parameter);
- $h$  convective heat transfer coefficient (W/m<sup>2</sup>-K);
- $k_a$  thermal conductivity of air (W/m-K);
- $X_T$  total length of the plate (m);
- $Re_T$  Reynolds number based on the length of the plate; and
- Pr - Prandtl number of air.

The same values used by Dr. Nadkarni for  $X_T$  (10.67 m) and  $Re_T$  ( $1.4 \times 10^6$ ) are assumed. Typical values of Pr and  $k_a$  for air are 0.7 and 0.03 W/m-K, respectively (Incropera and DeWitt, 1981). Using these values in Equation (1), a convective heat transfer coefficient  $h$  of 6.3 W/m<sup>2</sup>-K is found.

<sup>3</sup> The thermal conductivity of asphalt is listed to be 0.062 W/m-K, which (as examples) can be compared to the conductivities of glass (1.4 W/m-K), brick (1 W/m-K), and water (0.6 W/m-K) (Incropera and DeWitt, 1981).

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For the semi-infinite solid solution, the temperature difference between the interior of the asphalt ( $T_i$ ) and the surface of the asphalt ( $T_s$ ), divided by the temperature difference between the interior of the asphalt and the ambient air ( $T_a$ ), is a function of time and properties of the asphalt:

$$\frac{T_i - T_s}{T_i - T_a} = f\left(\frac{h\sqrt{\alpha t}}{k_h}\right)$$

where the undefined terms are:

- $t$  time after HMA loadout onto the truck (s);
- $\alpha$  thermal diffusivity, which is equal to thermal conductivity ( $k_h$ ) divided by the specific heat ( $c_p$ ) and density ( $\rho_h$ ) [ $\alpha = k_h / (c_p \rho_h)$ ] ( $m^2/s$ );
- $k_h$  thermal conductivity of asphalt (W/m-K);
- $c_p$  specific heat of asphalt (J/kg-K); and
- $\rho_h$  density of asphalt.

Values of 0.062 W/m-K, 920 W/m-K, and 2115 kg/m<sup>3</sup> are obtained from Incropera and DeWitt (1981) for asphalt. These values yield an  $\alpha$  value of  $3.2 \times 10^{-8}$  m<sup>2</sup>/s.

Table 1 lists asphalt surface temperatures derived from the graphical solution (Incropera and DeWitt, 1981), assuming 300°F and 70°F for temperatures of the internal asphalt and ambient air, respectively, and using the property values above. After a period of 30 seconds after loadout, the surface temperature is predicted to cool 23 degrees F, from the initial temperature of 300°F to 277°F. After three minutes, the surface temperature is predicted to cool to 249°F (a decrease of 51 degrees from the initial temperature). Surface temperatures at additional times are listed in Table 1.

A cooler asphalt surface has important implications to Dr. Nadkarni's calculations, since he assumes that the film-layer concentration ( $c_f$ , from his terminology) is equal to the asphalt vapor pressure, and the vapor pressure in turn depends on the surface temperature of the asphalt. Based on the discussion of vapor pressure below, one would expect  $c_f$  values at a surface temperature of 300°F to decrease by factors of about 3 and 10 at surface temperatures of 275°F and 250°F, respectively. To calculate the effect of decreasing surface temperatures on Dr. Nadkarni's emission rates, one must consider the integrated effect of surface cooling, since the asphalt surface temperature starts out at 300°F, but continually decreases after it has been loaded on the truck. We estimate (based on such an integral) that consideration of a changing

surface temperature would decrease Dr. Nadkarni's estimates by more than a factor of four over the first three minutes after loadout.<sup>4</sup>

Table 1 Estimated surface temperatures of asphalt loaded onto trucks as a function of time after loadout

Time after HMA loadout (min)	$\frac{h\sqrt{\alpha t}}{k_h}$	$\frac{T_i - T_s}{T_i - T_a}$ Estimated from Figure 5.16 of Incropera and DeWitt (1981)	Surface temperature of HMA (F)
0.5	0.099	0.1	277
1	0.14	0.13	270
2	0.20	0.2	254
3	0.24	0.22	249
5	0.31	0.28	236
10	0.44	0.35	220
60	1.1	0.62	157

Comments by the U.S. EPA (Ryan, 1995) have raised a number of questions. Dr. Nadkarni uses a molecular diffusion coefficient of  $0.093 \text{ cm}^2/\text{s}$  in air, which is appropriate for a relatively low molecular weight compound such as heptane. For a higher molecular weight compound such as anthracene, a value of  $0.0324 \text{ cm}^2/\text{s}$  is more appropriate. If one assumes the latter value to be more appropriate for asphalt vapors, Dr. Nadkarni's emission estimate would decrease by a factor of two.

Perhaps an even greater uncertainty is associated estimating the vapor pressure of asphalt. Dr. Nadkarni demonstrates three methods for estimating vapor pressure, and we, like the U.S. EPA

<sup>4</sup> As a quick summary of this calculation, we assume that the vapor pressure is 1/3 its initial value after 30 seconds, and 1/10 its initial value after 3 minutes. If  $f$  is the fraction of the initial

vapor pressure, the time-dependent curve is well described by the equation  $f = e^{-\beta t}$ , where  $\beta$  is a value of 0.18, and  $t$  is in units of seconds. Integrating this equation over a time period from 0 to 180 seconds (3 minutes), an average  $f$  value of 0.24 is found, which implies a four-fold lower emission rate than that calculated by Dr. Nadkarni.

(Ryan, 1995), have serious concerns over whether the methods are relevant. In particular, Dr. Nadkarni states (p. A-3, 2nd pgh.) that the logarithm of vapor pressure should be proportional to the inverse of absolute temperature. Such a plot is shown in Figure 1. In this figure, the three vapor pressure curves are drawn from the vapor pressure at room temperature (0.0001 mm Hg, or  $1.32 \times 10^{-7}$  atm, at 70°F) to the various boiling points considered by Dr. Nadkarni (1 atm [by definition of boiling] at 700, 800, and 900°F). Vertical lines are drawn at temperatures of 350, 300, and 250°F.

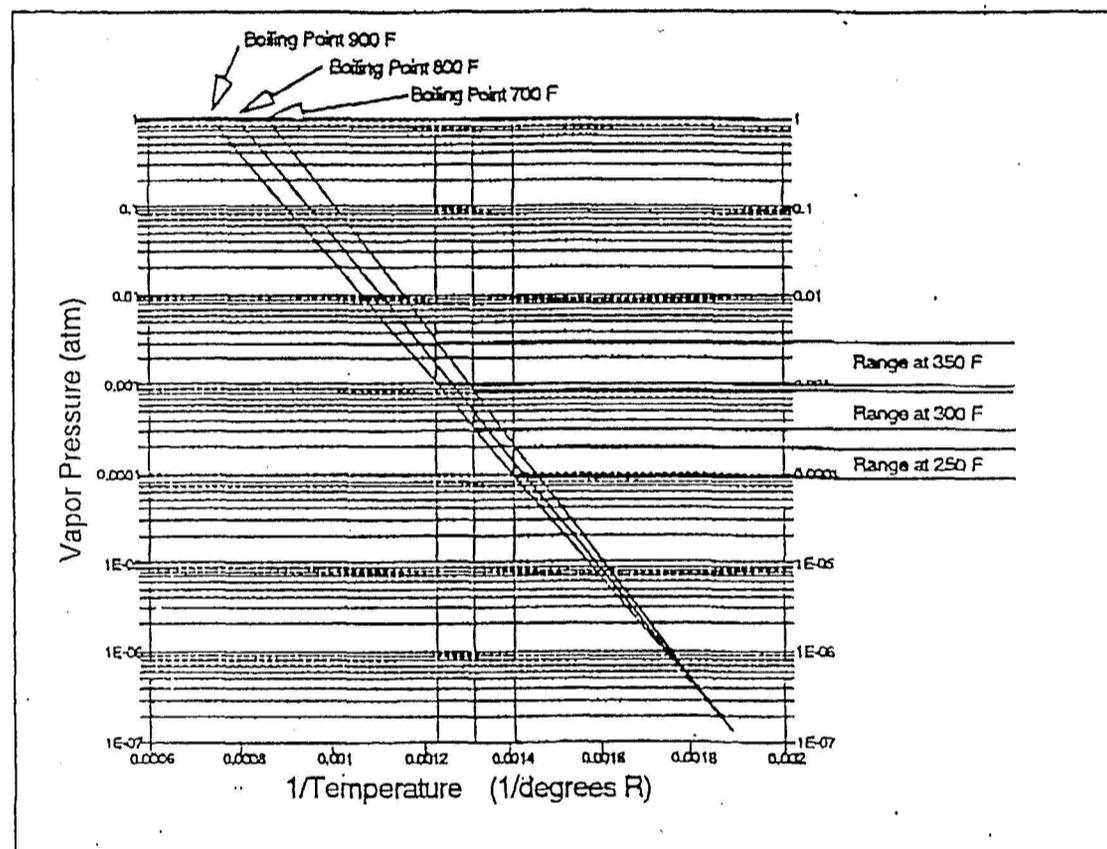


Figure 1 Asphalt vapor pressure (atm) vs. inverse temperature (1/degrees R).

In Figure 1, the points at which each vertical line intersects the vapor pressure lines represents the range of possible vapor pressures. For 300°F, the typical temperature of HMA, the range is approximately  $3 \times 10^{-4}$  to  $1 \times 10^{-3}$  atm, which equals 0.2–0.8 mm Hg. This range is considerably lower than the value of 30 mm Hg used by Dr. Nadkarni. As further evidence that Dr. Nadkarni's estimate of vapor pressure may be too high, his own calculations (method 1) assume a temperature of 190°C, or 374°F, which is significantly higher than the typical asphalt temperature

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of 300°F. Extrapolated downward to 300°F, his own method would yield a vapor pressure on the order of 1 mm Hg.

We suspect that part of the discrepancy between our simple analysis (Figure 1) and Dr. Nadkarni's techniques results from the fact that asphalt is not a single compound, but rather a mixture of compounds that boil over a range of temperatures. To complicate matters, asphaltic concrete varies in composition and grade. Mixtures blended with lighter hydrocarbons may well exhibit vapor pressures on the order of 30 mm Hg. For example, HSDB (1996) provides a reference to a vapor pressure of 19 mm Hg at 300°F. Thus, it is difficult to estimate a vapor pressure appropriate for use in calculations of type made by Dr. Nadkarni.

The final method Dr. Nadkarni uses to support his emission estimate is a simple mass balance calculation based upon an assumed concentration present in vapor clouds that he has observed from above asphalt trucks during loadout. We have two comments regarding this method. First, the upper-end fume concentration of 260 mg/m<sup>3</sup> was taken in a study of asphalt fumes generated at much higher temperatures than those of interest to an HMA paving facility,<sup>5</sup> and thus may grossly overestimate VOC concentrations present in vapor clouds. Second, a portion (perhaps substantial) of the cloud may be water vapor, and not condensing VOCs. The aggregate drying process is not 100% effective. If, for example, a residual water content of 0.1% remained in the HMA, 10 lbs of water would be present in 5 tons of HMA, an amount that can be compared to Dr. Nadkarni's emission estimate of 0.75 lb per 5 tons HMA.

As a whole, we believe that Dr. Nadkarni's calculations overestimate the true levels of VOCs emitted from HMA loaded out onto trucks. As pointed out by the U.S. EPA (Ryan, 1995), if fugitive emissions of VOCs were of the magnitude estimated by Dr. Nadkarni, one would expect to see much higher emission rates of VOCs in batch plants that collect dust and vapors from the pugmill (mixing) area where the asphaltic cement is first introduced. The VOC emission factor listed in U.S. EPA (1994) corresponds to only 0.085 lbs VOCs per 5 tons of asphalt — about an order of magnitude smaller than Dr. Nadkarni's estimate from truck loadout.

