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Testimony of Eric Hammerling, Executive Director, Connecticut Forest & Park Association

Public Hearing Subject Matter	Position
Raised HB 6610: AAC “NO NET LOSS” OF STATE FORESTLANDS.	Support

The Connecticut Forest & Park Association (CFPA) is the first nonprofit conservation organization established in Connecticut in 1895. For over 128 years, CFPA has offered testimony before the General Assembly on various State Park and Forest, trail recreation, sustainable forestry, and land conservation issues.

I want to thank the Committee for raising this bill and putting the concepts of “No Net Loss of Forests” and “compensatory reforestation” on the agenda. Over the past decade or so, I have Chaired the State Vegetation Management Task Force created by the Two Storms Panel, Chaired the Forests Subgroup of the Governor’s Council on Climate Change, and most recently Chaired a diverse group of organizations to develop Policies on Resilient Forests for Connecticut’s Future (PRFCT Future).

All of my efforts have been based upon the premise that trees and forests provide a wide variety of socioeconomic, ecosystem, and other benefits, and that we all share an important responsibility in how we steward their present and future. With a changing climate and a new normal of more intense weather events and stressors on trees, this is especially important and increasingly difficult.

This bill is focused on compensatory reforestation and does not address other elements of a robust No Net Loss of Forest policy which would also include the following concepts:

- Keep forests as forests
- Protect healthy, intact forests
- Offset planned or permitted forest losses
- Provide financial incentives for stewardship, forest retention, and forest resiliency
- Protect urban forests, build more parks, and plant more trees

The language in HB 6610 is modeled on the [New Jersey No Net Loss Compensatory Reforestation Act](#), (N.J.S.A. 13:1L-14.1 et seq.). The PRFCT Future Working Group reached consensus support on the following elements to implement compensatory reforestation in Connecticut:

- Require State agencies to submit a compensatory reforestation plan to DEEP’s Forestry Division for each project that results in the deforestation of one-half acre (0.5 ac/21,780 square feet) or more on land the State entity owns or maintains, subject to exemptions for standard land management practices such as forestry, wildlife management, arboricultural practices, or actively managing existing utility easements.
- Require entities receiving a permit from the Connecticut Siting Council for energy development to compensate for loss of forest, farmland, and other natural lands through the conservation, replanting, and/or reforestation of a comparable amount in another location, or if such conservation, replanting or

reforestation is determined not to be feasible, to make payments to a mitigation fund. This compensatory mitigation should not change the standard that avoidance of forest loss should be the primary goal for siting energy facilities.

- Require similar compensatory mitigation by utilities for significant forest or urban tree canopy losses due to tree removals along electric distribution lines.

We strongly support this bill and have suggested a few modifications to the language that we believe would update and improve it for implementation in Connecticut (these proposed changes are marked-up at the end of my testimony). In particular, we suggest that:

- Rather than create a new advisory council to advise and assist with implementation of the compensatory reforestation program (as was done in New Jersey), the bill should include the Connecticut Urban Forest Council, an existing Connecticut-based 501c3 nonprofit organization that can appropriately take on this role.
- We also suggest changing “community forestry” (the term used in New Jersey) to “urban and community forestry” which is the nomenclature used by DEEP as well as the USDA Forest Service.

Thank you again for your great support and the opportunity to provide comments, and I'd be glad to respond to any questions you may have.

General Assembly

Raised Bill No. 6610

January Session, 2023

LCO No. **3488**

*03488 _____ ENV

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Referred to Committee on ENVIRONMENT

Introduced by:

(ENV)

AN ACT CONCERNING "NO NET LOSS" OF STATE FORESTLANDS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective October 1, 2023*) (a) For the purposes of this section:

(1) "Division" means the Division of Forestry **[and Parks]** in the Department of Energy and Environmental Protection; and

(2) "State entity" means any department, agency or office of the state government, including, but not limited to, any university or college of the state and any authority created by the state.

(b) Each state entity, on or before July 1, 2024, and annually thereafter, shall develop and submit to the division a plan for compensatory reforestation for all areas of not less than one-half acre in size that are owned or maintained by such state entity and that are scheduled for deforestation. The compensatory reforestation plan required pursuant to this section shall establish a goal of "no net loss" of existing forested areas based upon a reasonable and practical tree replacement factor developed in accordance with this section. Such plan shall be subject to approval by the division after review and comment by the **[Community Forestry Advisory]** Connecticut Urban Forest Council, an existing non-profit conservation organization based in Connecticut **[established pursuant to this section]**. No project that would deforest land of not less than one-half acre in size that is owned or maintained by such state entity may be commenced without approval of such state entity's compensatory reforestation plan by the division.

