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The ''officially released'' date that appears near the beginning of each opinion is the date the opinion will be published in the Connecticut Law Journal or the date it was released as a slip opinion. The operative date for the beginning of all time periods for filing postopinion motions and petitions for certification is the ''officially released'' date appearing in the opinion. In no event will any such motions be accepted before the ''officially released'' date.

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BORDEN, J., with whom NORCOTT and PALMER, Js., join, concurring and dissenting. I agree with and join part I of the majority opinion, in which the court concludes that a denial of a request for intervention pursuant to General Statutes § 22a-19 (a)[1] was not a "final decision" within the meaning of General Statutes § 4-183. I disagree with the reasoning of part II of the majority opinion, in which the court reaffirms the holdings of *Connecticut Fund for the Environment, Inc.* v. *Stamford*, 192 Conn. 247, 470 A.2d 1214 (1984), and *Middletown* v. *Hartford Electric Light Co.*, 192 Conn. 591, 473 A.2d 787 (1984), and concludes that § 22a-19 permits intervention into an administrative proceeding only regarding particular environmental concerns that otherwise are within the subject matter jurisdiction of the administrative agency. As I indicate in this concurring and dissenting opinion, I conclude that intervention under § 22a-19 is not limited in that fashion. Finally, I disagree with the conclusions set forth in part III of the majority opinion, namely, that: (1) § 22a-19 requires that the intervenor set forth in his petition to intervene the specific facts on which his environmental claim is based; and (2) in the present case, the named defendant, the state traffic commission (traffic commission), has no power to consider any environmental concerns that could be raised by the plaintiff, Maurice Nizzardo, pursuant to his request to intervene. I conclude, to the contrary, that: (1) § 22a-19 contains no such fact specific pleading requirement; and (2) there are obvious environmental concerns, such as air quality, that § 22a-19 confers on the traffic commission upon the filing of a proper petition to intervene. In my view, the plaintiff has demonstrated his right to intervene by filing a proper petition pursuant to § 22a-19, and there should be further proceedings before the traffic commission regarding the merits of his environmental objections. I would, therefore, reverse the Appellate Court's judgment.

In part II of the majority opinion, the court concludes that *Connecticut Fund for the Environment, Inc.* v. *Stamford*, supra, 192 Conn. 250, and *Middletown* v. *Hartford Electric Light Co.*, supra, 192 Conn. 591, control the present case, and require the conclusion that § 22a-19 "grants standing to intervenors to raise only those environmental concerns that are within the jurisdiction of the particular administrative agency conduct-

ing the proceeding into which the party seeks to intervene,'' in this case, the traffic commission. In my view, both *Connecticut Fund for the Environment, Inc.*, and *Middletown* are fundamentally flawed, are inconsistent with both the language and purpose of the Environmental Protection Act of 1971 (act), of which § 22a-19 is a part, and are inconsistent with our prevailing jurisprudence under § 22a-19, both before and after those decisions. Furthermore, both the language of § 22a-19 and purpose of the act, and that prevailing jurisprudence, compel the conclusion that the plaintiff was improperly denied the right to intervene in the present case.

Whether the plaintiff was entitled to intervene pursuant to § 22a-19 (a) presents a question of statutory interpretation. ''The process of statutory interpretation involves a reasoned search for the intention of the legislature. . . . In other words, we seek to determine, in a reasoned manner, the meaning of the statutory language as applied to the facts of this case, including the question of whether the language actually does apply. In seeking to determine that meaning, we look to the words of the statute itself, to the legislative history and circumstances surrounding its enactment, to the legislative policy it was designed to implement, and to its relationship to existing legislation and common law principles governing the same general subject matter.'' (Citation omitted; internal quotation marks omitted.) *Burke* v. *Fleet National Bank*, 252 Conn. 1, 11, 742 A.2d 293 (1999).

I begin with the language of § 22a-19 (a), which provides in relevant part: ''In *any* administrative . . . proceeding . . . any person, partnership, corporation, association, organization or other legal entity may intervene as a party on the filing of a verified pleading asserting *that the proceeding . . . 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.*'' (Emphasis added.) See footnote 1 of this concurring and dissenting opinion for the full text of § 22a-19 (a). There are two significant aspects of this language. First, it applies to ''*any* administrative . . . proceeding . . . .'' (Emphasis added.) General Statutes § 22a-19 (a). There is no linguistic limitation imposed on that application. Second, it focuses on the assertion by the intervenor that ''the proceeding [into which intervention is sought] *involves conduct* which has, or which is reasonably likely to have, the effect of

unreasonably polluting'' our natural resources. (Emphasis added.) General Statutes § 22a-19 (a). This focus is not on the jurisdiction of the agency conducting the proceeding. The focus, instead, is on whether the proceeding before the agency ''involves conduct'' that is reasonably likely to pollute. This language, therefore, strongly suggests that the court, in determining whether an individual, official or entity seeking to intervene under the statute may do so, should look, not at the jurisdiction of the agency, but at the nature of the conduct involved in the proceeding before the agency.

This interpretation of § 22a-19 (a) is consistent with the main thrust of our long-standing jurisprudence regarding standing and intervention under the statute. A careful review of this jurisprudence leads me to conclude that: (1) we have not always been perfectly consistent in deciding questions of standing and intervention under that statute; but (2) our jurisprudence has been more expansive in its interpretation of the statute than we had envisioned in both *Connecticut Fund for the Environment, Inc.*, and *Middletown*, and is more faithful to its language and purpose. Under that jurisprudence, the plaintiff's request to intervene should have been granted.

Section 22a-19 (a) is part of the act. See General Statutes § 22a-14.[2] General Statutes § 22a-15 of the act provides: ''It is hereby found and declared that there is a public trust in the air, water and other natural resources of the state of Connecticut and that each person is entitled to the protection, preservation and enhancement of the same. It is further found and declared that it is in the public interest to provide all persons with an adequate remedy to protect the air, water and other natural resources from unreasonable pollution, impairment or destruction.''

In *Belford* v. *New Haven*, 170 Conn. 46, 364 A.2d 194 (1975), overruled in part by *Manchester Environmental Coalition* v. *Stockton*, 184 Conn. 51, 57 n.7, 441 A.2d 68 (1981), this court discussed the question of standing under the act to raise environmental concerns in what was arguably a nonenvironmental proceeding. In that case, the plaintiffs had sought to enjoin the city from constructing a rowing course in two city parks. *Belford* v. *New Haven*, supra, 46–47. Among the plaintiffs' claims was that the rowing course would pollute and destroy the city's natural resources. Id., 51. In discussing the plaintiffs' statutory standing to raise environmental issues, we stated: ''The plaintiffs make the claim that they have statutory standing to maintain this action by

authority of the [act], which is chapter 439 of the General Statutes. The purpose of the act is contained in § 22a-15. *The broad language of the act gives any person the right to bring an action for declaratory and equitable relief against pollution. It is clear that one basic purpose of the act is to give persons standing to bring actions to protect the environment.* Johnson, 'The Environmental Protection Act of 1971,' 46 Conn. B.J. 422 [1972]; see 61 Am. Jur. 2d, Pollution Control, § 4." (Emphasis added.) *Belford* v. *New Haven*, supra, 53–54.[3]

We next considered the questions of intervention and standing pursuant to § 22a-19 in *Mystic Marinelife Aquarium, Inc.* v. *Gill*, 175 Conn. 483, 400 A.2d 726 (1978). In that case, the plaintiff filed an administrative appeal from the action of the commissioner of environmental protection granting an application to construct a floating dock and other structures in the Mystic River. Id., 484–85. We stated: "[The plaintiff] claims that all the issues, environmental and nonenvironmental, it raises are required to be given judicial review. This is not so. *It is clear that one of the basic purposes of the [act] is to give persons standing to bring actions to protect the environment* and standing is conferred only to protect the natural resources of the state from pollution or destruction. *Belford* v. *New Haven*, [supra, 170 Conn. 53–54]. *Belford* was properly applied to limiting [the plaintiff] to raising only environmental issues." (Emphasis added.) *Mystic Marinelife Aquarium, Inc.* v. *Gill*, supra, 499–500.