All factors considered, we suspect that Dr. Nadkarni's emission estimates are *at least* 10 times greater than actual emissions. There are, however, considerable uncertainties in both his analysis and our critique. The best way to resolve these uncertainties, as noted by Dr. Nadkarni and the U.S. EPA (Ryan, 1995), would be to conduct a direct, well-controlled experimental investigation that takes into account the critical factors related to asphalt loadout (*e.g.*, HMA temperature, drying efficiency, grade of asphaltic cement, *etc.*). We would strongly encourage the U.S. EPA, the National Asphalt Pavement Association, or other national agency to conduct such a study, since its results would be beneficial to all HMA plants.

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<sup>5</sup> The study also involved a different process — indoor use of mastic asphalt.

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References

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001444

NO. 309

001

March 10, 1998

Mr. Robert E. Lee, Town Manager  
15 Gilead Street  
Hebron, CT. 06248

Dear Mr. Lee,

I am writing to express opposition to the proposed construction of the Asphalt Plant on the Hebron/Colchester line. It is appalling to think that the plant is scheduled to be built so close to residential areas of Hebron. I'm very concerned about the health and welfare of our children, not only from the destruction of our air quality but also from huge trucks that will be driving in the same residential neighborhoods where our children ride their bikes.

It doesn't seem possible that a permit could be issued for an asphalt company to be built so close to the Easter Seals Camp Hemlocks. The whole purpose of camp life, relaxation and enjoyment, will be ruined for camp participants if the air is smelling of asphalt.

It also concerns me that the plant will be located so near to the beautiful Salmon River. Didn't the State of Connecticut recently invest a lot of money to clean up the river for restocking? Now they are issuing a permit for a company whose residue is certain to pollute the river again. Doesn't that sound like "waste in state government?"

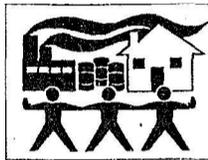
Last year Hebron was voted the second best place to live in Connecticut. Please help us to keep that reputation by sharing these concerns with our State Legislators.

Sincerely,

*Richard and Gail Twombly*

Richard and Gail Twombly  
99 Attawanhood Trail  
Amston, Ct. 06231

001445



## TOXICS ACTION CENTER

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**Testimony of Merc Pittinos  
Toxics Organizer, Toxics Action Center**

**on Raised Bill Number 597**

### **AN ACT CONCERNING THE SITING OF ASPHALT BATCHING FACILITIES**

Good Afternoon. Thank you very much for the opportunity to speak on Connecticut Raised Bill Number 597, "An Act Concerning the Siting of Asphalt Batching Facilities."

My name is Merc Pittinos. I am the Toxics Organizer for the Toxics Action Center, a private, non-profit, non-partisan, environmental organization based in West Hartford. We assist community groups throughout the state that are fighting toxic and public threats in their neighborhoods.

We strongly support legislation to provide a buffer zone between asphalt plants and sensitive areas like hospitals, nursing homes, schools, areas of critical environmental concern, watercourses, and areas occupied by residential housing.

There are approximately 3,600 asphalt plants in the United States. Forty-six of these plants are in Connecticut. Currently, there are no less than four additional plants proposed to be sited in the state; one in Colchester, one in Waterbury and two in Bridgeport. Residents from these towns have expressed great concern with the proposed plants.

This concern largely lies with the emissions from asphalt plants. These industrial facilities emit particulate matter, volatile organic compounds (VOCs) and polycyclic aromatic hydrocarbons (PAHs), all of which impact public health. These toxic chemicals reduce lung function, increase asthma attacks, and cause premature death.

Despite these health impacts, there are neither state nor federal laws which regulate "fugitive" organic emissions from asphalt plants. These emissions are released when asphalt is loaded onto trucks, as the trucks travel from the plant and even after the asphalt is laid on roadways.

A buffer zone between asphalt plants and certain sensitive areas would help to alleviate some of the potential health impacts from asphalt plant emissions.

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To ensure that this bill adequately protects sensitive areas in Connecticut from asphalt plant emissions, I ask that you consider two changes to the bill as it is currently written.

**1. I propose that the name of the bill be changed so that it includes all asphalt plants.**

As the bill is currently titled,

“AN ACT CONCERNING THE SITING OF ASPHALT BATCHING FACILITIES”

it would not include all hot mix asphalt plants.

There are two types of hot mix asphalt plants, batch and drum plants. According to the Environmental Protection Agency's standards for hot mix asphalt plants, over 85% of plants being manufactured today are drum plants.

So that this bill includes protections for batch and drum plants, I propose that the bill be entitled,

“AN ACT CONCERNING THE SITING OF HOT MIX ASPHALT PLANTS”

or

“AN ACT CONCERNING THE SITING OF BITUMINOUS CONCRETE  
MANUFACTURING FACILITIES”

**2. I propose that the buffer zone be extended to one-half a mile in linear distance from any hospital, nursing home, school, area of critical environmental concern, watercourse, or area occupied by residential housing.**

This bill very closely resembles the Massachusetts House of Representative Bill Number 2915 which is now in its third reading. The Massachusetts bill requires that

“No asphalt batching facility shall be located in an area which is less than one-half mile in linear distance from any hospital, nursing home, area of critical environmental concern or area occupied by residential housing.”

Since the emissions from asphalt plants do pose a threat to public health, and since there will be emissions from asphalt plants that can not be controlled, I ask that you extend the buffer zone to one-half a mile.

Thank you very much for the opportunity to speak today, I appreciate your consideration of these proposals.

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**HOUSE . . . . . No. 2915**

**By Mr. Angelo of Saugus, petition of Steven Angelo and William G. Reinstein for legislation to further regulate the siting of asphalt batching facilities. Natural Resources and Agriculture.**

**The Commonwealth of Massachusetts**

**In the Year One Thousand Nine Hundred and Ninety-Seven.**

**AN ACT FURTHER REGULATING THE SITING OF ASPHALT BATCHING FACILITIES.**

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

- 1 No asphalt batching facility shall be located in an area which is
- 2 less than one-half mile in linear distance from any hospital or area
- 3 occupied by residential housing. Said linear distance shall be mea-
- 4 sured from the outermost perimeter of such facility to the outer-
- 5 most point of any adjacent hospital zone or residential housing;
- 6 provided, however, that any such facility in operation as of
- 7 December first, nineteen hundred and ninety-five shall not be sub-
- 8 ject to the provisions of this act.

001448

Testimony of Franklin G. Pilicy, Esq.  
365 Main Street  
Watertown, Connecticut

Good afternoon. My name is Frank Pilicy. I represent Contractors Supply of Waterbury, LLC, an applicant for an air permit to operate an hot-mix asphalt plant. Local opposition to Contractors Supply's application resulted in efforts to legislatively establish this proposed ban on new asphalt plants. I would like to raise several general concerns about Raised Bill 597, An Act Concerning the Siting of Asphalt Batching Facilities, and then focus on concerns with the specific language of the bill.

My first, and most important, concern is with the nature of the proposed legislation: This legislation is a ban on new asphalt plants, in contravention of local zoning authority, with no scientific basis for the legislation. While questions have recently been raised concerning the levels of fugitive emissions from the load-out of asphalt into trucks, this issue is one of many being studied by the United States Environmental Protection Agency, and the impact of these fugitive emissions will soon be much better understood. However, this legislation ignores efforts to better understand these aspects of asphalt production and panders to a "not-in-my-backyard" mentality that reacts without understanding the real health effects of an industry. It is a blatant election-year attempt to garner votes from understandably concerned residents who outnumber owners and operators of asphalt plants, without taking the time and making the effort to understand the real scientific affects of asphalt production and load-out.

To my knowledge, the Connecticut General Assembly has never before banned a specific industry without allowing a review of how a particular facility would affect human health and the environment. Even low level radioactive waste disposal sites and hazardous waste disposal sites are subject to site-by-site review. For example, prior to granting a permit to site a hazardous waste disposal site, the Siting Council must consider a number of factors, including: the impact of the proposed facility on the municipality and the affected geographic area, in terms of public health, safety and welfare; the protection of the public and the environment from accidental

releases; the protection of the public and environment from exposure to hazardous wastes; and the degree of consistency of the proposed facility with local and regional land use plans and regulations and the state conservation and development plan in place at the time of the application. The statute governing siting of hazardous waste disposal sites does not simply prohibit the siting of those sites in certain areas. This proposed legislation bypasses entirely the process of considering each application on its own merits, which brings me to my next, general comment.

This legislation completely circumvents zoning, which by statute, case law and tradition has been within the purview of municipalities in Connecticut. It implies that municipalities are unfit to determine for themselves where to locate industrial uses, despite decades of local control of land use decision-making. It also singles out one specific industry, above all others, to set specific siting criteria by statute, rather than leaving those decisions to local zoning commissions. Given their proximity to the impacts that result from industrial uses, local commissions are much better suited to pass judgment on the siting of those industrial uses than is the state. It is this understanding that is the basis of Home Rule, codified in the zoning context in Connecticut General Statutes section 8-1.

My client, Contractors Supply of Waterbury, LLC, is in the process of applying for air permits from the Connecticut DEP for the construction of an asphalt plant. My client specifically purchased land located in the "Heavy Industrial" zone in Waterbury, knowing that bituminous asphalt plants were specifically permitted in that zone under Waterbury zoning requirements. Connecticut General Statutes 8-2h provides that changes in zoning do not apply to those whose applications are already filed; essentially, zoning commissions cannot change the rules in the middle of the game. However, the General Assembly is attempting to do that which they have prohibited local zoning commissions from doing -- changing the rules mid-game. You will be harming businesspeople that have relied on local zoning ordinances and complied with regulations promulgated by the Connecticut DEP, all without a scientific justification.

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To add insult to injury, my client purchased its site not just because it was located in the proper industrial zone, but also because it was located in an enterprise zone, one created by the General Assembly for the specific purpose of bringing manufacturing into an economically depressed area of Waterbury. Apparently, only certain manufacturing uses are now welcome. What type of manufacturing will the General Assembly ban next? Who else will invest time and money, for the purpose of bringing manufacturing to a municipality that needs well-paying jobs and a boost to the tax-base, only to be circumvented at the eleventh hour by a General Assembly that changes the rules in the middle. If this legislation passes, such investment in Connecticut will be greatly discouraged.

In addition to general concerns with the nature of this legislature, I have some specific comments on the language of the bill itself. First, not only is there a lack of scientific basis for the ban on asphalt plants itself, but there is also a lack of scientific basis for the specifics of the legislation. For example, if the concern is the fugitive emissions from asphalt plant load-out, an air issue, why prohibit asphalt plants near "watercourses"? Why ban asphalt plants one-third of a mile from these areas, and not one-fourth of a mile, or one-half of a mile? The lack of scientific data merely reflects the ill-considered nature of this legislation. The concern with fugitive emissions from asphalt plants, or any lack of information on fugitive emissions, is better addressed by scientific study, not by a ban on new asphalt plants. As DEP well knows, other states are reviewing data on fugitive emissions, and EPA is planning on conducting a study this summer.

While EPA has not yet completed studies of load-out at asphalt plants during actual plant operations, it should be noted that EPA has conducted preliminary studies. Furthermore, the North Carolina Department of the Environment and Natural Resources has conducted sampling and analysis of emissions during load-out operations. The data available to date suggests that fugitive emissions resulting from load-out are actually much lower than has been estimated by previous reports, and present no danger to human health and the environment. For your information, I have attached written testimony prepared by Laura C. Green, Ph.D., President of

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Cambridge Environmental Inc., a firm that has studied the issue of fugitive emissions from asphalt plants and has submitted comments to EPA on that subject. (See Attachment 1.) Using standard, accepted risk assessment techniques, Dr. Green concludes that fugitive emissions present negligible potential for causing health effects.

