

# Remediation Roundtable

October 16, 2018





# Remediation Roundtable Webcast

- Basic directions provided on listserv email
- Detailed directions on website
  - ▶ [www.ct.gov/deep/remediationroundtable](http://www.ct.gov/deep/remediationroundtable)





# Remediation Roundtable Agenda

- ▶ **Announcements**
- ▶ **Updates and Roundtable Tips**
  - ▶ Wave 2 RSRs
  - ▶ Site-wide metals
  - ▶ GA PMC Exemptions and Variances
- ▶ **Presentations**
  - ▶ 30 Years Old and Out: UST Removal Statistics
  - ▶ ELUR Certificate of Title and Verifications
  - ▶ Flood Management Act and Site Redevelopment
  - ▶ Updated Forms for Property Transfer Filings



# Announcements

## Dates for 2019

- March 19 (snow date March 26)
- June 18
- October 22

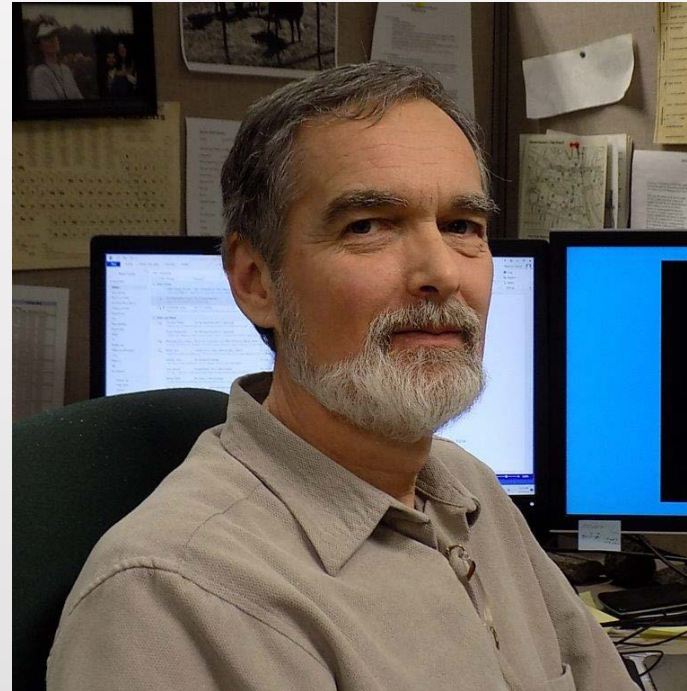




# Announcements – Remediation Staff

➤ Jan Czeczotka –  
New Remediation  
Division Director

➤ Maurice Hamel -  
Retired





# Announcements – Web Updates

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## PFAS

- ▶ [Fast-track Form](#) with DEC, PMC, GWPC  
Additional Polluting Substances numbers
- ▶ PFAS includes PFOA, PFOS, PFNA, PFHxS, PFHpA
- ▶ [Technical Support Document](#)

[Shannon.Pociu@ct.gov](mailto:Shannon.Pociu@ct.gov)



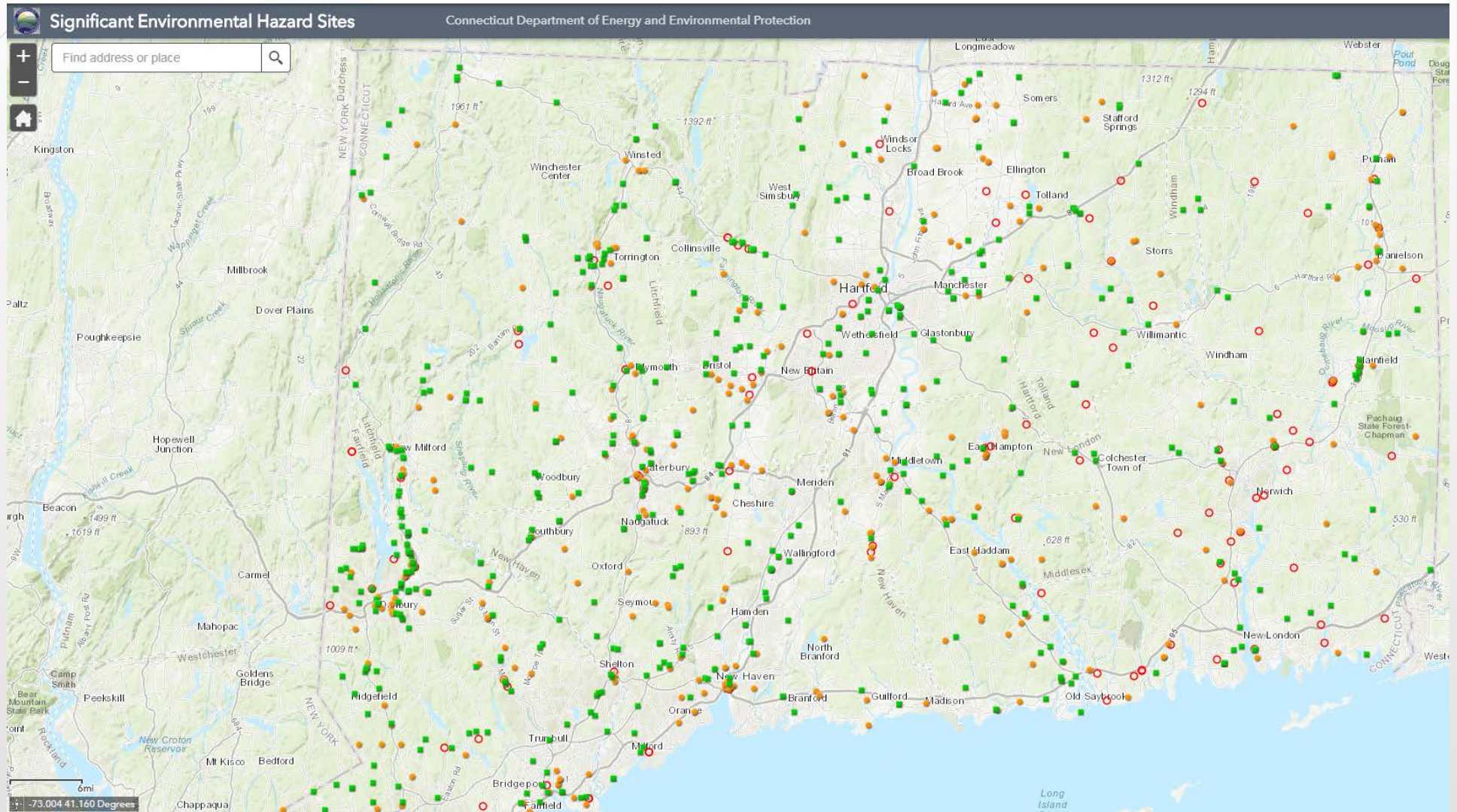
# Questions or Comments?

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Please Speak into Microphone  
and State Your Name

[www.ct.gov/deep/remediationroundtable](http://www.ct.gov/deep/remediationroundtable)

# Announcements – NEW Significant Environmental Hazards Map







# Announcements – NEW SEH Map

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SEH Map Uses:

- Public inquiry
- Due diligence
- SAFER daycare program
- Verifications

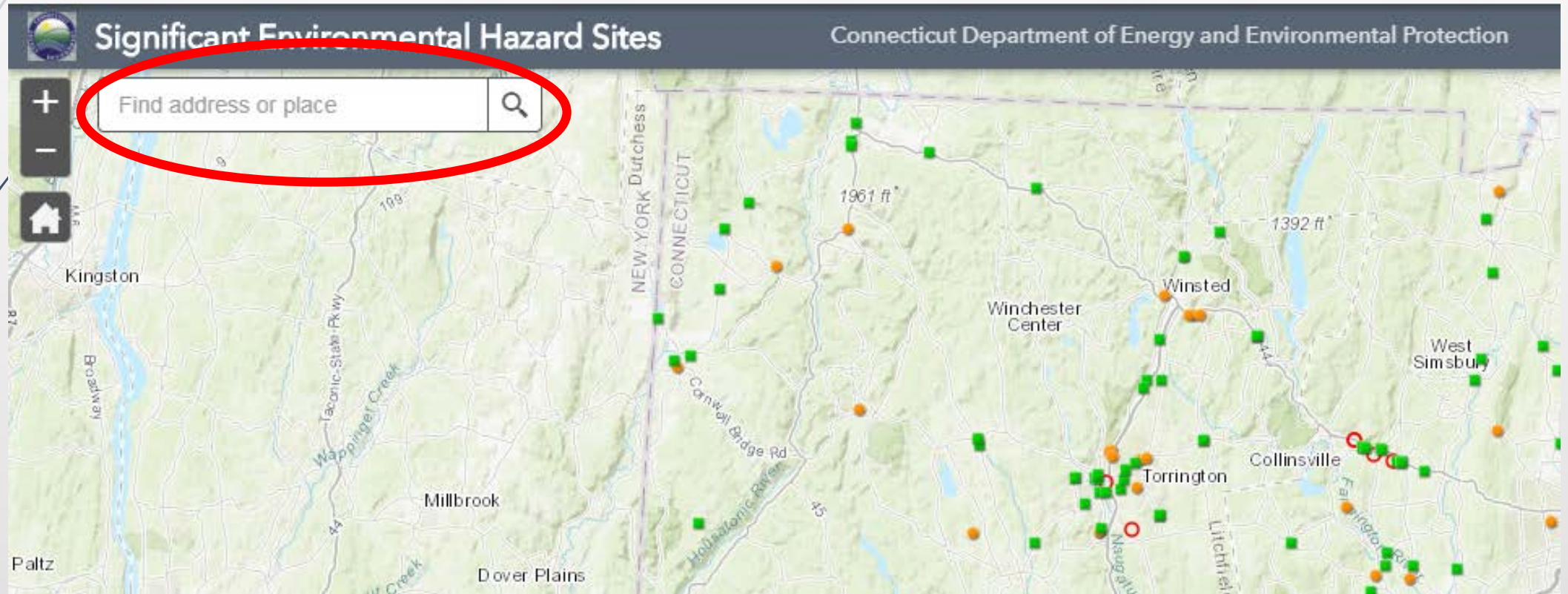
[Significant Environmental Hazards webpage](#)

<http://ctdeep.maps.arcgis.com/apps/webappviewer/index.html?id=fb38afc8e3734d8eb7a0f8e49997bd5c>



# Announcements – NEW SEH Map

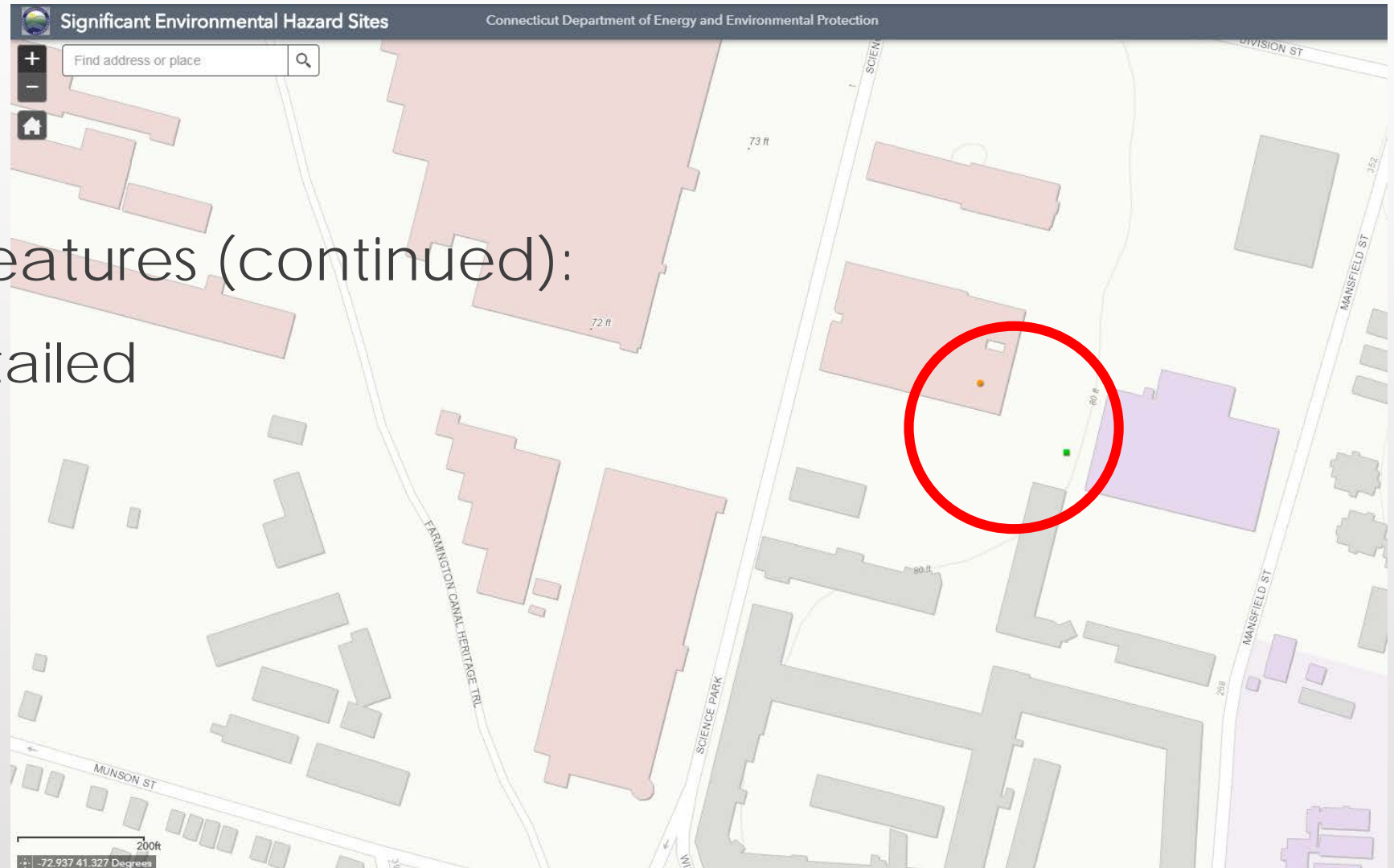
- ▶ Key features:
  - ▶ Easily searchable