We next commented on § 22a-19, albeit indirectly, in *Manchester Environmental Coalition* v. *Stockton*, supra, 184 Conn. 51. In that case, the plaintiffs had brought an action to enjoin the state commerce commissioner from approving a project plan for an industrial park in Manchester. Id., 53. In rejecting a challenge to the plaintiffs' standing, we stated: "The plaintiffs alleged a violation of the [act]. General Statutes §§ 22a-14 through 22a-20. *This act expands the class of plaintiffs who are empowered to institute proceedings to vindicate the public interest. The act creates both procedural and substantive rights. Similar acts have been passed in many states. They are best known for eliminating standing barriers prevalent in traditional litigation.*

"In their action, the plaintiffs sought to enjoin 'unreasonable pollution, impairment or destruction' of the air which would result from the automobile traffic generated by the expected employment at the industrial site of 2000 full-time and 600 part-time workers. It is clear, and the trial court so found, that the plaintiffs have

standing under [General Statutes] § 22a-16 which confers standing upon 'any person' to sue 'any person' for 'the protection of the public trust in the air, water and other natural resources of the state from unreasonable pollution, impairment or destruction.' *Statutes such as the [act] are remedial in nature and should be liberally construed to accomplish their purpose.*

"The trial court ruled that the plaintiffs' standing and their burden of proof at the trial comprise one and the same thing. That is not the case. *Standing is automatically granted under the [act] to 'any person.' The plaintiffs need not prove any pollution, impairment or destruction of the environment in order to have standing.*" (Emphasis added.) Id., 55–57.

This court next addressed the question of environmental standing in *Connecticut Fund for the Environment, Inc.* v. *Stamford*, supra, 192 Conn. 247. In that case, the plaintiffs challenged the issuance of a permit to place a large postal facility within a wetlands area by the city of Stamford's environmental protection board (board). Id., 248. The board was the city agency responsible for regulating activities in wetlands and watercourses under the state Inland Wetlands and Watercourses Act. Id., 248 n.1. At the administrative hearing before the board, one plaintiff, namely, the Better Neighborhood Association of Stamford (association), intervened pursuant to § 22a-19 (a). Id., 248 and n.2. At that hearing, the board had excluded evidence offered by the plaintiffs that was environmental in nature, but was not related to inland wetlands. Id., 249.[4] The plaintiffs filed an administrative appeal to the trial court, which dismissed the appeal. The plaintiffs, including the association, appealed to this court.

In affirming the trial court's judgment, we stated: "The municipal inland wetland agency is authorized to establish the boundaries of inland wetlands and watercourse areas within its jurisdiction. Once such boundaries are established pursuant to procedures set forth in [General Statutes] § 22a-42a, no regulated activity shall be conducted within such boundaries without a permit issued by the local agency.

"*It is apparent from the foregoing that local inland wetland bodies are not little environmental protection agencies. Their environmental authority is limited to the wetland and watercourse area that is subject to their jurisdiction. They have no authority to regulate any activity that is situated outside their jurisdictional limits.* Although in considering an application

for a permit to engage in any regulated activity a local inland wetland agency must, under [General Statutes] § 22a-41, take into account the environmental impact of the proposed project, it is the impact on the regulated area that is pertinent, not the environmental impact in general.

"Section 22a-19, which authorizes any person to intervene in any administrative proceeding and to raise therein environmental issues must be read in connection with the legislation which defines the authority of the particular administrative agency. *Section 22a-19 is not intended to expand the jurisdictional authority of an administrative body whenever an intervenor raises environmental issues. Thus, an inland wetland agency is limited to considering only environmental matters which impact on inland wetlands.* Other environmental impacts must be raised before other appropriate administrative bodies, if any, or in their absence by the institution of an independent action pursuant to § 22a-16." (Emphasis added.) Id., 250–51.

*Connecticut Fund for the Environment, Inc.*, was followed by *Middletown* v. *Hartford Electric Light Co.*, supra, 192 Conn. 591. In that case, the plaintiff city of Middletown sought to enjoin the defendant electric light company from burning certain toxic substances, namely, polychlorinated biphenyls, contained in mineral oils to be burned at the defendant's generating plant in Middletown. Id., 592–93. The plaintiff claimed that the defendant had failed to obtain certain licenses and approvals that, the plaintiff asserted, were required under a variety of state statutes. Id., 595.

In affirming the trial court's conclusion that the plaintiff lacked environmental standing under the act, we stated: "The city's alternate claim of standing rests on its statutory claim under the [act], General Statutes § 22a-16. This statute permits any private party, including a municipality, to seek injunctive relief 'for the protection of the public trust in the air, water and other natural resources of the state from unreasonable pollution, impairment or destruction.' We have recently concluded, however, as did the trial court herein, that invocation of the [act] is not an open sesame for standing to raise environmental claims with regard to any and all environmental legislation. In *Connecticut Fund for the Environment, Inc.* v. *Stamford*, [supra, 192 Conn. 247], we held that § 22a-19 of the [act], which permits any person, on the filing of a verified pleading, to intervene in any administrative proceeding and to raise therein environmental issues 'must be read in con-

nection with the legislation which defines the authority of the particular administrative agency. Section 22a-19 is not intended to expand the jurisdictional authority of an administrative body whenever an intervenor raises environmental issues. *Thus, an inland wetland agency is limited to considering only environmental matters which impact on inland wetlands.* Other environmental impacts must be raised before other appropriate administrative bodies, if any, or in their absence by the institution of an independent action pursuant to § 22a-16.' Id., 250–51. These same principles apply to bar the city's standing under the licensing statutes. The trial court was therefore correct in concluding that § 22a-16 did not provide the plaintiffs with standing under any statute other than the [act] itself.'' (Emphasis added.) *Middletown* v. *Hartford Electric Light Co.*, supra, 192 Conn. 596–97.

These latter two cases imposed restrictions on standing, pursuant to the act, to raise environmental issues that had not theretofore been recognized. Both in their holdings on their specific facts and their language, they evinced a more restrictive judicial attitude toward such standing than had been articulated in the prior cases.

In *Connecticut Fund for the Environment, Inc.* v. *Stamford*, supra, 192 Conn. 251, the court held that the association, which had intervened pursuant to § 22a-19 in the administrative proceeding at issue, could not raise, before the board, environmental issues of air and noise pollution, and other unspecified environmental concerns, purportedly generated by the development of a large tract of land for a regional postal facility. The court stated: ''[S]uch general environmental matters were not relevant to the proceedings before [the board] and therefore its refusal to entertain comment or evidence of a noninland wetland nature was appropriate.'' Id.