If the General Assembly is intent on singling out this industry, a more considered and measured approach to the potential concern with fugitive emissions would be a temporary moratorium on new plants until September 1, 1998, by which date the EPA study on fugitive emissions is anticipated to be completed. This would allow for the passage of legislation or regulations that focus on the fugitive emissions aspect of asphalt plants. All asphalt plants produce fugitive emissions during load-out, not just new asphalt plants. If engineering controls are deemed necessary to protect human health and the environment from the effects of fugitive emissions, the legislature could more effectively protect human health and the environment by requiring that any necessary engineering controls be applied to all asphalt plants, not just new plants. As this legislation is now written, it will allow older, less efficient plants that may not be required to meet restrictive air permitting requirements to continue operating, while banning new, more efficient asphalt plants.

Another concern with the specific language of the legislation is that many of the terms are unclear. The term "area of critical environmental concern" is not defined, and is quite vague. It is unclear who would determine what is an "area of critical environmental concern." Which leads to my next concern: who will be empowered to enforce this statute? The local zoning commission? The Connecticut Siting Council? The Department of Environmental Protection?

As can be seen, there are quite a number of concerns with this legislation. It singles out asphalt plants for the harshest consideration, a complete ban in certain locations, without any scientific basis for that treatment. While it may not be the most pleasant aspect of an industrialized society, asphalt is a necessary commodity in a Connecticut that is dependent on roads. Until we ban roads, we cannot ban asphalt plants. And once we start with asphalt, what

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will be next? Which manufacturing sector will be targeted next? This legislation will encourage those who prey on homeowners' fears about industrial uses, without scientific evidence of the alleged harm. This legislation will circumvent local zoning commissions and their regulations. This legislation will discourage Connecticut businesspeople from creating well-paying manufacturing jobs and from investing in the State of Connecticut.

This bill does not represent environmental protection. It will likely win votes in November, but it will do so at a high cost -- the integrity and consistency of the State's program to protect the environment. This legislation sacrifices science for politics, and it should not be adopted.

ATTACHMENT 1

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Testimony offered by Laura C. Green, Ph.D., D.A.B.T.  
Regarding Connecticut Bill No. 597:  
An Act Concerning the Siting of Asphalt Batching Facilities

March, 1998

Professional Qualifications

1. My name is Laura C. Green. I am a board-certified toxicologist, the President and Senior Scientist at Cambridge Environmental Inc., and a Lecturer in the Division of Toxicology at the Massachusetts Institute of Technology.
2. I have expertise in chemical carcinogenesis and risk assessment, and am author or co-author of more than 80 reports related to toxicology or risk assessment, several book chapters, and a book entitled, *In Search of Safety: Chemicals and Cancer Risk* (Harvard University Press, 1988).
3. I earned a bachelor's degree with honors from the Department of Chemistry at Wellesley College in 1975, and a doctorate from the Department of Nutrition and Food Science (currently the Division of Toxicology) at the Massachusetts Institute of Technology in 1981.
4. I am an invited peer-reviewer for the Centers for Disease Control's Agency for Toxic Substances and Disease Registry, as well as for several scientific journals. I also serve on the Medical Review Panel of the Commonwealth of Massachusetts for the purpose of determining whether residents have been adversely affected by emissions from urea-formaldehyde foam insulation.
5. I have provided technical expertise on several projects involving asphalt plants and asphalt fumes. I have reviewed and analyzed considerable literature on the health effects of asphalt fumes in laboratory animals and people. My colleagues and I have submitted detailed comments to the National Institute of Occupational Safety and Health (NIOSH) on various health effects issues surrounding asphalt fumes. We have also submitted technical comments to the U.S. EPA regarding the magnitude and nature of hazardous air pollutant emissions that occur when hot-mix asphalt is loaded onto trucks.
6. Additional details regarding my professional qualifications are provided in my *curriculum vitae*, provided below as Exhibit 1.

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Overview and basis of Testimony

7. In what follows, I provide a toxicologist's view of Connecticut Bill No. 597: An Act Concerning the Siting of Asphalt Batching Facilities. In particular, I discuss the nature and magnitude of impacts (known and reasonably expected) from hot-mix asphalt batching facilities on environmental quality of the neighborhoods surrounding such facilities. This discussion leads to a judgement as to the appropriateness of the "buffer zone" requirement of one-third of a mile, set forth in the Bill, between (presumably newly sited) asphalt plants and "any hospital, nursing home, school, area of critical environmental concern, watercourse, or area occupied by residential housing." My analysis assumes that the tenets of environmental science should be used as a basis for the formulation of environmental policy. In particular, it assumes that legislation and regulation of industrial facilities should be tailored to the expected environmental impacts of those facilities.
8. My professional opinions regarding health and safety concerns of hot-mix asphalt plants are based on several foundations. First, as noted above, I have reviewed in detail scientific studies on the effects of asphalt fumes — which are the vapors that arise from hot-mix asphalt as it is cooling — on the health of people and other animals. Second, I have visited several hot-mix asphalt facilities and observed typical operating conditions. Third, I have performed, and will present, detailed calculations concerning the expected impacts of chemicals to be emitted from a typical, new, hot-mix asphalt facility. Fourth, I have consulted with air permit specialists in various state environmental agencies responsible for regulating hot-mix asphalt plants.

Details of Testimony

9. Asphalt plants are, of course, industrial facilities. As such, the equipment and processes they use have the *potential* to release pollutants to air and surface water, or to cause nuisance conditions such as odor and noise.
10. As with any facility, whether these potentials are *realized* depends on the details of that facility. Not surprisingly, some existing hot-mix asphalt plants have led neighbors of those plants to complain of odors, noise, or other impacts to the environment; and others have not. It is thus of interest to learn which details *matter*, so that we might fashion plants (and/or regulations) in order to minimize adverse environmental impacts.

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11. At the most general level, there are two sets of factors that determine the nature and size of the impacts of a hot-mix asphalt plant on its environs. The first and most important set of factors are the manners in which the plant is designed, operated, and maintained. If proper, routine procedures are followed, experience has shown that an asphalt plant can be run in an environmentally benign manner.
12. The second, important factor is the age of the plant. All other things being equal, older plants can be expected to have more problems than modern plants. This general truism leads one to question an aspect of Connecticut Bill No. 597. I presume that the bill is meant to set buffer zones only for plants to be sited in the future, not for existing plants. If so, then it must be said that the Bill may miss its mark. Just as older cars tend to pollute ambient air more than newer cars, so do older asphalt plants — unless they have been quite well maintained and retrofitted with modern, air pollution control devices — tend to emit more pollutants per ton of asphalt produced than newer ones.
13. It follows that concern about asphalt plant emissions to the environment would be considerably better addressed by, for example, emissions standards applicable to all facilities. It can hardly be good environmental policy to both: (i) ignore larger sources of pollution while focusing on smaller ones, and (ii) simply create "buffer zones," *inside* of which, presumably, emissions may be quite uncontrolled, except that they are placed "sufficiently" far from "sensitive receptors." This second sort of environmental policy is suspiciously like old policies in which "the solution to pollution was dilution." For good reason, regulators and legislators have recognized that pollution *control* is far preferable to simple dilution (by ambient air, receiving waters, or other environmental media).
14. Having said this, allow me to go on to assess whether a typical, new, hot-mix asphalt plant is likely to require controls beyond those routinely required by states in their process of air permitting. I shall use as an example a 6-year-old, hot-mix asphalt facility with which I am familiar. The owners of this facility wished to relocate it; and I was asked, as a technical consultant, to evaluate its likely environmental impacts for its proposed new neighborhood. By use of this example, I wish to show both (i) the sort of quantitative analysis useful for assessing environmental impacts, as well as (ii) the sorts of results obtained in a specific siting case.
15. To begin, one makes estimates of the emission rates of the predominant "criteria" pollutants expected to be emitted during the manufacturing of asphalt. These estimates

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form part of a standard application for an air permit, and are based on measurements of stack emissions from existing, operating asphalt facilities. The facility assessed here has an expected asphalt production rate of 100,000 tons per year.

16. The anticipated emission rates are listed in Exhibit 2. The first thing to be noted about these figures is that none of the emission rates listed exceeds the criteria for regulatory designation of a facility as a *major point source* of pollution. Four of the five pollutants — particulate matter (PM), carbon monoxide (CO), nitrogen oxides (NO<sub>x</sub>), and sulfur dioxide (SO<sub>2</sub>) — have National Ambient Air Quality Standards that have been established by the U.S. EPA for the protection of human health and public welfare. These are maximum pollutant concentrations in ambient air that are not allowed to be exceeded.
17. Of course, these pollutants also exist in ambient air from scores of other sources, such as cars and trucks, power plants, and other manufacturing facilities. It is thus of interest to ask whether the additional pollution from the asphalt plant will cause ambient air to exceed National Ambient Air Quality Standards (NAAQS). In order to evaluate this question for this facility, I gathered and present here, in Exhibit 3, data on representative background concentrations in the county of interest, as derived from 1996 monitoring data obtained from the U.S. EPA's AIRS database (AIRS, 1997). Also listed in Exhibit 3 are the NAAQS for each pollutant. Note that some pollutants have more than one entry because NAAQS have been established for more than one averaging period. As can be seen, background pollutant levels are all below NAAQS. (Of course, this situation may or may not be applicable to specific areas of Connecticut).
18. The question, then, is to what degree will background levels of these pollutants change if the proposed asphalt plant is sited. To address this question, analysts such as myself apply computerized, air dispersion models. Application of these models allows one to predict *worst-case* increments to air quality.
19. For this example assessment, I used U.S. EPA's SCREEN3 computer model to estimate the worst-case impacts of the proposed facility that could occur at a distance of 1000 feet from the facility (one third of a mile is about 1,700 feet). The SCREEN3 model is a screening-level model developed by the U.S. EPA to predict the highest impacts that a facility is likely to cause. The model requires information concerning the facility, such as the height of the stack, dimensions of structures located near the stack, the inner diameter of the stack, velocity and temperature at the exit of the stack, and information regarding the terrain of the surrounding area.

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20. Combined with the anticipated permit emission rates listed in Exhibit 2, the results of the SCREEN3 modeling were used to predict the incremental impact of the facility for each of the criteria pollutants. These increments are presented in Exhibit 4. Also presented in this Exhibit 4 are the background pollutant levels from Exhibit 3, which are summed with the facility-related increment to provide total (background plus facility) expected impacts. These total expected impacts are all below NAAQS, which indicates that the additional emissions of the proposed, example hot-mix asphalt plant for its proposed site are acceptable.
21. There are, of course, chemicals other than the predominant, criteria pollutants that will be released from the stack of the proposed asphalt facility. These contaminants include volatile organic compounds, polycyclic aromatic hydrocarbons, and other chemicals present at low concentrations in stack emissions. As part of its AP42<sup>1</sup> emission factors, the U.S. EPA has tabulated measured emission rates of a variety of "air toxics" that may be released from hot-mix asphalt plants. These compounds, if released in sufficient quantities, could lead to unacceptable risks to health.
22. I have thus used standard, accepted risk assessment techniques to estimate the potential impacts of air toxics present in stack emissions of our proposed, example facility. To do so, I have considered the entire list of air toxics emission factors available in the U.S. EPA's AP42 publication. I then estimated the level of emission for each compound by multiplying the AP42 emission factor (as expressed in lbs pollutant per ton of hot-mix asphalt produced) by the anticipated hot-mix asphalt production rate of 100,000 tons per year. I then multiplied by the air dispersion factor derived from SCREEN3 modeling to estimate the worst-case concentration of each air toxic in ambient air.
23. I then calculated risk values for each air toxic. At least one of two calculations was calculated for each contaminant. For chemicals that are known or suspected to cause cancer, I multiplied the worst-case concentration by a unit risk factor developed by the U.S. EPA designed to estimate (in a conservative manner) the potential for the compound

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<sup>1</sup> AP42 refers to U.S. EPA's document, *Compilation of Air Pollutant Emissions Factors (AP-42), Volume I: Stationary Point and Area Sources*. Fifth Ed. Chapter 11, Mineral Products Industry. Ann Arbor, MI: Office of Air and Radiation and Office of Mobile Sources, U.S. EPA, 1995.

