



## COUNCIL ON ENVIRONMENTAL QUALITY

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Karl J. Wagener  
*Executive Director*

June 22, 2018

Mr. Matthew Pafford  
Office of Policy and Management  
450 Capitol Avenue  
Hartford, CT 06106-1379

RE: Franklin Sewer and Water Main Extension Record of Decision

Dear Mr. Pafford:

Thank you for consulting with the Council on the subject Record of Decision (ROD). The Council discussed the ROD and these comments at its June 20, 2018 meeting.

This project evidently was conceived and planned prior to the decision to award a state grant, and the attempt to layer CEPA analyses on top of the planning already completed has not been successful. The Council recommends against adoption of the ROD in its present form.

The Council reviewed the ROD and finds that the responses do not adequately address the Council's comments on the environmental impact evaluation (EIE), especially regarding consistency with the State Plan of Conservation and Development (C&D Plan), potential indirect impacts, and analysis of agricultural and wildlife resources.

The ROD says "Points of consistency and inconsistency with the six growth principals within the State's C&D Plan are attached in Table 1...The table describes those areas that are consistent, inconsistent, or not applicable to these goals." Yet the table does not identify *any* points as inconsistent, despite the fact that many are. The Council identified several inconsistent points in its comments on the EIE, some of which are repeated below. More importantly, the ROD does not seem to grasp the *meaning* of the growth management principles. For example, Growth Management Principle #1 is to "Redevelop and revitalize regional centers and areas with existing or currently planned physical infrastructure." The explanatory language in the C&D Plan make it clear that investments in infrastructure should make maximum use of infrastructure investments already made and more efficient use of underutilized infrastructure, of which there is plenty. In this context, some of the ROD's findings of consistency make no sense. Examples from the ROD's Table 1 include:

POLICY: "Focus on infill development and redevelopment opportunities in areas with existing infrastructure, such as city or town centers, which are at an appropriate scale and density for the particular area."

ROD: "There are approximately 89 parcels within the proposed and future proposed sewer service area. There are several undeveloped parcels for future development opportunities." To this Council, the growth management policy is clear and the response seems to miss the point.

POLICY: "Rely upon the capacity of the land, **to the extent possible**, to provide drinking water and wastewater disposal needs beyond the limits of the existing service area. Support the introduction or expansion of public water and/or sewer services or advanced on-site wastewater treatment systems only when there is a demonstrated environmental, public health, public safety, economic, social, or general welfare concern, and then introduce such services only at a scale which responds to the existing need without serving as an attraction to more extensive development." [emphasis added]

ROD: "*Consistent*. Connection to the proposed water and sewer extension will be voluntary, and those parcels that are adequately served by existing on-site wells and septic systems can continue. The proposed and future service areas are limited to a smaller portion of the Route 32 corridor so that commercial and industrial growth can be concentrated in a smaller area of the town." As in the first case, above, the growth management policy is clear and the response seems to miss the point.

POLICY: "Proactively identify and market available properties that are currently served by infrastructure and that could meet the needs of new or expanding businesses, especially those within close proximity to existing industry clusters."

ROD: As if the point of the state policy is to improve marketing opportunities, not the redevelopment of seweried industrial areas, the ROD concludes that the project is *consistent*: "The availability of water and sewer in the already commercial/industrial zoned Route 32 corridor will strengthen the ability for the Town of Franklin to market the both existing lightly developed as well as undeveloped properties."

POLICY: "Promote supportive land uses around rail stations, airports and sea ports, and discourage uses that are not dependent upon, or complementary to, the available infrastructure."

ROD: "*Consistent*. There is currently a railroad within close proximity of the proposed sewer service area that serves selected commercial and industrial

parcels. Water and sewer service will help expand commercial and industrial businesses.” The proposed project might not be particularly relevant to this policy, but there are many questions not answered: Will commercial uses be discouraged if they propose to use land near the rail line but do not propose to use the rail line itself? How does being a few hundred yards away from a rail line help? How is the project designed to take advantage of rail service?

POLICY: “Encourage local zoning that allows for a mix of uses “as-of-right” to create vibrant central places where residents can live, work, and meet their daily needs without having to rely on automobiles as the sole means of transport.

