

**State of Connecticut**  
**Department of Transportation**

IN RE: STATE PROJECT 301-114  
NEW PARKING STRUCTURE PROPOSED FOR UNION STREET  
New Haven, Connecticut

**JUNE 6, 2016**

**New Haven Urban Design League**

**APPLICATION TO INTERVENE PURSUANT TO CONNECTICUT GENERAL**

**STATUTE §22a-19a**

Pursuant to Conn. Gen. Stat. §22a-19a, the Connecticut Environmental Protection Act (“CEPA”), the New Haven Urban Design (“League”), hereby applies to State of Connecticut Department of Transportation (“Department”) to intervene as a party in the above captioned agency proceeding on the grounds that the actions the Department has under consideration will or are likely to have an unreasonable impact, air and water pollution, on the public trust in the air and water quality of the State.

**Applicable Law:**

**A. CEPA Allows Any Person To Intervene In Legal Proceedings to Raise Environmental Issues**

As noted above, this Application is made pursuant to CEPA, the plain language of which was intended to provide wide access to the states’ various tribunals. Red Hill Coalition, Inc. v. Conservation Commission of Town of Glastonbury, 212 Conn. 710 (1989).

The statute provides in relevant part:

“[in] any administrative, licensing or other proceeding, and in any judicial review thereof made available by law, ...any person ...or other legal entity may intervene as a party on the filing of a verified pleading asserting that the proceeding or action for judicial review involves conduct which has, or which is reasonably likely to have, the effect of unreasonably polluting, impairing or destroying the public trust in the air, water or other natural resources of the state.

Conn.Gen.Stat. §22a-19.

The site proposed for the new Union Station Garage generally is part of the Hill neighborhood, is adjacent to many uses which generate both regular vehicular exhausts and higher levels of diesel exhaust than in other parts of the City, making this a diesel hot zone. The uses adjacent to the site of State Project 301-114, which contribute to high air pollution in the immediate neighborhood include the current structured parking garage, and the adjacent rail yard serving freight and passenger (Metro North, Shoreline East, and Amtrak) systems, and adjacent Route 34 ramp from the major Interstate I-91 and I-95 highway interchange, and the high traffic volumes and congestion created by cars, taxis, private shuttles, and local and regional buses which network at Union Station. The area is part of an EPA air quality non-attainment zone, as well as being part of the EPA's NATA list of "higher impacted areas." New Haven has the highest hospitalization rates for asthma in the state, as detailed in the State of Connecticut Department of Health study, "Asthma in Connecticut 2012 – A Surveillance Report" <http://www.ct.gov/dph/cwp/view.asp?a=3137&q=398480>, and confirmed in the 2016 updated table for this report. To address this public health risk, environmental groups have worked to reduce pollution in the city, or to ensure no net gain in pollution, as was achieved in the negotiations for the recently built PSEG power plant serving peak demand. The Hill neighborhood is a low income, minority majority area. In the immediate area of State Project 301-114, there is public housing for disabled and elderly residents, the senior housing at Tower One Tower East, and 300 families, many with young children at the Church Street South housing complex.

The site proposed for State Project 301-114 is in a flood plain, in an area with buried streams and a high water table. In addition to these natural features, most of the land on which I-95 were built was man-made – the fill replaced the natural wetlands which once helped control flooding. The density of hardscape – roads, sidewalks, paved lots and rooftops – also contributes to the areas high levels of storm water over flows. This combination of natural and man-made features has created zone that frequently floods and overwhelms the City of New Haven’s storm water control systems, sending combined sewer overflows into Long Island Sound. (Additionally, local roads around the proposed site of State Project 301-114 have been made hazardous and impassable by flooding.) At this time, no engineering solutions have been created, nor is any funding available to mitigate the area’s frequent flooding. State Project 301-114 would worsen this problem in two ways -- by adding more hardscape, and by not including engineering features to keep storm water on its site.

A §22a-19 or 22a-19a intervenor need not show “aggrievement”. Hyllen-Davey v. Planning & Zoning Commission, 57 Conn. App. 598, 593, 749 A.2d 682, cert denied, 253 Conn. 926, 754 A.2d 796 (2000)(“the EPA waives the additional aggrievement requirement in ...§22a-19, [which] authorizes any citizen or other entity, without having to first establish aggrievement, to intervene in an existing proceeding.”); Scaringe v. Meriden Planning & Zoning Comm, CV-000274515-S, J.D. at Meriden, (November 26, 2002)(Gilardi, J).

An allegation of facts that the action at issue in the proceeding is likely to unreasonably impair the public trust in air, water or natural or historical resources of the State is sufficient. See, Cannata v. Dept. Of Environmental Protection, et al, 239 Conn. 124 (1996)(alleging harm to floodplain forest resources).

**B. CEPA Is Not Discretionary: Once A Verified Application Has Been Filed, Intervention is A Matter of Statutory Right**



persons standing to bring actions to protect the environment.” Belford v. New Haven, 170 Conn. 46, 53-54, 364 A.2d 194 (1975).

Thus, in this matter, the New Haven Urban Design League (League) intervention, being supported by a verified pleading or application, should be granted as a matter of law.