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to cause cancer. I assume that an individual could be exposed to the contaminant for a period of 30 years at the worst-case location, consistent with risk assessment guidance for evaluating reasonable maximum exposure. For contaminants that cause health effects other than cancer, I divided the predicted worst-case impact by a reference concentration — a concentration that is considered to be safe, as determined by the U.S. EPA from consideration of toxicologic data.

24. I have separated the results of these calculations into two tables. Exhibit 5 presents results for contaminants categorized as carcinogens. Presented are the chemical-specific emission rates, predicted worst-case concentrations in air, unit risk factors, and risk estimates. The total risk incremental cancer risk estimate is  $1 \times 10^{-7}$  — which is scientific notation for 1 in 10,000,000 — as summed over all of the contaminants. This risk estimate is below the acceptable limits established by regulatory authorities for the protection of human health. This value indicates an additional risk of cancer of at most 1 in 10,000,000 — which is quite remote indeed. This risk level is 100 to 1,000 times smaller than risk estimates considered acceptable by regulatory authorities.
25. Now, there are other chemicals, of course, which theoretically present risks of harm to health of other sorts — health effects such as irritation of the nose or throat, irritation of the lungs, and so on. Exhibit 6, then, contains the results of risk calculations for contaminants that cause health effects other than cancer. Exhibit 6 lists the chemical-specific emission rates, predicted worst-case concentrations in air, reference (“safe”) concentrations, and risk estimates, which are expressed as ratios of the predicted worst-case concentrations in air divided by reference concentrations. These “hazard ratios” are of potential concern if they exceed a value of 1, which is the point at which the predicted concentration in air is greater than the reference (“safe”) concentration. As can be seen, each hazard ratio is well below a value of 1, meaning that all predicted concentrations are below safe concentrations. Even taken together, the sum of all of the individual hazard ratios is 0.0008, which is more than a 1,000 times lower than the acceptable value of 1 common to many regulatory programs.
26. Simply put, then, these example results suggest air toxics emissions from the stack of our example asphalt plant are too small to present significant risks to human health.
27. The assessment must go further, though, because there are other emissions of potential concern besides stack emissions. In particular, there are a variety of locations in a hot-mix asphalt plant that can produce so-called “fugitive” emissions not related to the stack.

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28. I have assessed these emissions as follows. First, it is important to note that *direct* data on these emissions are quite sparse. Of course, one would expect that the chemicals released in fugitive emissions would be similar to the air toxics released in stack emissions. This has been borne out by monitoring studies of hot-mix asphalt plant workers, who would, of course, be expected to be exposed to the highest levels of fugitive emissions.
29. I have used the studies of hot-mix asphalt workers to estimate potential exposures to fugitive emissions from our example asphalt plant. In particular, I have performed some risk assessment calculations on such data. To do so, I have made use of a study by Radian (1991), who studied hot-mix asphalt worker exposures at 6 different sites. This study measured particulate levels and the levels of various polycyclic aromatic hydrocarbons. These pollutants are released as dust associated with aggregate handling and as vapors from hot liquid asphalt cement. The monitored concentrations are, of course, appropriate only for individuals working in close proximity to the fugitive emission sources. I assume that the pollutant concentrations measured by Radian (1991) are representative of those that might be measurable at the proposed facility.
30. One would expect these concentrations at the plant to be dispersed and diluted by the time they reach people living away from the site. As a quantitative matter, I estimate that pollutant concentrations at the proposed plant would be diluted by *at least* a factor of 210 by the time they reach any residential location. This factor accounts for the following three considerations.
31. First, workers work about eight hours per day while asphalt is being produced, which means that fugitive emissions will affect residences for only about eight of 24 hours, 5 of 7 days per week, or roughly 1/3 of the week. Thus, I reduce the concentrations by a factor of 3 to account for noncontinuous release. Second, emissions from the plant will dilute and disperse by the time they travel 1000 feet from the plant (the minimum distance to any residential location in this example). Based on empirical plume dilution rates published by the U.S. EPA, concentrations can be expected to dilute by at least a factor of 10 by the time they travel 1000 feet from the plant. Last, winds do not blow in the same direction all of the time. Based on the pattern of winds measured at a local airport, the maximum frequency of winds in a principal wind sector is 14%, which I use to estimate an additional reduction factor of 7 ( $1 \div 0.14$ ). These factors combine to produce an overall dilution/reduction factor of  $3 \times 10 \times 7 = 210$ .

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32. Thus, I estimate potential contaminant concentrations at residences as the concentrations measured for workers at hot-mix asphalt plants divided by the dilution/reduction factor of 210. These concentration estimates appear in Exhibit 7, along with further risk assessment calculations similar to those previously developed for stack emissions in Exhibits 4, 5, and 6. The incremental impact of particle emissions, when added to background and stack impacts, is not sufficient to exceed the NAAQS. The incremental cancer risk of  $7 \times 10^{-7}$ , or 0.7 in a million, is well within the range of risks typically acceptable in regulatory applications. The overall hazard index of 0.00012, which is well below the acceptable value of 1, indicates that fugitive emissions present negligible potential for causing health effects other than cancer.
33. Health risk aside, I have also considered the impacts of emissions from the plant in terms of local air pollution. To assess this, I searched for data on "background" levels of these pollutants in ordinary urban and suburban air. All of these chemicals, of course, are already in our air at various levels, as they are emitted by cars and trucks, by power utilities, by home heating systems, by factories, and so on. Then I compared the existing background levels of these contaminants with the increment to be contributed by the plant.
34. The results appear on Exhibit 8. As shown, impacts from the proposed asphalt batching plant amount to at most two-and-a-half percent of background, and in most cases, quite a bit less.
35. Critics of asphalt batching plants have recently raised concerns over fugitive emissions during "loadout" of hot asphalt into trucks. The issues are as follows.
36. One analyst, Dr. Ravi Nadkarni, has made some engineering *estimates* that suggest that loadout emissions could be responsible for relatively high emission rates of organic compounds. As it turns out, though, the physical basis of his calculations is overly simplistic and perhaps seriously flawed. The technical details of these issues have been described by my colleagues, who submitted their analysis to the U.S. EPA in response to a solicitation to comment on Dr. Nadkarni's calculations. I have attached a copy of these comments as Exhibit 9, and recommend their detailed reading to those concerned with the technical aspects of loadout emissions. As a summary, I highlight the following points.

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37. The most serious shortcoming of Dr. Nadkarni's calculations is the applicability of the model on which they are based. He assumes that hot-mix asphalt behaves as a liquid pool of a volatile substance (such as an open tank of gasoline). As wind blows over the hot-mix asphalt, organic compounds are assumed to evaporate. Hot-mix asphalt, however, is not a liquid in which volatile molecules are free to mix vertically to the surface (and hence become available for evaporation). Rather, it is a mixture of an organic, somewhat tarry (even at 300°F) liquid in which vertical movement of molecules is inhibited by viscosity and the rock matrix. Another factor that Dr. Nadkarni fails to consider is the "skin layer" effect, in which the surface of hot-mix asphalt exposed to air cools and hardens relative to its internal temperature and consistency. This cooled surface layer, even though very thin, will likely reduce the level of VOC emissions below that predicted by the simple loadout model.
38. Overall, then, Dr. Nadkarni's calculations likely overestimate the true level of loadout emissions, perhaps by a substantial degree. U.S. EPA has evaluated this question, and finds that Nadkarni's estimates are likely to be quite substantial overestimates.
39. U.S. EPA discusses loadout emissions in the most recent draft (July, 1997) of its AP42 section for estimating pollutant emissions from hot-mix asphalt plants. The U.S. EPA considered Dr. Nadkarni's calculations, my colleagues' comments, and the Agency's own simulated test of vapor emissions from hot-mix asphalt paving material. The Agency found many uncertainties in Dr. Nadkarni's calculations, citing factors such as an overestimated vapor pressure (which would lead to too high an emission rate) and the application of a simple model to the complex process of loadout emissions. Applying information from their own study, U.S. EPA calculated a potential emission rate *400 times lower* than that calculated by Dr. Nadkarni.
40. Finally, it should be noted that some asphalt operations can be dusty, due to the use of crushed stone and gravel. There are two categories of dust sources at an asphalt plant: (1) ducted, which are conveyed through the plant's stack; and (2) fugitive, which may be released from various points on the plant site (generally away from the asphalt production machinery). Ducted emissions include dust from the aggregate drier and other points (such as conveyors) that are operated under negative pressure to prevent the escape of dust. These potential dust emissions are well-controlled by the baghouse, which removes more than 99.9% of the particle loading that enters it. Fugitive dust emissions can result from the handling of aggregate material by front-end loaders and trucks, wind erosion from storage piles, and movement of vehicles over unpaved or dusty roads. These

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sources are typically effectively controlled by wetting on an as-needed basis. Provisions for this management practice should be contained in the permit application for a proposed plant.

Conclusion

41. Overall, asphalt batching facilities (like all other industrial facilities) present issues of environmental impact that should be addressed seriously and quantitatively. State regulatory agencies currently do so in the process of granting or denying permits to such facilities. Whether state agencies should amend or otherwise improve upon their permitting procedures for these facilities is certainly a legitimate question. As a toxicologist who has evaluated these issues in some detail, though, I find that Connecticut Bill No. 597 is not an appropriate vehicle for control of these facilities. The "buffer zone" proposed has not been justified by appropriate, environmental analysis; and the applicability of the Bill to new, as opposed to all, asphalt plants will, perversely, encourage the continuing use of older, less environmentally friendly facilities at the expense of newer plants. As an environmental scientist, I cannot fathom how this would make for good environmental policy.

*Laura C. Green*  
March 10, 1998.

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Exhibit 1

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Cambridge Environmental

617-225-0813

P.12

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**LAURA C. GREEN, Ph.D., D.A.B.T.**

EDUCATION:

1981. Massachusetts Institute of Technology, Cambridge, Massachusetts.  
Ph.D. from the Department of Nutrition and Food Science (currently the Division of Toxicology). Ph.D. thesis, "Nitrite and Nitrate: Toxicity, Metabolism, and Biosynthesis." Discovered that nitrate is biosynthesized *in vivo* in humans and in rats by a mammalian process. Investigated the toxicology and pharmacokinetics of nitrate and nitrite. Designed and built a novel automated system for the analysis of nitrate and nitrite in biological and environmental samples.

1975. B.A. with honors in Chemistry, Wellesley College, Wellesley, Massachusetts. Also studied Biology, Physics, Philosophy, and Literature. Honors included: Phi Beta Kappa, Sigma Xi, American Institute of Chemists Student Award, and Wellesley College Scholar.

BOARD CERTIFICATION:

Certification in general toxicology — Diplomate of the American Board of Toxicology (D.A.B.T.), 1988; recertified 1993.