# Announcements – NEW SEH Map

- Key features (continued):
- Detailed





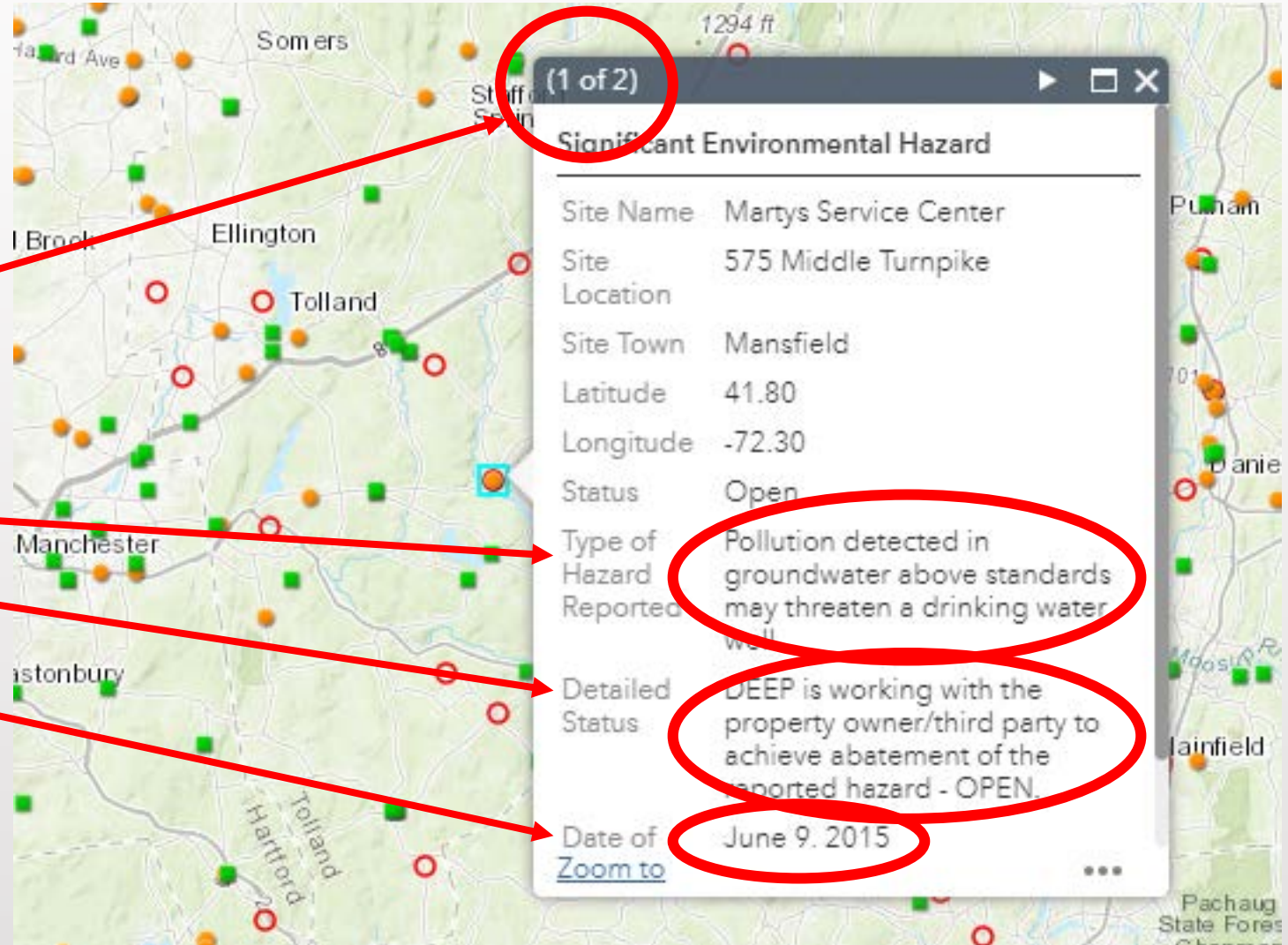
# Announcements – NEW SEH Map

Key features (continued):

Number of SEHNs

Displays hazard type and status

SEHN date





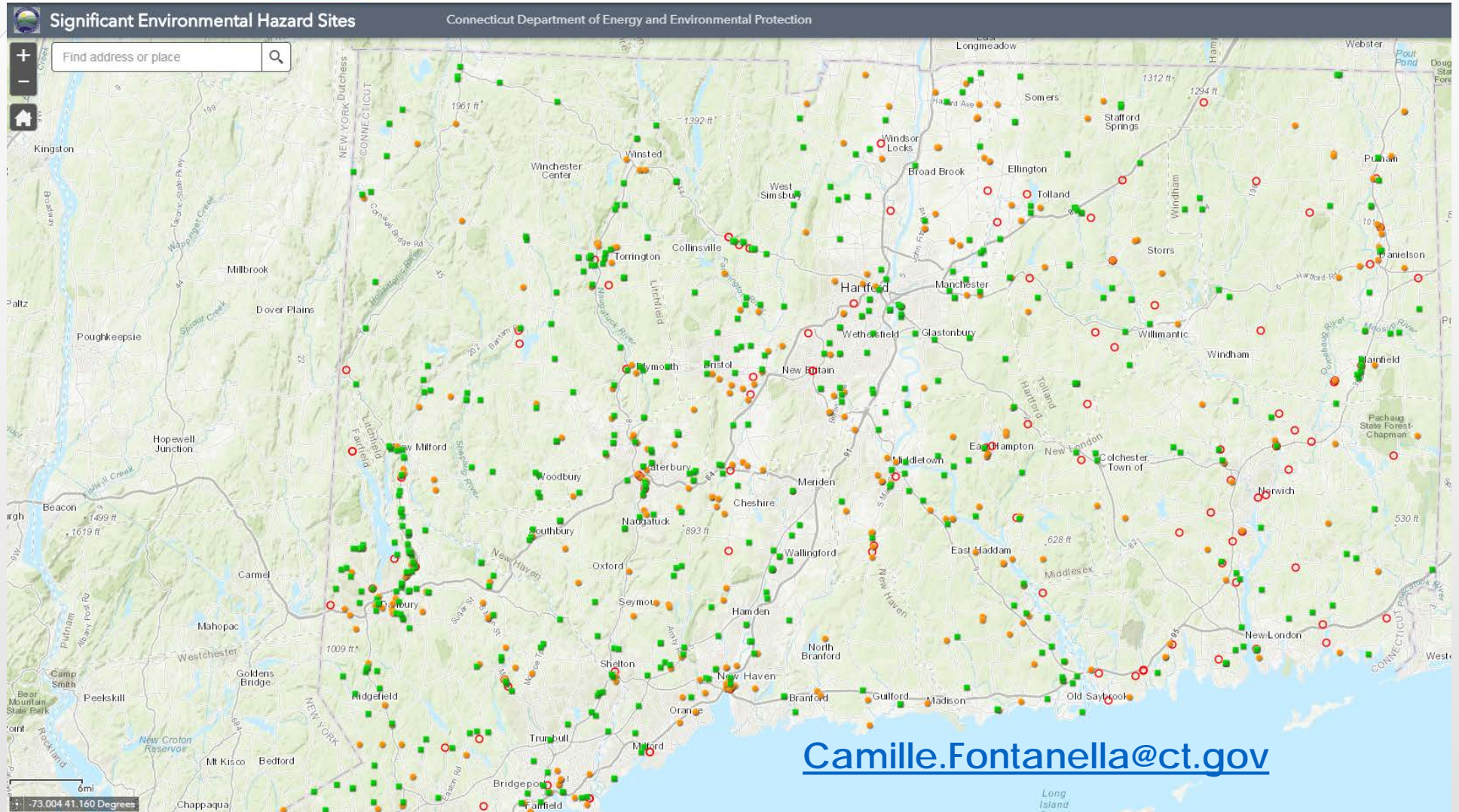
# Announcements – NEW SEH Map

- ▶ Key features (continued):
  - ▶ Basic SEH Program Information
  - ▶ Legend
  - ▶ About
  - ▶ Satellite View

The screenshot displays the SEH Map application interface. At the top right, three navigation icons are circled: a red circle around a list icon, a yellow circle around an information icon, and a green circle around a window icon. The main map area shows a geographic region with several colored markers: red circles, orange circles, and green squares. A yellow arrow points from the 'About' panel to the map, and a red arrow points from the 'Legend' panel to the map. A green arrow points from the 'Satellite View' option to the 'Basemap Gallery' panel. The 'About' panel contains the text: 'Content Last Edited October 9, 2018' and 'Significant environmental hazards (SEHs) are specific conditions defined by law, in [Section 22a-6u](#) of the Connecticut General Statutes (CGS), for which property owners have an obligation to notify the Department of Energy and Environmental Protection (DEEP) when they become aware of such conditions and implement initial response actions. These conditions are termed significant hazards because they pose a potential short-term health risk to exposed individuals. The DEEP coordinates...'. The 'Legend' panel is titled 'Status of Significant Environmental Hazards' and lists: 'Open' (red circle), 'Controlled' (orange circle), and 'Resolved' (green square). The 'Basemap Gallery' panel shows two options: 'Imagery with Labels' and 'Topographic'. Below the gallery, the text 'within 200 feet in any direction of a drinking' is partially visible.



# Announcements – NEW SEH Map





# Questions or Comments?

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Please Speak into Microphone  
and State Your Name

[www.ct.gov/deep/remediationroundtable](http://www.ct.gov/deep/remediationroundtable)



# Announcements - Courses

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- ▶ LEP Verification Course (EPOC/DEEP)  
December 4, 2018





# Update Wave 2

## Remediation Standard Regulations

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Betsey Wingfield  
Bureau Chief

Bureau of Water Protection and Land Reuse



# Questions or Comments?

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Please Speak into Microphone  
and State Your Name

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# Remediation Roundtable Tips





## Tip #22. Site-wide Metals

- ▶ When handling Site-wide Metals – separate concepts:
  - ▶ Release Area (Site-wide Fill) – 95% UCL
  - ▶ Background demonstration
  
- ▶ For a release (such as site-wide fill), 95% UCL could be an appropriate tool to demonstrate compliance:
  - ▶ With statistically representative sampling from Release Area
    - ▶ Conceptual Site Model
    - ▶ Release delineation
    - ▶ Lines of evidence
  - ▶ With appropriate number of samples
  - ▶ Requires use of appropriate calculation method

22a-133k-2(e)(1)(A)  
22a-133k-2(e)(2)(A)



## Tip #22. Site-wide Metals

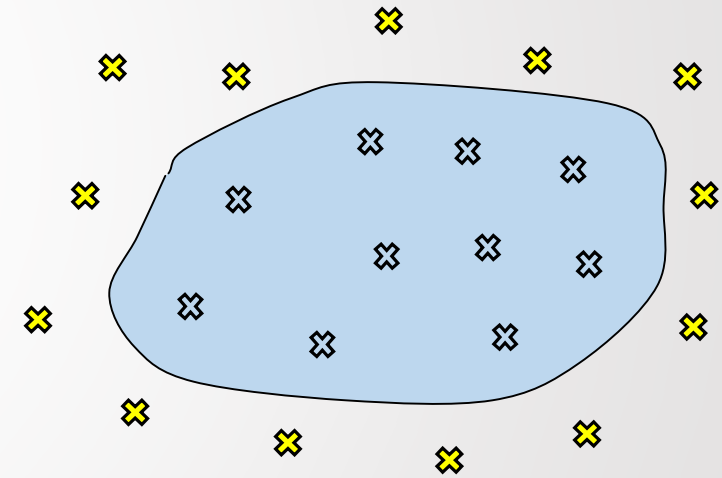
- ▶ For a background condition, demonstration includes:
  - ▶ Robust characterization
    - ▶ Conceptual Site Model
    - ▶ Site History / Environmental Setting
    - ▶ Constituents of Concern
    - ▶ Not in a Release Area / Similar "Native" Soil
  - ▶ Comparison of concentrations
    - ▶ Tools (Direct comparison / Graphical options / Statistical)
    - ▶ Multiple Lines of Evidence
- ▶ Demonstration of background does not involve a comparison to criteria using a 95% UCL (background is the cleanup goal)

22a-133k-2(a)(2)



## Tip #22. Site-wide Metals

- ▶ Metals Release Area & Background Concentration (Combined Scenario)
  - ▶ Concern is that background concentrations may be used in the 95% UCL which would "average out" the release area
  - ▶ Need to keep separate
  - ▶ Handle each as discussed on previous slides
  
- ▶ By combining the concepts on a site there is potential to reach an inappropriate conclusion, so be sure to handle the two scenarios separately





# Questions or Comments?

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and State Your Name

[www.ct.gov/deep/remediationroundtable](http://www.ct.gov/deep/remediationroundtable)



## Tip #23. GA Area PMC Exemptions/Variations

- ▶ In a GA Area, by default, the PMC applies to the seasonal low water table
- ▶ Some PMC Exemptions (Environmentally Isolated) and PMC Variations (Engineered Control) apply only down to the seasonal high water table
  - ▶ Environmentally Isolated – states “and (D) above the seasonally high water table” in the definition [22a-133k-1(a)(18)]
  - ▶ Engineered Control – states “has been designed and will be constructed to minimize migration of liquids through soil” [22a-133k-2(f)(2)(B)(i)] and mentions “environmentally isolated” in the definition [22a-133k-1(a)(18)]
- ▶ This can create an area (the smear zone between the seasonal low and high water tables) where the GA PMC still applies