In *Middletown* v. *Hartford Electric Light Co.*, supra, 192 Conn. 597, the court held that the plaintiffs, which had brought an independent action pursuant to § 22a-16, did not have standing in that action to raise environmental claims purportedly raised by the defendant's failure to secure licenses and approvals under certain state statutes. We stated that the principles articulated in *Connecticut Fund for the Environment, Inc.*, applied to bar the plaintiffs' standing, and ''that § 22a-16 did not provide the plaintiffs with standing under any statute other than the [act] itself.'' Id.

We reaffirmed this reasoning in *Connecticut Water*

*Co.* v. *Beausoleil*, 204 Conn. 38, 526 A.2d 1329 (1987). In that case, the plaintiff water company, which owned a reservoir and land being developed for a subdivision, sued the defendant in nuisance. Id., 40. There had been a prior action against the defendant by the attorney general, however, on behalf of the commissioner of the department of environmental protection, under General Statutes §§ 22a-432 and 22a-435, to enjoin the defendant from polluting the waters of the state. Id., 40–42. That action had itself followed an administrative proceeding by the commissioner to require the defendant to take certain remedial actions. Id. The plaintiff had intervened in that prior action, which ultimately resulted in a stipulated judgment requiring the defendant to take certain measures to prevent pollution and erosion. Id., 43.

On appeal in this court in the nuisance action, the defendant claimed that the plaintiff was barred by the doctrine of res judicata because it could have sought damages for nuisance in the prior action in which it had intervened. In rejecting that claim, we stated: "In *Middletown* v. *Hartford Electric Light Co.*, [supra, 192 Conn. 591], and *Connecticut Fund for the Environment, Inc.* v. *Stamford*, [supra, 192 Conn. 247], we recognized that General Statutes § 22a-19 does *not* expand the jurisdictional authority of an administrative body acting pursuant to a separate act of title 22a to hear any and all environmental matters, but rather, limits an intervenor to the raising of those environmental matters which impact on the particular subject of the act pursuant to which the commissioner is acting. *Middletown* v. *Hartford Electric Light Co.*, supra, 597; *Connecticut Fund for the Environment, Inc.* v. *Stamford*, supra, 250–51." (Emphasis in original.) *Connecticut Water Co.* v. *Beausoleil*, supra, 204 Conn. 46. We therefore concluded that the plaintiff "was limited to raising environmental matters relating to" the water pollution control act and, therefore, could not have sought damages in that prior action. Id., 47.

This remained the state of our law on matters of environmental standing, until this court's *two companion decisions* in *Red Hill Coalition, Inc.* v. *Conservation Commission*, 212 Conn. 710, 563 A.2d 1339 (1989) (*Red Hill I*), and *Red Hill Coalition, Inc.* v. *Town Plan & Zoning Commission*, 212 Conn. 727, 563 A.2d 1347 (1989) (*Red Hill II*). I emphasize that there were two *Red Hill* decisions, because in my view reading them together makes it even clearer that, contrary to the assertion of the majority, the intervention question that we decided in *Red Hill II* was precisely the same as is

presented in the case here, namely, whether intervention pursuant to § 22a-19 (a) is to be considered irrespective of the particular subject matter jurisdiction of the administrative agency involved.

In *Red Hill I*, supra, 212 Conn. 711–12, the defendant conservation commission, acting as the inland wetlands and watercourses agency of the town of Glastonbury, had considered an application for an inland wetlands permit by another defendant, Red Hill Development Corporation (corporation), in connection with a proposed subdivision. The named plaintiff, Red Hill Coalition, Inc. (coalition), had intervened in the administrative proceedings pursuant to § 22a-19 (a). Id., 713. After the commission granted the application, the coalition and the other plaintiffs appealed to the trial court, which determined that the coalition had standing to appeal. Id., 714. On appeal to this court, we rejected the commission's contention that the trial court had ''erred in finding that the plaintiffs [including the coalition] had standing to appeal *the wetlands issue* pursuant to § 22a-19 (a).'' (Emphasis added.) Id. In doing so, we first quoted the broad language of § 22a-19 (a): ''Section 22a-19 (a) allows 'any person, partnership, corporation, association, organization or other legal entity' to 'intervene as a party' in any 'administrative, licensing or other proceeding, and in any judicial review thereof' that 'involves conduct which has, or 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.' '' Id., 715.

We then stated, in broad terms: ''General Statutes § 22a-19 (a) is part of the [act]. General Statutes § 22a-14 et seq. The purpose of the [act] is 'to give private citizens a voice in ensuring that the air, water and other natural resources of the state remain protected, preserved and enhanced, and to provide them with ''an adequate remedy to protect the air, water and other natural resources from unreasonable pollution, impairment or destruction.'' General Statutes § 22a-15.' *Connecticut Water Co.* v. *Beausoleil*, [supra, 204 Conn. 44]; see also *Mystic Marinelife Aquarium, Inc.* v. *Gill*, supra, [175 Conn.] 489; *Belford* v. *New Haven*, [supra, 170 Conn. 53–54]. By permitting intervention under § 22a-19 (a), the [act] allows private persons to 'intervene in an existing judicial review of an agency action or to initiate an independent declaratory or injunctive action.' *Connecticut Water Co.* v. *Beausoleil*, supra, 44–45. An intervening party under § 22a-19 (a), however, may raise only environmental issues. Id., 45; *Mystic*

*Marinelife Aquarium, Inc.* v. *Gill,* supra, 490.

''Because the coalition filed a notice of intervention at the commission hearing in accordance with § 22a-19 (a), it doubtless had statutory standing to appeal from the commission's decision for that limited purpose. *Mystic Marinelife Aquarium, Inc.* v. *Gill,* supra, [175 Conn.] 499.'' *Red Hill I,* supra, 212 Conn. 715.

In *Red Hill II,* supra, 212 Conn. 729, the defendant plan and zoning commission had considered the subdivision application by the same corporation for the same thirty-three lot subdivision in Glastonbury. The plaintiffs intervened in the administrative proceedings before the plan and zoning commission pursuant to § 22a-19 (a). Id. After the plan and zoning commission approved the subdivision application, the plaintiffs appealed to the trial court, which rendered judgment for the defendants. Id., 731. The plaintiffs thereupon appealed to this court. Id.

In this court, the plaintiffs claimed that: (1) they had a right to intervene pursuant to § 22a-19 (a); and (2) because the agricultural land on which the subdivision had been approved was a natural resource of the state, under § 22a-19 (b) the plan and zoning commission was required to explore all feasible and prudent alternatives before granting the subdivision application. Id., 731–32. The defendants contended, to the contrary, that: (1) ''the appeals of those plaintiffs whose standing is based solely upon their status as petitioners under § 22a-19 (a) should be dismissed because . . . the statute does not authorize intervention in a subdivision proceeding conducted by a municipal planning commission''; id., 732; and (2) agricultural land is not a natural resource of the state within the meaning of § 22a-19 (b). Id.

We ultimately agreed with the defendants and held that agricultural land was not a ''natural resource'' within the meaning of the act. *Red Hill II,* supra, 212 Conn. 739–40. Contrary to the statement of the majority in the present case, however, that ''the crux of the court's analysis focused on the second issue raised on appeal, whether the legislature intended agricultural land to be a natural resource for the purposes of § 22a-19,'' that was one of two separate—and analytically distinct—issues before this court. The other, of course, was the issue in the present case, namely, irrespective of and antecedent to that question, whether the intervenor had the right to intervene under § 22a-19 (a) to raise environmental concerns in a subdivision application proceeding.