PROFESSIONAL EXPERIENCE:

1986-Present. Lecturer, Division of Toxicology, Massachusetts Institute of Technology.

1989-Present. Senior Scientist and President, Cambridge Environmental Inc., Cambridge, MA.

1985-1989. Vice President for Environmental Health and Toxicology, Meta Systems Inc., Cambridge, MA.

1983-1986. Research Affiliate and Project Coordinator for a five-year grant from the American Cancer Society for work in biochemical epidemiology, Department of Applied Biological Sciences, Massachusetts Institute of Technology.

1983-1985. Research Director of the Scientific Conflict Mapping Project, Harvard University School of Public Health. Developed a new method for making scientific and regulatory decisions about toxic and carcinogenic chemicals in the workplace and environment. Co-authored a book entitled, *In Search of Safety: Chemicals and Cancer Risk* (Harvard University Press, 1988).

1978-1985. Consultant in toxicology and risk assessment, self-employed.

1981-1983. Postdoctoral Fellow in Environmental Toxicology, Massachusetts Institute of Technology. Research with Professor Gerald Wogan directed toward developing dosimeters for

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carcinogenic chemicals. Studied the covalent modification of hemoglobin and albumin by carcinogens. Determined that blood protein adduction was quantitative and sensitive, and therefore of use in assessing actual human exposures.

1975-1981. Research Assistant, Teaching Assistant, and Predoctoral Trainee, Department of Nutrition and Food Science (currently the Division of Toxicology), Massachusetts Institute of Technology.

Summer, 1974. Research Chemist, Dow Chemical Company, Wayland, Massachusetts. Developed a direct oxidative synthesis method for propylene oxide.

OTHER PROFESSIONAL ACTIVITIES:

Toxicologist on the Massachusetts Department of Public Health's Medical Review Panel on Formaldehyde-related Claims

Invited peer reviewer, Agency for Toxic Substances and Disease Registry

Invited peer reviewer, *Cancer Epidemiology, Biomarkers & Prevention*

Invited peer reviewer, *Epidemiology*

Invited peer reviewer, *Risk Analysis*

Invited peer reviewer, *Solid Waste and Power*

Invited member, Visiting Committee, Whitaker College of Health Sciences and Technology, M.I.T.

Invited lecturer in Toxicology, Harvard School of Public Health

PROFESSIONAL ORGANIZATIONS:

American Association for the Advancement of Science

American Chemical Society

Society of Toxicology

SELECTED CONSULTING PROJECT EXPERIENCE:

Quantitative methods in risk assessment

- Evaluated, developed, and applied various methods intended to estimate low-dose risks to human health from various exposures. Combined evidence from rodent and human studies; developed and applied probabilistic, Monte Carlo techniques; and developed holistic risk profiles.

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Trichloroethylene and related chlorinated hydrocarbons

- Analyzed and critiqued literature on toxicity of trichloroethylene and related compounds. Studied trichloroethylene-induced carcinogenesis and neurotoxicity associated with trichloroethylene and its products of degradation. Provided detailed quantitative commentary to the Agency for Toxic Substances and Disease Registry on the toxicology and epidemiology of trichloroethylene. Served as consultant and/or expert witness in several "toxic tort" lawsuits in which exposures to trichloroethylene and related compounds *via* contaminated drinking water or workplace air were alleged to have caused significant harm.

Polychlorinated dibenzodioxins, dibenzofurans, and polychlorinated biphenyls

- Studied the fate, transport, and impacts of emissions of polychlorinated dibenzo(*p*)dioxins (PCDDs) and related compounds. Analyzed and developed various extrapolation models intended to predict low-dose risks to human health. Performed specific quantitative risk assessments for various exposures to PCDDs; focussed on excess risks of cancer and on risks of reproductive toxicity. Assessed risks associated with emissions of PCDDs and associated compounds from incinerators, paper mills, and other sources. Evaluated exposures to and risks from PCBs in a number of settings.

Benzene and related compounds

- Developed and applied expertise in benzene-induced leukemia. Performed qualitative and quantitative assessments of risk associated with various routes and levels of exposure. Evaluated risks of acute myelogenous leukemia and other hematopoietic disorders from known and suspected causes, including various chemicals, drugs, and radiation.
- Assessed hazards associated with exposures to benzene, toluene, and xylenes emanating from leaking underground storage tanks and above-ground spills of gasoline.

Mercury

- Performed an in-depth study on sources of mercury in municipal solid waste. Assessed toxicity to mercury given current environmental exposures and under extreme scenarios. Studied mechanisms of bioaccumulation of mercury in fish.

Municipal solid waste: environmental aspects of waste-to-energy and of landfills

- Performed or participated in many in-depth assessments of risk associated with management of municipal solid waste. Developed and applied expertise on risks associated with airborne emissions from waste-to-energy plants and from solid waste landfills. Applied technical knowledge to criticism of various proposed regulations concerning landfills, waste-to-energy plants, and various Superfund sites.

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Hazardous waste: environmental aspects of incineration and of land disposal

- Performed and peer-reviewed in-depth assessments of risks associated with incineration of hazardous waste. Helped to develop regulatory approaches to modeling the fate and transport of contaminants released during incineration. Evaluated impacts to public health and the environment from land disposal of various types of hazardous wastes.

Food microbiology and food toxicology

- Evaluated matters involving salmonellosis from ingestion of poultry, alleged salmonellosis from ingestion of eggs, illnesses arising from *E. coli* in contaminated apple cider, and related incidents.
- Served as consultant to National Academy of Sciences, Committee for a Study of Saccharin and Food Safety Policy. Developed relative risk assessment for the food additive uses of nitrite in cured meats; quantified and balanced risks of botulism (were nitrite absent from the food product) against risks of cancer (from N-nitroso compounds formed during cooking in the presence of nitrite).

Miscellaneous risk assessment and risk communication

- Participated in scores of public hearings on various matters of environmental health and safety. Presented testimony on general toxicologic matters, as well as on specific aspects of waste water discharges, pesticide applications, and workplace exposures to various chemicals.

ORIGINAL REPORTS:

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Exhibit 2 Criteria pollutant emission rates for the example HMA facility

Units: tons per year, based on annual HMA production of 100,000 tons

Chemical	Permit emission rate
PM	1
NO <sub>x</sub>	0.17
SO <sub>2</sub>	2.3
CO	17
VOCs	1.8

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Exhibit 3 Comparison of background pollutant concentrations measured in local county to National Ambient Air Quality Standards (NAAQS)

Pollutant	Averaging time	1996 AIRS background ( $\mu\text{g}/\text{m}^3$ )	NAAQS ( $\mu\text{g}/\text{m}^3$ )
PM	24-hr	68	260
	Annual	32	75
NO <sub>x</sub>	Annual	11	100
SO <sub>2</sub>	3-hr	160	1300
	24-hr	71	365
	Annual	12	80
CO	1-hr	7800	40000
	8-hr	4800	10000

Exhibit 4 Comparison of maximum modeled air pollutant concentrations to NAAQS

Pollutant	Averaging time	1996 AIRS background (from Exhibit 3) ( $\mu\text{g}/\text{m}^3$ )	Maximum modeled air concentration increment from example HMA plant ( $\mu\text{g}/\text{m}^3$ )	Modeled HMA plant impact plus background ( $\mu\text{g}/\text{m}^3$ )	NAAQS ( $\mu\text{g}/\text{m}^3$ )
PM	24-hr	68	2.9	70.9	260
	Annual	32	0.053	32.053	75
NO <sub>x</sub>	Annual	11	0.009	11.009	100
	3-hr	160	31	191	1300
SO <sub>2</sub>	24-hr	71	4.6	75.6	365
	Annual	12	0.13	12.13	80
CO	1-hr	7800	250	8050	40000

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Exhibit 5 Predicted worst-case incremental cancer risks from stack emissions at the example HMA plant

Chemical	Emission rate (g/s)	Predicted worst-case air concentration ( $\mu\text{g}/\text{m}^3$ )	Inhalation unit risk ( $\text{m}^3/\mu\text{g}$ )	Excess cancer risk (dimensionless)
PAHs				
Benzo(a)anthracene	6.48e-09	1.20e-08	1.70e-04	2.05e-12
Benzo(b)fluoranthene	6.48e-09	1.20e-08	1.70e-04	2.05e-12
Benzo(k)fluoranthene	3.46e-08	6.43e-08	1.70e-05	1.09e-12
Chrysene	8.78e-09	1.63e-08	1.70e-05	2.78e-13
VOCs				
Acetaldehyde	9.21e-04	1.71e-03	2.20e-06	3.77e-09
Benzene	5.04e-04	9.37e-04	8.30e-06	7.78e-09
Crotonaldehyde	4.17e-05	7.77e-05	5.43e-04	4.22e-08
Formaldehyde	1.24e-03	2.30e-03	1.30e-05	2.99e-08
Metals				
Arsenic	9.50e-07	1.77e-06	4.30e-03	7.60e-09
Beryllium	3.17e-07	5.89e-07	2.40e-03	1.41e-09
Cadmium	1.21e-06	2.25e-06	1.80e-03	4.05e-09
Chromium	1.28e-06	2.38e-06	1.20e-02	2.86e-08
Chromium VI	1.40e-08	2.60e-08	1.20e-02	3.12e-10
Nickel	6.05e-06	1.12e-05	2.40e-04	2.70e-09
Total for all chemicals				1e-07

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Exhibit 6 Predicted worst-case non-cancer risks (hazard ratios) from stack emissions at the example HMA plant

Chemical	Emission rate (g/s)	Predicted air concentration ( $\mu\text{g}/\text{m}^3$ )	Reference concentration ( $\text{mg}/\text{m}^3$ )	Hazard ratio
PAHs				
Acenaphthene	1.73e-06	3.21e-06	2.10e-01	1.53e-08
Anthracene	4.46e-07	8.30e-07	1.05e+00	7.91e-10
Fluoranthene	4.46e-07	8.30e-07	1.40e-01	5.93e-09
Fluorene	2.88e-06	5.36e-06	1.40e-01	3.83e-08
Naphthalene	6.05e-05	1.12e-04	1.40e-01	8.03e-07
Pyrene	8.93e-08	1.66e-07	1.05e-01	1.58e-09
VOCs				
Acetaldehyde	9.21e-04	1.71e-03	9.00e-03	1.90e-04
Acetone	9.21e-03	1.71e-02	3.50e-01	4.90e-05
Benzaldehyde	1.87e-04	3.48e-04	3.50e-01	9.95e-07
Ethylbenzene	4.75e-03	8.84e-03	1.00e+00	8.84e-06
Formaldehyde	1.24e-03	2.30e-03	7.00e-01	3.29e-06
Toluene	2.59e-03	4.82e-03	4.00e-01	1.20e-05
Xylenes	6.19e-03	1.15e-02	3.00e-01	3.84e-05
Metals				
Arsenic	9.50e-07	1.77e-06	1.05e-03	1.68e-06
Barium	2.16e-06	4.02e-06	5.00e-04	8.03e-06
Beryllium	3.17e-07	5.89e-07	1.75e-02	3.37e-08
Cadmium	1.21e-06	2.25e-06	1.75e-03	1.29e-06
Chromium	1.28e-06	2.38e-06	1.75e-02	1.36e-07
Chromium VI	1.40e-08	2.60e-08	1.75e-02	1.48e-09
Copper	5.33e-06	9.91e-06	1.30e-01	7.62e-08
Lead	1.07e-06	1.98e-06	1.50e-03	1.32e-06
Manganese	1.43e-05	2.65e-05	5.00e-05	5.30e-04
Mercury	6.48e-07	1.20e-06	3.00e-04	4.02e-06
Nickel	6.05e-06	1.12e-05	7.00e-02	1.61e-07
Selenium	1.32e-07	2.46e-07	1.75e-02	1.41e-08
Zinc	9.79e-06	1.82e-05	1.05e+00	1.73e-08
Total for all chemicals				0.0008