# Pollutant Mobility Criteria



Not to Scale



## Tip #23. GA Area PMC Exemptions/Variations

- ▶ Have a plan for handling where the PMC will still apply in a GA Area, such as:
  - ▶ Does release even reach this area (CSM)
  - ▶ Applicability to high water table where remediation is “not technically practicable or would not result in permanent elimination of a source of pollution” [22a-133k-2(c)(1)(A)(i)]
  - ▶ Options for demonstrating compliance, such as SPLP/TCLP compared to GWPC or use of 95% UCL
- ▶ Keep in mind - Contamination in the area between the seasonal high and low water table still has the potential to be an ongoing source of pollution to the groundwater and may keep the groundwater from meeting applicable criteria (Background/GWPC, SWPC, VoIC)



# Questions or Comments?

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Please Speak into Microphone  
and State Your Name

[www.ct.gov/deep/remediationroundtable](http://www.ct.gov/deep/remediationroundtable)

# 30 Years Old and Out: Federally Regulated UST Removal Statistics and More...

Paul Clark

Environmental Analyst 3

Site Assessment and Support Unit / LUST Coordination

Emergency Response & Spill Prevention Division

Bureau of Material Management & Compliance Assurance



Connecticut Department of Energy and Environmental Protection



## Then and Now: Shallow Groundwater and Bedrock



Connecticut Department of Energy and Environmental Protection

Paul Clark

# Take Away Points

- Enforce Life Expectancy Regulation – 30 years
- UST Removal Statistics and Closure Inspections
  - 2015 to 2018 (Historic/Unknown)
- Birth of New Policy - 10 Year Extension
- Secure File Transfer Website – Handle the load



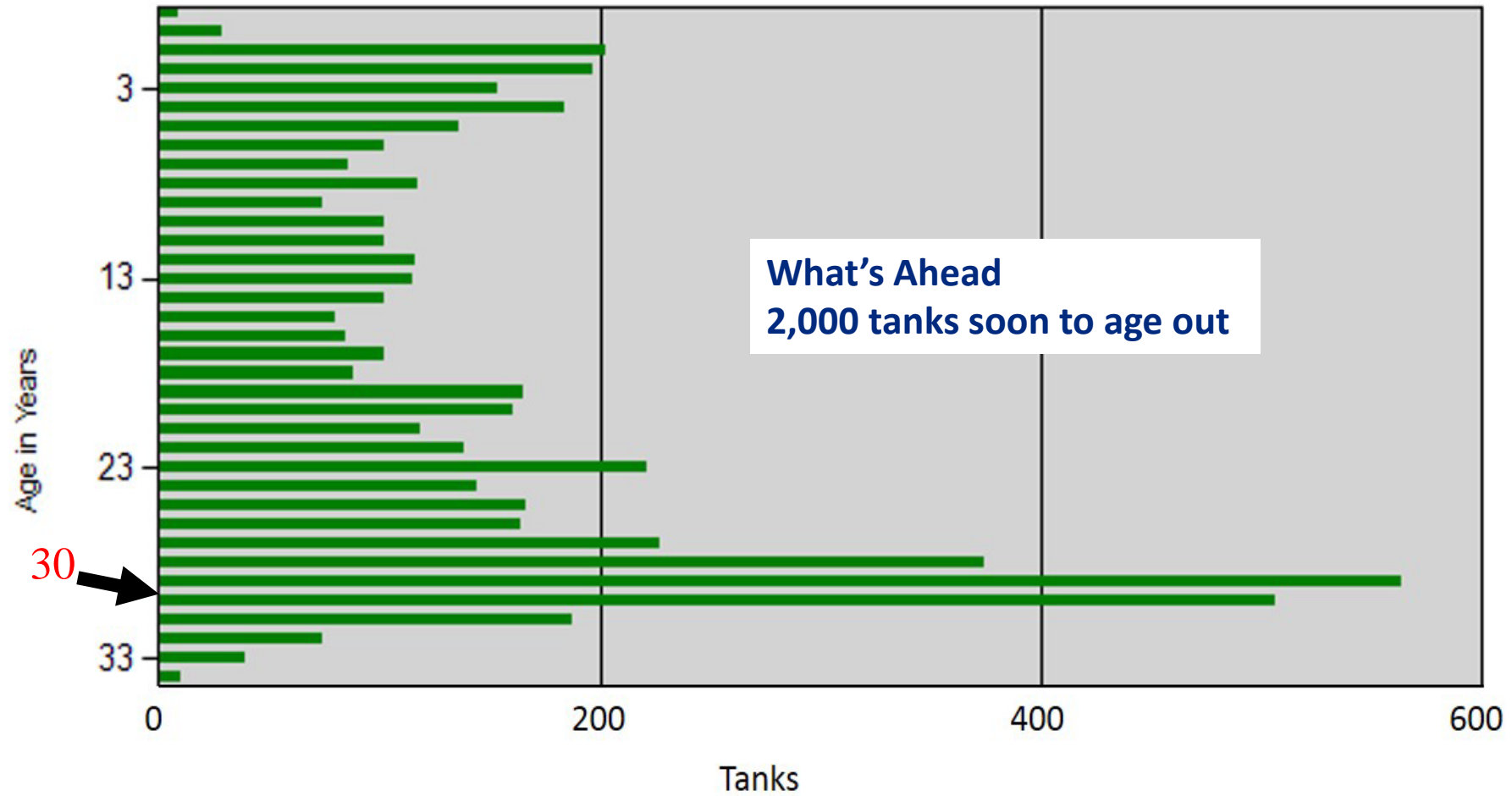
# Origin of 30 Year Life Expectancy

- November 1, 1985: CT's UST Regulations Section 22a-449(d)-1(h)
- Life expectancy is based on manufacturers warranty
- Stip-3 and Xerxes have 30-year performance warranties



# Ages of Federally Regulated USTs

Age vs Tank Count 2018





# Federally Regulated USTs in CT

- In 1992, there were 34,792 active USTs at ~11,000 facilities
- Currently, there are 5,712 active USTs at 2,176 facilities
- During the last 3\* years, ~1,000 federally regulated USTs were removed from 459 UST facilities

\* July 19, 2015 though July 18, 2018



Connecticut Department of Energy and Environmental Protection

Paul Clark

# Then – Reactive

- 1985 & 1994: Forming Regulations
- 1988 to 1998: Bare-steel UST closures
- DEEP's Spills Unit and cleanup contractors busy mitigating impacts from bare-steel USTs
- Cleanup technology and state regulations were new but evolving
- Regulated compound list was not as comprehensive (TPH,8010/8020)
- The beginning of the LUST backlog



# Now – Proactive

- Remediation Standard Regulations - 1996
- Pre-Removal Outreach (2015)
  - UST removal notification requirement- 30 days prior
  - Sampling and Analytical guidance (expectations) including RCPs, DQA/DUE (2012)
- UST Closure Inspections
- Electronic submittal of reports (2017)
- Facilitates LUST Closure

[https://www.ct.gov/deep/cwp/view.asp?a=2715&q=324956&deepNav\\_GID=1626](https://www.ct.gov/deep/cwp/view.asp?a=2715&q=324956&deepNav_GID=1626)



Release  
response  
UST-106

Significant  
Environmental  
Hazard  
condition  
CGS 22a-6u



Now: Oversight leads to comprehensive cleanup



Connecticut Department of Energy and Environmental Protection

Paul Clark

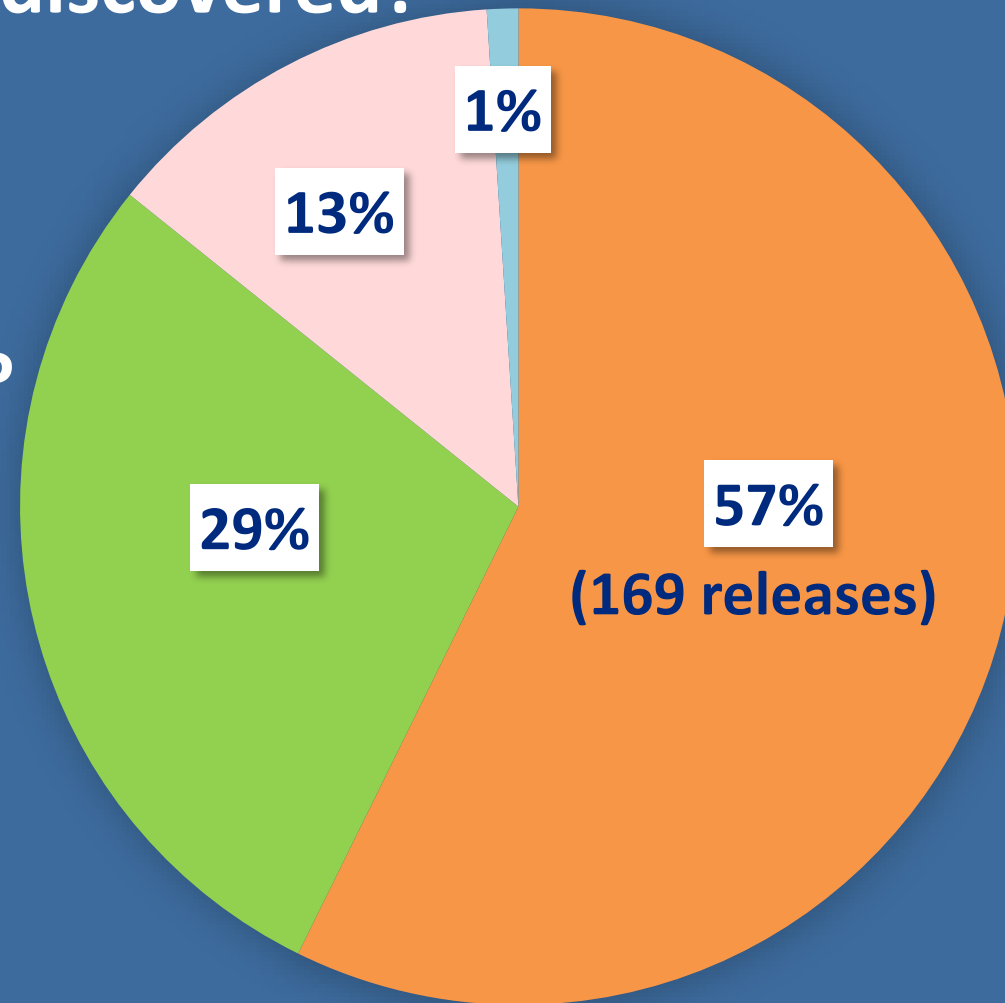
# A Statistical Look at all Releases Discovered in the Last 3 years



# 295 Releases were Discovered in the Last 3 years

## How the releases were discovered?

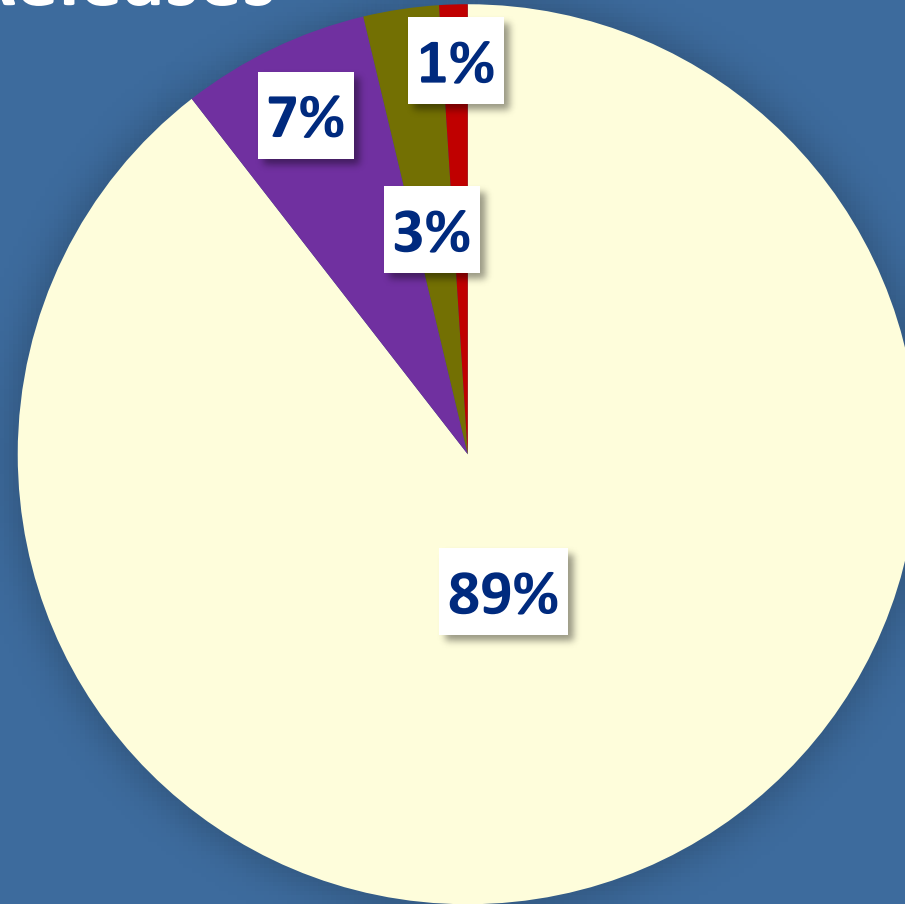
- UST Removals/Closures
- Visual/Reported to DEEP
- Site Assessments
- Other



# Source/Cause of Releases Discovered in Last 3 Years

## Sources/Causes of 295 Releases

- Historic/Unknown
- Damage to UST system
- Tank - corrosion
- Other



# Public Record Requirement

SOURCE			CAUSE													
			Spill		Overfill		Phys/Mech Damage		Corrosion		Install Problem		Other		Unknown	
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%
Tank	6	6	0	0		0	2	33	3	50	1	17	0	0	0	0
Piping	7	7	0	0		0	3	43	0	0	0	0	0	0	4	57
Dispenser	8	8	0	0	3	38	0	0	0	0	0	0	0	0	5	63
STP*	1	1	0	0	0	0	1	100	0	0	0	0	0	0	0	0
Delivery Problem	3	3	0	0	1	100	0	0	0	0	0	0	0	0	0	0
Other	2	2	0	0	0	0	1	50	0	0	0	0	1	50	0	0
Unknown**	71	72	0	0	0	0	0	0	0	0	0	0	0	0	71	100
Totals	98	100	0	0	6	6	7	7	3	3	1	1	1	1	80	82

