

September 30, 2014

Ms. Cheryl Chase
Director, Inland Water Resources Division
CT Department of Energy & Environmental Protection
79 Elm Street
Hartford, CT 06106

SUBMITTED VIA EMAIL

(Cheryl.chase@ct.gov)

Dear Ms. Chase,

On behalf of the Connecticut Business & Industry Association (CBIA), thank you for this opportunity to comment on the Aug. 29, 2014 report, “Evaluation of Risk-based Decision Making Connecticut Department of Energy and Environmental Protection” (“the report”), prepared by CDM Smith.

CBIA was a major proponent of Public Act 13-308 including section 28 that requires DEEP to arrange for an independent expert to conduct an evaluation of risk-based decision making related to the remediation of contaminated sites.

CBIA is pleased with the work done by CDM Smith and we support “primary suggestions” 3 through 6 presented as in section 1 of the report and reserve judgment on primary suggestions 1 and 2 pending further discussion. Understanding that the report is “final”, we offer the following general comments for DEEP’s consideration as it moves forward in this process.

CBIA believes that during the past several years and to its credit, DEEP has begun to understand its role in developing and administering environmental policy as much broader than simply protecting the environment without regard to cost, efficiency and efficacy. As noted in the report, albeit more narrowly in the context of redeveloping brownfields and other contaminated sites, we strongly agree that “successfully addressing [environmental challenges] requires balancing many factors.”¹ Connecticut can no longer afford to define its environmental mission as a quixotic quest for a society with zero or near-zero environmental or human health risk based on hypothetical exposure scenarios.

Accepting a reasonable degree of risk is something all of us do every day. According to a 2010 report of the National Safety Council, Americans are exposed to a 1 in 112 chance of dying in a motor vehicle accident, a 1 in 1,043 chance of drowning, a 1 in 83,922 chance of dying in a

¹ CDM Smith Report p. 1-1

cataclysmic storm, and a 1 in 136,011 chance of dying from a lightning strike.² Yet, Connecticut's standards for cleaning up contaminated property are based on ensuring those who ingest polluted soil for 40 years or consume ½ gallon of polluted water daily for 70 years, expose themselves to no greater risk than 1 in 1,000,000 of acquiring cancer.

The CDM Smith report states that their research indicates “that perhaps the best default criteria are those promulgated by British Columbia³. . . where the “no significant risk level is set at 10⁻⁵ [1 in 100,000] per chemical at any given site.”⁴ The report further states that “this best risk management approach recognizes that [risk] of up to 1 in 10,000 (10⁻⁴) are presumptively acceptable – as noted also by U.S. EPA, U.S. Department of Energy, California, Texas, Vermont, and other regions and analysts.”⁵ We strongly urge DEEP to adjust the baseline risk parameters it uses for determining risk-based criteria consistent with those noted here.

Furthermore, the report also exposes the myth that more stringent standards necessarily equal better environment protection. Specifically, while supporting the notion that best practices require carefully developed default criteria, the report reminds us that “for some properties, strict reliance on [Connecticut] RSR default criteria might well suggest site-actions that are wasteful of resources and not likely to produce actual improvement in public health or ecological health.”⁶

With respect to other primary suggestions discussed in the report, we concur with a number of the report's explanations. For example, we agree that “using health risk assessment to address contaminated properties requires both science and judgment.”⁷ Again, we are pleased that there is a growing recognition among DEEP staff that these complex environmental challenges cannot be successfully addressed through a myopic focus on the most stringent science.

And we strongly agree that whatever methods and attributes are ultimately chosen to define Connecticut's default criteria, they must be “fully specified, reproducible, and dependent on a well-documented set of default assumptions and inputs.”⁸ This is standard for the best available scientific evidence.⁹ It and the other nine attributes of Best management Practices described in Section 6 of the report should be followed without exception.

We also agree with the report that “successful clean-up programs depend on good default criteria, but even the best default criteria cannot be appropriate for all sites”¹⁰ and that there needs to be an expeditious methodology for establishing site-specific, self implementing “non-

² http://www.nsc.org/news_resources/injury_and_death_statistics/Documents/2014-Injury-Facts-43.pdf

³ CDM Smith Report p. 1-3

⁴ *Id.* at p. 1-8

⁵ *Id.*

⁶ *Id.* at p. 1-7

⁷ *Id.* at p. 1-1

⁸ *Id.* at p. 1-2

⁹ *Id.* at p. 6-5

¹⁰ *Id.* at p. 1-3

standard” solutions. In Connecticut, this process is far from expeditious and is not self-implementing. As a result, especially “advanced-level risk assessment methods [for determining site-specific alternative cleanup criteria] are not often used in practice in the State.”¹¹

Finally, we particularly note that on the topic of ecological risk assessment, the report states that default risk-based criteria should serve only as “screening levels” as is the case in Massachusetts and many other states and as recommended by EPA.

Thank you very much again for this opportunity to provide comment. We look forward to working with DEEP and other to implement some significant improvements to risk-based assessments in Connecticut that demonstrate the environment and human health can be protected without sacrificing economic gains and efficiency.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric Brown", with a stylized flourish at the end.

Eric J. Brown
Director, Energy & Environmental Policy

¹¹ CDM Smith Report at p. 1-4