Exhibit 7 Cancer and non-cancer risks to residential receptors from fugitive emissions at the example HMA plant

Contaminant	Concentrations estimated at residences closest to facility ( $\mu\text{g}/\text{m}^3$ ) $C_{air}$	Reference concentration ( $\text{mg}/\text{m}^3$ ) $R_{FC}$	Hazard ratio $H_i$	Inhalation unit risk ( $\text{m}^3/\mu\text{g}$ ) $UR_i$	Incremental cancer risk $R_i$
Particulate Matter	7.14e+00				
PAHs					
Acenaphthene	5.71e-03	2.10e-01	2.72e-05	-	
Dibenz(a,h)anthracene	8.57e-04	-		1.70e-03	5.83e-07
Fluoranthene	8.57e-04	1.40e-01	6.12e-06	-	
Fluorene	1.81e-03	1.40e-01	1.29e-05	-	
Indeno(1,2,3-cd)pyrene	1.10e-03	-		1.70e-04	7.45e-08
Naphthalene	1.10e-02	1.40e-01	7.82e-05	-	
Phenanthrene	1.10e-03	-		-	
Total for all PAHs			1.24e-04		6.57e-07

- indicates that an EPA value has not been established

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Exhibit 8 Comparison of total predicted incremental air concentrations<sup>a</sup> to nation-wide urban background concentrations

Chemical	Total incremental air concentration (µg/m <sup>3</sup> )	Urban background air concentration <sup>b</sup> (µg/m <sup>3</sup> )	% of background
<b>PAHs</b>			
Naphthalene	1.11e-02	4.48e-01	2.4%
<b>VOCs</b>			
Acetaldehyde	1.71e-03	5.00e+00	0.034%
Benzene	9.37e-04	5.00e+00	0.018%
Ethylbenzene	8.84e-03	1.67e+00	0.53%
Formaldehyde	2.30e-03	3.00e+00	0.077%
Toluene	4.82e-03	1.08e+01	0.045%
Xylenes	1.15e-02	3.00e+00	0.38%
<b>Metals</b>			
Arsenic and compounds	1.77e-06	2.50e-02	0.0071%
Beryllium and compounds	5.89e-07	3.00e-05	2.0%
Cadmium and compounds	2.25e-06	2.00e-02	0.011%
Chromium and compounds	2.38e-06	3.00e-03	0.079%
Lead and compounds	1.98e-06	8.50e-02	0.0023%
Manganese and compounds	2.65e-05	3.30e-02	0.080%
Mercury and compounds	1.20e-06	1.00e-02	0.012%
Nickel and compounds	1.12e-05	4.00e-03	0.28%
<sup>a</sup> Includes modeled maximum impacts both from stack and fugitive emissions <sup>b</sup> Urban air concentrations were taken mostly from recent ATSDR and IARC publications; in the absence of ATSDR and IARC values, data were taken from the following sources: 1. Shah, J. J.; Heyerdahl, E. K. (1988). <i>National Ambient Volatile Organic Compounds (VOCs) Data Base Update</i> . Research Triangle Park, N.C.: Environmental Protection Agency; 1988. EPA/600/S3-88/010. 2. Arizona Department of Environmental Quality (1995). <i>Arizona Hazardous Air Pollutant Research Program: Final Report</i> . Prepared by ENSR Consulting and Engineering. Document Number 0493-013-910. December, 1995. 3. U.S. EPA (1994). <i>A Screening Analysis of Ambient Monitoring Data in Support of the Urban Area Source Program</i> . Office of Air Quality Planning and Standards. Research Triangle Park, NC. EPA Contract No. 68-D3-0035. Work Assignment No. O-20. September, 1994.			

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**Exhibit 9**

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TESTIMONY CONCERNING SENATE BILL NO. 597  
BY ROBERT LEE, TOWN MANAGER, HEBRON - MARCH 11, 1998

MY NAME IS ROBERT LEE AND I AM THE TOWN MANAGER OF HEBRON. I AM HERE TO SPEAK IN FAVOR OF THE PASSAGE OF PROPOSED SENATE BILL NUMBER 597.

THE PROPOSED ASPHALT PLANT IN COLCHESTER WILL BE LOCATED APPROXIMATELY 500 FEET FROM THE HEBRON TOWN BORDER. THE EMISSIONS FROM THIS ASPHALT PLANT WILL AFFECT HEBRON CITIZENS AND OUR QUALITY OF LIFE.

SEVERAL YEARS AGO, THE TOWN OF HEBRON, ALONG WITH THE TOWN OF COLCHESTER REQUESTED AN INTERIM CHANGE TO THE LOCATIONAL GUIDE MAP OF THE CONSERVATION AND DEVELOPMENT OF POLICES PLAN FOR CONNECTICUT 1992-1997 (C & D PLAN) FOR THE SAME VICINITY AS THE PROPOSED LOCATION OF THE ASPHALT PLANT.

IN NOVEMBER, 1993, WILLIAM CIBES, JR., THEN SECRETARY OF OPM RECOMMENDED THAT THE REQUEST BE DENIED BECAUSE THE PROPOSAL "DID NOT CONFORM TO THE LOCATIONAL STRATEGIES OF THE C & D PLAN" AND WAS "INCONSISTENT WITH CONSERVATION VALUES ASSOCIATED WITH THE SALMON RIVER AND ITS TRIBUTARIES" (PLEASE SEE ATTACHED LETTER).

THE HEBRON/COLCHESTER PROPOSAL CALLED FOR A 400 FOOT BUFFER TO THE JEREMY RIVER FOR ANY PROPOSED DEVELOPMENT BUT WAS OPPOSED BY OPM BECAUSE THE JEREMY RIVER IS "ONE OF THE FEW RIVER CORRIDORS RECOGNIZED BY THE C & D PLAN AS HAVING SIGNIFICANT UNBROKEN STRETCHES OF SCENIC AND NATURAL RESOURCES WITH HIGH POTENTIAL FOR OUTDOOR RECREATION OPPORTUNITIES." (PLEASE SEE ATTACHED REPORT, PAGE 2)

THE DEPARTMENT OF ENVIRONMENTAL PROTECTION MADE THE FOLLOWING COMMENTS WITH RESPECT TO THE JEREMY RIVER:

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"NO PROPOSAL FOR DEVELOPMENT SHOULD BE ALLOWED WHICH WOULD DIMINISH THE WATER QUALITY OR QUANTITY OF THESE STREAMS IN ANY WAY. ESPECIALLY IMPORTANT ARE: SEDIMENTATION (TO WHICH THE JEREMY RIVER AND MEADOW BROOK ARE PARTICULARLY VULNERABLE), EXCESSIVE STORMWATER RUNOFF (THE ENTIRE WATERSHED IS ALREADY A "FLASH SYSTEM"), CHEMICAL CONTAMINATION (PETROLEUM RESIDUE FROM PARKING LOTS CAN INTERFERE WITH SALMON IMPRINTING AND HOMING) AND LOSS OF RIPARIAN VEGETATION (WIDE GREEN BUFFER STRIPS ARE ESSENTIAL). PETROLEUM CONTAMINATION AT PARTS PER BILLION LEVELS COULD IMPACT SALMON IMPRINTING AND HOMING. IT IS HIGHLY UNLIKELY THAT INTENSIVE DEVELOPMENT TYPICAL OF INDUSTRIAL PARKS CAN OCCUR WITHOUT RESULTING IN SOME IMPACT TO SALMON HABITAT, EVEN IF THE APPROPRIATE STANDARD MITIGATION MEASURES ARE IMPLEMENTED." (SEE APPENDIX A, DEP STAFF COMMENTS)" (SEE ATTACHED REPORT, PAGE 3).

I CANNOT THINK OF A MORE INTENSE INDUSTRIAL DEVELOPMENT THAN AN ASPHALT BATCHING FACILITY IN CLOSE PROXIMITY TO MEADOW BROOK AND THE JEREMY RIVER. THIS PROPOSAL WILL CONTAIN ALL THE ELEMENTS CITED ABOVE INCLUDING STORMWATER RUNOFF, SEDIMENTATION AND CHEMICAL CONTAMINATION.

IT IS INCONCEIVABLE TO ME THAT THE DEP HAS NOT TAKEN STEPS TO PROTECT THIS VITAL NATURAL RESOURCE FROM PROPOSALS SUCH AS ASPHALT BATCHING PLANTS.

THEY HAD THE ABILITY AND, IN MY OPINION, THE RESPONSIBILITY IN 1993 TO AMEND THEIR REGULATIONS REGARDING THE LOCATION AND PERMITTING OF ASPHALT BATCH PLANTS NEAR EXTREMELY ENVIRONMENTALLY SENSITIVE AREAS.

THEIR FAILURE TO DO SO IS THE PRIMARY REASON THAT THIS BILL IS BEING PROPOSED.

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THE CITIZENS IN OUR COMMUNITIES ARE VERY MUCH CONCERNED ABOUT THE EFFECT THAT AN ASPHALT BATCHING PLANT WILL HAVE ON THE MEADOW BROOK AND JEREMY RIVER.

IN ADDITION, THE PEOPLE IN OUR COMMUNITY ARE SCARED ABOUT THE TOXIC EMISSIONS WHICH WILL BE A BY-PRODUCT OF THE ASPHALT PRODUCTION PROCESS AND I BELIEVE THEIR REACTION IS WARRANTED.

IT IS MY UNDERSTANDING FROM DEP OFFICIALS THAT THE U.S. ENVIRONMENTAL PROTECTION AGENCY HAS ISSUED A DRAFT REPORT CONCERNING "FUGITIVE EMISSIONS" FROM ASPHALT WHICH RAISES SOME POSSIBLE HEALTH CONCERNS.

IN ADDITION, THE DEP SHOULD RE-EVALUATE THEIR AIR-PERMITTING STANDARDS FOR THIS TYPE OF USE. FOR EXAMPLE, WHEN THE DEP CONDUCTED TESTING AND EXPERIMENTS ON VARIOUS ASPHALT PROCESSING PLANTS, IT CONCLUDED THAT "EMISSIONS FROM THE NO. 2 FUEL OIL FIRED BATCH PROCESS APPEARED TO BE TWICE THE EMISSION FROM THE NATURAL GAS FIRED PROCESS." GIVEN THIS FACT IT SEEMS HIGHLY INAPPROPRIATE FOR THE DEP TO EVEN BE CONSIDERING THE APPROVAL OF ASPHALT PLANTS UTILIZING NO. 2 FUEL SUCH AS THE COLCHESTER PROPOSED FACILITY.

IT SEEMS CLEAR TO ME THAT, GIVEN THE ABOVE, A MORATORIUM ON THE ISSUANCE OF ANY FURTHER PERMITS IS WARRANTED AND I ENCOURAGE THE COMMITTEE TO GIVE THIS THOUGHT SOME SERIOUS CONSIDERATION

IN CONCLUSION, GIVEN THE CLOSE PROXIMITY TO A CLASS A STREAM, ITS IMPORTANCE WHICH HAS BEEN WELL DOCUMENTED AND, GIVEN, THE VALID ENVIRONMENTAL CONCERNS WHICH HAVE BEEN BROUGHT FORTH, BILL # 597 DESERVES TO BE MOVED FORWARD.

THANK YOU FOR YOUR CONSIDERATION.