[https://www.ct.gov/deep/lib/deep/underground\\_storage\\_tanks/publicrecord/public\\_record\\_summary.pdf](https://www.ct.gov/deep/lib/deep/underground_storage_tanks/publicrecord/public_record_summary.pdf)



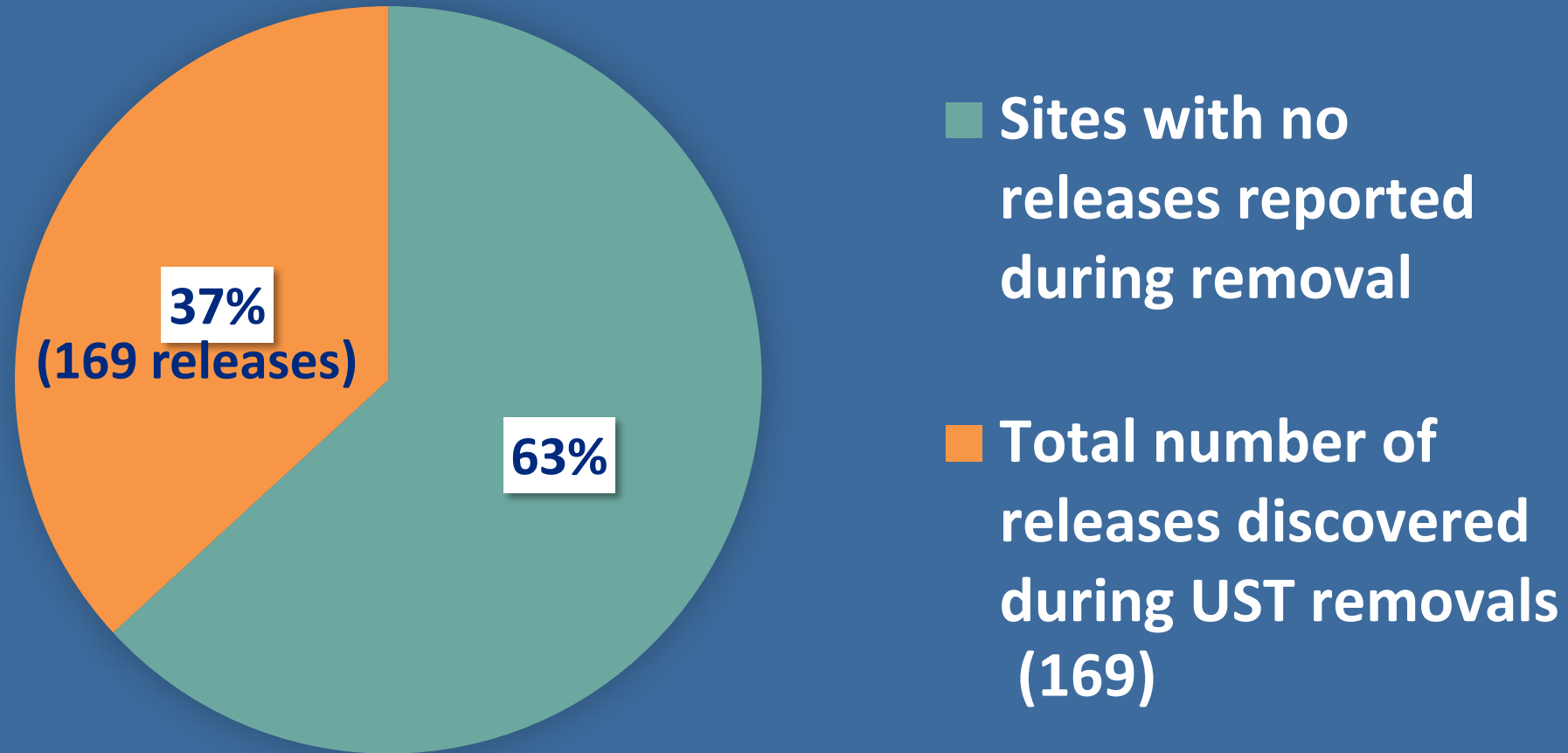


# UST Removal Statistics for the Last 3 Years



# USTs Removals in the Last 3 Years

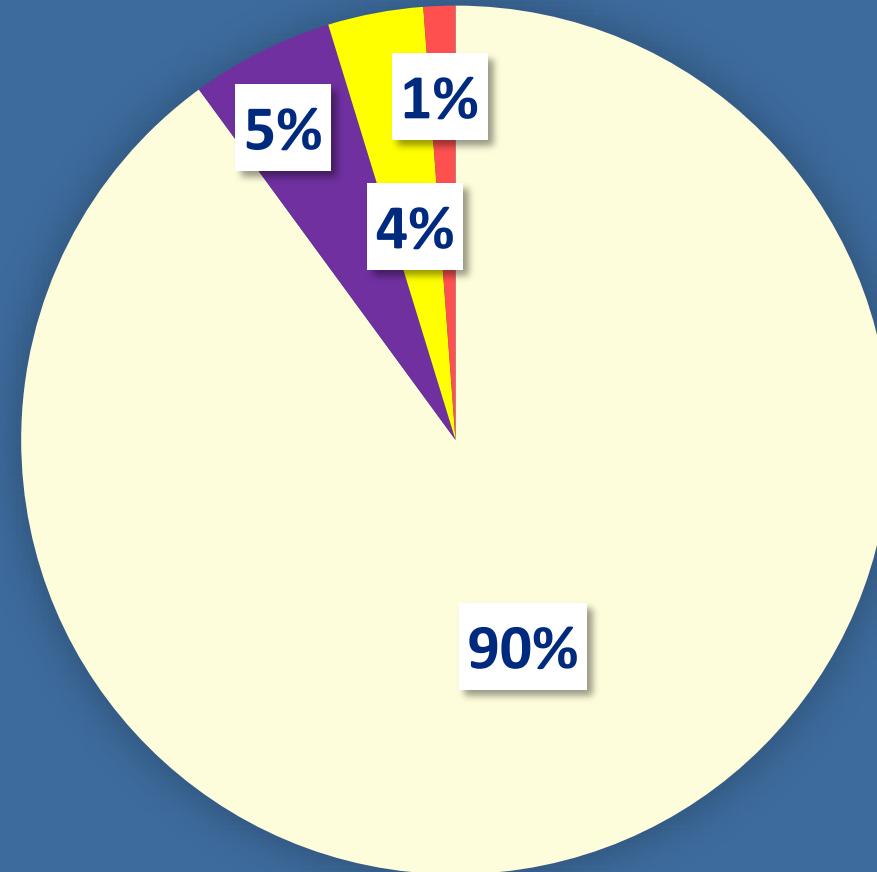
459 Sites with USTs removed in last 3 years



# Source/Cause of Releases Discovered During UST Removals

## 169 releases were reported during UST removals

- Historic/Unknown
- Damage to UST system
- Corrosion in orphaned tank
- Corrosion in current tank



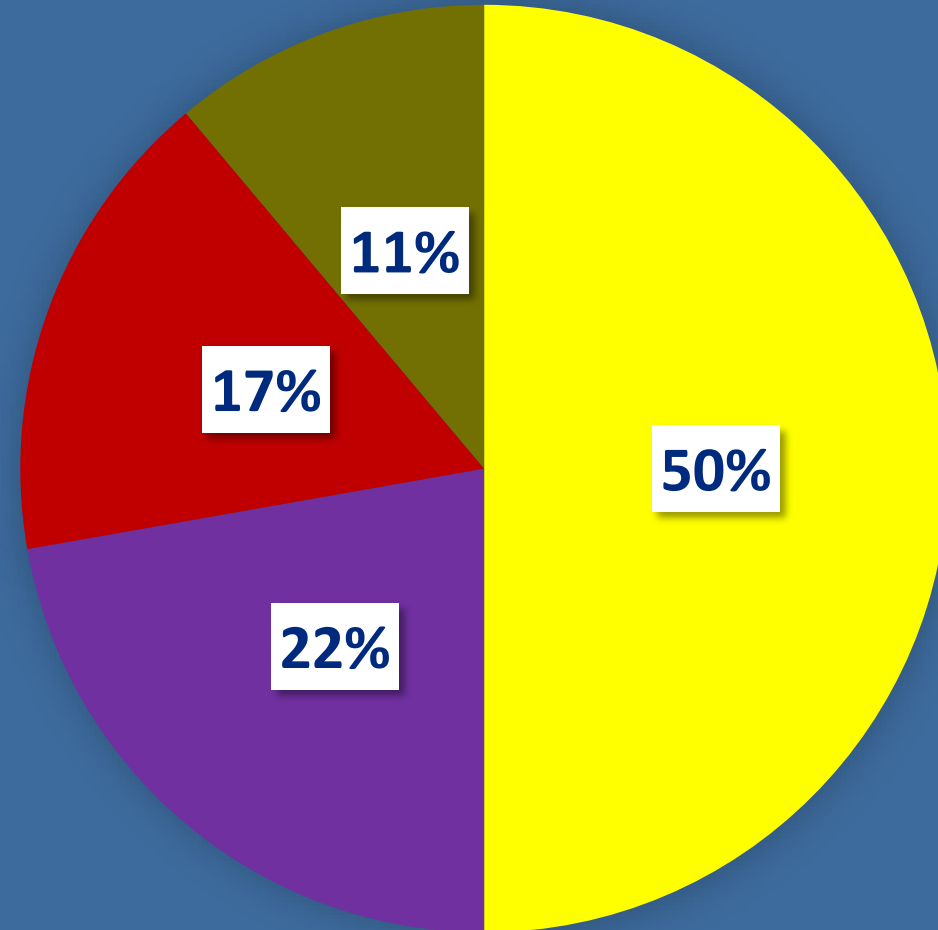
Only 25 of the all Releases were  
from Active Tanks



# Breakdown of the 25 Releases from Active Systems in Last 3 Years

## Sources/causes of releases from active sites

- Damage to Dispenser
- Damage to UST system
- Other
- Tank - corrosion



# Approval of Extended Life Expectancy

- Removal statistics and field closure observations formed the basis for the commissioner to approve an alternative life expectancy in 2016
- Extended life expectancy for up to 10 years with the following caveats: (80 sites)
  - Eligibility Requirements- (fiberglass UST's, non-metallic piping, containment sumps w/sensors, tightness testing, interstitial testing, no water supply wells)
  - Maintaining Eligibility: Annual tank and semi-annual piping testing



# Path to Paperless

## Buzz Words:

ezFile

Secure File Transfer

FileNet Viewer

Taxonomy

Indexing

Please don't submit duplicate copies through both ezFile and SFT



Connecticut Department of Energy and Environmental Protection

# Transitioning to Electronic

- Obtained access to State Library approved electronic repository (“FileNet”)
- Developed standardized taxonomy and acceptable document format
- Established secure file transfer website (SFT) to receive documents from the public (2017)
- Created instructions for use of the document transmittal website





# Sure Busy in CT

- Statistics 2015 to 2018 (historic/unknown)
  - 1,000 tanks at 459 sites (170 releases)
- Upfront Engagement (guidance, timely follow-up, risk reduction)
- Secure File Transfer Website/LUST Closures
- Future State: 2018 to 2022
  - 2,000 tanks at maybe 800 sites (400 releases)
  - Tanks left behind – walk-aways





# Questions or Comments?

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Please Speak into Microphone  
and State Your Name

[www.ct.gov/deep/remediationroundtable](http://www.ct.gov/deep/remediationroundtable)



# ELUR Certificate of Title and Verifications

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Amy Richardson and Claire Quinn  
Environmental Analysts  
Remediation Division



# ELUR Certificate of Titles and Site Verifications

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What is a Certificate of Title (COT)?

What is a COT's role in the Verification Process?

What is the COT's role in the Environmental Land Use Restriction process?

Why is the COT what is required for verification?

## Why are Certificates of Title important?



# ELUR Certificate of Titles and Site Verifications

## CONCEPTUAL GLOSSARY OF ELUR TERMS:

- ▶ **Recorded document on the title search** – any item on the land records in the chain of title for a parcel.
- ▶ **Interest in the land** – a right to possess or own a parcel or portion thereof that has an effect on the property, to be evaluated for its effect, if any, on the ELUR.
- ▶ **Subordination** – a legal agreement between an interest holder and the owner of a parcel that subjects an interest recorded prior to an ELUR to the restrictions or obligations of the ELUR as if it were subsequently recorded.
- ▶ **Waiver of Subordination Approval Letter** – letter written by the Department approving that a previously recorded interest does not affect the restrictions set forth within the ELUR, and therefore a subordination agreement is not required. (22a-133o(b)(1))



# ELUR Certificate of Titles and Site Verifications

## WHAT IS A CERTIFICATE OF TITLE?

- Legal opinion of title
- Signed by an attorney admitted to practice in Connecticut
- Includes the recorded ELUR with date and any other ELUR related documents such as subordination documents or waiver of subordination approval letter
- The Decision Document is not a Certificate of Title

## WHAT IS ITS ROLE IN THE ENVIRONMENTAL LAND USE RESTRICTION PROCESS?





# ELUR Certificate of Titles and Site Verifications

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## PRELIMINARY CERTIFICATE OF TITLE VERSUS A TITLE SEARCH

- ▶ The Department prefers a title search with no opinion included
- ▶ What are we looking for during the draft ELUR process?
  - ▶ Title search including all documents recorded on the land records for the property
  - ▶ This gives the Department the opportunity to understand the decision making process

**NOTE:** Please also include copies of documents of identified items that are present on the title search for review.



# ELUR Certificate of Titles and Site Verifications

## TITLE REPORT

**Property:** 199 Brickyard Road, Farmington, CT 0632

**Date and Time of Report:** December 07, 2016

**Search Information:** Good through December , 2016

**Record Owner:** Farmington River Properties LLC

**Parcel ID(s):** 03337; Map/Block/Lot: 25/3A

**Tax Information:** Tax Year: 2015

Total Assessment: \$448,240.00

Total Yearly Tax: \$12,711.20

Taxes Paid Semi-Annually

1<sup>st</sup> Payment Due: 07/01/2016 Amount: \$6,355.60 Paid

2<sup>nd</sup> Payment Due: 01/01/2017 Amount: \$6,355.60 Not Paid

Delinquent Taxes: None

**Chain of Title:**

Deed: Special Warranty Deed, dated 10/03/2000

Grantee: Farmington River Properties LLC

Grantor: Edward T. McPhee Jr.

