



STATE OF CONNECTICUT

COUNCIL ON ENVIRONMENTAL QUALITY

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Executive Director

October 14, 2015

The Honorable Robert Klee
Commissioner of Energy and Environmental Protection
79 Elm Street
Hartford, CT 06106

RE: CEPA Regulations and Silver Sands State Park

Dear Commissioner Klee:

The Council on Environmental Quality has received complaints about the Department's reliance on the 22-year-old environmental impact evaluation (EIE) for proposed improvements to Silver Sands State Park. After considerable discussion at its October 7, 2015 meeting, the Council concluded that the extraordinary age of this EIE illustrates the urgent need to update the regulations for implementing the Connecticut Environmental Policy Act (CEPA).

As you know, the current CEPA regulations make no provision for reevaluating EIEs after any period of time, just one of many deficiencies that make the regulations severely anachronistic.

In contrast, federal regulations that guide state agencies which use federal funds address reevaluation explicitly. If no action to advance a federally-funded transportation project has occurred in the last three years, for example, a written reevaluation is required.

As you probably are well aware, the federal requirements do not require a new or supplemental EIS unless the reevaluation – which can be an internal document for the files – finds that conditions or the project have changed.

In the case of Silver Sands State Park, DEEP staff wrote a memo for the file in 2013 that considered the need to conduct an EIE for an element (specifically, the "boardwalk cutoff") that was not included in the 1993 EIE. The memo concluded that no EIE was required for the boardwalk cutoff. That memo illustrates the need to prescribe a methodical approach to reevaluation in the CEPA regulations. The 2013 memo employed an *ad hoc* method that focused narrowly on the need to conduct an

EIE for the boardwalk cutoff alone. It did not reevaluate changes in environmental conditions or the adequacy of the 2013 EIE in light of current knowledge of the park's resources and amendments to the project plans.

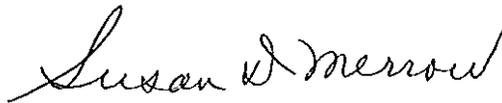
The need to reevaluate is especially important where biological resources are at risk. According to the comments submitted by Audubon Connecticut regarding Silver Sands, it appears that previous improvements have created new or improved migratory-bird habitat as well as improved birdwatching opportunities. These improvements could not have been considered in 1993.

It is not surprising that the regulations did not address reevaluation in 1978, as there would have been no EIEs older than five years at that time. Now we have a 40-year history of environmental impact assessment from which to learn.

Also, the Council was reminded recently by an interested citizen that the energy-related sections of the CEPA regulations are antiquated. For these and other reasons expressed previously, the Council recommends prompt revision of the CEPA regulations.

Thank you for your consideration of this recommendation. If you or your staff have any questions, please do not hesitate to contact Executive Director Karl Wagener.

Sincerely,

A handwritten signature in cursive script that reads "Susan D. Merrow".

Susan D. Merrow
Chair