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STATE OF CONNECTICUT  
OFFICE OF POLICY AND MANAGEMENT

November 5, 1993

Members of The Continuing Legislative Committee on  
State Planning and Development:

The Honorable Thirman L. Milner  
The Honorable Jefferson B. Davis  
The Honorable Joseph J. Crisco Jr.  
The Honorable John W. Fonfara  
The Honorable Anthony Guglicimo  
The Honorable John W. Fonfara  
The Honorable Marilyn Hess  
The Honorable George C. Jepsen

Dear Senators and Representatives:

Attached are the findings and recommendations of this office submitted pursuant to Section 16a-24b-7 of the Regulations of State Agencies concerning an application for an interim change to the Locational Guide Map of the **Conservation and Development of Policies Plan for Connecticut 1992-1997 (C&D Plan)**. The application has been made by the First Selectman of the Town of Colchester, the Chairman of the Colchester Economic Development Commission, The Chief Administrative Officer of the Town of Hebron, and the Chairman of the Hebron Economic Development Commission. The interim change pertains to an area of approximately 700 acres affecting both the Towns of Colchester and Hebron and generally corresponds to an area in the proximity of Exit 16 on Route 2 and Route 149. The request is to change this area from the Conservation Areas, Rural Lands and Existing Preserved Open Space Categories on the Plan's Locational Guide map to the Urban Growth Category, while a portion of the Conservation Areas Category would be changed to the Preservation Area Category.

After an evaluation of the oral and written testimony presented at the Hearings; the subsequent commentary received from other state agencies and parties; additional information provided by the Towns of Colchester and Hebron; and additional data and information, I recommend to the Committee that this proposed change in the Locational Guide Map be denied. This recommendation is based on the following overall reasons:

- Scale of development does not conform to the locational strategies of the C&D Plan and the ability of the area to support subsequent development.
- The application is inconsistent with conservation values associated with Salmon River and its tributaries.

Phone:

80 Washington Street • Hartford, Connecticut 06106

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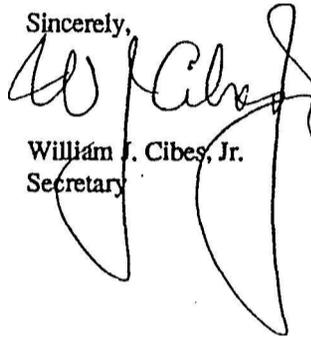
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- Alternative sites are available in Colchester.
- The cost effectiveness of developing this site at this time given the various site improvement difficulties associated with development .

Enclosed are the Findings and Recommendations which detail the above recommendation. Also enclosed are the documents that were received or used by this office in order to reach this decision.

We are available to meet at your convenience to discuss the findings and recommendations in the next 30 day period during which your Committee must, in accordance with the regulations for an interim change, reach a decision on this application.

Sincerely,



William J. Cibes, Jr.  
Secretary

Attachments  
cc: Applicants

**Interim Change to the Locational Guide Map  
Conservation and Development Policies Plan for Connecticut – 1992-97  
Colchester/Hebron Urban Growth Area**

**BACKGROUND**

The Office of Policy and Management received on August 31, 1993, a request for an interim change to the Locational Guide Map of the **Conservation and Development Policies Plan for Connecticut 1992-1997 (C&D Plan)** for a portion of the towns of Colchester and Hebron. This request for an interim change was made by the First Selectman of Colchester, the Chief Administrative Officer of Hebron, the Chairman of the Colchester Economic Development Commission, and the Chairman of the Hebron Economic Development Commission.

This request covers an area of 694 acres and is located immediately adjacent to the interchange 16 at the juncture of Routes 2 and 149. Presently, this area is designated in the **C&D Plan** in the following map categories: Conservation, Rural Lands, and Existing Preserved Open Space. The proposal is to change the site to an Urban Growth area except for a 400 foot buffer along the Jeremy River that would be changed to Preservation. (The application incorrectly denotes the Existing Preserved Open Space as a Preservation category. The area is presently owned by the state and is used as a recreation trail).

At the request of Hebron and Colchester town officials two joint public hearings were held on this proposal by both the Continuing Legislative Committee on State Planning and Development and the Office of Policy and Management on October 28, 1993, one in Colchester and one in Hebron.

As a result of the information and opinions stated at these hearings; written comments received on this request for an interim change; and the evaluation of information by the staff of the Office of Policy and Management, the following findings are made.

**FINDINGS:**

**1. Economic Development:**

The municipalities are seeking a change to the C & D Plan in order to jointly proceed with industrial development of the site with financial assistance from the Department of Economic Development. An industrial park is considered essential to both communities to allow expansion of the local tax base and to create jobs within the area. The nationwide economic recession that has affected eastern Connecticut has been compounded by the

severe and long-term cut backs in defense spending. A large industrial park site is envisioned as helping to position eastern Connecticut for economic recovery and to provide a vacant site for potential industrial diversification of the region. Written testimony supporting industrial park development for economic recovery reasons has been submitted by the Carol M. Szymanski, Senior Planner for the Capitol Region Council of Governments, by John J. Shemo, Vice President of the Connecticut Capitol Region Growth Council, Inc., and by Eileen M. Daily, Senator from the 33<sup>rd</sup> District.

If unemployment is used as a local measure of economic development need, in August 1993, 247 people or 6.0% of Hebron's labor force of 4,119 people were unemployed. In Colchester, 523 people or 8.3% of the labor force of 6,287 people were unemployed. The most recently announced statewide unemployment rate was 6.2%.

Only 6% of Hebron's grand list is attributed to commercial and industrial property that places a heavier burden on the residential property tax to support needed services. In Colchester, this percentage is slightly higher. The Public Investment Community Index prepared by OPM uses a number of factors to provide a relative ranking among municipalities with respect to the need for public investment. Colchester and Hebron ranked 48th and 40th respectively out of the 169 municipalities in Connecticut.

## **2. Jeremy River Corridor Of Conservation Concern:**

The site is located within a broad Conservation corridor as designated on the Locational Guide Map of the C&D Plan. This Conservation corridor was overlain on the Jeremy River, Blackledge River, and Salmon River basin system in order to reflect the greenbelt, sensitive habitat and potential public water supply qualities of the basin.

This basin is one of a few river corridors recognized by the C&D Plan as having significant unbroken stretches of scenic and natural resources with high potential for enhanced outdoor recreation opportunities. The Greenways Ideas and Opportunities map accompanying the 1991 Annual Report of the Connecticut Council on Environmental Quality shows this site to be within the greenway opportunity that follows the Airline State Park Trail. The stretch of the Jeremy River south of Hartford Road was listed as a Natural Area Inventory site in 1972 because "this canoeable section of the Jeremy River is a narrow stream with a strong current and many severe rapids (AMC rating III and IV).

The importance of the Jeremy River to the long-term efforts of the state to restore Atlantic salmon and the sensitivity of this river habitat to land uses within the river corridor are provided by the following DEP comments.

"The importance of the Jeremy River to the long-term effort to restore Atlantic salmon to the Connecticut River watershed, including its two major tributaries in the state: the Farmington and Salmon Rivers, cannot be overstated. The Jeremy River is roughly one-half of the Salmon River headwaters. The confluence of the Jeremy River with the Blackledge River forms the Salmon River.

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The Department has been stocking salmon fry into the Jeremy River throughout the entire reach within the subject property. It is excellent salmon habitat and sampling efforts show that naturalized juvenile salmon abound in this stretch. Two portions, between the former railroad crossing and Hartford Road and between the commuter parking lot and the millpond in the southwest corner of the property are some of the best areas for salmon in the entire watershed. Gillette Brook, a tributary of Meadow Brook upstream of the project area, is also stocked. Emigrating smolts must pass through the property down Meadow Brook, which is also a site for stocking hatchery smolts. Therefore, even though this stretch of Meadow Brook does not contain good habitat for rearing juveniles, it is an important migratory pathway.

No proposal for development should be allowed which would diminish the water quality or quantity of these streams in any way. Especially important are: sedimentation (to which the Jeremy River and Meadow Brook are particularly vulnerable), excessive stormwater runoff (the entire watershed is already a "flash system"), chemical contamination (petroleum residue from parking lots can interfere with salmon imprinting and homing) and loss of riparian vegetation (wide green buffer strips are essential). Petroleum contamination at parts per billion levels could impact salmon imprinting and homing. It is highly unlikely that intensive development typical of industrial parks can occur without resulting in some impact to salmon habitat, even if the appropriate standard mitigation measures are implemented." (See appendix A, DEP staff comments)

The groundwater quality goals at the site, as in much of the Jeremy River Basin, are "GA". As a result, land uses are to consist of those types that will permit these waters to be used for private drinking water purposes without the need for treatment. Similarly, the water quality goals for the surface waters of the Salmon basin are "A".

The importance and sensitivity of the Salmon River watershed are further reflected in Section 22a-417(b) of the Connecticut General Statutes. This law prohibits discharge of any sewage or other effluent that is less than tertiary treated into the Salmon River or any of its tributaries. This is the only watercourse in the State singled out for such protection.

The seven mile force main that was constructed to transport wastewater out of the Salmon River basin to East Hampton is another example of state policy and past expenditures made in order to avoid contamination of this watershed.

The Final Integrated Report, dated April 1990, prepared for the South Central Connecticut Water Utility Coordinating Committee pursuant to the Connecticut General Statutes, recommends potential future surface water sources for the South Central Connecticut Water Supply Management Area. The diversion of the Salmon River in East Haddam is identified in this report as a long-range potential water source for that region. There is the possibility that flood waters could be skimmed from the Salmon River into Connecticut Water Company reservoirs and moved westward via a regional pipeline into

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the Hammonasset Reservoir of the South Central Connecticut Regional Water Authority. This water is envisioned as being shared among the Connecticut Water Company, the South Central Connecticut Regional Water Authority, the Meriden Water Department, and Wallingford Water Department. The entire watershed of the Salmon River was not included as a Conservation area in the C & D plan because no water utility has yet included this potential water supply source within an approved water plan, and the potential conflicts between water supply planning and other environmental concerns has not been fully discussed among state agencies.

**3. Water Supply:**

Water extension to the site from Colchester appears feasible if additional water supply resources can be located. An alternative proposed by the applicants is to develop the groundwater resources at the site.

The capacity of water supplies within Colchester has been of recent concern. A temporary moratorium had been imposed on new connections to its public water system because of the lack of capacity. This moratorium has been removed. Colchester Water Department's safe yield is adequate for present needs. However, the draft Colchester Water Department's Water Supply Plan, due to be updated and resubmitted by June 30, 1994, does not currently identify the proposed Urban Growth site as a part of their future service area. Colchester will need to develop additional sources of water supply to meet future needs. The existing draft plan identifies a number of potentials, including the Jeremy River and the Salmon River. It has not yet been determined what will be the best way to meet this future needs.

The Colchester Water Department is only authorized to provide water service within the Borough of Colchester. It will be necessary to change the Water Department's charter in order to enable it to service this site which is beyond the boundaries of the Borough. In addition, any extension of water mains to this site would require the permission of the state Department of Public Health and Addiction Services.

The only significant public water supply in Hebron serves the area around Amston Lake on the Lebanon border, a fair distance from this site. Development of wells within the Jeremy River aquifer within the site will negatively impact the base flows of the River. As a result, it is not certain that wells can be developed locally to serve the site.

#### 4. Sewer Service:

There is areawide capacity at the East Hampton Water Pollution Control Plant to serve this site and there appears to be sufficient capacity in the force main to transmit the wastewaters from the area to the East Hampton plant. However, there are a number of local issues with respect to bringing sewer infrastructure to the site.