Record Date and Data: 10/03/2000 in Volume 635 at Page 174

Deed: Warranty Deed, dated 12/21/1994

Grantee: Edward T. McPhee Jr.

Grantor: Frederick E. Hazard Jr.

Record Date and Data: 12/21/1994 in Volume 493 at Page 239

### **Security Instruments:**

Borrower: Farmington River Properties LLC

Lien Holder: Webster Bank

Dated: 02/26/2014 Rec. Date: 02/26/2014 Book/Page: 1086 at 73

Amount: \$240,000.00

Note: Assignment of Leases & Rents recorded in Volume 1086 at Page 106.

### **Liens (Judgments, Federal/State Tax Liens, etc. and Bankruptcies:**

20 Year Search - None by Farmington River Properties, Edward McPhee, and Frederick Hazard, excepting :

Lien Type: UCC-1 Financing Statement, amount not stated.

Lien Holder: Webster Bank

Against: Farmington River Properties LLC recorded in Volume 1086 at Page 111, dated and recorded on 02/26/2014

### **Covenants, Conditions and Restrictions:**

Easement from Doris Golinsky Trustee, Herbert Golinsky, Trustee, Alfred Rosenthal Trustee of the Jed Golinsky Family Trust and Leonard Greenberg Trustee, Arnold C. Greenberg Trustee of the Iris Spungin Family Trust to Dunning Sand & Gravel Company dated 04.29/1983 and recorded 04/29/1983 in Volume 293 at 1035.





# ELUR Certificate of Titles and Site Verifications

## ▶ WHAT HAPPENS AFTER ELUR IS EXECUTED AND RECORDED?



PROPERTY ADDRESS: 10 and 36 Main Street, Monroe

DATE: February 23, 2017

### SCHEDULE A (Legal Description)

#### CERTIFICATE OF TITLE

#### PARCEL ONE:

ALL THOSE CERTAIN pieces or parcels of land, together with the buildings and improvements thereon, situated in the Town of Monroe, County of Fairfield, and State of Connecticut, located easterly of the Newtown Turnpike (Route 25) in Lower Stepney, which are delineated on a certain map entitled, "Map of Property of John M. Snyder, Monroe, Conn., Scale 1" = 100' = Mar. 16, 1945", made by Bernard J. Shelomis, Surveyor, and filed in the Monroe Town Clerk's Office as Map No. 141, and, as delineated on said map, are bounded as follows:

#### First Piece:

WESTERLY: by the Newtown Turnpike (Route 25), a total distance of 624.56 feet, more or less; NORTHERLY: by Parcel Two

The undersigned hereby certifies that after an examination of the land records, as indexed, of the City/Town in which the land and appurtenances described in Schedule A are located, the undersigned is of the opinion that title in FEE SIMPLE is vested in **10 MAIN STREET, LLC** subject only to those matters appearing on Schedule B hereof.

This Certificate of Title is issued to **Commissioner of Energy and Environmental Protection, State of Connecticut and** and is not assignable.

### SCHEDULE B

Certified to the **23rd day of February 2017 at 11:24 a.m.**

1. Any and all provisions of any municipal regulation or ordinance, and any Federal, State, or Local public or private laws, with special reference to the provisions of any zoning rules and regulations governing the subject premises.
2. Such facts as an accurate survey and/or physical inspection of said premises might reveal.
3. Any assessments or pending assessments for which a lien or liens have not as yet been filed or recorded in the Town Clerk's Office.
4. Rights of present tenants, lessees or parties in possession not shown by the public Records.

By:   
Attorney at Law



# ELUR Certificate of Titles and Site Verifications

## ▶ WHAT HAPPENS AFTER ELUR IS EXECUTED AND RECORDED?

Waterbury, Connecticut  
October 23, 2017  
9:44 A.M.

### LIMITED CERTIFICATE OF TITLE

THIS IS TO CERTIFY that, after an examination of (i) First American Title Insurance Company Owners Policy Number CTOe.388812192 dated February 24, 2009 (“Title Policy”), attached to the Limited Certificate of Title dated January 21, 2016 (“2016 Certificate”) and (ii) the Land Records, as properly indexed, of the Town of Plymouth, County of Litchfield, State of Connecticut, from the date and time of the Title Policy to the date and time hereof (ii) the Land Records, as properly indexed, of the Town of Plymouth, County of Litchfield, State of Connecticut, from the date and time of the 2016 Certificate to the date and time hereof, we are of the opinion that so far as appears from said examination **100 South Riverside, LLC** is the owner, in fee simple of all that certain piece or parcel of land together with any improvements thereon located in said Town of Plymouth, as more particularly described on Schedule A hereto.

We are of the further opinion that, so far as appears from our examination within the time period aforesaid, said premises are free and clear of all encumbrances except those set forth in the 2016 Certificate and the following new items of record, and that each applicable interest in the land or any part thereof as recited in said 2016 Certificate has been irrevocably subordinated to the ELUR, has been included in the Approval, or in the case of Item 12 below, is subsequent in right to the ELUR, all as set forth below:

1. Real estate taxes to the Town of Plymouth on the Grand List of October 1, 2016 2016 in the total amount of \$15,847.82. First half, due July 1, 2017, in the amount of \$7,923.91 is paid.

2. Property Owner Affidavit by William J. Sweeney, Esquire. receiver for 100 South

12. Open End Mortgage Deed Securing Line of Credit Advances, \$30,000.00, 100 South Riverside LLC acting by and through its Receiver, William J. Sweeney to SPX Corporation dated October 19, 2017, recorded October 23, 2017 at 9:44 a.m. in Volume 465 at Pages 473 through 488, all of the Plymouth Land Records.

NOTE 1: The physical conditions set forth in Items 7a, 7i and 7l of the property, if those physical conditions still exist, are depicted on the ELUR Exhibit C surveys, supersede all prior property surveys by reflecting the current conditions of the property. None of the physical conditions recited take precedence over the ELUR granted in Item 4 above.

NOTE 2: We found no evidence of any adverse claim by the adjoining landowner as referenced in Items 7m, 7i and 7a in the 2016 Certificate on the Plymouth Land Records or in the records of the Superior Court for the State of Connecticut.



Respectfully submitted,

By: Marianne Barbis DeLongue

Its Partner




# ELUR Certificate of Titles and Site Verifications

- Department reviews final COT and compare to original title search submitted
  - Declaration of Environmental Land Use Restriction and Grant of Easement,
  - Approval of Request for Waiver From Certain Subordination Agreements (if applicable), and
  - Subordination agreements



- After everything is submitted and checks out, we send a Notice of Receipt


 Connecticut Department of  
**ENERGY &  
 ENVIRONMENTAL  
 PROTECTION**

79 Elm Street • Hartford, CT 06106-5127      www.ct.gov/deep      Affirmative Action/Equal Opportunity Employer

**Notice of Receipt**  
Environmental Land Use Restriction

Sent by email on August 20, 2018

M. Anne Peters  
 Carmody Torrance Sandak & Hennessey LLP  
 apeters@carmodylaw.com

RE:    One Dock Street 1 Dock Street, Stamford	REMID# 8722
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By August 17, 2018 the Remediation Division of the Bureau of Water Protection and Land Reuse ("Department") received the following documents for the above referenced Property:

- Certificate of Title submitted pursuant to Section 22a-133o(c) of the Connecticut General Statutes (CGS);
- Recorded copy of the approved Environmental Land Use Restriction (ELUR) and associated exhibits; and



# ELUR Certificate of Titles and Site Verifications

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WHAT HAPPENS IF A NEW INTEREST HAS BEEN IDENTIFIED ON THE TITLE?

## OPTION 1: PREVENTATIVE MEASURE (PREFERRED)

1. Before recording your ELUR – perform a bring-down search of the title
2. If you see an interest, stop, and do not record
3. Submit the bring-down to the Department showing the item with either a subordination agreement or a request for a Waiver of Subordination Approval Letter
4. Proceed to recording the ELUR on the land records



# ELUR Certificate of Titles and Site Verifications

## WHAT HAPPENS IF A NEW INTEREST HAS BEEN IDENTIFIED ON THE TITLE?

### OPTION 2: HOW TO FIX THE PROBLEM

1. Submit new title search with additional item(s) to Department
2. Department reviews and determines if item is an interest in the property or not requires a subordination agreement (hopefully not);
  1. If the item is not an interest, there is no problem
  2. If the item is an interest, the property owner obtains a subordination agreement, or requests a Waiver of Subordination Approval Letter
3. The subordination agreement or the Waiver of Subordination Approval Letter are then recorded
4. A new COT is then submitted to the Department



# ELUR Certificate of Titles and Site Verifications

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## WHAT HAPPENS IF A NEW INTEREST HAS BEEN IDENTIFIED ON THE TITLE?

- ▶ COT to Document to show the ELUR has been recorded in accordance with CGS
- ▶ Without a COT, the RSR remedy requiring the ELUR is not valid and therefore verification is also not valid



# ELUR Certificate of Titles and Site Verifications

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## SO WHAT IS THE CERTIFICATE OF TITLE'S ROLE IN THE VERIFICATION PROCESS?

- ▶ Document to show the ELUR has been recorded in accordance with CGS
- ▶ Without a COT, the RSR remedy requiring the ELUR is not valid and therefore your verification is also not valid



# ELUR Certificate of Titles and Site Verifications

---

- ▶ Team aspect to complete an ELUR
  - ▶ LEP, Attorney, and Property Owner
  - ▶ Audit Coordinator and ELUR Team Member
- ▶ Notice of Receipt as a tool for acknowledging the ELUR package is complete
- ▶ The Department recommends to wait for COT to be reviewed and acknowledged before submitting verification
- ▶ Verification screening outcome cannot be determined until ELUR is complete (includes COT)





# Questions or Comments?

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Please Speak into Microphone  
and State Your Name

[www.ct.gov/deep/remediationroundtable](http://www.ct.gov/deep/remediationroundtable)

# Flood Management Program

Jeff Caiola  
Supervising Civil Engineer  
Land & Water Resources Division  
[jeff.caiola@ct.gov](mailto:jeff.caiola@ct.gov)



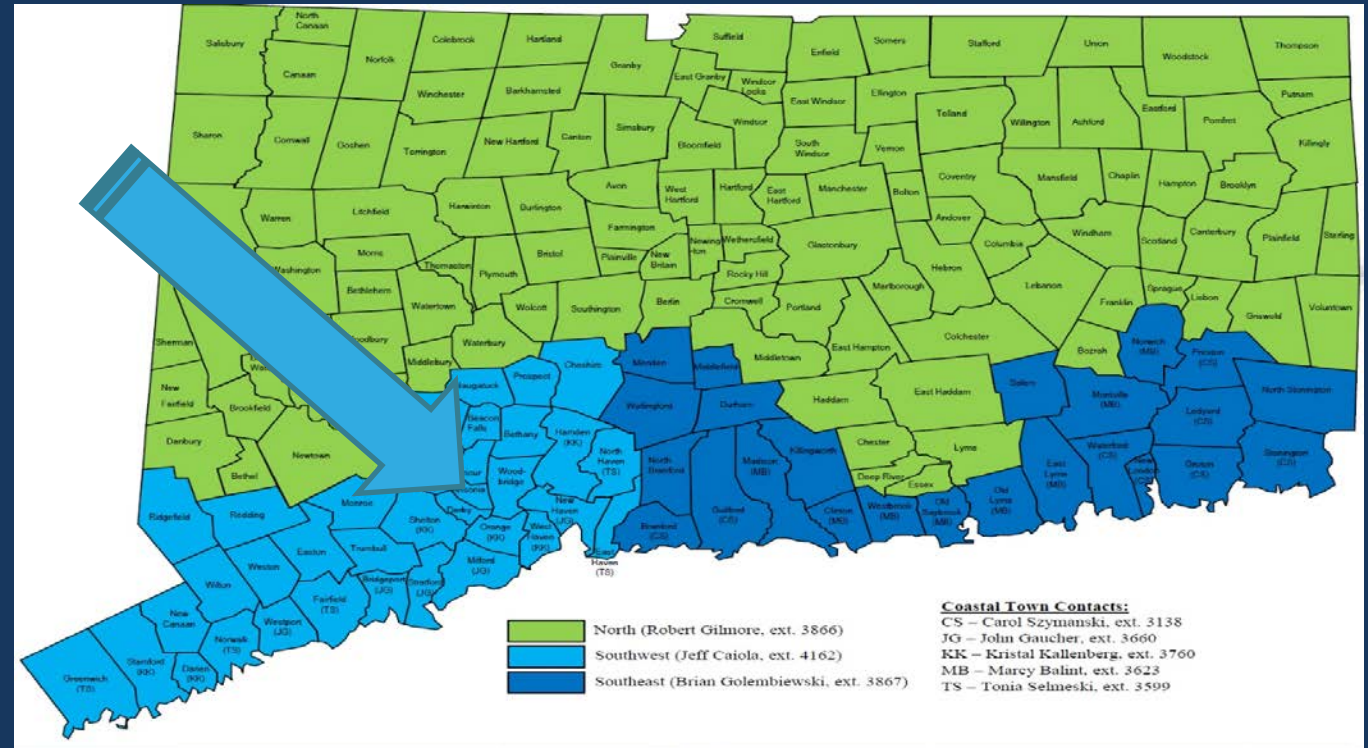
Connecticut Department of Energy and Environmental Protection