In deciding the intervention and standing question posed by the parties' contentions regarding § 22a-19 (a), we stated: "Contrary to the defendants' position, § 22a-19 (a) does authorize intervention in a subdivision review proceeding conducted by a municipal planning commission. It plainly provides that intervention is authorized in *any* administrative, licensing or other proceeding, and in any judicial review thereof made available by law. . . . Proceedings before planning and zoning commissions are classified as administrative. See, e.g., *Vose* v. *Planning & Zoning Commission*, 171 Conn. 480, 483, 370 A.2d 1026 (1976). *Accordingly, the plain and unambiguous language of § 22a-19 (a) permits intervention in proceedings conducted by a municipal planning commission. Connecticut Hospital Assn.* v. *Commission on Hospitals & Health Care*, 200 Conn. 133, 141, 509 A.2d 1050 (1986). It is well settled that a statute must be applied as its words direct. . . . Where the language used is clear and unambiguous, we will not speculate as to some supposed intention. . . . Id.

"The defendants' additional argument that the plaintiffs were not entitled to intervene pursuant to § 22a-19 (a) because agricultural land is not a natural resource puts the cart before the horse. *Section 22a-19 (a) makes intervention a matter of right once a verified pleading is filed complying with the statute, whether or not those allegations ultimately prove to be unfounded. We have declared that the statute permits any person, on the filing of a verified pleading, to intervene in any administrative proceeding for the limited purpose of raising environmental issues. Connecticut Fund for the Environment, Inc.* v. *Stamford*, [supra, 192 Conn. 248 n.2]. In *Mystic Marinelife Aquarium, Inc.* v. *Gill*, [supra, 175 Conn. 490], *we concluded that one who filed a verified pleading under § 22a-19 (a) became a party to an administrative proceeding upon doing so and had statutory standing to appeal for the limited purpose of raising environmental issues. It is clear that one basic purpose of the act is to give persons standing to bring actions to protect the environment. Belford* v. *New Haven*, [supra, 170 Conn. 53–54].

"We agree with the trial court that the plaintiffs, being entitled under § 22a-19 (a) to intervene for the purpose of raising environmental issues on the basis of the allegations of their verified pleadings, had standing to appeal from the action of the [plan and zoning commission] in approving the subdivision application."

(Emphasis altered; internal quotation marks omitted.) *Red Hill II*, supra, 212 Conn. 733–34.

Furthermore, contrary to the contention of the majority that, in ruling as we did, "[t]he impact of § 22a-19 on the scope of an administrative agency's jurisdiction was neither raised nor decided" in *Red Hill II*, an examination of the plan and zoning commission's brief in this court makes it clear that it *did* raise that issue in substance, and that, in ruling as we did, we were responding to that claim. The plan and zoning commission asserted in its brief that "[t]he subdivision review process . . . does not involve conduct covered by § 22a-19 (a) as it is not a permit procedure or process. Thus, plaintiffs' intervention in the [plan and zoning commission] proceedings was inappropriate." *Red Hill Coalition, Inc.* v. *Town Plan & Zoning Commission*, Supreme Court Records & Briefs, June Term, 1989, Defendant's Brief, p. 16. It also argued that, "[b]ecause the . . . plan and zoning commission, in exercising its function of reviewing a particular subdivision application, has no power to make, amend or repeal existing zoning regulations or zoning boundaries . . . it is obligated to approve the application if the conditions stated in the applicable regulations have been met. . . . *Thus, [the] plaintiffs' claim that the subdivision would unreasonably pollute, impair or destroy the public trust in the air, water and other natural resources of the site is not within the province of the [plan and zoning commission], the issue was not properly before it and this matter should not be reviewed by this court.*" (Citations omitted; emphasis added; internal quotation marks omitted.) Id., pp. 17–18.

Indeed, the plan and zoning commission then referred specifically to the companion proceedings before the conservation commission, which had involved the *same inland wetlands concerns that the coalition, and the other intervening plaintiffs, had raised before both the conservation commission, acting as the town's inland wetlands agency, and the plan and zoning commission, passing on the subdivision application*. The plan and zoning commission argued that "any objection to the inland wetland agency decision should and can be made during that agency's hearings," which was "the proper forum [in which] to raise them," that "the inland wetlands agency is a specialized group of individuals with technical expertise in the wetlands area and permitting renewed consideration of these issues . . . may lead to undesirable environmental results," and that "the plaintiffs had no right to intervene in the [plan

and zoning commission] subdivision review process'' because ''[t]heir remedy was with the . . . conservation commission acting as inland wetlands agency.'' Id., pp. 19–20. Thus, although in *Red Hill II* the plan and zoning commission in its brief in this court did not rely specifically on either *Connecticut Fund for the Environment, Inc.*, or *Middletown*, it did so in substance, by arguing that the plan and zoning commission was not the proper forum in which to raise environmental concerns, and that those concerns were within the province of the inland wetlands agency.

Furthermore, it is clear from the record in *Red Hill II* that the environmental issues raised by the intervening coalition went far beyond the inland wetlands issues raised in *Red Hill I*. Although our opinion did not discuss the nature of the environmental concerns that the plaintiffs had raised, I have reviewed the record and briefs of the parties in *Red Hill II*. That review discloses that the plaintiffs, in support of their allegations that the proposed subdivision would cause unreasonable detriment to the natural resources of the state, had introduced evidence before the plan and zoning commission that: the development containing roads, houses, sewer systems and sidewalks, would impair the soil for agricultural use; vegetation and wetlands on the site would be impaired, and a natural pond eliminated; the site's vegetation and wildlife would be impaired by street drainage; and a stressed ecosystem would be injured further by a new predominance of weedy species. Id., Plaintiff's Brief, p. 4 n.2.

Significantly, none of these environmental concerns ordinarily would be within the purview of a proceeding on a subdivision application. Nonetheless, we held that the plaintiffs had the right to intervene in the subdivision proceedings to raise them.

This discussion brings two facts into clear focus. First, in both *Red Hill* decisions we did not make the right of the plaintiffs to intervene depend on whether the nature of the allegations of their verified petition to intervene raised concerns that otherwise were within the jurisdictional purview of the agency. Instead, we focused on the language of § 22a-19 (a) and the purpose of the act. In light of that language and purpose, we concluded, specifically in *Red Hill II*, supra, 212 Conn. 733–34, that the plaintiffs had the right to intervene in order to raise environmental claims, irrespective of the lack of connection between the nature of those claims and the statutory jurisdiction of the plan and zoning commission in ruling on a subdivision application. Sec-

ond, that holding was made on a record that fully disclosed that environmental concerns had been raised by an intervenor that went beyond the traditional jurisdiction of the plan and zoning commission passing on a subdivision application, and in the face of arguments that the subdivision proceeding was not the proper forum for such concerns. Thus, contrary to the majority's assertion that *Red Hill II* ''has no bearing on the issue before us in the present case,'' in fact the majority has overruled *Red Hill II* sub silentio, and without giving any rationale for such an action that is rooted in the doctrine of stare decisis.[5]

*Red Hill II* was followed by our decision in *Paige* v. *Town Plan & Zoning Commission*, 235 Conn. 448, 668 A.2d 340 (1995). In that case, Fairfield University had filed an application with the town plan and zoning commission to resubdivide certain wooded acreage into forty building lots, along with an application for a special permit to excavate and fill the land. Id., 450–51. The plaintiffs filed a notice of intervention pursuant to § 22a-19 (a) alleging that development of the proposed subdivision would require clear-cutting of the acreage, thereby causing unreasonable pollution, impairment or destruction of the public trust in the air, water, wildlife and other natural resources of the state. Id., 451. After the plan and zoning commission approved the application, with certain conditions; id.; the plaintiffs appealed to the trial court pursuant to General Statutes § 8-8 (b), claiming that the clear-cutting of the acreage would unreasonably destroy a natural resource, namely, the trees, and the wildlife that inhabited the area, and that, therefore, the commission was required to consider feasible and prudent alternatives. Id., 452.