(c) (1) Any compensatory reforestation plan developed pursuant to this section shall provide that, if tree planting adjacent to the deforested area is not feasible, tree planting shall be conducted first, within the municipality in which the deforestation occurred and within five miles of the site of deforestation, or secondly off-site in accordance with the provisions of this section.

(2) Any compensatory reforestation plan developed pursuant to this section shall include appropriate and approved methods for the planting, protection, care and management of trees and other related natural resources.

(3) The Department of Energy and Environmental Protection, with the advice and assistance of the [Community Forestry Advisory] [Connecticut Urban Forest Council](#) [, established pursuant to this section and the division,] shall adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, to develop a list of guideline elements for state entities that shall be required in any compensatory reforestation plan, including, but not limited to: (A) If the division determines that it is not feasible to conduct the required tree-planting efforts on-site, then the tree planting shall be conducted first on state property within the municipality in which the deforestation occurred or, secondly, on municipal property within the municipality in which the deforestation occurred. For this purpose, "municipal property" includes parks, streets, schools, municipal facilities and open space and recreational areas; (B) if the division determines that it is not feasible to conduct such tree-planting efforts on-site or within such municipality, then the tree planting shall be conducted within five miles of the site of the deforestation. For this purpose, sites "within five miles of the site of deforestation" includes property owned or maintained by the state or any other municipality; (C) if the division determines that it is not practicable to conduct the tree-planting efforts on-site, within the municipality or within five miles of the site of deforestation, then the tree planting shall be conducted off-site by such state entity. For this purpose, "off-site" property includes property owned or maintained by a state entity, other than the one developing and implementing the compensatory reforestation plan, if the state entity that is to receive the benefits of the off-site tree-planting efforts agrees to such planting; (D) for any such planting, the state entity shall use native species when practicable; (E) the shape or configuration of the reforested area may be substantially similar to the shape or configuration of the deforested area; (F) the replacement of trees shall be determined by the tree replacement factor developed pursuant to this section and shall be based upon accepted forestry research and practices that show the average tree density within urban areas to be two hundred four trees per acre of tree cover; (G) in

using the tree replacement factor (TRF) for sites that are deforested, the following number of stems shall be calculated for seeding, caliper and whip/container trees:

TRF = 204 (2" - 2 1/2") caliper trees per acre

= 408 whip/container (4' - 6') trees per acre

= 1210 tree seedlings per acre;

(H) the seedlings used for such replanting shall be planted from six to ten feet apart, or at a distance mutually agreed to by the division and the state entity and such seedlings shall be those that are the most suitable for the site; and (I) the species of caliper nursery-grown trees measured at two and one-half inches and whips at one and one-half inches shall be planted based upon the approved planting plan and subject to the standards established by the American [Hort \[Association of Nurserymen\]](#). Diversity in species composition shall be required to reduce the risk of widespread loss of trees to single insect and disease infestation and, therefore, similar species shall not exceed thirty per cent of the total planting. [The TRF established in subsection 3\(G\) can be modified by the Department of Energy and Environmental Protection in the future after an appropriate public input process including consultation with the Connecticut Urban Forest Council.](#)

(4) The state entity shall enter into a memorandum of agreement with the division that guarantees the division's reimbursement for actual labor hours attributable to the review and implementation of the state entity's compensatory reforestation plan pursuant to this section. If the reforestation required by this section cannot be accomplished on the site of the project by the state entity, the division and the state entity may mutually agree within such memorandum of agreement that the state entity responsible for the deforestation shall pay an amount equal to the value of the number of trees required, as determined by the tree replacement factor and in accordance with an approved compensatory reforestation plan. Such payment shall be credited to the fiscal resources of the division and expended for reforestation by the division with the advice of the [\[Community Forestry Advisory\] Connecticut Urban Forest Council \[established pursuant to this section\]](#). Any such memorandum of agreement shall be part of the state entity's compensatory reforestation plan.