# Land and Water Resources Division

LWRD - 3 Regulatory Regions  
North, Southeast & Southwest

## Southwest Regulatory Region

- Site Specific Decisions for all LWRD programs
- Administration of the Flood Management Program
- Resiliency
- NFIP Coordinator
- Dredging Program



# Why Flood Management ?



**Hurricane 1938**



**Sandy 2012**



# Why Flood Management?



September 2018



The National Weather Service recorded 7.3 inches of rain in some areas of the state which yields just over a 500 year storm for a 6 hour duration



Connecticut Department of Energy and Environmental Protection

Jeff Caiola

# Flood Management Program



Connecticut Department of Energy and Environmental Protection

Jeff Caiola

# Flood Management Program

## History - Federal Government

- **National Flood Insurance Act (1968)**
  - Creation of the National Flood Insurance Program
  - Made flood insurance available for the first time.
  - Florida and Louisiana following the destruction caused by the Hurricane Betsy flood surge in 1965
- **Flood Disaster Protection Act (1973)**
  - Made the purchase of **flood** insurance mandatory for the **protection** of property within Special Flood Hazard Areas (SHFA)



# Start of Flood Management Program – State of CT

## Executive Order 18 - Gov. Ella Grasso (June 1977)

- Lessen the risk of flood losses in connection with state lands and installations and state financed or supported improvements
- All state agencies responsible for the administration of grant or loan programs ..... Shall preclude the uneconomic, hazardous, or unnecessary use of floodplains
- ALL state agencies with programs that affect land use planning shall encourage land use appropriate to the degree of hazard





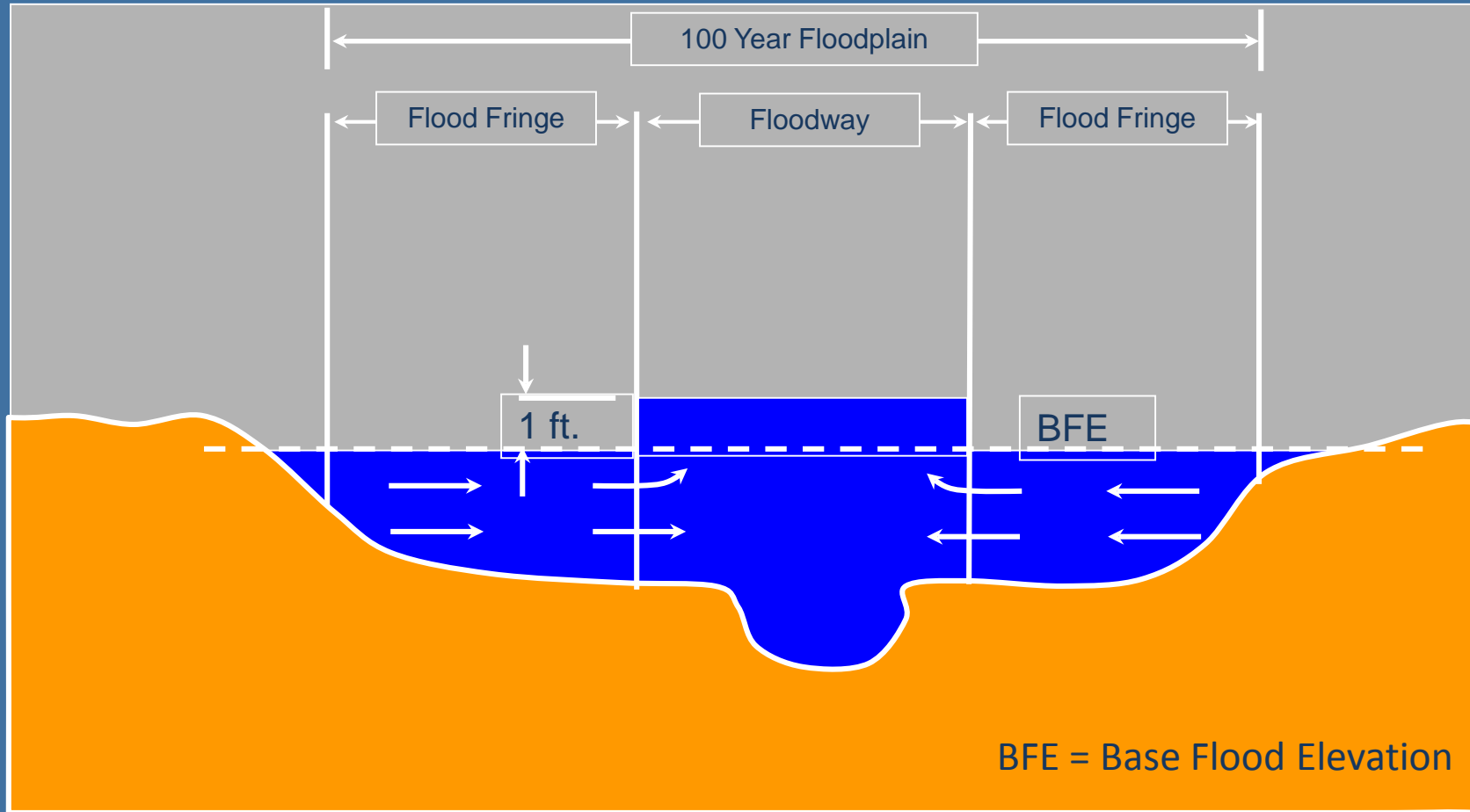
# Flood Management

## Basic Components of the Program

- Floodplain / Floodway Construct
- Flood Maps
- How its all tied together - Federal / Local / State Government

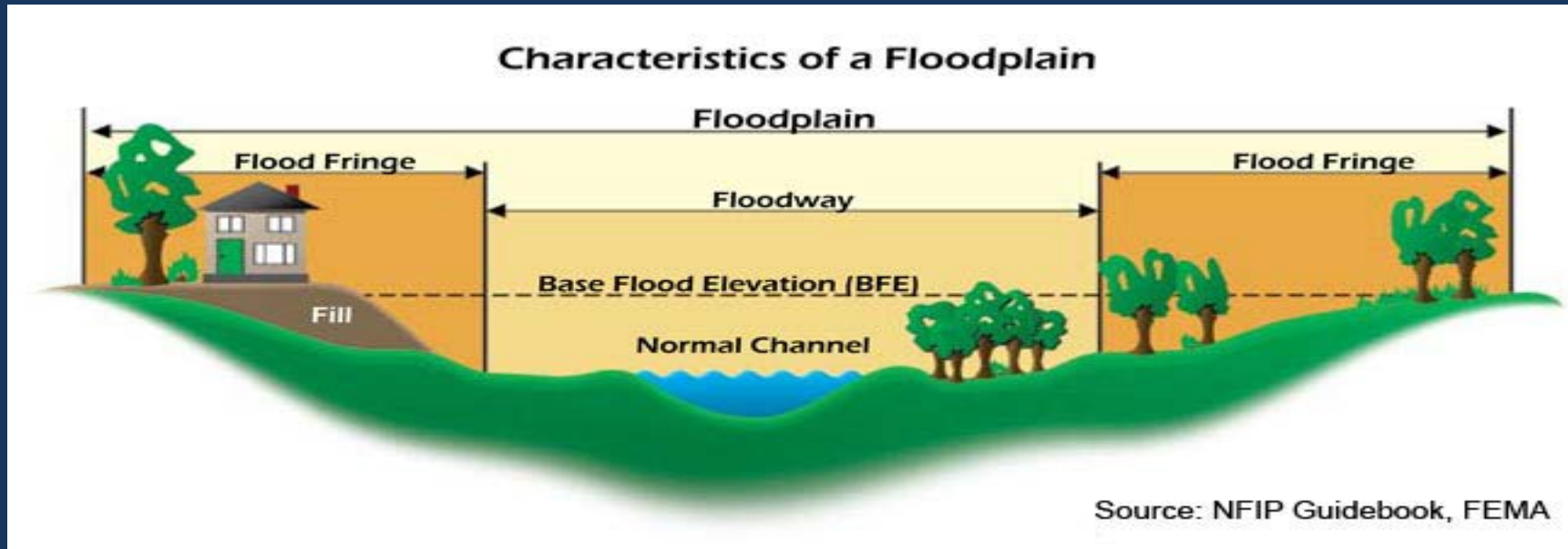


# What is the 100-Year Floodplain?



The 100-year floodplain is the land subject to a 1% or greater chance of flooding in any given year. It is also called the Special Flood Hazard Area (SFHA) by FEMA. Floodway is the channel and adjacent land reserved in order to discharge the base flood.

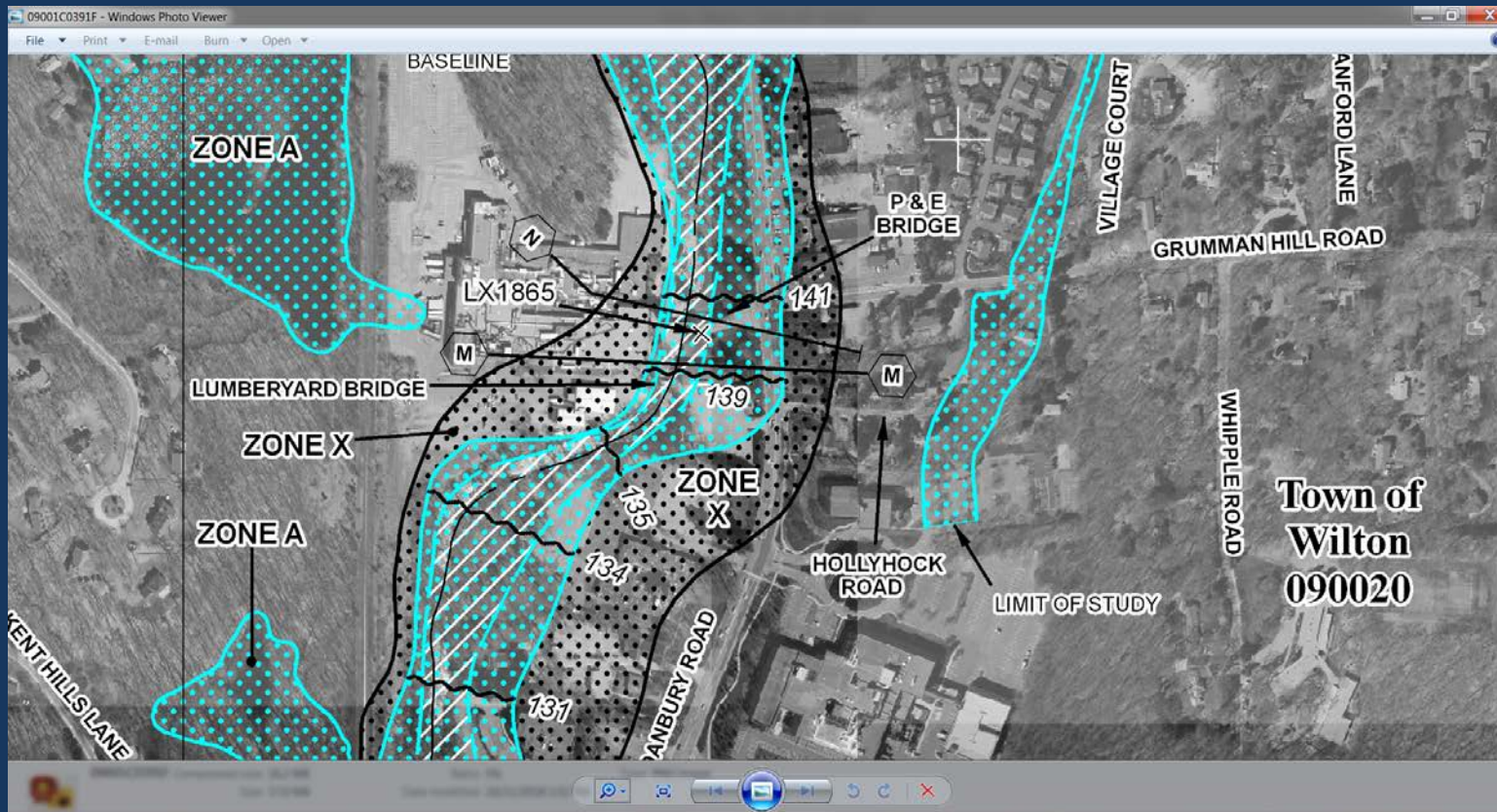
# Riverine Floodplain



A "**Regulatory Floodway**" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.