The trial court dismissed the appeal, holding that trees and wildlife are not natural resources within the meaning of § 22a-19 (a), and reasoning that to hold to the contrary potentially would require environmental alternatives to be considered for every subdivision application in the state. Id. The Appellate Court affirmed the judgment of the trial court reasoning that the term ''natural resource'' in § 22a-19 (a) means a resource that, when extracted from its native state, has economic value, such as timberland, oil, gas and other ore deposits, and also including economic value from tourism and research. *Paige* v. *Town Plan & Zoning Commission*, 35 Conn. App. 646, 651, 646 A.2d 277 (1994). The Appellate Court determined that there was no evidence that the trees and wildlife in question had economic value and, therefore, they were not natural resources

within the meaning of § 22a-19 (a). Id., 652.

In the subsequent certified appeal, we reversed the Appellate Court because we disagreed with its construction of the statutory term ''natural resource,'' holding instead that ''trees and wildlife are natural resources regardless of their economic value . . . .'' *Paige* v. *Town Plan & Zoning Commission*, supra, 235 Conn. 454. Accordingly, we remanded the case ''for consideration by the trial court on the question of whether the commission properly applied § 22a-19.'' Id.

In arriving at those conclusions, moreover, we did not question the right of the plaintiffs to intervene, under § 22a-19 (a), in order to raise environmental concerns in a municipal subdivision proceeding. To be sure, insofar as the Appellate Court's and this court's opinions disclose, that question was not presented. Nonetheless, standing to intervene, whether based on statute or common law, is ordinarily a matter of subject matter jurisdiction, which does not depend on whether it is raised by a party. See *Stamford Hospital* v. *Vega*, 236 Conn. 646, 656, 674 A.2d 821 (1996); *Weidenbacher* v. *Duclos*, 234 Conn. 51, 54 n.4, 661 A.2d 988 (1995). Thus, although it is not determinative, the fact that we did not question the subject matter jurisdiction of the trial court over the plaintiffs' appeal suggests, at least, that it existed. Furthermore, in this connection, as in both *Red Hill* decisions, we did not inquire into the connection between the plaintiffs' environmental allegations and the statutory jurisdiction of the commission.

More significantly, however, we explicitly returned to the expansive view of the act that we had expressed prior to our decisions in *Connecticut Fund for the Environment, Inc.*, and *Middletown*. We referred to ''the broad policy language found in General Statutes § 22a-36 . . . .'' *Paige* v. *Town Plan & Zoning Commission*, supra, 235 Conn. 456. We referred to that part of the legislative history of the act in which it was explained that the act ''would expand the right of a person to have access to the courts when property which we might say belongs to all of the public is jeopardized by the alleged polluting activity.'' (Internal quotation marks omitted.) Id., 459. We stated that ''[i]t is clear that § 22a-19, consistent with the rest of the act, was intended, not as a mere impediment to developers, but rather as a means to protect the environment from unreasonable adverse impact.'' Id., 462.

In addition, we specifically noted the ''fear that consideration of alternatives pursuant to § 22a-19 (b) for

every subdivision in the state; *Paige* v. *Town Plan & Zoning Commission*, supra, 35 Conn. App. 652; would be required . . . .'' (Internal quotation marks omitted.) *Paige* v. *Town Plan & Zoning Commission*, supra, 235 Conn. 462. We responded by noting our belief ''that those fears are unfounded. By requiring the commission to apply the reasonableness standard set forth in § 22a-19 (a), we do not anticipate a sudden influx of citizen intervenors in subdivision applications. Nor do we expect that alternative plans will be required in each case any more than if we were to adopt the economic test espoused by the Appellate Court. By its plain terms, General Statutes § 22a-19 (b) requires the consideration of alternative plans *only* where the commission first determines that it is *reasonably likely* that the project would cause *unreasonable pollution, impairment or destruction of the public trust* in the natural resource at issue. See *Red Hill* [*II*, supra, 212 Conn.] 734–35; *Mystic Marinelife Aquarium, Inc.* v. *Gill*, [supra, 175 Conn. 499]; *Fromer* v. *Boyer-Napert Partnership*, 42 Conn. Sup. 57, 69–71, 599 A.2d 1074 [1990], aff'd, 26 Conn. App. 185, 599 A.2d 398 (1991); 14 H.R. Proc., Pt. 2, 1971 Sess., pp. 737, 741–42. In view of the factors and standards that govern the determination in each case, any fear that a broad definition will cause alternative plans to be required in virtually every case is plainly unwarranted. . . . *Paige* v. *Town Plan & Zoning Commission*, supra, [35 Conn. App.] 672–73 (*Schaller, J.*, dissenting).'' (Emphasis in original; internal quotation marks omitted.) *Paige* v. *Town Plan & Zoning Commission*, supra, 235 Conn. 462–63.

In both *Red Hill II* and *Paige*, therefore, we read the act as imposing on municipal town plan and zoning commissions the obligation, in exercising their statutory jurisdiction to pass upon subdivision applications, to consider environmental concerns that otherwise would not be within that jurisdiction. We did so, moreover, on the basis of the broad and explicit language of the act, and its underlying purpose to protect the natural resources of the state. Neither decision, however, can be squared with *Connecticut Fund for the Environment, Inc.*, and *Middletown*, either on the facts or the reasoning. The question, therefore, is which line of cases is to be followed.

I would conclude that *Red Hill II* and *Paige* are more faithful to the language and purpose of the act. First, both those cases focus on the broad language of the act permitting intervention, and explain why a plain reading of that language comports with the act's basic

purpose. Second, both cases more closely echo the reasoning of those cases decided prior to *Connecticut Fund for the Environment, Inc.*, and *Middletown*, namely, *Belford*, *Mystic Marinelife Aquarium, Inc.*, and *Manchester Environmental Coalition*. Third, since *Red Hill II*, our courts have recognized its holding and, either explicitly or implicitly, have approved intervention under § 22a-19 (a) in administrative proceedings that, on their face, did not involve environmental issues. See, e.g., *Christian Activities Council, Congregational* v. *Town Council*, 249 Conn. 566, 735 A.2d 231 (1999) (intervention under § 22a-19 [a] in affordable housing proceeding); *Paige* v. *Town Plan & Zoning Commission*, supra, 235 Conn. 448 (intervention under § 22a-19 [a] in application for resubdivision and special permit proceedings); *Keiser* v. *Zoning Commission*, 62 Conn. App. 600, 771 A.2d 959 (2001) (intervention under § 22a-19 [a] in special permit and site plan approval proceedings); *Dietzel* v. *Planning Commission*, 60 Conn. App. 153, 758 A.2d 906 (2000) (intervention under § 22a-19 [a] in subdivision and settlement proceedings). In addition, we have cited *Red Hill I* with approval of its broad proposition regarding the standing of an intervenor under § 22a-19 (a). See *Branhaven Plaza, LLC* v. *Inland Wetlands Commission*, 251 Conn. 269, 276 n.9, 740 A.2d 847 (1999) (in denying motion to dismiss appeal for lack of standing by intervenor, court stated: ''The motion to dismiss is denied. Section 22a-19 [a] allows any person to intervene so that private citizens are provided a voice in ensuring that the natural resources of the state remain protected. Because the plaintiffs filed a notice of intervention at the commission hearings in accordance with § 22a-19 [a], they had standing to appeal the environmental issues associated with that commission's decision. See *Red Hill* [*I*, supra, 212 Conn. 715].'').[6]