**C. The League’s Application Makes Specific Verified Allegations of Unreasonable Harm to Air and Water Quality Resources: The Unnecessary Location of a 1,000 Car Structured Parking Garage Adjacent to a Residential and Business Zone that Suffers from High Air Pollution, and in a Flood Zone with an Inadequate Storm Water Control System in the City of New Haven, and on the False Assumption that the Property’s Use as a Parking Garage is in Accord with the Public Convenience and Welfare**

In support of this Application, the League, states the following under oath:

1. I, Anstress Farwell, am a resident of New Haven;
2. I have personal knowledge of the facts contained herein from our review of the Environmental Impact Evaluation for State Project No. 301-114, in addition to my own personal observations;
3. I, Anstress Farwell, am President of the New Haven Urban Design League, of New Haven, Connecticut, a non-profit, 501(c)(3) organization founded by citizens devoted to protecting and enhancing New Haven's natural assets and urban design through research, education, and advocacy. The League works to improve the quality of life in New Haven by supporting projects that sustain the culture, beauty, utility, and economic health of the city -- both in its neighborhoods and in its region. The League seeks to strengthen the civic culture that is the foundation for good government, good planning, and good development. The League believes the quality of the built environment is critical to human happiness and a civil society;

4. The EIE pending before this Department is likely to cause unreasonable destruction to the public trust in air and water quality of the State of Connecticut in that:
  - a. The Application seeks to build a structured parking garage on land adjacent to a residential and general business district;
  - b. The Union Street site proposed for the parking structure, is in an EPA air quality non-attainment zone and in a flood zone, the infrastructure of which is inadequate to protect the water quality of New Haven Harbor and Long Island Sound;
  - c. The State Project 301-114 site is adjacent to a long standing, active, densely settled residential community and business area in the City of New Haven;
  - d. The use and operation of the parking garage will increase air pollution through increased traffic, traffic delays and congestion, and idling engines;
  - e. Road networks serving this site are degraded and fail to conform to Complete Street standards, and are insufficient to carry increased traffic volumes, and the additional traffic generated by the garage operations will cause pollution from idling and traffic delays, as well as hazardous conditions for other users of this roadway which fails to meet Complete Street standards;
  - f. The project is being proposed in advance of the Transportation Alternatives Analysis, currently being undertaken by the Greater New Haven Transit District in coordination with the City of New Haven, which seeks to find ways to reduce Single Occupancy Vehicle trips, expand transit options and quality of service, strengthen the economy, and improve environmental conditions.
5. The Application fails to consider feasible and prudent alternatives to a neighborhood and general business located in a flood zone for the location of a polluting use;
6. The League has sought the advice and council of the City of New Haven, elected officials, and local residents of the area;
7. The League seeks to intervene as a party in the Public Hearing and other determinative proceedings on State Project 301-114 so that they may, directly and through their advisors, submit testimony and other evidence relevant to the consideration of this application; to cross-examine

evidence submitted by any party and to brief issues of law and technical specifications raised by this proceeding.

8. The League requests a continuation of this Public Hearing on the EIE for State Project 301-114, to be scheduled at a time that would allow the League as an Intervener, as well as other stakeholders, to discuss the EIE and offer testimony and expert witnesses regarding the impacts of the project and alternatives to the proposed project which would protect the public interest in air and water quality.

9. We, the New Haven Urban Design League, believe our participation as a party will be in the interests of justice and is proper under CEPA in that we believe we will be able to show that the permits at issue in this matter unreasonably threaten to damage air and water quality, especially where feasible and prudent alternatives exists: (i.e., Traffic Demand Reduction, improved transit options, improved infrastructure for bicycle riders and pedestrians, building adequate storm water control systems for the State Project 301-114 and its setting), and that higher and better uses are feasible and viable for the State Project 301-114 site which would not harm air and water quality for the petitioners, the neighbors, and the City of New Haven and the State of Connecticut.

#### **D. This Application States Sufficient Facts To Require Intervention**

The Connecticut Supreme Court, in Nizzardo v. State Traffic Commission, 259 Conn.131 (2002), stated that an intervener must not simply track the language of CEPA in its application to intervene, but must instead state facts specific enough to determine the type of harm being alleged in the case at hand. This Application meets that requirement by specifying how air and water quality will be harmed by operations of the new parking garage – both through increased traffic and increased demand on a failing storm water control system – and are likely to be unreasonably and needlessly destroyed.

ACT  
INTERVENOR  
Therefore, this motion for ~~party~~ status must be granted so that Anstress Farwell may present testimony, cross examine witnesses, submit evidence, propound questions the answers to which

may illuminate the flaws in the proposed activity, file proposed findings of fact and otherwise participate to meaningfully assist the Department in its deliberations.

For all of the foregoing reasons, the motion to intervene should be granted.

Respectfully Submitted,

By Anstress Farwell

**Anstress Farwell, President**  
**New Haven Urban Design League**  
**129 Church Street, Suite 419**  
**New Haven, CT 06510**  
203-624-0175

VERIFICATION

I, ANSTRESS FARWELL, of New Haven, Connecticut, the undersigned, hereby verify under oath and the pains and penalties of perjury that we have personally reviewed the above intervention application and the facts contained therein and that I believe they, after conducting the due diligence of asking questions and reviewing various documents, that they are true and accurate to the best of my knowledge and belief.

Sworn and subscribed before me this 6<sup>th</sup> day of June 2016.

John F. [Signature]

Commissioner of the Superior Court

~~Notary Public~~