# Riverine Special Flood Hazard Areas- A, AE & X



FEMA Flood Map Store - <https://msc.fema.gov/portal/home>

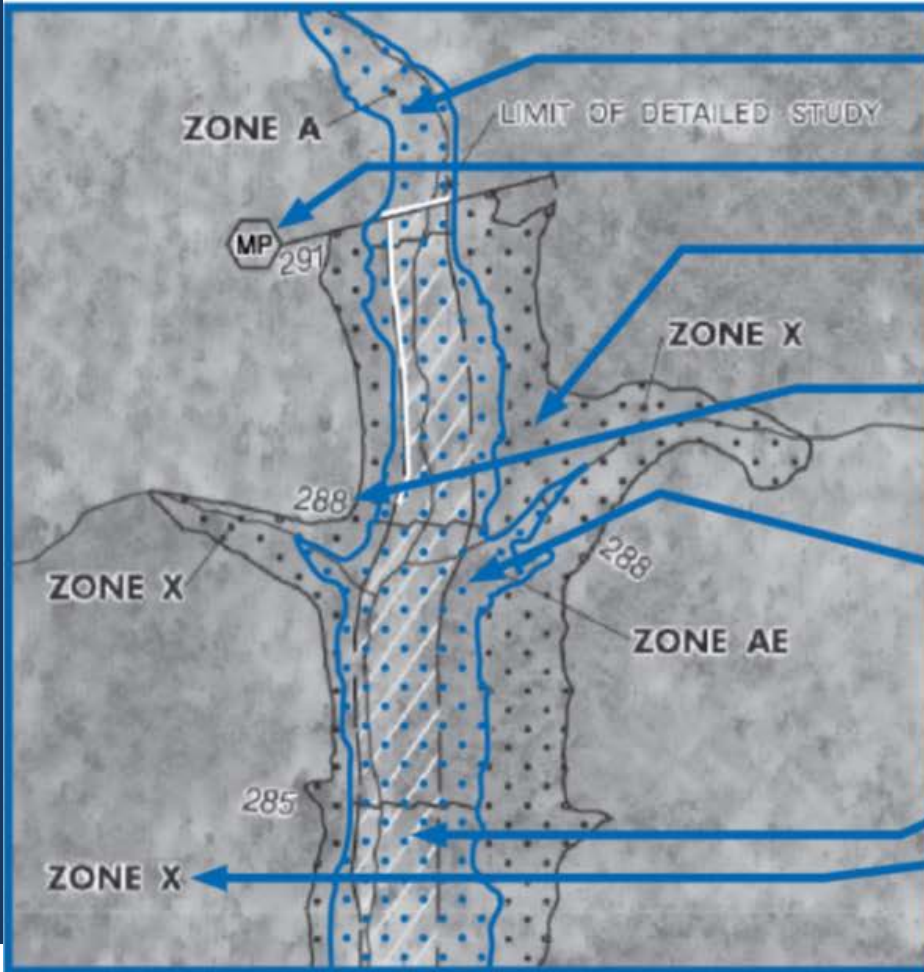


Connecticut Department of Energy and Environmental Protection

Jeff Caiola

# Riverine Special Flood Hazard Areas- A, AE & X

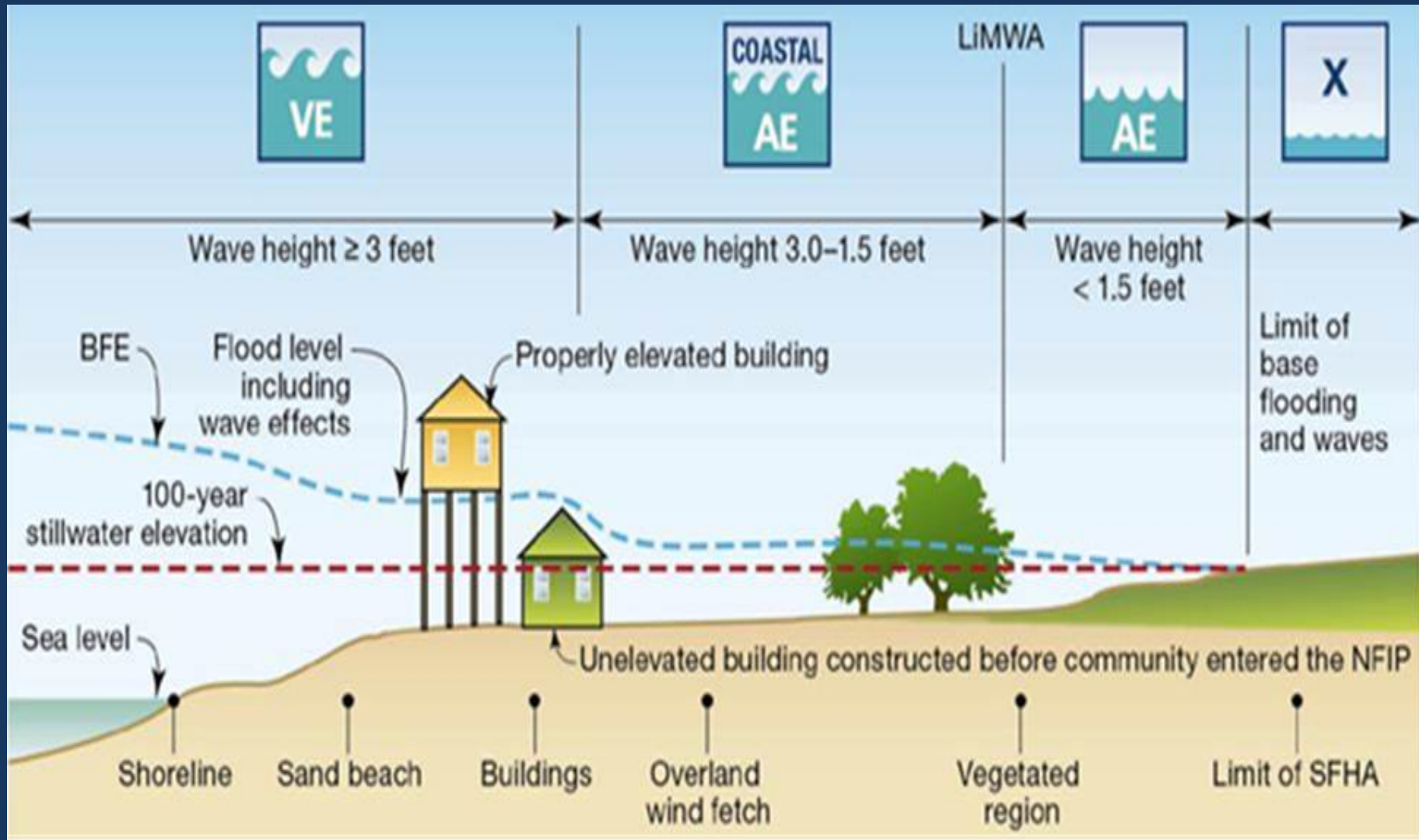
## FEMA Flood Insurance Rate Map (Riverine)



- 1** **Zone A** (approximate) is the flood hazard area without BFEs.
- 2** **Cross Section** location.
- 3** **Shaded Zone X** is the 0.2-percent-annual-chance (500-year) floodplain (formerly Zone B).
- 4** **Base Flood Elevation (BFE)** is the water surface elevation of the base flood rounded to the nearest whole foot (consult FIS profiles and tables for more accurate elevations).
- 5** **Zone AE** is the 1-percent-annual-chance (100-year) floodplain with BFEs (formerly Zones A1-A30).
- 6** The **Floodway** is the cross-hatched area.
- 7** **Unshaded Zone X** is all other areas considered low risk (formerly Zone C).



# Coastal Special Flood Hazard Areas VE, AE & X



Connecticut Department of Energy and Environmental Protection

Jeff Caiola

# Coastal Special Flood Hazard Areas VE, AE & X



FEMA Flood Map Store - <https://msc.fema.gov/portal/home>



Connecticut Department of Energy and Environmental Protection

Jeff Caiola

# Intersection Points of Flood Management & the NFIP

- **Flood Maps & Studies**

- FEMA produces flood maps & studies
- State statute cites the flood maps that are published by FEMA as what defines the floodplain

- **Flood Regulations**

- Communities have to adopt the flood maps and regulations in order to participate in the National Flood Insurance Program
- State of CT has it's own regulations for state activities besides requiring state actions to adhere to municipal & federal regulations

- **Flood Insurance**

- FEMA makes federal flood insurance available to property owners in participating communities (mandatory for mortgage held properties)





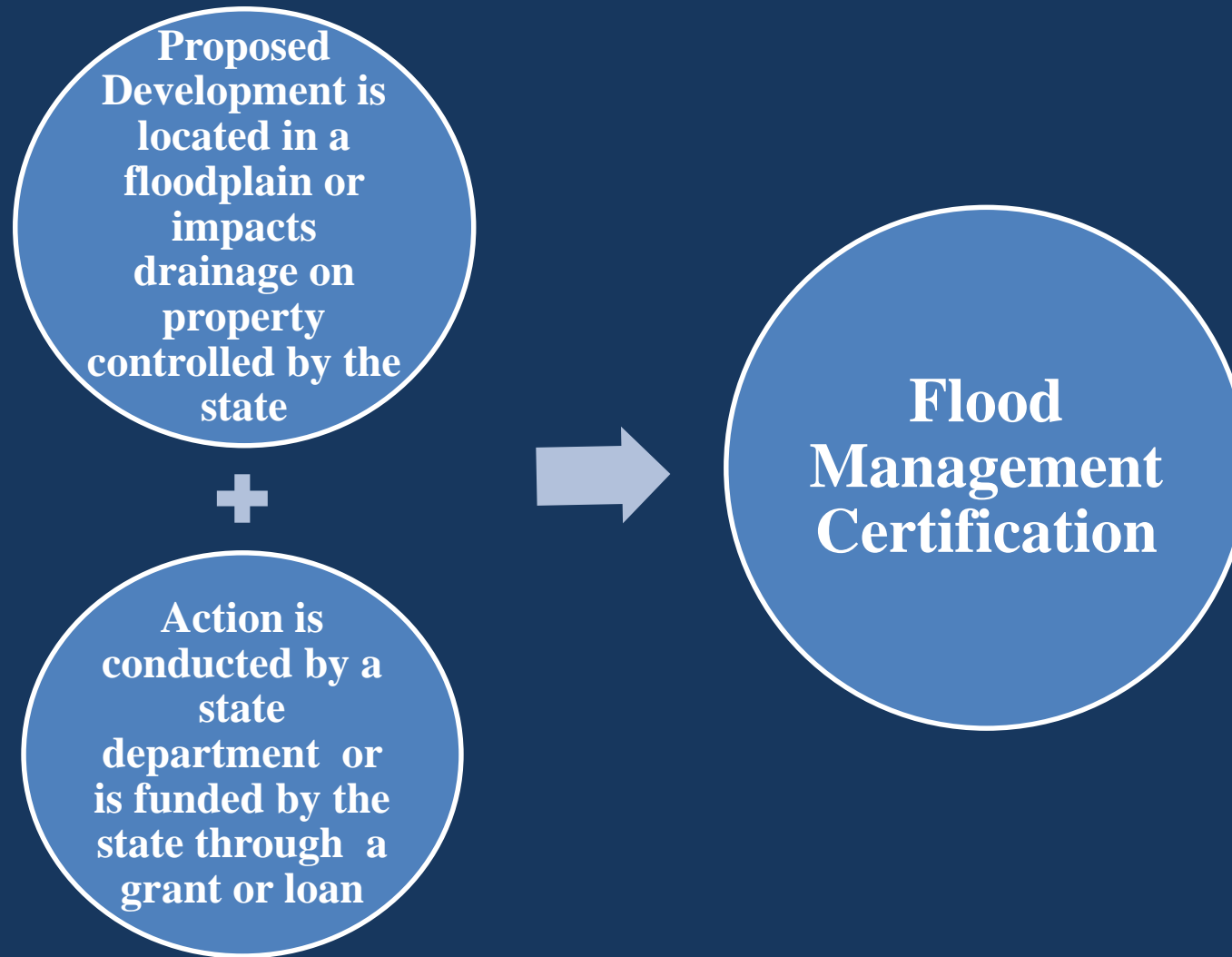
# Basic Construct of the Regulatory Process

## Flood Management Act - Connecticut General Statutes Section 25-68

- When is a Flood Management Certificate Required?
- What is involved in the Certification Process?
- What if a Standard Cannot be Met?



# When Do I need a Flood Management Certificate?



# When Do I need a Flood Management Certificate?



## By Statute

### Sec. 25-68d. of the Connecticut General Statutes (C.G.S)

No state agency shall undertake an **activity** or a **critical activity** within or affecting the floodplain without first obtaining an approval or approval conditions



# When Do I need a Flood Management Certificate?

## “Activity” (100 yr. Base Flood Event)

- Bridges
- Highways
- Commercial Development



## “Critical Activity” (500 yr. Base Flood Eve)

- Treatment, storage and disposal of hazardous waste
- Hospitals
- Housing for the elderly
- Schools
- Residences

*Zone X*



# When Do I need a Flood Management Certificate?

## Definitions by Statute:

“*Activity*” - Any **proposed state action** in a floodplain, or any proposed state action that impacts natural or manmade storm drainage facilities that are located on property that the commissioner determines to be controlled by the state.



# Flood Management Program

"Critical activity" means any activity, including, but not limited to, the treatment, storage and disposal of hazardous waste and the siting of hospitals, housing for the elderly, schools or residences, in the .2 percent floodplain in which the commissioner determines that a slight chance of flooding is too great;



# When Do I need a Flood Management Certificate?

## *“Proposed State Action”*

Individual activities or a sequence of planned activities to be under taken by:

- A State Department
- An Institution or Agency
- Any State or Federal **grant or loan** proposed to be used to fund a project that affects land use.
- A proposed transfer of real property belonging to the state.



# Certification Process

What must an agency certify to?

1.
  - Will not obstruct flood flows or result in an adverse increase in flood elevations,
  - Significantly affect the storage or flood control value of the floodplains,
  - Cause adverse flooding upon upstream or downstream properties,
  - Pose a hazard to human life, health or property in the event of a base flood or base flood for a critical activity.





# Certification Process

2. Complies with the provisions of the **National Flood Insurance Program (NFIP)**

3. Has acquired... easements and property in floodplains when the base flood or base flood for critical activity is elevated



# Certification Process

4. Promotes **long-term non-intensive** floodplain uses and has utilities located to discourage floodplain development.



# Certification Process

5. Has considered and will use to the extent feasible flood-proofing techniques to protect new and existing structures.

6. Has flood forecasting and warning capabilities consistent with the system maintained by the National Weather Service and has a flood preparedness plan.



# Flood Management Program

## Flood Management Regulations for State Agencies

- Sec. 25-68h-1 - Process / Definitions
- Sec. 25-68h-2 - Floodplain Standards
- Sec. 25-68h-3 - Storm water Standards



# Flood Management Program

## Section 25-68h-2. Floodplain Management Standards

(a) All state activities shall conform to the Federal Emergency Management Agency National Flood Insurance Program requirements, specifically Part 60 – Criteria For Land Management and Use, Subpart A Sections 60.3, 60.4, and 60.5



(b) The following restrictions shall pertain to all new and substantially improved structures located within the floodplain.