Application of the standards articulated in *Red Hill II* and *Paige* to the facts of the present case leads me to conclude that the plaintiff's request to intervene should have been granted. The plaintiff filed a verified application, complying with § 22a-19 (a), alleging that the proceeding involved conduct reasonably likely to have the effect of unreasonably polluting, impairing or destroying the public trust in the air, water, wildlife or other natural resources of the state. This conferred on the plaintiff the right to intervene.

I recognize that this conclusion may be counterintuitive, in that it imposes the duty to inquire into environmental issues, upon the presentation of appropriate evidence, upon agencies, such as the traffic commission

in the present case, that may have no environmental expertise. That, however, is the result of the broad language and fundamental policy of the act, which presumably the legislature took into account in stating that such intervention was permitted "[i]n *any* administrative, licensing or other proceeding, and in *any* judicial review thereof made available by law . . . [that] *involves conduct*"; (emphasis added) General Statutes § 22a-19 (a); which may unreasonably pollute natural resources. Indeed, it is difficult to see why a town plan and zoning commission passing on a subdivision application would have any more expertise regarding the environmental impact of the subdivision on vegetation, wildlife, new weedy species and impairment of wetlands; see *Red Hill II*, supra, 212 Conn. 727; or why such a commission passing on the same kind of application would have any more such expertise regarding the environmental impact on trees and wildlife; see *Paige* v. *Town Plan & Zoning Commission*, supra, 235 Conn. 448; than the present traffic commission would have regarding the environmental concerns to be raised by the plaintiff here. Put another way, we resolved that purported dilemma in *Red Hill II* and *Paige* in favor of intervention, based upon the language and policy of the act. The same resolution is required in the present case.

The majority relies heavily on *Connecticut Fund for the Environment, Inc.*, and *Middletown*.[7] I acknowledge that the application of the facts and reasoning of those two cases, if applied to the present case without regard to the jurisprudence that preceded them and without regard to our subsequent decisions in *Red Hill II* and *Paige*, would support the defendants' position. I take this opportunity, therefore, to explain what I perceive to be the analytical flaws in those cases.

I first note that neither case even purported to analyze the broad language and purpose of the act. In both, the court simply asserted the jurisdictional limit, which had never before been adverted to, without any reference to that language or purpose.

*Connecticut Fund for the Environment, Inc.*, and *Middletown* established two propositions. First, standing for environmental intervention pursuant to § 22a-19 of the act is limited to environmental matters that "impact on" the statutory subject matter of the administrative agency into whose proceedings the purported intervenor seeks to intervene. *Connecticut Fund for the Environment, Inc.* v. *Stamford*, supra, 192 Conn. 250. Although we did not define precisely what it means to say that an agency may consider environmental con-

cerns that "impact" on its statutory grant of jurisdiction, I take this proposition to mean that, if an agency has statutory jurisdiction that in some fashion already encompasses environmental concerns, e.g., inland wetlands, the function of § 22a-19 (a) is limited to conferring standing on persons or entities to intervene before that agency in order to raise those environmental concerns, but only those environmental concerns, without those persons or entities having to meet the traditional standing requirements that otherwise would be required for intervention. See, e.g., *Crone* v. *Gill*, 250 Conn. 476, 480, 736 A.2d 131 (1999) (fundamental test for establishing classical aggrievement). The analytical difficulty with this proposition, however, is that it cannot be squared with the broad and explicit language of § 22a-19 (a), granting the right to intervene in "*any* administrative, licensing or other proceeding . . . [that] *involves conduct* which" may unreasonably pollute, considered in light of the basic purpose of the act to protect the natural resources of the state. (Emphasis added.)

The second proposition established by those two cases is that § 22a-16, which is an independent action counterpart to § 22a-19, does "not provide [a plaintiff] with standing under any statute other than the [act] itself." *Middletown* v. *Hartford Electric Light Co.*, supra, 192 Conn. 597. Put another way, standing to bring an independent action pursuant to § 22a-16 of the act is limited to those instances or cases brought pursuant to the act itself.

The analytical difficulty with this latter proposition, which the claims of the plaintiff in the present case highlight, is that, for all practical purposes, the act does no more than: (1) state the public policy of the state with regard to its natural resources; General Statutes § 22a-15;[8] and (2) create general remedies of both independent judicial actions, and judicial and administrative intervention, to enforce that public policy.[9] Thus, it was self-contradictory to hold, as we did in *Middletown*, that one has standing under § 22a-16 to raise environmental concerns only under the act itself, and that, when one attempts to bring such an independent action, one has no standing to do so. In other words, it is difficult to see why the action that was held to be without standing in *Middletown* was *not* an action under the act itself. The majority, in relying on and reaffirming the holding of *Middletown*, does not explain this self-contradiction.

Thus, on close examination, it is difficult to divine what, if anything, was left by those two cases of the

holdings and language of the court in interpreting the act prior to those two cases. Certainly, those latter two cases were in tension with the earlier cases. Furthermore, if under *Connecticut Fund for the Environment, Inc.*, one only could intervene in an administrative proceeding to raise environmental concerns that already were within the administrative agency's jurisdiction, it is difficult to see what, if anything, was left to § 22a-19 (a) of the act providing for standing of private parties[10] to intervene in "*any* administrative . . . proceeding . . . ." (Emphasis added.) Similarly, if under *Middletown* one had no standing to bring an independent action against another person whose conduct, allegedly illegal under other state licensing statutes, was claimed to violate the act, it is difficult to see what, if anything, was left to § 22a-16 providing for the right to bring independent actions under the act. This analysis leads me to conclude, therefore, that neither *Connecticut Fund for the Environment, Inc.*, nor *Middletown* should apply to bar the plaintiff's standing to intervene in the present case.

Nonetheless, the majority relies on what it perceives as legislative approval by silence of those two cases. That reliance is, in my view, misplaced. First, the two *Red Hill* decisions have been on the books for twelve years, and the legislature has been equally silent with regard to them, even in the face of their subsequent application in several appellate cases. Second, *Paige* has been on the books for six years, followed by a similar legislative silence. Third, the body of precedent that antedated *Red Hill II* and *Paige*, which by its language strongly suggested that § 22a-19 (a) has broad, rather than narrow, contours, has been on the books for twenty-six years, followed by a similar legislative silence. Thus, contrary to the contention of the majority, I do not think that we can draw any reliable inferences from the legislature's silence following *Connecticut Fund for the Environment, Inc.*, and *Middletown*.