(d) The requirements of this section shall not apply to activities that are deemed by the division to constitute standard forestry, wildlife management, arboricultural practices [performed according to current professional tree care standards and in a manner that](#)

[retains the structural integrity and health of trees](#), or management of existing utility transmission corridor easements.

(e) (1) Whenever a state entity owns or maintains land on which an area of not less than one acre in size is scheduled for deforestation, not less than one hundred eighty days prior to the deforestation of such area, the state entity shall hold not less than one public forum on such deforestation and compensatory reforestation plan within the municipality in which the deforestation is scheduled, or, if the area scheduled for deforestation spans more than one municipality, such public forum shall be held in any one of the municipalities in which deforestation is scheduled. The public shall be permitted to present oral and written comments to the state entity during a comment period of sixty days commencing from the date of the public forum. Not later than sixty days after such comment period ends, the state entity shall provide written responses to the comments received. Notice of any such public forums and attendant comment periods shall be shared with the Council on Environmental Quality for publication in the Environmental Monitor.

(2) Whenever a public process is already required by any other state or federal law, rule or regulation for a project that includes forested land scheduled for deforestation, the state entity shall not be required to conduct a separate public forum described in subdivision (1) of this subsection, to comply with the provisions of this section, provided the public forum requirements established in subdivision (1) of this subsection are met at the public forum or hearing conducted pursuant to any other state or federal law, rule or regulation.

(3) Each state entity shall clearly advise the public in the agenda for any public forum held pursuant to this subsection that a reforestation plan will be presented at such forum. Copies of the state entity's written responses to the public comments shall be provided by the state entity to the division at the close of the comment period.

(f) The [Connecticut Urban Forest Council will assist the Department of Energy and Environmental Protection in implementing the No Net Loss of Forest policy through efforts such as the following](#) [There is established within the division the Connecticut Community Forestry Program that shall have the following purposes]: (1) To assist municipalities and shade tree commissions in establishing and maintaining [urban and community forestry programs](#) and in encouraging persons to engage in appropriate and approved practices with respect to tree management and care, (2) to advise municipalities

and shade tree commissions in the development and coordination of policies, programs and activities for the promotion of [urban and](#) community forestry, (3) to provide grants to municipalities and shade tree commissions applying for assistance in the development and implementation of [urban and](#) community forestry plans, to the extent funds are appropriated or otherwise made available for such plans, (4) to educate citizens on the importance of trees and forests and the role of trees and forests in the maintenance of a clean and healthy environment, (5) to provide technical assistance, planning and analysis for projects related to [urban and](#) community forestry, (6) to provide training assistance to municipalities and shade tree commissions regarding [urban and](#) community forestry issues such as tree diseases, insect programs and tree planting and maintenance, and (7) to provide volunteer opportunities for citizens and organizations interested in [urban and](#) community forestry activities. For purposes of this subsection, "municipalities" includes, but is not limited to, any political subdivision of the state and any regional council of government.

[(g) (1) There is established within the division a Community Forestry Advisory Council, that shall consist of twenty members, appointed by the State Forester, all of whom shall be citizens with expertise or interest in trees, forestry or tree or forest management, maintenance or care. Each of the members appointed shall serve for a term of three years and until a successor is appointed and qualified, provided, of the members first appointed, seven shall serve terms of one year and seven shall serve terms of two years. All vacancies, except those created through the expiration of term, shall be filled for the unexpired term only, and in the same manner as the original appointment. Each member shall be eligible for reappointment, but may be removed by the Commissioner of Energy and Environmental Protection or the State Forester for cause.

(2) A majority of the membership of the council shall constitute a quorum for the transaction of council business. Action may be taken and motions and resolutions adopted by the council at any meeting thereof by the affirmative vote of a majority of the full membership of the council.

(3) Members of the council shall serve without compensation but may be reimbursed for expenses necessarily incurred in the discharge of their official duties.

(4) The State Forester shall appoint a chairperson and vice-chairperson of the council and the council may elect such other officers as may be necessary.]

(5) The [council] [Connecticut Urban Forest Council](#) shall advise the State Forester and

the division on issues concerning urban and community forestry and assist with such other functions as may be authorized by the State Forester, the division or the Commissioner of Energy and Environmental Protection.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2023</i>	New section

Statement of Purpose:

To hold state agencies accountable for any loss of state forestlands greater than one-half acre caused by their functions and operations through replanting plans and compensation.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by blue underline]