ROD: “*Consistent*. As the area is zoned for commercial and industrial uses, mixed use developments including residential does exist in this area of Franklin, The vast majority of Franklin is zoned to encourage planned rural residential growth with limited residential parcels within the proposed and future expansion areas.” This response appears to overlook the first words of the policy: “Encourage local zoning that allows for...”

If the project is successful in encouraging industrial development, such success could come at the expense of already-sewered areas of Norwich and other towns, which is the opposite of the C&D Plan’s intent.

The responses to the agricultural-land questions are unsatisfactory. We do not see a reference to CGS Section 22-6, which the Council raised in its comments. More importantly, the ROD repeatedly adopts the notion that concentration of development will help to save agricultural and other undeveloped land elsewhere in town, as illustrated by these two examples:

Page 62: “The Town of Franklin believes that development within the proposed and future water and sewer service areas will allow the remainder of the Town of Franklin to remain rural, including its numerous farm and woodlands.”

Page 19: “The Town has expressed a commitment to preserving the majority of farmland in Town located outside of the proposed and future sanitary sewer and water service areas, by using this project to concentrate growth.”

The idea that concentrating desirable growth in one area leads to preservation elsewhere is flawed. If development is successful, two things will happen: 1) in the short term, agricultural land within the development area will be lost, and 2) long-term, there will be *more* development pressure placed on remaining parcels in

town because the initial parcels will be gone and, more importantly, employment and other products of successful development will lead to more demand for housing and commerce. The ROD encourages the town to “help develop, through the Governor's Council on Agricultural Development, a comprehensive Strategic Plan for Agriculture in Connecticut.” (Page 19) This is very different from past DEEP policy of requiring towns to exclude agricultural land from sewer service and/or adopt other mandatory land-conservation measures. The Council recommends adoption of mitigation measures that require specific effective actions to ensure the desired outcome.

In its comments on the EIE, the Council pointed out the utter absence of information about impacts to fish and wildlife habitat. The ROD includes supplemental information based on a single visit to the area in late October. This does not give DEEP the information it would need to make its decision, which would be a description of what wildlife is present and an analysis of what the consequences of the project will be. The consultant's conclusion is vague:

“Development along the parcels within and bordering this forest block would reduce its overall size along its western boundary, with a concomitant edge effect extending another 300 feet eastward from any new development envelope. The magnitude of that encroachment would depend on a number of factors, and would be dictated primarily by local land use regulations administered by the Town of Franklin.”

The consultant's statement on aquatic impacts,

“...the effect of the proposed project is likely to be positive. The conversion of on-site septic systems to municipal sewer is likely to reduce nutrient loads to downstream waters, as even properly functioning systems discharge nitrogen to ground and surface waters. This will benefit the Yantic River and Long Island Sound, as undersized or failing onsite sewage systems are a noted source of unwanted nitrogen to surface waters in the region” (Appendix G),

could be accurate with regard to nitrogen but overlooks completely the consequences of stormwater. Once five percent of a watershed is covered with impervious surfaces, there can be measurable impact, and once 12 percent is covered it becomes highly likely that water quality standards will not be met.

In general, this ROD stands as an excellent illustration of why the CEPA regulations require the following:

"An environmental impact evaluation shall be prepared as close as possible to the time an agency proposes an action. The evaluation shall be prepared early enough so that it can practically serve as an important contribution to the decision-making process and shall not be used to rationalize or justify decisions already made. Preparation of an environmental impact evaluation shall not prevent an agency from conducting contemporaneous engineering, economic, feasibility and other studies which do not otherwise commit the agency to commence or engage in such action or limit the choice of reasonable alternatives." (Section 22a-1a-7(b))

Again, this EIE was completed too late in the process to contribute to the decision-making process. The ROD does not address the deficiencies identified by the Council in its comments on the EIE, and the Council recommends that it not be accepted. If it is accepted, conditions should be applied, as discussed above.

Please let me know if you have any questions about these comments. Thank you.

Sincerely,

A handwritten signature in black ink that reads "Karl J. Wagener". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Karl J. Wagener  
Executive Director

CC: Steven Reviczky, Commissioner of Agriculture  
Robert Klee, Commissioner of Energy and Environmental Protection