The majority also relies on the presumptions that the legislature is aware of statutory jurisdictional limits on state and local agencies, and that the legislature intends to create a harmonious body of law. I have no dispute with either presumption. I do dispute, however, the majority's assertion that the interpretation of § 22a-19 (a) that I advance "would vitiate those statutes that establish the limited jurisdiction of an administrative agency," and its suggestion that such an interpretation somehow would create a disharmonious body of law.

There is nothing vitiating about the legislature, for

strong reasons of public policy embodied in the act, supplementing an agency's usual jurisdiction by requiring it to consider, in specific cases, the environmental evidence presented by an environmental intervenor under § 22a-19 (a). That is all that § 22a-19 (a) does. Indeed, under the majority's reasoning, there is very little, if anything, left to the language of § 22a-19 (a) permitting intervention in "*any* administrative, licensing or other proceeding . . . [that] *involves conduct* . . . [that] is reasonably likely to [pollute]"; (emphasis added); because under the majority's interpretation that language means in effect, "any administrative or other proceeding *that is already devoted to certain environmental issues*." (Emphasis added.) In this connection, I note that, although the majority rests its analysis, in part at least, on the process of statutory interpretation, nowhere does it suggest, either by reference to legislative history or the purpose of the act, why the language "any administrative, licensing or other proceeding" contained in § 22a-19 should be implicitly amended to have the meaning that the majority attributes to it. Furthermore, there is nothing disharmonious about the legislature supplementing an agency's usual jurisdiction in certain, specified cases for strong reasons of public policy, which is all that § 22a-19 (a) does.

I am particularly puzzled by the majority's concomitant assertion that "[i]f a party wants to raise environmental concerns that are beyond the scope of authority of a particular agency, the act provides a means for doing so, namely, instituting an independent action pursuant to § 22a-16." That, however, is precisely what this court barred the plaintiff from doing in *Middletown*, which the majority both relies on and reaffirms. Thus, the majority's opinion will, I suggest, engender confusion about the efficacy of independent actions filed pursuant to § 22a-16.

The traffic commission, although not the majority in the present case, argues that the interpretation of the act that I propose, and as was explicitly adopted in *Red Hill II*, would "[prove] too much," because it would mean that if, for example, "the department of motor vehicles . . . issues licenses to drive, and driving a car can contribute to air pollution, then [the act] permits a third party to intervene in motor vehicle operator licensing proceedings to object to the licenses on the basis of the potential of increased air pollution." I am not persuaded.

I acknowledge that this interpretation of § 22a-19, if taken to its logical extreme, could lead to this bizarre

result, and that we do not interpret statutes to yield bizarre results. See, e.g., *Rich-Taubman Associates* v. *Commissioner of Revenue Services*, 236 Conn. 613, 621, 674 A.2d 805 (1996). That does not necessarily mean, however, that, having interpreted the act in this way in the present case, we would be required in the future to carry that interpretation through to such a result. Just as legislative language has its limits; see, e.g., *Fahy* v. *Fahy*, 227 Conn. 505, 513–14, 630 A.2d 1328 (1993); so does any judicial interpretation of such language. Thus, although a court should not interpret statutory language to yield bizarre results, it also should not avoid an otherwise reasonable interpretation, appropriately arrived at by analyzing the language and purposes of the statute, solely because that interpretation *might* lead to such a result in an extreme case. That case appropriately may be dealt with, when and if it arises, by resort to other sound principles of statutory interpretation, one of which, for example, requires resort to common sense. See, e.g., *Berkley* v. *Gavin*, 253 Conn. 761, 774, 756 A.2d 248 (2000). Thus, if the claimed intervention rests on a premise that is simply so attenuated in its environmental basis that it offends common sense, it is unlikely that it would fall within even the broad remedial purposes of the act.

This brings me to the final part of the majority opinion, in which it concludes that: (1) a request to intervene pursuant to § 22a-19 (a) must set forth the specific facts on which the intervenor's request is based; and (2) in the present case, the traffic commission had no environmental jurisdiction and, therefore, there are no allegations that the plaintiff could have made in support of his request. I disagree with both of these conclusions.

With respect to the sufficiency of the plaintiff's pleading under § 22a-19 (a), his request to intervene was framed in the language of the statute. It asserted that the application of the defendant First Stamford Corporation (First Stamford) concerned ''an administrative proceeding which involves conduct which is reasonably likely to have the effect of unreasonably polluting, impairing or destroying the public trust in the air, water, wildlife or other natural resources of the state.'' That is as much specificity as § 22a-19 requires. The statute provides that, with respect to any administrative or other proceeding, one ''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.'' (Emphasis added.) General Statutes § 22a-19 (a).

Furthermore, it is significant that, in the present case, the plaintiff sought to intervene in an administrative, as opposed to a judicial, proceeding. Section 22a-19 sets the standard for intervention into both. We have recognized that administrative proceedings are ordinarily designed to function with less formality than judicial proceedings, so that often citizens may participate without the practical necessity of representation by counsel. See, e.g., *Concerned Citizens of Sterling* v. *Sterling*, 204 Conn. 551, 529 A.2d 666 (1987); *Welch* v. *Zoning Board of Appeals*, 158 Conn. 208, 212–13, 257 A.2d 795 (1969); *Village Builders, Inc.* v. *Town Plan & Zoning Commission*, 145 Conn. 218, 220–21, 140 A.2d 477 (1958). That recognition supports an interpretation of § 22a-19 (a), contrary to that of the majority, that the statute means what it says and does not have an implied factual specificity requirement in order to accommodate the less formal setting of administrative proceedings.

Thus, once the plaintiff filed his request for intervention framed in the language of the statute, he was entitled to intervene as a party. This does not mean, however, that either the traffic commission or First Stamford was powerless to require him to make his environmental claims more factually specific, so that either could properly respond to them. It merely means that denial of his request for intervention was improper. Once he had been permitted to intervene, either the traffic commission or First Stamford, or both, could have requested that he make his request more factually specific and, if he refused to do so, appropriate sanctions, including revocation or dismissal, could be imposed by the traffic commission.

Requiring factual specificity in the request to intervene is inconsistent with the plain language of § 22a-19 (a), and with the nature of administrative proceedings in general and with the broad remedial purpose of the act in particular. The majority's reliance on Practice Book § 10-1[11] and General Statutes § 52-473 (b)[12] does not compel a different result. Practice Book § 10-1 is not instructive because it applies only to judicial proceedings, and § 22a-19 permits intervention into both administrative and judicial proceedings. I see no reason to impose judicial pleading standards on intervention into an administrative proceeding, such as the one at issue in the present case. Furthermore, the implied factual

specificity requirement adopted by the majority imposes a higher burden with respect to pleading than even Practice Book § 10-1 itself. That rule of judicial, as opposed to administrative, procedure provides that, if the pleading is not factually sufficient, ''the judicial authority may order a fuller and more particular statement . . . .'' Practice Book § 10-1. Thus, the remedy for any lack of factual particularity is not outright dismissal, as the majority concludes; rather, it is, as I suggested previously, an appropriate request for a more specific factual statement. Likewise, § 52-473 (b) is not informative, even by analogy. That provision governs the judicial pleading requirements antecedent to an ex parte temporary injunction, and by its very terms requires that the pleading states ''specific facts.'' Section 22a-19 (a), by contrast, applies to administrative as well as judicial proceedings, does not operate in an ex parte fashion, and contains no such language requiring factual specificity.