The pump station located at the southeast corner of the site lacks sufficient capacity at the present time. The station is scheduled to be upgraded in the near future. However, with respect to Hebron, much of the planned expansion of the pump station is already taken up by completing the planned sewer service area within the town. Hebron has yet to complete its initial sewer service systems so the actual flows from Hebron have not been finalized. Further, the existing and latest draft plan for the future sewer service area within Hebron does not show any sewer service for the proposed site. A moratorium on the expansion of the sewer service district presently exists in the town of Hebron. Hebron's existing sewer service district can potentially produce 209,099 gallons per day more than the Colchester system can accept, even after the installation of an equalization tank at the pump station.

There is a lack of adequate and up-to-date sewer planning data for town of Colchester area so as to be able to determine the ability of the system to serve existing needs as well as the proposed Urban Growth site. The last sewer service plan was completed in 1977. As a result of the past moratorium on development due to the lack of water supply, there may be a backlog of permitted development that will require sewer service in the future.

In conclusion, the "new" capacity that will be coming on line at the pump station appears largely to be already allocated to existing needs. Further expansion of the pump station at the present site is doubtful due to surrounding wetlands. To accommodate the proposed development it may be necessary to construct a booster pump station half way along the 7 mile force main. This addition would add significantly to the cost of developing an industrial site of this size.

#### 5. Transportation Access:

The site has very good regional accessibility because of it lies adjacent to Interchange 16 on Route 2. However, access is difficult and appears costly from the interchange to the proposed 312 acre Urban Growth section which lies south of Route 2 in Colchester. The difficulty is caused by intervening steep slopes and the need to bridge the Jeremy River. Some local road improvement in the vicinity of the site may also be necessary if the site were to be fully developed as proposed.

#### 6. Site Constraints:

Protection of the quality of the water and habitat conditions of the Jeremy River is the most severe site constraint. The municipalities propose that a 400 foot buffer be

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established on each side of the Jeremy River within the site as the primary means to protect the integrity of this River and further to have this area designated as a Preservation area in an amended C & D Plan. The Preservation area strategy of the Plan is basically a no-built approach to any proposed development.

An Environmental Review Team of the Eastern Connecticut Resource Conservation and Development Area assessed the appropriateness of industrial development of the Ostrager Property in June 1984. (See Appendix B) This 62 acre property lies within the Hebron section of the Urban Growth site and is approximately bounded by Jones Street to the west, the old railroad right of way to the southeast and Senate Brook on the east, and the site boundary on the north. The Review Team concluded this parcel was not suited for commercial/industrial development listing as the primary factors: severe limitations due to steep slopes and rock outcrops, poor soils, shallow water table, potential for erosion and sedimentation and difficult access from Jones Street because of slope conditions.

Adjacent to the Ostrager property is land owned by the Skungamaug Fish and Game Club. Together the Ostrager and the Club property occupy much of the parcel denoted as "C" in the application. Correspondence received November 3, 1993, from Barry E. Ellison, Secretary of the Club, states an unwillingness to have the Club property converted to industrial use. (See Appendix A) The property provides outdoor recreation for club members. Further, the Club property received state and federal monies to develop a pond that is used in a joint venture with the state to raise trout "of which the majority are released into public waters to be enjoyed by all."

Mr. Ellison's correspondence also states that Tony Milkulsky, an owner of 45 to 50 acres of land immediately southeast of the railroad right of way, is strongly opposed to the proposed industrial development. This parcel appears to be the most developable of all the parcels within the Hebron section of the site.

If the Ostrager, Skungamaug and Milkulsky parcels are not readily developable and/or available, the only remaining parcel of any significance lies within the proposed 400 foot buffer along the Jeremy River.

A fourth parcel of land bisects the Hebron section and is an abandoned railroad right of way that is owned by DOT but under the custody of DEP and developed as a recreation trail. The Airline State Park Trail is a multi-use trail that travels from East Hampton to Windham. This trail is designated on the C & D Plan as an Existing Preserved Open Space. The municipalities anticipate relocating this trail along the Jeremy River. DEP is opposed to the relocation at this time. DEP states that the long-term potential of the corridor for transportation must be maintained and a relocation would be subject to approval by DOT. Further, the relocation along the Jeremy River will probably involve considerable expense and will impact wetlands, floodplain and the habitat of the Jeremy River.

The remaining part of the Hebron site (generally bounded by the Airline Trail to the northwest, proposed buffer of Jeremy River on the northeast and the Old Hartford Road on the south) appears to be the most easily developed section. However, this parcel is divided by Senate Brook and the wetland soils that are associated with this Brook.

DEP staff comments note the presence of a Species of Special Concern, the Blazing star or Liatris borealis, is located immediately adjacent to the site and may be found within the site.

The various site limitations associated with the Ostrager, Skungamaug, Mulkulsky, and Airline State Park Trail properties and wetlands of Senate Brook, all within the Hebron section of the Urban Growth site, substantially restrict the developable parts of the site and/or add significantly to the urban development costs.

Less information is readily available to evaluate site specific conditions of the Colchester section. Factors associated with steep slopes — erosion and sedimentation, stormwater run-off and development costs (particularly related to access roads as noted earlier) are the major concern. Further, there are some wetlands associated with Pine and Meadow Brooks.

The municipalities believe that the site specific environmental concerns can be addressed in the overall planning of the site; further, that the comprehensive, unified design and development of the entire area under the direct control of the municipalities better enables the inclusion of these protective measures into site development than alternative forms of development.

#### 7. Alternative Sites:

The proposed Urban Growth site is the only industrially zoned land with the town of Hebron. The opportunities for finding other suitable sites for industrial development within Hebron are constrained by the limited sewer service area. This service area closely corresponds to the Rural Community Center designation of the C & D Plan. Further, within this designated area, at the intersection of Routes 66 and 85, is the historic district of Hebron.

While the site in Hebron is the only commercial and industrial zoned area in town, there are other possible areas for at least some commercial developments in or immediately adjacent to the Rural Community Center. For example, on the west side of Route 85 between Valley Road and Colchester road there is an area designated as a potential professional office park. In addition, certain contiguous portions of Hebron Center are also identified as potential areas for expansion of the business district which could include general and proportional offices and retail trade uses (see attachments).

Within Colchester there are several sites that are zoned for industry. Information provided subsequent to the public hearing identifies eight alternative sites within Colchester. Amenities associated with each of the industrial sites are listed in the three page

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attachment in Appendix B entitled "Alternative Site Analysis, Colchester/Hebron Joint Industrial Park, November 2, 1993". The site identified as #3 has much of the necessary industrial park infrastructure in place with vacant parcels that are ready for development. Sites # 4 and 6 have some of the basic amenities on site. Site # 5 lacks water and sewer service but it appears that service could be extended along Norwich Avenue from the nearby Bacon Academy. The attachment lists as a limiting factor that sites # 5, 6 and 7 are within the drainage area of a surface reservoir. Based on the depiction of water supply watersheds by DEP on a map entitled "Community Water Systems in Connecticut: 1984 Inventory", this limitation is true for only the section of site # 7 that is to the east of Route 85.

Both Colchester and Hebron have historic areas at their centers. These districts are relatively small when compared to the extent of the designated Rural Community Center in Hebron and the Urban Conservation and Urban Growth areas in Colchester. Thus there are opportunities for commercial and industrial development in these municipalities that do not conflict with historic resources.

### **RECOMMENDATION**

It is the recommendation of the Office of Policy and Management that the Continuing Legislative Committee on State Planning and Development reject this interim change application. This recommendation is based on the following evaluations.

The proposed Urban Growth area is not consistent with the Locational Guide strategy of the Plan. The site is situated in the east central region of the state. This is a very rural section of Connecticut. The site is almost equi-distant from the developed areas associated with New London, Norwich, Windham, Hartford, Middletown and the coastal communities along Interstate 95 and the Shoreline Railroad. A comment frequently heard during the revisions that the C & D Plan undergoes every five years is to plan in recognition of the fact that 'rural areas do not want to become suburbs, suburbs do not want to become cities, and cities do not want to become wastelands'. As a result, the strategy of the plan is to focus development of regional significance to existing Urban Centers or to areas that are contiguous and that have basic infrastructure in place or planned. In predominantly rural areas, the strategy of the plan is to discourage large scale development that is not consistent with the rural character and support facilities of the area, and to encourage development to cluster within traditional rural villages or boroughs. In the east central region this means the Rural Community Centers of Lebanon, Hebron, Marlborough and the somewhat larger developed areas of East Hampton and Colchester.

The proposed Urban Growth site, at its full industrial development potential, is of such a scale that is inconsistent with the rural character and local support facilities. Reportedly at least 300 acres of the 543 acres that are proposed for Urban Growth are developable. Assuming an average employment density of 10 employees per acre, this represents a

potential employment of 3000 employees at the site. Using commonly accepted multiplier effects it is likely that double this number, or 6000 employees may result in the area from this proposal. There are currently 10,406 persons in the combined labor force of Hebron and Colchester. As a result, the proposal represents over a 50% expansion in employment. As many of these employees will seek residences within the area, the overall impact may be a 50% expansion in the general development within the vicinity of the industrial park.

The above Findings reveal some difficulties with the capacity of the local infrastructure to support the proposed industrial development. The added impact of secondary development will compound this problem and will affect schools, fire protection, recreation and other locally provided public services.

The Salmon River and its primary tributaries, the Blackledge and the Jeremy Rivers, are natural resources that are of statewide environmental and recreation concern. There are few alternative basins within Connecticut which have the greenway, wildlife habitat, recreation and potential public water supply values that were discussed in the Findings section. The proposed site straddles both sides of the Jeremy River and represents a significant barrier to the river's habitat that must be maintained if salmon restoration is to proceed in this basin. The proposed industrial development appears to be inimical to these environmental protection program objectives. The State of Connecticut has made a commitment to the protection of environmentally sensitive areas such as the one that is the subject of this request. If this commitment is to continue this request should be rejected.

In addition, alternative sites for industrial development are available within Colchester. Sites are either immediately available or are developable in the future. These sites are within the area of Colchester already designated by the C & D Plan for Urban Growth. They are not of the magnitude of the proposed site and do not offer the intertown cooperation of the proposed site but are adequate for identified needs of Colchester and are better situated with respect to access to serve the economic recovery needs of eastern Connecticut. While Hebron lacks alternative industrially zoned sites, there is limited opportunity for office park development and the expansion of the general business area within or immediately adjacent to the Rural Community Center.

There are numerous site specific conditions that have been presented in the Findings section which limit the access to this site, raise the development costs significantly and call into question the appropriateness of industrial development or any other "urban" land uses within the Jeremy River corridor. These site conditions are:

- "It is highly unlikely that intensive development typical of industrial parks can occur without resulting in some impact to salmon habitat, even if the appropriate standard mitigation measures are implemented." (emphasis added)
- Cost of providing roadway access across the Jeremy and up the steep slopes of the Colchester parcel.

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- Capacity of local water resources to meet existing needs plus the demands that would occur from the proposed development.
- Capacity and expansion capability of the sewer pump station.
- Slope and other limitations of the Ostrager parcel.
- Historic use of Skungamaug parcel to support recreation and an unwillingness of the Club to participate in industrial park development.
- Over 100 acres of wetlands to be protected.
- An existing Airline State Park Trail that can not be easily relocated.
- Species of Special Concern immediately adjacent and potentially on the site.
- Lack of current industrial zoning for much of the Colchester section, and lack of integration of the proposed site into the current or proposed water and sewer plans of the municipalities.

Based on the foregoing, I strongly urge the Continuing Committee to deny the proposed change in the Locational Guide Map. Each fact as presented has been considered. A balancing of interests supports this agency's decision to deny the request.