(1) Structures shall not be designed for human habitation unless elevated with the lowest floor one foot above the level or base flood.



# FM - Regulatory Processes

What if a project does not meet some of the criteria laid out in the statutes or regulations?

## Section 25-68d -Exemption Process -

(d) Any state agency proposing an activity or critical activity within or affecting the floodplain may apply to the commissioner for exemption .....(A) the agency has shown that the activity or critical activity is in **the public interest**, will not **injure persons or damage property** in the area of such activity or critical activity, **complies with the National Flood Insurance Program**.....



# Flood Management Program

## Intensification of Floodplains ....

Non intensive use of the floodplain – An activity will be considered a Non-Intensive Use of a floodplain provided the following criteria are met:

1. Safety- The proposed state action incorporates safe evacuation routes in times of a flood.
2. Siting of Utilities – The proposed state action will not involve the placement of utilities that will promote or encourage future development within a floodplain.
3. Type of Use. The proposed state action will not change the use of the property from an activity to a critical activity.
4. Creation of Dry Land Access. The proposed state action does not involve the placement of fill within a watercourse or any water to create dry land to allow for the construction of a structure.



# Flood Management Program

Any activity shall be considered to be in public interest if...



- Subject to **environmental remediation** Pursuant to Sec. 22a-133k

AND

- .....**is in or adjacent** to an area identified as a **regional center, neighborhood conservation area, growth area or rural community** center in the State Plan for Conservation & Development pursuant to chapter 297





# Flood Management Program

## Thoughts to Consider-

- Any residential living space or critical activities are elevated above the 500 year flood elevation consistent with the requirements of the flood management act;
- Housing – Dry land egress for the base flood (100 year)
- Not every project requires a full hydraulic study
- Plan Ahead, if an exemption is required



# Flood Management Program



**Supporting sound, environmentally sustainable economic development.**

## Loom City Lofts, Vernon

- Brownfield / DOH – Residential Housing
- Critical Facility outside of 100 year plain
- Finished First Floor above BFE
- Dry Egress



# Flood Management Program

## Questions?



**DEEP, Land & Water Resources Division**

Jeff Caiola, Supervising Civil Engineer

[jeff.caiola@ct.gov](mailto:jeff.caiola@ct.gov)

*October 2018*





# Property Transfer Filing Forms: Draft 2018 Revisions

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Robert Robinson  
Supervising Environmental Analyst  
Remediation Division



# Property Transfer Filing Forms: Draft 2018 Revisions - Rationale

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➔ Currently existing Property Transfer Filing Forms are obsolete.

✓ Last revision July 6, 2006

✓ Old Logo

✓ “DEP” references

➔ Updated Forms include



DEEP

more detailed info



# Property Transfer Filing Forms: Legal Recap

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- ▶ Upon transfer of an establishment, as defined in §22a-134(3) of the Connecticut General Statutes, the transferor is required to submit a specific Property Transfer filing form
- ▶ These forms are prescribed and provided by the Commissioner (DEEP)
- ▶ There are specific filing forms for specific scenarios that exist at the time of the transfer
- ▶ The filing of each Form requires the submission of a filing fee



# Property Transfer Filing Forms: Draft 2018 Revisions - Inclusion

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## Form I

DEEP\_PTP\_FORM-1\_R (Real Estate)

DEEP\_PTP\_FORM-1\_B (Business Only)

## Form II

DEEP\_PTP\_FORM-2\_R (Real Estate)

DEEP\_PTP\_FORM-2\_B (Business Only)

## Form III

DEEP\_PTP\_FORM-3\_R (Real Estate)

DEEP\_PTP\_FORM-3\_B (Business Only)

## Form IV

DEEP\_PTP\_FORM-4\_R (Real Estate)

DEEP\_PTP\_FORM-4\_B (Business Only)



# Property Transfer Filing Forms: Draft 2018 Revisions - Inclusion

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- The Business Only filing forms can ONLY be used when:
  - the business establishment being transferred leases the property and
  - has no ownership interest in the real estate.
- The Real Estate filing forms can be used when transferring both Real Estate and Business Operations simultaneously from "A" to "B."





# Property Transfer Filing Forms: Draft 2018 Revisions – Form I

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**Form I** DEEP\_PTP\_FORM-1\_R (Real Estate) DEEP\_PTP\_FORM-1\_B (Business Only)

A Form I is only applicable if there has **NEVER** been a release of Hazardous Waste.

→ this speaks to the Establishment as a whole, not just current ownership



# Property Transfer Filing Forms: Draft 2018 Revisions – Form I

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## Form I

DEEP\_PTP\_FORM-1\_R (Real Estate)

DEEP\_PTP\_FORM-1\_B (Business Only)

A Form I is applicable under 2 scenarios:

- (1) Certification by the Transferor that there has NEVER a release of Haz-Waste and no release of Haz-Substance

or

- (2) Commissioner Approval or LEP Verification that there has NEVER been a release of Haz-Waste, and a release of Haz-Substance has been remediated



# Property Transfer Filing Forms: Draft 2018 Revisions – Form II

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**Form II** DEEP\_PTP\_FORM-2\_R (Real Estate) DEEP\_PTP\_FORM-2\_B (Business Only)

Applicable if there has been a release of Haz-Waste or Haz-Substance, and:

- (1) Commissioner Approved or LEP Verified remediation; or
- (2) Commissioner determined or LEP Verified that remediation not required



# Property Transfer Filing Forms: Draft 2018 Revisions – Form IV

**Form IV** DEEP\_PTP\_FORM-4\_R (Real Estate)

DEEP\_PTP\_FORM-4\_B (Business Only)

Applicable if:

- ▶ There has been a release of Haz-Waste or Haz-Substance, and
  - ▶ All actions to remediate any pollution caused by any release at the establishment have been taken in accordance with the RSRs **except natural attenuation groundwater monitoring, groundwater compliance monitoring, and/or the recording of an Environmental Land Use Restriction**
- (1) Commissioner Approval or
  - (2) LEP Verification



# Property Transfer Filing Forms: Documentation

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- ▶ A Form I, II, and IV may only be filed with a written approval by the Commissioner or a Verification signed and sealed by an LEP
- ▶ And therefore, it must be documented that the parcel has been investigated in accordance with prevailing standards and guidelines prior to the filing of a Form I, Form II, and Form IV
- ▶ Without appropriate documentation to support either a Form I, II, or IV, the form will be rejected as inappropriate or deemed incomplete and the parties will be required to refile a Form III and fee payment of \$3,000.<sup>00</sup>



# Property Transfer Filing Forms: Draft 2018 Revisions – Form III

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**Form III** DEEP\_PTP\_FORM-3\_R (Real Estate)

DEEP\_PTP\_FORM-3\_B (Business Only)

Applicable when:

- (1) There has been a release of Haz-Waste or Haz-Substance and full compliance with the RSRs has not been achieved at the time of the filing, or
- (2) The environmental conditions of the establishment are unknown prior to the transfer.



# Property Transfer Filing Forms: Draft 2018 Revisions - Rationale

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- ▶ Standard information related to site Identification, Transfer specifics, and Transferor/Transferee information was apparently unclear
- ▶ Certain information required to support a particular filing was not clear or sufficient
- ▶ New Forms clarify necessary supporting info
- ▶ New forms emphasize key information needs
- ▶ New Forms more user friendly



# Property Transfer Filing Forms: Draft 2018 Revisions - Rationale

- Of particular concern, was the use of a previously submitted verification to support the filing of a Form I, Form II, or Form IV







# Property Transfer Filing Forms: Draft 2018 Revisions - Rationale

- ▶ The use of a previously submitted verification to support a particular filing is OK, but the supporting information is generally lacking.

- ▶ **Information such as:**

**Documentation on the assessment of environmental conditions of the establishment between the date the previous Verification was designated to apply and the date of the Transfer**



← Time Interval →



← Within  
10 Days →

Property  
Transfer  
Filing Form



# Form I: Section C: Supporting Documentation (continued)

**Never Release of Hazardous Waste - No Release of Hazardous Substance Subsequent to a Commissioner Approval or LEP Verification for Remediation of Hazardous Substance:**

Since a previous Commissioner Approval or LEP Verification – which is indicated below, no discharge, spillage, uncontrolled loss, seepage or filtration of a hazardous waste or a hazardous substance has occurred at any portion of the establishment.

Commissioner Approval of Remediation of hazardous substance, Dated: \_\_\_\_\_

**A copy of the Commissioner's Approval must be attached to this Form I**

LEP Verification - Ver# assigned to verification: \_\_\_\_\_ Rem# associated with verification: \_\_\_\_\_

**A copy of the LEP Verification of hazardous substance must be attached to this Form I**

Date Verification submitted to DEEP: \_\_\_\_\_

Effective Date of Verification Designated by LEP: \_\_\_\_\_

Type of Verification: \_\_\_\_\_

**Status of Verification:**

Letter of No-Audit issued – Date of Letter: \_\_\_\_\_

Verification audited and accepted – Date of Audit Findings: \_\_\_\_\_

DEEP Action on Verification Pending - Explain: \_\_\_\_\_



# Form I: Section C: Supporting Documentation (continued)

**NEVER Release of Hazardous Waste - No Release of Hazardous Substance Subsequent to a Commissioner Approval or LEP Verification for Remediation of Hazardous Substance:**

**Documentation that demonstrates that there has been no release of hazardous waste or hazardous substance at any portion of the establishment since the date of the Commissioner Approval or LEP Verification is listed below and must be attached.**

Phase I Environmental Site Assessment, Dated: \_\_\_\_\_

Phase II Environmental Site Investigation, Dated: \_\_\_\_\_

Other: \_\_\_\_\_



# Form I: Section C: Supporting Documentation (continued)

**No Release of Hazardous Waste - Release of Hazardous Substance, Remediation Required – LEP Verification.:**

An LEP has verified that an investigation of the parcel has been performed in accordance with prevailing standards and guidelines and that there has **NEVER** been a release of a hazardous waste at the establishment, **and** any discharge, spillage, uncontrolled loss, seepage or filtration of a **hazardous substance** at the establishment **has been remediated** in accordance with the Remediation Standard Regulations.

- **A Form I Verification Form, signed and sealed by an LEP, and the supporting Verification Report must be attached to this Form I.**

Page 3 of Form I



# Property Transfer Filing Forms: Form I

**Section C: Supporting Documentation → Please note, a Form I must speak to the Establishment as a whole, not just current ownership.**

**CHECK ONE THAT APPLIES:**

**No Release of Hazardous Waste or Hazardous Substance.**

An investigation of the parcel has been performed in accordance with prevailing standards and guidelines and there has **NEVER** been any discharge, spillage, uncontrolled loss, seepage or filtration of a hazardous waste or a hazardous substance at the establishment.

In accordance with CGS Section 22a-134a(d), **a copy of the technical plans and reports that demonstrate that the investigation of the parcel has been performed in accordance with prevailing standards and guidelines must be attached to this Form I.**

➤ Even if supporting technical plans and reports are on file with DEEP, copies must be attached to this Form I.

Documentation that demonstrates that there has been no release of hazardous waste or hazardous substance at the establishment is listed below and must be attached.

Phase I Environmental Site Assessment, Dated: \_\_\_\_\_

Phase II Environmental Site Investigation, Dated: \_\_\_\_\_

Other. *Describe:* \_\_\_\_\_



# Property Transfer Filing Forms: Form II

**Section B: Documentation of Remediation → A Commissioner's Approval or LEP Verification must be submitted with this Form**

**CHECK ONE THAT APPLIES:**

**Remediation Required.**

The Commissioner has approved in writing ....

An LEP has verified ....

**Remediation Not Required.**

The Commissioner has determined ...

An LEP has verified ...

**Additional Documentation of No Release Subsequent to Commissioner Approval or LEP Verification:**

Since any such Commissioner Approval or LEP Verification indicated above, no discharge, spillage, uncontrolled loss, seepage or filtration of a hazardous waste or a hazardous substance has occurred at any portion of the establishment.

Documentation that demonstrates that there has been no release of hazardous waste or hazardous substance at the establishment is listed below and must be attached.

Phase I Environmental Site Assessment, Dated: \_\_\_\_\_

Phase II Environmental Site Investigation, Dated: \_\_\_\_\_

Other. *Describe:* \_\_\_\_\_



# Property Transfer Filing Forms: Draft 2018 Revisions

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To Recap:

Property Transfer Filing Forms have been revised to update currency and to reflect the level of information necessary to support each specific type of Form.

These are currently in DRAFT and in the chain of management review.

Upon final approval, these revised filing forms will be posted, and the 7/6/06 versions will be removed and considered obsolete.

An announcement will be made through a [Remediation e-Alert](#) when the new forms are posted.



# Property Transfer Filing Forms: Draft 2018 Revisions

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[Property Transfer Program webpage](#)

[Property Transfer Program Fact Sheet](#)

**Instructions for Completing Forms I, II, III, and IV for the Transfer of Establishments**

[https://www.ct.gov/deep/lib/deep/site\\_clean\\_up/property\\_transfer\\_program/FormsI-IV/FormI-IV\\_inst.pdf](https://www.ct.gov/deep/lib/deep/site_clean_up/property_transfer_program/FormsI-IV/FormI-IV_inst.pdf)





# Questions or Comments?

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Please Speak into Microphone  
and State Your Name

[www.ct.gov/deep/remediationroundtable](http://www.ct.gov/deep/remediationroundtable)



# Remediation Roundtable



E-mail: [DEEP.remediationroundtable@ct.gov](mailto:DEEP.remediationroundtable@ct.gov)

Web: [www.ct.gov/deep/remediationroundtable](http://www.ct.gov/deep/remediationroundtable)



# Remediation Roundtable

**Next meeting: March 19, 2019**

**(snow date March 26, 2019)**