With respect to whether the plaintiff could have supplemented his generally phrased request for intervention with supporting facts, I also disagree with the majority. It is undisputed that traffic density is within the jurisdiction of the traffic commission under the certification proceeding involved in the present case. Traffic density undoubtedly involves issues of air pollution. One need not have a degree in chemistry to know that cars emit carbon, among other pollutants, into the air, and that the more cars there are in a given place and time the more carbon and other polluting emissions there will be. This is precisely why § 22a-19 (a) permits intervention into ''any administrative, licensing or other proceeding . . . [that] *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''; (emphasis added); and is precisely why *Red Hill II* held that, once such an allegation has been made, intervention is a matter of right.

I would, therefore, reverse the judgment of the Appellate Court, and direct that the plaintiff's appeal to the trial court be sustained.

[1] General Statutes § 22a-19 provides: ''(a) In any administrative, licensing or other proceeding, and in any judicial review thereof made available by law, the Attorney General, any political subdivision of the state, any instrumentality or agency of the state or of a political subdivision thereof, any person, partnership, corporation, association, organization 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.

"(b) In any administrative, licensing or other proceeding, the agency shall consider the alleged unreasonable pollution, impairment or destruction of the public trust in the air, water or other natural resources of the state and no conduct shall be authorized or approved which does, or is reasonably likely to, have such effect so long as, considering all relevant surrounding circumstances and factors, there is a feasible and prudent alternative consistent with the reasonable requirements of the public health, safety and welfare."

[2] General Statutes § 22a-14 provides: "Short title: Environmental Protection Act of 1971. Sections 22a-14 to 22a-20, inclusive, shall be known and may be cited as the 'Environmental Protection Act of 1971'."

[3] The court then affirmed the trial court's conclusions that the act did not give the plaintiffs standing to challenge either proposed changes in the parks or the failure to repair tidal gates, and that the plaintiffs, who *had been afforded standing to raise issues of pollution*, had not *proven* their claims under the act. *Belford* v. *New Haven*, supra, 170 Conn. 54–55.

In *Manchester Environmental Coalition* v. *Stockton*, supra, 184 Conn. 57, we stated: "[T]he plaintiffs have standing under § 22a-16 which confers standing upon any person to sue any person for the protection of the public trust in the air, water and other natural resources of the state from unreasonable pollution, impairment or destruction." (Internal quotation marks omitted.) We overruled *Belford* to the extent that it had held otherwise. Id., 57 n.7.

[4] More specifically, the evidence offered and excluded involved air and noise pollution, and other environmental problems, that presumably would have been created by the postal facility involved in the wetlands permit being considered by the board. *Connecticut Fund for the Environment, Inc.* v. *Stamford*, supra, 192 Conn. 251.

[5] The majority does not take issue with the technique of examining the briefs in both *Red Hill* cases as a partial support for my conclusion that *Red Hill II* implicitly held that one may intervene under § 22a-19 (a) even though the agency has no specific environmental jurisdiction. Like the majority, however, I also rely on the *text* of those opinions. I suggest, moreover, that the majority's conclusion, namely, that *Red Hill II* "has no bearing on the issue before us in the present case," can only be reached by disregarding both those briefs and that text, particularly the text, quoted in this dissenting opinion, specifically discussing environmental intervention under § 22a-19 (a) into a municipal planning and zoning commission proceeding. See *Red Hill II*, supra, 212 Conn. 733–34.

Furthermore, the majority does not respond to the argument that both *Red Hill* cases, as well as *Paige* v. *Town Plan & Zoning Commission*, 235 Conn. 448, 668 A.2d 340 (1995), on their stated facts and law, explicitly rejected challenges to standing to intervene pursuant to § 22a-19 (a), where the agencies involved had no environmental jurisdiction as a matter of law. The necessary implication of the majority's cramped reading of those cases is that, despite what the *texts* of those cases disclose, we simply did not know what we were doing, subject matter jurisdictionally speaking, in rejecting those challenges. I give us more credit than that.

[6] Indeed, the relatively small number of cases that have risen to the appellate level since *Red Hill I* and *Red Hill II* suggests that, contrary to what may be lurking behind the majority's reasoning, permitting intervention under § 22a-19 (a) upon the filing of a proper request will not open the proverbial floodgates of intervention requests. We expressly rejected that contention, however, in *Paige*. Furthermore, as we recognized in *Paige*, once having intervened, the intervenor still retains a significant burden to establish an unreasonable level of impairment of our natural resources. Therefore, there is a significant economic disincentive to the filing and pursuing of baseless requests for intervention.

[7] The majority also relies on *Connecticut Water Co.* v. *Beausoleil*, supra, 204 Conn. 38. To the extent, however, that that case conflicts with my conclusion in the present case, it is only with respect to its application of the holdings in *Connecticut Fund for the Environment, Inc.*, and *Middletown* to the claim of res judicata in that case. I have no quarrel with the holding of

*Connecticut Water Co.*, that an environmental intervenor under § 22a-19 (a) could not expand his claims to encompass money damages.

[8] General Statutes § 22a-15 provides: ''Declaration of policy. It is hereby found and declared that there is a public trust in the air, water and other natural resources of the state of Connecticut and that each person is entitled to the protection, preservation and enhancement of the same. It is further found and declared that it is in the public interest to provide all persons with an adequate remedy to protect the air, water and other natural resources from unreasonable pollution, impairment or destruction.''

[9] The act consists of General Statutes §§ 22a-14 through 22a-20. See General Statutes § 22a-14. Section 22a-15 articulates the public policy. Section 22a-16 provides for an independent judicial action, by broad categories of persons, including the attorney general, for the protection of the state's natural resources. General Statutes § 22a-16a provides for alternative judicial remedies in cases brought by the attorney general pursuant to § 22a-16. General Statutes § 22a-17 provides for the appointment of a special master by the court in cases brought pursuant to § 22a-16. General Statutes § 22a-18 outlines the broad powers of the court under the act. Section 22a-19 provides for intervention in certain administrative and judicial proceedings, and for the remedies available in such cases. General Statutes § 22a-20 provides that the provisions of the act are supplementary to other administrative and regulatory procedures provided by law.

[10] Neither *Connecticut Fund for the Environment, Inc.*, nor *Middletown* involved an action or intervention by the attorney general. Nonetheless, I see no basis on which the standing of the attorney general to intervene under § 22a-19 (a) may be broader than that of a private individual. Thus, the majority's interpretation of the scope of that intervention presumably would apply to the attorney general as well.

[11] Practice Book § 10-1, entitled ''Fact Pleading,'' provides: ''Each pleading shall contain a plain and concise statement of the material facts on which the pleader relies, but not of the evidence by which they are to be proved, such statement to be divided into paragraphs numbered consecutively, each containing as nearly as may be a separate allegation. If any such pleading does not fully disclose the ground of claim or defense, the judicial authority may order a fuller and more particular statement; and, if in the opinion of the judicial authority the pleadings do not sufficiently define the issues in dispute, it may direct the parties to prepare other issues, and such issues shall, if the parties differ, be settled by the judicial authority.''

[12] General Statutes § 52-473 (b) provides: ''No temporary injunction may be granted without notice to the adverse party unless it clearly appears from the specific facts shown by affidavit or by verified complaint that irreparable loss or damage will result to the plaintiff before the matter can be heard on notice. It shall be sufficient, on such application for a temporary injunction, to present to the court or judge the original complaint containing the demand for an injunction, duly verified, without further complaint, application or motion in writing.''